

SENATE BILL NO. 755

September 28, 1999, Introduced by Senators EMMONS, MC MANUS, BULLARD, ROGERS, SCHUETTE and HAMMERSTROM and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

A bill to amend 1970 PA 29, entitled

"An act relating to potatoes; to create a potato commission; to prescribe its powers and duties and authority; to impose an assessment on the privilege of introducing potatoes into the channels of trade and commerce; to provide for the collection of the assessment; to provide for penalties; and to repeal certain acts and parts of acts,"

by amending section 2 (MCL 290.422), as amended by 1992 PA 135.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) The state potato industry commission is created
2 within the department. The commission shall be composed of the
3 director or a person designated by the director from the
4 director's staff, who shall serve ex officio, without vote; a
5 staff member of Michigan state university appointed by the dean
6 of agriculture of that university to serve at the pleasure of the
7 dean, ex officio, without vote; and 10 growers, 2 processors, 2
8 shippers, and 1 retailer appointed by the governor with the

1 advice and consent of the senate. A member appointed by the
2 governor shall be a citizen and resident of this state and of the
3 district from which appointed, shall be 18 years of age or older,
4 and shall be in compliance with this act. A commission member in
5 the grower category shall be engaged and have been engaged in
6 growing potatoes within this state for a period of not less than
7 2 years immediately before appointment, and shall have derived a
8 substantial portion of his or her income from this activity.

9 (2) Eight growers shall be appointed to serve on the commis-
10 sion, representing 7 districts throughout the state as follows:

11 District 1--Upper Peninsula counties shall be represented by
12 2 members. The following districts shall be represented by 1
13 member each: district 2--Antrim, Manistee, Wexford, Missaukee,
14 Roscommon, Mason, Lake, Osceola, Clare, Benzie, Charlevoix,
15 Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau,
16 and Otsego; district 3--Alcona, Alpena, Montmorency, Oscoda,
17 Presque Isle, Iosco, and Ogemaw; district 4--Kent, Montcalm,
18 Newaygo, Isabella, Mecosta, and Oceana; district 5--Bay, Arenac,
19 Midland, Tuscola, Huron, Sanilac, Gratiot, Gladwin, and Saginaw;
20 district 6--Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun,
21 Berrien, Cass, Clinton, Ionia, Ottawa, Muskegon, St. Joseph, and
22 Branch; district 7--Ingham, Livingston, Oakland, Macomb, Jackson,
23 Washtenaw, Wayne, Hillsdale, Lenawee, Shiawassee, Genesee,
24 Lapeer, St. Clair, and Monroe. The ninth and tenth growers
25 shall serve at large. The other members of the commission,
26 except the ex officio members, shall have been associated with

1 the potato industry for not less than 2 years immediately before
2 appointment.

3 (3) The term of office of an appointed member shall be 3
4 years. ~~An appointed member shall not be eligible to serve more~~
5 ~~than two 3-year terms in succession, after which the member may~~
6 ~~be reappointed to the commission only after an absence of 3~~
7 ~~years.~~ The term of an appointed member shall expire on July 1,
8 except that a term shall continue until a successor is appointed
9 and qualified. If during a term a member ceases to possess any
10 of the qualifications prescribed in this act, that member's
11 office shall be vacated. A person appointed to fill a vacancy
12 shall serve for the remainder of the unexpired term and until a
13 successor is appointed and qualified.

14 (4) The commission shall conduct a meeting of growers and
15 shippers annually.

16 (5) The commission may conduct a meeting of growers in the
17 district where a vacancy will occur by expiration of a term, to
18 elect nominees for appointment to the commission. Instead of a
19 meeting, nominees may be selected by a vote of growers in the
20 district by mail ballot, providing ballots are mailed by the com-
21 mission to all growers of record, and in compliance with this
22 act. Not more than 2 nominees for each vacancy on the commission
23 shall be selected. The names of all nominees shall be placed on
24 a list of nominees recommended to the governor, and the governor
25 shall make appointments from that list. The growers at large
26 shall be nominated by a majority of the 8 growers representing
27 the districts. A majority of the 10 grower members shall

1 nominate the processor, shipper, and retail candidates for
2 appointment to the commission. Vacancies on the commission,
3 except from the expiration of term, shall be filled by the gover-
4 nor from nominees selected by the commission. A person appointed
5 as a commission member shall qualify by filing a written accep-
6 tance and oath of office within 10 days after being notified by
7 the governor of the appointment.

