



Jill Rowland

Bill Analysis
Legislative Service Commission

H.B. 455

124th General Assembly
(As Introduced)

Reps. Aslanides, Seitz, Hollister, Schaffer

BILL SUMMARY

- Eliminates language requiring an operating committee for an agricultural commodity marketing program to consist of an odd number of members, and reduces the minimum number of members of such a committee from five to three.
- Establishes more specific criteria for making refunds of assessments paid by producers of an agricultural commodity, and extends the deadline by which an operating committee must make a refund from 30 days to 60 days after receipt of a producer's valid application for one.
- Revises requirements for public notice that the Director of Agriculture must give regarding his recommendation to continue or terminate an agricultural commodity marketing program after he has conducted a hearing on the issue.
- Establishes uniform criteria for determining whether affected producers favor the Director's proposed termination of an agricultural commodity marketing program.

CONTENT AND OPERATION

Background: agricultural commodity marketing programs

Current law provides a mechanism by which producers of agricultural commodities may establish agricultural commodity marketing programs to promote their products. "Agricultural commodity" means any food, fiber, feed, animal, or plant, or group of foods, fibers, feeds, animals, or plants that the Director of Agriculture determines to be of the same nature, in either a natural or processed state (sec. 924.01(A), not in the bill). "Producer" means any person who is in the business of producing, or causing to be produced, any agricultural

commodity for commercial sale, except that when used in reference to nursery stock, "producer" also means a distributor, processor, handler, or retailer of nursery stock (sec. 924.01(H), not in the bill).

The Director is required to establish procedures by which producers of Ohio agricultural commodities may propose, develop, and operate marketing programs to promote the sale and use of their products, develop new uses and markets for the products, improve the methods of distributing the products to consumers, and standardize the quality of the products for specific uses (sec. 924.02, not in the bill). The programs are funded through assessments on the commodities (sec. 924.09). Generally, the Director must hold a hearing at least once every five years to consider the continuation of each such program (sec. 924.12).

Membership of operating committee

Under current law, producers of an Ohio agricultural commodity may present the Director with a petition signed by the lesser of 1,000 or 20% of all such producers requesting that the Director hold a referendum to establish a marketing program for that commodity or to amend an existing program (sec. 924.04(A), not in the bill). When the producers of an agricultural commodity who vote in a referendum favor a proposed marketing program, the Director of Agriculture must order the program established and, if the marketing program does not provide for the election of an operating committee, appoint an operating committee consisting of an odd number of producers of the commodity to administer the program. Each operating committee must consist of not less than five nor more than 15 producers. (Sec. 924.07(A).) An operating committee has the authority to make assessments on the marketable agricultural commodity for which the marketing program was established (sec. 924.09(A)).

The bill eliminates the language that requires an operating committee to consist of an odd number of producers. In addition, the bill reduces the minimum required number of producers who serve on an operating committee from five to three. (Sec. 924.07(A).)

Procedures for refund of assessments

Under current law, each marketing program must require a refund of assessments collected by its operating committee not later than 30 days after receipt of an application by a producer for a refund. The bill instead specifies that the operating committee of each marketing program must refund to a producer the assessments that it collects from the producer not later than 60 days, rather than 30 days, after receipt of a *valid* application by the producer for a refund. In addition, the bill specifies that a refund can be made only to a producer who complies with

the procedures for a refund that were established under the program when it was established. (Sec. 924.09(E).)

Continuation or termination of a marketing program

Public notice of Director's decision

Current law requires the Director to hold a hearing, in accordance with procedures established in the Administrative Procedure Act, to consider the continuation of a marketing program at least once in each five years of its operation or at any time upon written petition by the lesser of 20% or 1,000 of the producers affected by the marketing program (sec. 924.12(B)). Under current law, within 30 days after the close of a hearing to consider the continuation of a marketing program, the Director must recommend continuation or termination of the program and must give public notice, and notify each producer of record, all parties appearing at the hearing, and other interested parties, of his recommendation. (Sec. 924.12(C).)

The bill eliminates the requirement that the Director notify each producer of record, all parties appearing at the hearing, and other interested parties. Instead, the bill requires the Director to give public notice of his recommendation by publication in the applicable trade journal and in the Register of Ohio. The bill also requires the Director to provide notice of the recommendation to any other person who, in writing, has requested notification. (Sec. 924.12(C).)

Referendum on proposed termination of marketing program

Current law requires the Director, not later than 45 days after he recommends termination of a marketing program, to conduct a referendum to determine whether the affected producers favor the proposed termination. However, current law establishes slightly different criteria for determining whether the affected producers favor the termination of a marketing program depending on whether the program was established before April 10, 1985, or on or after that date. The bill establishes uniform criteria for determining whether termination of a program is favored regardless of when the program was established as discussed below. (Sec. 924.12(D) and (E).)

Current law specifies that, with respect to a marketing program established before April 10, 1985, the affected producers favor termination of the program if 51% or more, by number, of the producers who vote in the referendum vote in favor of termination of the program and represent 51% or more of the volume of the affected agricultural commodity that was produced in the preceding marketing year by all producers who voted in the referendum. The bill eliminates this provision. (Sec. 924.12(D).)

Current law specifies that, with respect to a marketing program established on or after April 10, 1985, the affected producers favor termination of the program if a majority of the producers who vote in the referendum vote in favor of termination of the program. The bill eliminates the reference to marketing programs established on or after April 10, 1985, and instead applies the provision to all marketing programs regardless of when they were established. (Sec. 924.12(E).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	12-18-01	p. 1179

H0455-I.124/jc