



January 25, 2011

HOUSE BILL No. 1387

DIGEST OF HB 1387 (Updated January 25, 2011 11:21 am - DI 77)

Citations Affected: IC 15-15.

Synopsis: Commodity market development councils. Changes the responsibility for certain duties concerning commodity market development from the director of the department of agriculture to the dean of the college of agriculture (dean). Requires the dean to conduct a referendum on the continuation of the commodity market development council if the amount of refund requests exceeds 25% of the amount collected for a fiscal year. (Current law requires a referendum one time every three years.) Allows a state commodity fee to be collected for an agricultural commodity even if a fee is collected under a federal program for promotion or market development.

Effective: July 1, 2011.

Lehe, Baird, Bacon

January 18, 2011, read first time and referred to Committee on Agriculture and Rural Development.
January 25, 2011, amended, reported — Do Pass.

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January 25, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1387



A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 15-15-11-4, AS ADDED BY P.L.2-2008,
- 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2011]: Sec. 4. As used in this chapter, "dean of agriculture"
- 4 refers to the dean of **the college of** agriculture of Purdue University.
- 5 The term includes the dean's designee.
- 6 SECTION 2. IC 15-15-11-12, AS ADDED BY P.L.2-2008,
- 7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2011]: Sec. 12. (a) If the ~~director~~ **dean of agriculture**
- 9 approves the petition, in whole or as revised, the ~~director~~ **dean of**
- 10 **agriculture** shall call a referendum among producers of commercial
- 11 quantities of the commodity to vote upon establishment of the proposed
- 12 commodity market development program.
- 13 (b) Before issuance of a notice of referendum on a proposed
- 14 commodity market development program, the ~~director~~ **dean of**
- 15 **agriculture** shall establish the number of producers qualified of that
- 16 particular agricultural commodity. The producers must register with the
- 17 ~~director,~~ **dean of agriculture**, who shall maintain a list of those

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1 producers. At least twenty percent (20%) of the producers must register
 2 before a referendum may be held. The **director dean of agriculture**
 3 shall establish a registration period for establishing, continuing,
 4 changing, or terminating a marketing program after the **director dean**
 5 **of agriculture** calls for a referendum. Postdating of a registration is
 6 void. The producer or handler list established under this subsection is
 7 final and conclusive in making determinations relative to the assent of
 8 producers upon the issuance, amendment, or termination of a
 9 commodity market development program.

10 (c) The **director dean of agriculture** shall publish a notice of
 11 referendum to the attention of producers in the newspapers or trade
 12 journals within the affected area that the **director dean of agriculture**
 13 prescribes. The **director dean of agriculture** may also mail notice to
 14 all producers or handlers on the current list of producers.

15 (d) If the majority of those who actually vote favor the adoption of
 16 the proposal in the petition, the **director dean of agriculture** shall
 17 declare the proposal to be adopted.

18 (e) A proposal to change the amount of the fee or to make other
 19 major changes in the program may be made only if a proposal for the
 20 change is adopted by a two-thirds (2/3) vote of the commodity market
 21 development council or by petition of twenty-five percent (25%) of the
 22 agricultural commodity producers. The proposal must then be
 23 submitted to a referendum under which the same percentages of votes
 24 favoring the proposal (by number and production) are required for
 25 approval as were required for establishment of the original market
 26 development program.

27 (f) A proposal to terminate a commodity market development
 28 program may be made only if a proposal for termination is adopted by
 29 a majority of the commodity market development council or by petition
 30 of two percent (2%) of the agricultural commodity producers. The
 31 proposed termination must be submitted to a referendum under which
 32 a simple majority of those voting in favor of termination of the program
 33 is required for termination.

34 (g) A referendum to:

- 35 (1) set up a commodity market development council for a
 - 36 particular commodity;
 - 37 (2) change the amount of fee;
 - 38 (3) make other major changes; or
 - 39 (4) terminate a commodity market development council;
- 40 may not be held within twelve (12) months of a referendum conducted
 41 for a similar purpose for the same agricultural commodity.