8 (6) Annually, the commission members shall elect a chair-
9 person from among its appointed members. A majority of the
10 voting members of the commission constitutes a quorum for the
11 transaction of business and the carrying out of the duties of the
12 commission. The business which the commission may perform shall
13 be conducted at a public meeting of the commission held in com-
14 pliance with the open meetings act, ~~Act No. 267 of the Public~~
15 ~~Acts of 1976, as amended, being sections 15.261 to 15.275 of the~~
16 ~~Michigan Compiled Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.
17 Public notice of the time, date, and place of the meeting shall
18 be given in the manner required by ~~Act No. 267 of the Public~~
19 ~~Acts of 1976, as amended~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL
20 15.261 TO 15.275. Meetings of the commission shall be called by
21 the chairperson, except that special meetings shall be called by
22 the chairperson on petition of 8 members no later than 7 days
23 after receiving the petition.

24 (7) The per diem compensation of the appointed members of
25 the commission shall not exceed \$75.00 plus the reimbursement of
26 expenses incurred in attending a commission meeting.

1 (8) All funds of the commission shall be handled by the
2 commission and all funds received by it shall be used to
3 implement this act. Money received by the commission shall be
4 deposited in banks or other forms of security as may be desig-
5 nated by the commission.

6 (9) Retailers, processors, and others may support the pro-
7 grams of the commission by paying an annual fee of \$100.00.

8 (10) The commission may accept gifts and grants.

9 (11) The commission shall maintain accurate books, records,
10 and accounts of its transactions, which books, records, and
11 accounts shall be open to inspection by the public and shall be
12 subject to audit by the auditor general or a certified public
13 accountant. A document prepared, owned, used, in the possession
14 of, or retained by the commission in the performance of an offi-
15 cial function shall be made available to the public in compliance
16 with the freedom of information act, ~~Act No. 442 of the Public~~
17 ~~Acts of 1976, as amended, being sections 15.231 to 15.246 of the~~
18 ~~Michigan Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246, except
19 as otherwise provided in section 4a.

20 (12) THE COMMISSION MAY BORROW MONEY IN ANTICIPATION OF THE
21 RECEIPT OF ASSESSMENTS IF ALL OF THE FOLLOWING CONDITIONS ARE
22 MET:

23 (A) THE LOAN WILL NOT BE REQUESTED OR AUTHORIZED, OR WILL
24 NOT MATURE, WITHIN 90 DAYS BEFORE A RESUBMITTAL OR TERMINATION
25 REFERENDUM REGARDING AN ASSESSMENT UNDER THIS ACT.

26 (B) THE AMOUNT OF THE LOAN DOES NOT EXCEED 50% OF THE ANNUAL
27 AVERAGE ASSESSMENT REVENUE DURING THE PREVIOUS 3 YEARS.

1 (C) THE LOAN REPAYMENT PERIOD DOES NOT EXCEED THE TIME
2 PERIOD DURING WHICH THE ASSESSMENT IS MADE OR THE TIME PERIOD
3 DURING WHICH THE ASSESSMENT CAN REASONABLY BE EXPECTED TO BE
4 IMPOSED.

5 (D) THE LOAN HAS THE PRIOR WRITTEN CONSENT OF THE DIRECTOR.
6 THE DIRECTOR MAY REQUEST AN AUDIT OF THE COMMISSION BY THE AUDI-
7 TOR GENERAL BEFORE APPROVING THE LOAN.

8 (13) THE DIRECTOR SHALL ASSESS AGAINST THE GROWERS AND SHIP-
9 PERS ALL OUTSTANDING LOANS APPROVED UNDER SUBSECTION (12),
10 INCLUDING INTEREST, IF THE ASSESSMENT IS TERMINATED.

11 (14) ~~(12)~~ A financial report shall be prepared annually
12 and made available upon request.