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Bill Analysis

Legislative Service Commission

S.B. 37

126th General Assembly
(As Introduced)

Sens. Grendell, Jacobson, Clancy

BILL SUMMARY

- Enables certain persons associated with the equine industry to establish an equine marketing program.
- Makes changes to the Agricultural Commodity Marketing Program Law in order to make it applicable to and consistent with the establishment of an equine marketing program.
- Requires the operating committee of an equine marketing program to be appointed by the Director of Agriculture, and specifies the composition of the committee.

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)). 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, not in the bill).

Establishment of equine marketing program

The bill enables certain persons associated with the equine industry to establish an equine marketing program in accordance with current law provisions governing agricultural commodity marketing programs. Because the current law was established for the marketing of food or fiber products, the bill makes certain changes to it in order to make it applicable to and consistent with the establishment of an equine marketing program.

Definition of "producer"

Under law retained by the bill, producers may establish agricultural commodity marketing programs to promote their products. Current law defines "producer" as any person who is in the business of producing, or causing to be produced, any agricultural commodity for commercial sale. The bill specifies that when used in reference to equines, "producer" means any person who owns, breeds, or trains equines or who is a member of an organization that represents the equine industry. (Sec. 924.01(H).)

Assessments for equine marketing program

Background

Under current law, agricultural commodity marketing programs are funded through assessments on the commodities. Current law authorizes producers who propose to establish a marketing program to propose the rate of assessment and establishes a cap on the allowable maximum rate of assessment (sec. 924.04). In addition, current law authorizes operating committees of producers (see below) to levy the assessments (sec. 924.09).

Presentation of referendum petition and program proposals

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. At the time of presentation of the petition, the petitioners also must present the proposed program or proposed amendment. (Sec. 924.04(A) and (B).) Part of this presentation consists of presenting the rate of assessment to be made on the marketable agricultural commodity, which cannot exceed 2% of the average market price of that agricultural commodity during the preceding marketing year as defined by the United States Department of Agriculture or, if no such definition exists, by the Director (sec. 924.04(B)(1)).

The bill creates an exception to this assessment provision for a proposed equine marketing program or a proposed amendment to an existing equine marketing program. In the case of such a program, the bill states that the petition must specify the rate of assessment to be made on equine feed that was purchased by a producer during the preceding calendar year and the means of collection of the assessment. (Sec. 924.04(B)(1).) The petition also must include a specification that the assessments collected for the program will be equitably distributed among the equine industries that are represented in the program for the purposes of carrying out the program (sec. 924.04(B)(5)).

Assessments by operating committee

Under current law, 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, must appoint an operating committee consisting of between three and fifteen producers of the commodity to administer the program (see "**Creation of operating committee for equine marketing program**," below) (sec. 924.07). Each operating committee may make assessments on the marketable agricultural commodity for which the marketing program was established. The bill specifies that in the case of an equine marketing program, the operating committee may make assessments on equine feed purchased by a producer, provided that the assessments on that fee were approved in the most recent referendum that established or amended the program. (Sec. 924.09(A).)

Current law prohibits an operating committee from levying any assessment that exceeds 2¢ per bushel of corn, soybeans, or wheat, or 2% of the average market price of any other agricultural commodity during the preceding marketing year as defined for the commodity by the United States Department of Agriculture or, if there is no such definition, by the Director. The bill establishes an exception to this prohibition for an equine marketing program by specifying that the operating committee for the program must not levy an assessment in an amount that exceeds the amount of the assessment that was approved in the most recent referendum that established or amended the program. (Sec. 924.09(B)(2).)

In addition, the bill requires the operating committee of an equine marketing program to establish a voluntary contribution program for producers who grow equine feed for their own operations and do not pay an assessment, but who wish to financially support the marketing program (sec. 924.09(F)).