42 (h) **If the amount of refund requests under section 18 of this**

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1 **chapter exceeds twenty-five percent (25%) of the amount collected**
2 **under this chapter for a fiscal year, the director dean of agriculture**
3 shall conduct a referendum on the continuation of the commodity
4 market development council. ~~at least one (1) time every three (3) years:~~

5 (i) Any eligible producer may register to participate in a referendum
6 on the continuation or termination of a program. Registration for such
7 a referendum may not be limited to those producers who registered for
8 the referendum to establish the program.

9 SECTION 3. IC 15-15-11-13, AS ADDED BY P.L.2-2008,
10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2011]: Sec. 13. The **director dean of agriculture** shall be
12 guided by the advice, recommendations, and assistance of the
13 commodity market development council about:

- 14 (1) the collection and expenditures of funds; and
 - 15 (2) audits and refunds;
- 16 associated with the commodity market development program.

17 SECTION 4. IC 15-15-11-15, AS ADDED BY P.L.2-2008,
18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]: Sec. 15. (a) Except as provided in subsection (b), the
20 **director dean of agriculture** shall collect the fee imposed under the
21 commodity market development program from the producers, handlers,
22 or processors.

23 (b) This subsection applies to a commodity market development
24 program for cattle, dairy products, or soybeans. The **director dean of**
25 **agriculture** shall collect ninety-seven percent (97%) of the fee
26 imposed under the commodity market development program from the
27 producers, handlers, or processors. A producer, handler, or processor
28 may retain the remaining three percent (3%) as compensation for
29 collecting the fee.

30 (c) If a market development fee is unpaid on the date that the fee
31 was due, a penalty of one percent (1%) per month is imposed beginning
32 on the date the fee was due until payment plus the penalty is received
33 by the ~~director~~ **dean of agriculture**. If, after notice, a person defaults
34 in a payment of the fee or penalties imposed under this subsection, the
35 amount due shall be collected by civil action in the name of the state of
36 Indiana at the request of the ~~director~~ **dean of agriculture**, and the
37 person adjudged in default shall pay the costs of the action. The
38 attorney general, at the request of the ~~director~~ **dean of agriculture**,
39 and, if requested by the attorney general, the prosecuting attorney of
40 any county, in which a cause of action arose under the provisions for
41 the collection of fees due and unpaid, shall institute proper action in an
42 Indiana court for the collection of unpaid fees and penalties.

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1 (d) The individual commodity council market development fund is
2 established. The fund consists of all fees paid to the ~~director~~ **dean of**
3 **agriculture** under that agricultural commodity program. The ~~director~~
4 **dean of agriculture** shall spend all money credited to the fund, less
5 administration expenses, for the use and benefit of the commodity
6 market development council for which the fund is established.

7 (e) The ~~director~~ **dean of agriculture** shall submit an annual
8 statement to the commodity market development council that shows all
9 receipts, administration expenses, refunds, and the balance credited to
10 the fund.

11 (f) Not more than one (1) fee may be collected for an agricultural
12 commodity under this chapter. ~~or under a federal program for~~
13 ~~promotion or market development.~~

14 SECTION 5. IC 15-15-11-17, AS ADDED BY P.L.2-2008,
15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2011]: Sec. 17. The ~~director~~ **dean of agriculture** shall assist
17 a commodity market development council to do the following:

- 18 (1) Elect a chairperson and any other officers.
- 19 (2) Authorize the expenditure of a budgeted amount of the council
- 20 market development fund in the administration of the commodity
- 21 market development program.
- 22 (3) Collect commodity market development fees.
- 23 (4) Perform other necessary duties.

24 SECTION 6. IC 15-15-11-18, AS ADDED BY P.L.2-2008,
25 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2011]: Sec. 18. (a) A producer or handler is entitled to have
27 the fees paid by the producer or handler refunded as provided in this
28 section.

