

AN ACT

To amend sections 901.04, 924.07, 924.09, and 924.12 of the Revised Code to revise certain provisions of the law governing agricultural commodity marketing programs and to authorize the Director of Agriculture to award grants for the purpose of promoting agriculture.

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

SECTION 1. That sections 901.04, 924.07, 924.09, and 924.12 of the Revised Code be amended to read as follows:

Sec. 901.04. (A) The department of agriculture may solicit or accept from any public or private source and shall deposit in the state treasury to the credit of the agro Ohio fund any grant, gift, devise, or bequest of money made to or for the use of the department in fulfilling its statutory duties or for promoting any part of the public welfare that is under the supervision and control of the department. The department ~~of agriculture~~ may also accept and hold on behalf of ~~Ohio~~ this state any grant, gift, devise, or bequest of other property made to or for the use of the department or for promoting any part of the public welfare that is under the supervision and control of the department. The department may contract for and carry out the terms and conditions of any devise, grant, gift, or donation that may be so made.

(B) There is hereby created in the state treasury the agro Ohio fund, to which shall be credited all sums received under division (A) of this section and divisions (A)(2) and (C) of section 2105.09 of the Revised Code. All money received under divisions (A)(2) and (C) of section 2105.09 of the Revised Code shall be used for the benefit of agriculture.

(C) The director may use all or any portion of the moneys in the agro Ohio fund to award grants for the purpose of promoting agriculture in this state. With respect to such grants that consist of moneys other than federal moneys, the director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

- (1) Specific purposes for which grants may be awarded;
- (2) Procedures for soliciting grant applications, applying for grants,

awarding grants, and otherwise administering grants:

(3) Eligibility criteria for receiving grants that must be satisfied by applicants for the grants;

(4) Any other procedures and requirements that are necessary to administer a grant program.

(D) Federal moneys deposited into the agro Ohio fund shall be used in accordance with any terms that federal law prescribes for their use.

Sec. 924.07. (A) When the producers of an agricultural commodity who vote in a referendum favor a proposed marketing program, the director of agriculture shall 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 said the commodity to administer the program. Each operating committee shall consist of not less than ~~five~~ three nor more than fifteen ~~members~~ producers.

(B) Of the members first appointed to an operating committee, the director shall appoint approximately one-third for one-year terms, approximately one-third for two-year terms, and the remainder for three-year terms. Thereafter, ~~he~~ the director shall appoint each member for a three-year term unless the appointee is to fill a vacancy in which case ~~he~~ the appointee shall be appointed for the unexpired term. Each such subsequent appointment shall be made prior to the expiration date of the preceding or vacant term.

(C) The director shall not appoint any member of an operating committee to serve more than three successive full three-year terms.

(D) The director shall appoint members of each operating committee from a list of candidates recommended by the producers of the agricultural commodity for which the marketing program is established. Insofar as possible the members shall be equitably distributed by geographic and production areas. Any list of candidates recommended to the director by producers shall include not less than twice as many candidates as the number of members which are to be appointed, but in no case shall a list include fewer than three names.

(E) The director, or ~~his~~ the director's designee, is an ex officio member of each operating committee, with the right to vote.

(F) Each member of an operating committee, except the director or ~~his~~ the director's 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 such a committee shall receive in excess of thirty

dollars per day, in addition to such travel and incidental expenses, or for more than twenty-four days per year for duties performed as a member of ~~such~~ the committee.

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

Sec. 924.09. (A) Each operating committee may make assessments upon the marketable agricultural commodity for which the marketing program was established.

(B) No operating committee shall levy any assessment:

(1) ~~Which~~ That was not approved by the producers affected by the program;

(2) ~~Which~~ That exceeds two cents per bushel of corn, soybeans, or wheat, or two per cent 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;

(3) Against any producer who is not eligible to vote in a referendum for the marketing program ~~which~~ that the operating committee administers.

(C) The director of agriculture may require a producer, processor, distributor, or handler of an agricultural commodity for which a marketing program has been established under sections 924.01 to 924.16 of the Revised Code to withhold assessments from any amounts that ~~he~~ the producer, processor, distributor, or handler owes to producers of the commodity and, notwithstanding division (B)(3) of this section, to remit them to the director. Any processor, distributor, or handler who pays for any producer any assessment ~~which~~ that is levied under authority of this section; may deduct the amount of ~~such~~ the assessment from any moneys ~~which~~ he ~~that~~ the processor, distributor, or handler owes to the producer.

(D) No operating committee shall use any assessments ~~which~~ that it levies for any political or legislative purpose, or for preferential treatment of one person to the detriment of any other person affected by the marketing program.

(E) ~~Each~~ The operating committee of each marketing program shall ~~require a refund of to a producer the assessments collected by its operating committee under this section~~ that it collects from the producer not later than ~~thirty~~ sixty days after receipt of ~~an~~ a valid application by a the producer for a refund, provided that the producer complies with the procedures for a refund that were included in the program under division (B)(3) of section 924.04 of the Revised Code.

In the case of the state beef marketing program, in lieu of giving a

refund to a producer, the director of the program's operating committee may forward the refund to the cattlemen's beef promotion and research board pursuant to the "Beef Promotion and Research Act," 99 Stat. 1597 (1985), 7 U.S.C.A. 2901, and amendments thereto, and shall credit that amount to the total amount owed by the producer to the federal beef program. Each application for a refund of assessments levied for a program established after April 10, 1985 shall be made on a form provided by the director of agriculture. Each operating committee for such a program shall ensure that refund forms are available where assessments for its program are withheld.

Sec. 924.12. (A) The director of agriculture may temporarily suspend the operation of a marketing program, or any part thereof, for any reason, upon recommendation by the operating committee for the program, for a period of not more than twelve consecutive months.

(B) At least once in each five years of operation, or at any time upon written petition by the lesser of twenty per cent or one thousand of the producers affected by a marketing program, the director shall ~~hold a hearing as prescribed in Chapter 119.~~ give public notice by analogy to division (A) of and conduct a hearing under division (C) of section 119.03 of the Revised Code to consider the continuation of the program. The director shall file a copy of the public notice with the director of the legislative service commission for purposes of publishing the public notice in the register of Ohio.

(C) Within thirty days after the close of any hearing to consider the continuation of a marketing program, the director of agriculture shall recommend continuation or termination of the program, and shall give public notice, and notify each producer of record, all parties appearing at the hearing, and other interested parties, of his the recommendation by publication in the register of Ohio. The director also shall provide notice of the recommendation to any person who, in writing, has requested notification and may give whatever other notice the director reasonably considers necessary to ensure that notice is constructively given to all persons who are affected by the program.

~~(D) When the director recommends termination of a marketing program established before April 10, 1985, he shall, within forty-five days, conduct a referendum to determine whether the affected producers favor the proposed termination. The affected producers favor the termination of the program if fifty one per cent or more, by number, of the producers who vote in the referendum, vote in favor of termination of the program and represent fifty one per cent or more of the volume of the affected agricultural commodity which was produced in the preceding marketing year by all~~

~~producers who voted in the referendum.~~

(E) When the director recommends termination of a marketing program established on or after April 10, 1985, ~~he~~ the director shall, within forty-five days, conduct a referendum to determine whether the affected producers favor the proposed termination. The affected producers favor the termination of the program if a majority of the producers who vote in the referendum vote in favor of termination of the program.

SECTION 2. That existing sections 901.04, 924.07, 924.09, and 924.12 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. H. B. No. 455

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____