

HOUSE BILL No. 2818

AN ACT concerning agriculture; creating the sunflower commodity commission; prescribing certain powers, duties and responsibilities; assessments; amending K.S.A. 2-3001, 2-3002, 2-3003, 2-3006 and 2-3007 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2-3001 is hereby amended to read as follows: 2-3001. As used in this act, unless the context clearly requires otherwise:

(a) "Grower" means any natural person, partnership, association, corporation or other legal entity engaged in the growing of corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* who owns or who shares in the ownership and risk of loss of such corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*, whether as landlord or tenant. For the purposes of being an eligible voter pursuant to K.S.A. 2-3002, and amendments thereto, a grower who is a legal entity who owns or who shares in the ownership and risk of loss of such corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*, whether as landlord or tenant, on which there is no individual ownership and risk of loss of such corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*, shall designate a natural person to register to vote for such legal entity;

(b) "first purchaser" means any person, public or private corporation, association or partnership buying or otherwise acquiring after harvest, the property in or to corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* from a grower. A mortgagee, pledgee, lienor or other person, public or private, having a claim against the grower under a nonrecourse loan made against such corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* after harvest thereof shall be deemed a first purchaser hereunder. The term "first purchaser" shall not include a harvesting or threshing lienor;

(c) "commercial channels" means the sale of corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* for use as food, feed, seed or any industrial or chemurgic use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* or product produced from corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*;

(d) "sale" means and includes any pledge or mortgage of corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*, after harvest, to any person, public or private;

(e) "department" means the Kansas department of agriculture; and

(f) "secretary" means the secretary of agriculture or the secretary's authorized representative.

Sec. 2. K.S.A. 2-3002 is hereby amended to read as follows: 2-3002.

(a) There are hereby created ~~four~~ *five* separate and distinct commissions which shall be known as the Kansas corn commission, the Kansas grain sorghum commission, the Kansas soybean commission ~~and~~, the Kansas wheat commission *and the Kansas sunflower commission*. Each commission will have members elected through an election process as provided in subsection (b) to serve three-year terms, with the exception of transition commissioners, serving from the effective date of this act until elections occur in 2002, 2003 and 2004, to represent a district or districts identified in ~~sub-section~~ *subsection* (b) with the following requirements:

(1) Any person meeting the requirements of K.S.A. 2-3003, and amendments thereto, of that commodity may seek election as a commissioner to that commodity's respective commission representing the district of such person's official residence. Only a grower of each specific commodity shall be a member of that specific commission;

(2) no commission shall have less than seven commissioners representing the nine crop reporting districts identified in subsection (h). If a commission has less than nine elected commissioners representing crop reporting districts, any commissioner representing multiple crop reporting districts may only represent commission districts equal to whole and adjoining crop reporting districts that are within the same election cycle; and

(3) each commission may, by majority approval of the commissions, appoint two additional at-large commissioners for added representation for producers due to geographical, cropping pattern or other reasonable commodity-specific needs. At-large commissioners will serve a term determined by the commodity commission not to exceed three-year terms of appointment, be a Kansas resident and must meet the definition of a grower.

(b) (1) Prior to the first election as provided by this act, each com-

modity commission shall notify all growers of its respective commodity of the commission election and all appropriate election procedures.

(2) Any grower of corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* who is a resident of this state, of legal voting age and has been actively engaged in growing corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* within the preceding three years shall become an eligible voter upon registering to vote in a commission election. Registration shall be on a single form allowing registration to any or all commission elections. Forms shall be provided by the commissions and made available at all county extension offices, county conservation district offices and through the office of the secretary. Any grower also shall become registered by signing a petition for a candidate to be placed on the election ballot, upon the filing of such petition. Candidate petition forms shall be provided by the office of the secretary. Registration by internet or other means shall also be allowed upon the approval of the secretary. No grower shall cast more than one ballot for any commission election.

(3) Any person meeting the qualifications to serve as a commissioner may appear on the election ballot for their respective commission district by submitting a petition to be placed on the ballot on or before ~~October 31~~ *November 30* in the year immediately preceding the election. The petition shall contain the signatures of 20 eligible voters of that commodity commission election to be a valid petition. However, no more than five petition signatures shall be used to qualify any candidate from any one county.

