

**As Reported by the House Agriculture and Natural Resources  
Committee**

**124th General Assembly  
Regular Session  
2001-2002**

**Am. H. B. No. 455**

**REPRESENTATIVES Aslanides, Seitz, Hollister, Schaffer, Carmichael,  
Redfern, Niehaus, Kearns, Boccieri, Krupinski, Core, Distel, Collier, Barrett,  
Faber, Metzger, Wolpert, Rhine**

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**A B I L L**

To amend sections 901.04, 924.07, 924.09, and 924.12 1  
of the Revised Code to revise certain provisions of 2  
the law governing agricultural commodity marketing 3  
programs and to authorize the Director of 4  
Agriculture to award grants for the purpose of 5  
promoting agriculture. 6

**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 7  
of the Revised Code be amended to read as follows: 8

**Sec. 901.04.** (A) The department of agriculture may solicit or 9  
accept from any public or private source and shall deposit in the 10  
state treasury to the credit of the agro Ohio fund any grant, 11  
gift, devise, or bequest of money made to or for the use of the 12  
department in fulfilling its statutory duties or for promoting any 13  
part of the public welfare that is under the supervision and 14  
control of the department. The department ~~of agriculture~~ may also 15  
accept and hold on behalf of Ohio this state any grant, gift, 16  
devise, or bequest of other property made to or for the use of the 17

department or for promoting any part of the public welfare that is 18  
under the supervision and control of the department. The 19  
department may contract for and carry out the terms and conditions 20  
of any devise, grant, gift, or donation that may be so made. 21

(B) There is hereby created in the state treasury the agro 22  
Ohio fund, to which shall be credited all sums received under 23  
division (A) of this section and divisions (A)(2) and (C) of 24  
section 2105.09 of the Revised Code. All money received under 25  
divisions (A)(2) and (C) of section 2105.09 of the Revised Code 26  
shall be used for the benefit of agriculture. 27

(C) The director may use all or any portion of the moneys in 28  
the agro Ohio fund to award grants for the purpose of promoting 29  
agriculture in this state. With respect to such grants that 30  
consist of moneys other than federal moneys, the director shall 31  
adopt rules in accordance with Chapter 119. of the Revised Code 32  
establishing all of the following: 33

(1) Specific purposes for which grants may be awarded; 34

(2) Procedures for soliciting grant applications, applying 35  
for grants, awarding grants, and otherwise administering grants; 36

(3) Eligibility criteria for receiving grants that must be 37  
satisfied by applicants for the grants; 38

(4) Any other procedures and requirements that are necessary 39  
to administer a grant program. 40

(D) Federal moneys deposited into the agro Ohio fund shall be 41  
used in accordance with any terms that federal law prescribes for 42  
their use. 43

**Sec. 924.07.** (A) When the producers of an agricultural 44  
commodity who vote in a referendum favor a proposed marketing 45  
program, the director of agriculture shall order the program 46  
established and, if the marketing program does not provide for the 47

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election of an operating committee, appoint an operating committee 48  
consisting of ~~an odd number of~~ producers of ~~said~~ the commodity to 49  
administer the program. Each operating committee shall consist of 50  
not less than ~~five~~ three nor more than fifteen ~~members~~ producers. 51

(B) Of the members first appointed to an operating committee, 52  
the director shall appoint approximately one-third for one-year 53  
terms, approximately one-third for two-year terms, and the 54  
remainder for three-year terms. Thereafter, ~~he~~ the director shall 55  
appoint each member for a three-year term unless the appointee is 56  
to fill a vacancy in which case ~~he~~ the appointee shall be 57  
appointed for the unexpired term. Each such subsequent appointment 58  
shall be made prior to the expiration date of the preceding or 59  
vacant term. 60

(C) The director shall not appoint any member of an operating 61  
committee to serve more than three successive full three-year 62  
terms. 63

(D) The director shall appoint members of each operating 64  
committee from a list of candidates recommended by the producers 65  
of the agricultural commodity for which the marketing program is 66  
established. Insofar as possible the members shall be equitably 67  
distributed by geographic and production areas. Any list of 68  
candidates recommended to the director by producers shall include 69  
not less than twice as many candidates as the number of members 70  
which are to be appointed, but in no case shall a list include 71  
fewer than three names. 72

(E) The director, or ~~his~~ the director's designee, is an ex 73  
officio member of each operating committee, with the right to 74  
vote. 75

(F) Each member of an operating committee, except the 76  
director or ~~his~~ the director's designee, is entitled to actual and 77  
necessary travel and incidental expenses while attending meetings 78  
of the committee or while engaged in the performance of official 79

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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

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any assessment ~~which~~ that is levied under authority of this 110  
 section, may deduct the amount of ~~such~~ the assessment from any 111  
 moneys ~~which he~~ that the processor, distributor, or handler owes 112  
 to the producer. 113

(D) No operating committee shall use any assessments ~~which~~ 114  
that it levies for any political or legislative purpose, or for 115  
 preferential treatment of one person to the detriment of any other 116  
 person affected by the marketing program. 117

(E) ~~Each~~ The operating committee of each marketing program 118  
 shall ~~require a refund of~~ to a producer the assessments collected 119  
~~by its operating committee under this section that it collects~~ 120  
from the producer not later than ~~thirty~~ sixty days after receipt 121  
 of ~~an~~ a valid application by ~~a~~ the producer for a refund, provided 122  
that the producer complies with the procedures for a refund that 123  
were included in the program under division (B)(3) of section 124  
924.04 of the Revised Code. 125

In the case of the state beef marketing program, in lieu of 126  
 giving a refund to a producer, the director of the program's 127  
 operating committee may forward the refund to the cattlemen's beef 128  
 promotion and research board pursuant to the "Beef Promotion and 129  
 Research Act," 99 Stat. 1597 (1985), 7 U.S.C.A. 2901, and 130  
 amendments thereto, and shall credit that amount to the total 131  
 amount owed by the producer to the federal beef program. Each 132  
 application for a refund of assessments levied for a program 133  
 established after April 10, 1985 shall be made on a form provided 134  
 by the director of agriculture. Each operating committee for such 135  
 a program shall ensure that refund forms are available where 136  
 assessments for its program are withheld. 137

**Sec. 924.12.** (A) The director of agriculture may temporarily 138  
 suspend the operation of a marketing program, or any part thereof, 139  
 for any reason, upon recommendation by the operating committee for 140

the program, for a period of not more than twelve consecutive months. 141  
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(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. of the Revised Code to consider the continuation of the program. 143  
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(C) Within thirty days after the close of any hearing to consider the continuation of a marketing program, the director 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 applicable trade journal and in the register of Ohio. The director also shall provide notice of the recommendation to any other person who, in writing, has requested notification. 148  
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~~(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.~~ 157  
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~~(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 167  
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of termination of the program. 173

**Section 2.** That existing sections 901.04, 924.07, 924.09, and 174

924.12 of the Revised Code are hereby repealed. 175