29 (b) A producer or handler must file a request for refund with the
30 ~~director~~ **dean of agriculture** not later than one hundred eighty (180)
31 days after the payment of the fees.

32 (c) The ~~director~~ **dean of agriculture** shall provide forms for the
33 request of refund of fees under this section. A refund form shall be
34 made available to a producer or handler when payment is made.

35 (d) For the purpose of making an application for a refund, a
36 producer is considered the agent of all persons who have an interest in
37 the agricultural commodity. The interest of each person in the
38 agricultural commodity must be indicated on the refund request form,
39 and the refund shall be paid to each interested person's interest
40 according to that person's interest.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1387, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, insert:

"SECTION 1. IC 15-15-11-4, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. As used in this chapter, "dean of agriculture" refers to the dean of **the college of** agriculture of Purdue University. The term includes the dean's designee."

Page 1, line 3, strike "director" and insert "**dean of agriculture**".

Page 1, line 4, strike "director" and insert "**dean of agriculture**".

Page 1, line 9, strike "director" and insert "**dean of agriculture**".

Page 1, line 11, strike "director," and insert "**dean of agriculture,**".

Page 1, line 13, strike "director" and insert "**dean of agriculture**".

Page 1, line 15, strike "director" and insert "**dean of agriculture**".

Page 2, line 4, strike "director" and insert "**dean of agriculture**".

Page 2, line 6, after "that the" strike "director" and insert "**dean of agriculture**".

Page 2, line 6, after "The" strike "director" and insert "**dean of agriculture**".

Page 2, line 9, strike "director" and insert "**dean of agriculture**".

Page 2, line 37, strike "director" and insert "**dean of agriculture**".

Page 3, between line 1 and 2, begin a new paragraph and insert the following:

"SECTION 3. IC 15-15-11-13, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. The ~~director~~ **dean of agriculture** shall be guided by the advice, recommendations, and assistance of the commodity market development council about:

(1) the collection and expenditures of funds; and

(2) audits and refunds;

associated with the commodity market development program."

Page 3, line 5, strike "director" and insert "**dean of agriculture**".

Page 3, line 8, strike "director" and insert "**dean of agriculture**".

Page 3, line 16, strike "director." and insert "**dean of agriculture.**".

Page 3, line 19, strike "director," and insert "**dean of agriculture,**".

Page 3, line 20, strike "director," and insert "**dean of agriculture,**".

Page 3, line 26, strike "director" and insert "**dean of agriculture**".

Page 3, line 27, strike "director" and insert "**dean of agriculture**".

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Page 3, line 31, strike "director" and insert "**dean of agriculture**".

Page 3, after line 36, begin a new paragraph and insert the following:

"SECTION 5. IC 15-15-11-17, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. The ~~director~~ **dean of agriculture** shall assist a commodity market development council to do the following:

- (1) Elect a chairperson and any other officers.
- (2) Authorize the expenditure of a budgeted amount of the council market development fund in the administration of the commodity market development program.
- (3) Collect commodity market development fees.
- (4) Perform other necessary duties.

SECTION 6. IC 15-15-11-18, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18. (a) A producer or handler is entitled to have the fees paid by the producer or handler refunded as provided in this section.

(b) A producer or handler must file a request for refund with the **director dean of agriculture** not later than one hundred eighty (180) days after the payment of the fees.

(c) The **director dean of agriculture** shall provide forms for the request of refund of fees under this section. A refund form shall be made available to a producer or handler when payment is made.

(d) For the purpose of making an application for a refund, a producer is considered the agent of all persons who have an interest in the agricultural commodity. The interest of each person in the agricultural commodity must be indicated on the refund request form, and the refund shall be paid to each interested person's interest according to that person's interest."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1387 as introduced.)

LEHE, Chair

Committee Vote: yeas 11, nays 0.

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