
HOUSE BILL No. 1387

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-15-11.

Synopsis: Commodity market development councils. Requires the director of the department of agriculture to conduct a referendum on the continuation of the commodity market development council if the amount of refund requests under the commodity market development program exceeds 25% of the amount collected under the program 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

January 18, 2011, read first time and referred to Committee on Agriculture and Rural Development.

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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 15-15-11-12, AS ADDED BY P.L.2-2008,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 12. (a) If the director approves the petition, in
4 whole or as revised, the director shall call a referendum among
5 producers of commercial quantities of the commodity to vote upon
6 establishment of the proposed commodity market development
7 program.

8 (b) Before issuance of a notice of referendum on a proposed
9 commodity market development program, the director shall establish
10 the number of producers qualified of that particular agricultural
11 commodity. The producers must register with the director, who shall
12 maintain a list of those producers. At least twenty percent (20%) of the
13 producers must register before a referendum may be held. The director
14 shall establish a registration period for establishing, continuing,
15 changing, or terminating a marketing program after the director calls
16 for a referendum. Postdating of a registration is void. The producer or
17 handler list established under this subsection is final and conclusive in



1 making determinations relative to the assent of producers upon the
2 issuance, amendment, or termination of a commodity market
3 development program.

4 (c) The director shall publish a notice of referendum to the attention
5 of producers in the newspapers or trade journals within the affected
6 area that the director prescribes. The director may also mail notice to
7 all producers or handlers on the current list of producers.

8 (d) If the majority of those who actually vote favor the adoption of
9 the proposal in the petition, the director shall declare the proposal to be
10 adopted.

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

20 (f) A proposal to terminate a commodity market development
21 program may be made only if a proposal for termination is adopted by
22 a majority of the commodity market development council or by petition
23 of two percent (2%) of the agricultural commodity producers. The
24 proposed termination must be submitted to a referendum under which
25 a simple majority of those voting in favor of termination of the program
26 is required for termination.

27 (g) A referendum to:

- 28 (1) set up a commodity market development council for a
- 29 particular commodity;
- 30 (2) change the amount of fee;
- 31 (3) make other major changes; or
- 32 (4) terminate a commodity market development council;

33 may not be held within twelve (12) months of a referendum conducted
34 for a similar purpose for the same agricultural commodity.

35 (h) **If the amount of refund requests under section 18 of this**
36 **chapter exceeds twenty-five percent (25%) of the amount collected**
37 **under this chapter for a fiscal year**, the director shall conduct a
38 referendum on the continuation of the commodity market development
39 council. ~~at least one (1) time every three (3) years.~~

40 (i) Any eligible producer may register to participate in a referendum
41 on the continuation or termination of a program. Registration for such
42 a referendum may not be limited to those producers who registered for

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1 the referendum to establish the program.

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

7 (b) This subsection applies to a commodity market development
8 program for cattle, dairy products, or soybeans. The director shall
9 collect ninety-seven percent (97%) of the fee imposed under the
10 commodity market development program from the producers, handlers,
11 or processors. A producer, handler, or processor may retain the
12 remaining three percent (3%) as compensation for collecting the fee.

13 (c) If a market development fee is unpaid on the date that the fee
14 was due, a penalty of one percent (1%) per month is imposed beginning
15 on the date the fee was due until payment plus the penalty is received
16 by the director. If, after notice, a person defaults in a payment of the fee
17 or penalties imposed under this subsection, the amount due shall be
18 collected by civil action in the name of the state of Indiana at the
19 request of the director, and the person adjudged in default shall pay the
20 costs of the action. The attorney general, at the request of the director,
21 and, if requested by the attorney general, the prosecuting attorney of
22 any county, in which a cause of action arose under the provisions for
23 the collection of fees due and unpaid, shall institute proper action in an
24 Indiana court for the collection of unpaid fees and penalties.

25 (d) The individual commodity council market development fund is
26 established. The fund consists of all fees paid to the director under that
27 agricultural commodity program. The director shall spend all money
28 credited to the fund, less administration expenses, for the use and
29 benefit of the commodity market development council for which the
30 fund is established.

31 (e) The director shall submit an annual statement to the commodity
32 market development council that shows all receipts, administration
33 expenses, refunds, and the balance credited to the fund.

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

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