(4) Commission election ballots shall be mailed to eligible voters by January 15 and shall be returned to the election officer, as provided through the common election procedure required in subsection (e), on or before March 1 in the year of any election. Successful candidates in any election will have received the highest number of the votes cast. Election results will be announced as soon as the election has been determined with successful candidates taking office with terms effective April 1 in the year of the election.

(5) *On and after July 1, 2002, any interested person or entity in the agriculture industry, with emphasis on growers of sunflowers, may submit names to the governor for appointment to the Kansas sunflower commission. On or after September 1, 2002, the governor shall appoint nine members to the Kansas sunflower commission from among the names submitted to the governor, if possible, to represent each of the crop reporting districts as provided in this section. The terms of the members appointed by the governor shall be the same as provided in subsection (d) and the same election provisions as provided in this section applicable to the other commissions shall apply to such appointed members, except that the members appointed to represent districts IV, V and VI shall not stand for election in 2002 but rather shall have their initial term of office to run until the election held for such districts in 2005. At such time the same election provisions of this section applicable to the other commissions shall apply to such members.*

(c) Upon the effective date of this act, each commission created shall meet as soon as feasible to organize, elect officers and ratify the number of commissioners and representative districts that commission shall maintain. Commissioners currently serving these commissions immediately prior to the effective date of this act are appointed to transition terms as follows: (1) Commissioners whose terms expire in June, 2000, shall have their terms extended until April, 2002; (2) commissioners whose terms expire in June, 2001, shall have their terms extended until April, 2003; and (3) commissioners whose terms expire in June, 2003, shall have their terms extended until April, 2004.

(d) Annual elections for up to three commissioners representing districts shall begin in January and February of 2002. Commissioners elected shall take office April 1 of the year elected and serve a three-year term. Elections will occur as follows and continue on a three-year cycle thereafter: (1) In districts IV, V and VI, the initial election year shall be 2002; (2) in districts I, II and III, the initial election year shall be 2003; and (3) in districts VII, VIII and IX, the initial election year shall be 2004.

(e) The ~~four~~ *five* grain commissions, as provided in this act shall maintain on file a common election procedure with the secretary of the Kansas department of agriculture, who will serve as the final arbitrator of any dispute regarding the election procedure.

(f) Any grower who appropriately registers to vote shall be able to do so in an election for any commissioner representing that commodity and district where the grower maintains such grower's official residence.

(g) Any challenge to election results for the position of commodity commissioner representing a district shall be initially reviewed by a panel of commissioners, not standing for election that year, and representing all four grain commissions. If the challenge is not resolved before the panel of commissioners, the secretary shall serve as the final arbitrator of the challenge to the election results.

(h) Vacancies which may occur shall be filled for unexpired terms by appointment by the remaining commissioners.

(i) The dean of the college of agriculture of Kansas state university and the secretary of the Kansas department of agriculture shall be ex officio members, without the right to vote, of each such commission. Districts are the same as crop reporting districts established for Kansas by the U.S. department of agriculture national agricultural statistic service and are as follows:

(j) District I shall consist of the following counties: Cheyenne, Decatur, Graham, Norton, Rawlins, Sheridan, Sherman and Thomas.

District II shall consist of the following counties: Gove, Greeley, Lane, Logan, Ness, Scott, Trego, Wallace and Wichita.

District III shall consist of the following counties: Clark, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Meade, Morton, Seward, Stanton and Stevens.

District IV shall consist of the following counties: Clay, Cloud, Jewell, Mitchell, Osborne, Ottawa, Phillips, Republic, Rooks, Smith and Washington.

District V shall consist of the following counties: Barton, Dickinson, Ellis, Ellsworth, Lincoln, McPherson, Marion, Rice, Rush, Russell and Saline.

District VI shall consist of the following counties: Barber, Comanche, Edwards, Harper, Harvey, Kingman, Kiowa, Pawnee, Pratt, Reno, Sedgwick, Stafford and Sumner.