Creation of operating committee for equine marketing program

Under existing law, the presentation of a petition to establish a marketing program also must include the requirements for appointed or elected operating committees. The bill creates an exception to this requirement for a proposed equine marketing program or a proposed amendment to an existing equine marketing program by specifying that the operating committee for such a program cannot be elected (sec. 924.04(B)(4)).

Under the bill, when the producers who vote in a referendum to create an equine marketing program favor the creation, the Director must order the program established and appoint an operating committee consisting of the following members to administer the program:

- (1) Three members representing the horse racing industry, not more than two of whom must represent the same segment of the industry;
- (2) Three members representing the equine show industry, not more than two of whom must represent the same segment of the industry;
- (3) Three members representing recreational users of equines;
- (4) Three members representing persons who use equines for agricultural purposes;
- (5) One member representing the agribusiness industry; and
- (6) One member representing the Ohio Farm Bureau Federation (sec. 924.071(A)).

The bill establishes staggered three-year terms for the members. Each new appointment must be made prior to the expiration date of the preceding or vacant term. (Sec. 924.071(B).)

The Director cannot appoint any member of the operating committee to serve more than three successive full three-year terms (sec. 924.071(C)). The bill requires the Director to appoint members from a list of candidates recommended by equine producers. Insofar as possible the members must be equitably distributed by geographic areas. Any list of candidates recommended to the Director by producers must include not less than twice as many candidates as the number of members that are to be appointed, but in no case fewer than three names. (Sec. 924.071(D).)

The Director, or his designee, is an ex officio member of the operating committee, with the right to vote (sec. 924.071(E)). Each member of the operating

committee, except the Director or his designee, is entitled to actual and necessary travel and incidental expenses while attending meetings of the committee or while engaged in the performance of official responsibilities delegated to the committee. No member of the committee must receive in excess of \$30 per day, in addition to such travel and incidental expenses, or for more than 24 days per year for duties performed as a member of the committee. (Sec. 924.071(F).)

No person is civilly liable for any actions taken in good faith as a member of the operating committee (sec. 924.071(G)).

The bill excludes the operating committee of an equine marketing program from the provisions in current law governing operating committees of agricultural commodity marketing programs (sec. 924.07(H)). However, the bill's provisions that are discussed above regarding the operating committee of an equine marketing program are similar to the provisions in current law governing the operating committees of other programs.

Inapplicability of provisions concerning processors, handlers, and distributors

Current law governing agricultural commodity marketing programs contains two distinct provisions concerning processors, handlers, and distributors of agricultural commodities. The bill specifies that, notwithstanding any language to the contrary, these provisions do not apply to an equine marketing program (sec. 924.011).

One of the current law provisions that is not applicable to an equine marketing program authorizes the Director to require each handler, distributor, or processor of any Ohio agricultural commodity for which a marketing program is proposed to file with the Director within 30 days a properly certified report. The report must contain the names and addresses of producers from whom the handler, distributor, or processor received agricultural commodities in the preceding marketing season together with the volume marketed by each producer during that season. (Sec. 924.05, not in the bill.) The other current law provision that is not applicable to an equine marketing program authorizes the Director to require a processor, distributor, handler, or producer of an agricultural commodity for which a marketing program has been established to withhold assessments from any amounts that he owes to producers of the commodity and to remit them to the Director (sec. 924.09(C)).

Current law defines "processor" as any person who is in the business of grading, packaging, packing, canning, freezing, dehydrating, fermenting, distilling, extracting, preserving, grinding, crushing, juicing, or in any other way preserving or changing the form of an agricultural commodity (sec. 924.01(G)). "Distributor" means any person who sells, offers for sale, markets, or distributes

an agricultural commodity that the person has purchased or acquired directly from a producer or that the person markets on behalf of a producer (sec. 924.01(B)). "Handler" means any person who is in the business of packing, grading, selling, offering for sale, or marketing any agricultural commodity in commercial quantities as defined in a marketing program (sec. 924.01(C)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-26-05	p. 111

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