

CHAPTER 94
HOUSE BILL No. 2897

AN ACT concerning grain commodity commissions; amending K.S.A. 2-3005 and K.S.A. 2007 Supp. 2-3002, 2-3003 and 2-3007 and repealing the existing sections.

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

Section 1. K.S.A. 2007 Supp. 2-3002 is hereby amended to read as follows: 2-3002. (a) There are hereby created five separate and distinct commissions which shall be known as the Kansas corn commission, the Kansas grain sorghum commission, the Kansas soybean commission, 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 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, *may* 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; *and*

(4) *each commission, by majority approval of the commissions, may appoint a first purchaser as an additional at-large commissioner. Any such first purchaser will serve a term determined by the commodity commission not to exceed a three-year term of appointment and must be a Kansas resident.*

(b) (1) Prior to the first election as provided by this act, each commodity 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, 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, 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 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 five grain commissions, as provided in this act shall maintain on file a common election procedure with the secretary 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~~ five 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. 2. K.S.A. 2007 Supp. 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, wheat or sunflowers, as applicable, in this state for at least five years immediately preceding such member's election. *The member of each commission who has been appointed pursuant to K.S.A. 2007 Supp. 2-3002, and amendments thereto, shall be a resident of this state who has been a first purchaser in this state for at least five years preceding such member's appointment.*

Sec. 3. K.S.A. 2-3005 is hereby amended to read as follows: 2-3005. (a) In the administration of this act, each commission as provided in this act shall have the following duties, authorities and powers:

~~(a)~~ (1) To conduct a campaign of grain commodity promotion and market development through research, education and information;

~~(b)~~ (2) to accept grants and donations;

~~(c)~~ (3) to sue and be sued;

~~(d)~~ (4) to contract with the secretary for the collection of assessments pursuant to the provisions of this act and to enter into any other such contracts as may be necessary or advisable for the purpose of this act;

~~(e)~~ (5) to appoint an administrator who is knowledgeable about the grain commodity and fix the compensation. With the approval of the commission, the administrator may appoint such other personnel as needed. The administrator and any other personnel appointed as provided in this subsection shall not be employees of the state of Kansas;

~~(f)~~ (6) to cooperate or contract with any local, state or national organization or agency, whether voluntary or created by the law of any state, or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and promotion;

~~(g)~~ (7) to bring any suit or action for the collection of assessments provided under this act;

~~(h)~~ (8) to establish an office of administrator at any place in this state the commission may select;

~~(i)~~ (9) to adopt, rescind, modify and amend all necessary and proper orders, resolutions and rules and regulations for the procedure and exercise of its powers and the performance of its duties;

~~(j)~~ (10) to approve an annual budget and establish a reserve. Each project budgeted and approved by the commission shall include a stated objective and anticipated results; and

~~(k)~~ (11) to report annually to their respective commodity growers, the secretary and house and senate agriculture committees of the Kansas legislature. Such annual report shall include details of commission projects, programs and supported research including expenditures and the results of an annual audit performed by a person or entity that is a certified public accountant. Any commission year end reserve balance exceeding 125% of the previous five-year rolling average for annual expenditures for such commission also shall be reported.

(b) *Each commission as provided in this act shall not engage in lob-*

bying as defined in K.S.A. 46-255, and amendments thereto. Nothing in this subsection shall be construed to prohibit any commission from engaging in any action designed to market the respective commodity or products directly to a foreign government or political subdivision thereof.

Sec. 4. K.S.A. 2007 Supp. 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~~ 10 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~~ 10 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~~ *one-half of 1% of the net market price received by the grower*. 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~~ 20 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~~ \$0.06 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, 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, 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, wheat or sunflowers. The assessment shall be deducted and paid as provided in this section whether such corn, grain sorghum, soybeans, wheat or sunflowers are stored in this or any other state.

(c) Any corn, grain sorghum, soybean, 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. No assessments for any commodity shall be collected pursuant to subsection (a) while a national checkoff program for that commodity remains in effect. Collection of assessments pursuant to subsection (a) shall be reinstated upon the withdrawal of a national checkoff program for that commodity.~~

Sec. 5. K.S.A. 2-3005 and K.S.A. 2007 Supp. 2-3002, 2-3003 and 2-3007 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 18, 2008.

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