District VII shall consist of the following counties: Atchison, Brown, Doniphan, Jackson, Jefferson, Leavenworth, Marshall, Nemaha, Pottawatomie, Riley and Wyandotte.

District VIII shall consist of the following counties: Anderson, Chase, Coffey, Douglas, Franklin, Geary, Johnson, Linn, Lyon, Miami, Morris, Osage, Shawnee and Wabaunsee.

District IX shall consist of the following counties: Allen, Bourbon, Butler, Chautauqua, Cherokee, Cowley, Crawford, Elk, Greenwood, Labette, Montgomery, Neosho, Wilson and Woodson.

(k) Meetings and any records of any commission created by this act shall be open to the public to the same extent as is required by law of public boards and commissions pursuant to the open records act and the open meetings act. Records shall include contracts entered into by any commission.

Sec. 3. K.S.A. 2-3003 is hereby amended to read as follows: 2-3003. Members of each commission created pursuant to K.S.A. 2-3002, and amendments thereto, shall be residents of this state who have been actively engaged in growing corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*, as applicable, in this state for at least five years immediately preceding such member's election.

Sec. 4. K.S.A. 2-3006 is hereby amended to read as follows: 2-3006. The secretary shall have the following duties, authorities and powers to:

(1) Hire such clerical and other personnel deemed necessary to carry out the provisions of this act;

(2) establish recordkeeping requirements deemed necessary by the commodity commission affected;

(3) inspect and audit any records required to be kept pursuant to this act; and

(4) contract with the corn, grain sorghum, soybean ~~and~~, wheat *and sunflower* commissions for the collection of assessment as provided by this act and enter into any other contracts necessary to carry out the provisions of this act.

Sec. 5. K.S.A. 2-3007 is hereby amended to read as follows: 2-3007.

(a) There is hereby levied an assessment upon grain sorghum marketed

through commercial channels in the state of Kansas. The grain sorghum commission shall set the assessment at a rate of not more than five mills per bushel. There is hereby levied an assessment upon corn marketed through commercial channels in the state of Kansas. The corn commission shall set the assessment at a rate of not more than five mills per bushel. There is hereby levied an assessment upon soybeans marketed through commercial channels in the state of Kansas. The soybean commission shall set the assessment at a rate of not more than 20 mills per bushel. There is hereby levied an assessment upon wheat marketed through commercial channels in the state of Kansas. The wheat commission shall set the assessment at a rate of not more than 10 mills per bushel. *There is hereby levied an assessment upon sunflowers marketed through commercial channels in the state of Kansas. The sunflower commission shall set the assessment at a rate of not more than seven and one-half mills per bushel (\$0.03 per cwt).* Any commission shall not change the assessment rate, either to increase or reduce, more than once a year. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. Under the provisions of this act, no corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* shall be subject to the assessment more than once. The commission shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon the payment of such assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such assessment, except a refund shall not be issued unless the amount of the refund is \$5 or more. Within one year after any and all sales during such period the grower may upon submission of a request therefor to the commission, obtain a refund in the amount of the assessments deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the assessments which need not be verified.

(b) The commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended by the commission in the administration of this act and for the payment of all claims growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such assessment. In the case of a lien holder who is a first purchaser as defined in this act, the assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers*. The assessment shall be deducted and paid as provided in this section whether such corn, grain sorghum, soybeans ~~or~~, wheat *or sunflowers* are stored in this or any other state.

(c) Any corn, grain sorghum, soybean ~~or~~, wheat *or sunflowers* acquired by a grower as defined in K.S.A. 2-3001, and amendments thereto, under the provisions of any federal program shall be subject to the provisions of this section.

(d) No assessments for soybeans shall be collected pursuant to subsection (a) while the national checkoff program for soybeans, established pursuant to public law 101-624, remains in effect. Collection of assessments pursuant to subsection (a) shall be reinstated upon the withdrawal of the national checkoff program for soybeans, established pursuant to public law 101-624.

Sec. 6. K.S.A. 2-3001, 2-3002, 2-3003, 2-3006 and 2-3007 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.