



**Senate Fiscal Agency**  
**P. O. Box 30036**  
**Lansing, Michigan 48909-7536**



**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bill 315 (as introduced 4-16-13)  
Sponsor: Senator Judy K. Emmons  
Committee: Agriculture

Date Completed: 6-12-13

### **CONTENT**

**The bill would amend Public Act 29 of 1970, which creates the State Potato Industry Commission and provides for the imposition of an assessment on potato growers and shippers, to do the following:**

- **Revise the membership of the Potato Commission.**
- **Revise the amount of the assessment levied on potato growers and shippers under the Act, and the method for setting future assessments.**
- **Prohibit an assessment from being increased above the rate assessed on the bill's effective date unless authorized by a referendum conducted under the Act.**
- **Require the Michigan Department of Agriculture and Rural Development (MDARD) to conduct a referendum within 60 days after the bill's effective date.**
- **Revise the requirement for a growers' petition to adopt an assessment increase above that provided for in the Act.**
- **Specify that a referendum conducted under the Act would be valid for five years and require MDARD to conduct a referendum every five years after that on the question of whether the Commission and the assessments should continue.**

The bill also would delete "State" from the Commission's name.

### **Potato Industry Commission**

Under the Act, the State Potato Industry Commission consists of the MDARD Director, or his or her designee; a Michigan State University (MSU) staff member appointed by the dean of the school's department of agriculture; and 10 growers, two processors, two shippers, and one retailer appointed by the Governor with the advice and consent of the Senate. The MDARD and MSU members serve ex officio, without vote. A member appointed by the Governor must be at least 18 years old and be a citizen and resident of Michigan and of the district from which he or she is appointed (described below). A grower on the Commission must be engaged and have been engaged in growing potatoes in Michigan for at least two years immediately before appointment, and have derived a substantial portion of his or her income from that activity.

The Act requires eight growers to be appointed to the Commission, representing seven districts identified in the Act. The Commission may conduct a meeting of growers in the district where a vacancy will occur by expiration of a term, to elect nominees for appointment to the Commission. With the advice and consent of the MDARD Director and the Agriculture Commission, the Commission may reapportion the number of Commission members or member districts, or both. The bill would delete those provisions.

Under the bill, the Potato Industry Commission would consist of the MDARD Director or his or her designee; an MSU staff member appointed by the dean of the school's department of agriculture and natural resources; and the following individuals appointed by the Governor with the advice and consent of the Senate:

- Two representing the snack potato manufacturing industry.
- Two representing the seed potato industry.
- Two representing the fresh potato industry.
- One representing shippers.
- One representing shippers or retailers.
- One from any of the categories listed above.

The MDARD and MSU members would continue to serve ex officio, without vote. The bill would retain requirement that a member appointed by the Governor be a Michigan citizen and resident who is at least 18, and the requirements for a grower member.

Currently, Commission meetings must be called by the chairperson, except that special meetings must be called by the chairperson on petition of eight members within seven days after the chairperson receives the petition. Under the bill, the chairperson would have to call a meeting within that time frame on the petition of five or more members.

The Act allows the Commission to accept gifts and grants. Under the bill, the Commission could accept gifts, grants, royalties, license fees, interest, income, or other items of value that would enhance the programs established under the Act.

### Assessments

The Act requires an assessment at the rate of 1 cent per hundredweight on potatoes grown in Michigan to be levied upon each particular lot or quantity of potatoes and imposed upon each grower and each shipper within Michigan. The Commission may, by a majority vote, raise the assessment by as much as an additional half cent per hundredweight. The increased assessment must be continued if it is approved by a majority vote of those growers and shippers present at the next annual meeting. An additional assessment may be imposed on growers upon the recommendation of the Commission and a referendum held in compliance with the Act.

Under the bill, instead, an assessment at the rate of not more than 5.5 cents per hundredweight on potatoes grown in Michigan would have to be levied upon each particular lot or quantity of potatoes and imposed upon each grower with 20 or more acres in the production of potatoes, and not more than 1.5 cents per hundredweight would have to be levied on each particular lot or quantity of potatoes shipped by each shipper within Michigan. By July 1 of each year, the Commission would have to determine the assessment rates for that year and notify each grower and shipper of the applicable rate.

A grower with fewer than 20 acres in the production of potatoes would be considered to be in full compliance with the Act, and could participate in the programs established under the Act, if the grower paid an assessment based upon his or her production over three of the last five years.

An assessment could not be increased above the rate assessed on the bill's effective date unless authorized by a referendum under the Act.

### Referenda

For the purpose of referenda under the Act, each grower and shipper who is in compliance with the assessment requirements is entitled to one vote. The MDARD Director must

promulgate rules for conducting a referendum. The bill would allow, rather than require, the Director to promulgate those rules.

The bill would require MDARD to hold a referendum within 60 days after the bill's effective date.

Under the Act, if the MDARD Director receives a petition to terminate the shipper assessments, with the signatures of at least one-third of all shippers, he or she must conduct a referendum by mail. The shipper assessments must be terminated if more than 50%, by number, of the shippers voting representing more than 50% of the volume of potatoes purchased, sold, or shipped the previous year, vote in favor of terminating the assessment.

Also, if the Director receives a petition signed by 25%, or 200, of the growers, whichever is less, for the adoption of an assessment increase above that provided for in the Act, he or she must give notice of a public hearing on the proposed assessment increase. The Director must issue a decision within 45 days after the hearing and deliver his or her findings and recommendation, approving or disapproving of the proposed assessment increase, to all parties of record appearing at the hearing and any other interested parties. After recommending an assessment increase, the Director must determine by referendum whether the affected growers assent to the proposed action. He or she must conduct the referendum by mail within 45 days after issuing of the recommendation. The affected growers are considered to have assented to the proposal if more than 50% by number of those voting, representing more than 50% of the volume of potatoes produced by those voting, assent to the proposal. With regard to this process, the bill would eliminate the option of 200 growers petitioning for the assessment increase. Under the bill, then, the process would be triggered by a petition signed by 25% of the growers.

Five years after the latest referendum held under the Act, MDARD must conduct a referendum at which growers must vote on whether the Commission will continue to levy the assessments and otherwise carry out the Act. If a majority of the growers voting who represent a majority of the hundredweight sold in the previous year vote against having the Commission continue to function, the Commission must cease its operations and deliver its assets to the MDARD Director, who then must transfer the assets to MSU for potato research. Under the bill, except as otherwise provided in the Act, a referendum would be valid for five years. Every five years after that, as currently required, the Department would have to conduct the referendum of growers as to whether the Commission should continue to function.

MCL 290.421 et al.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would adjust the permissible potato grower and shipper assessment rate, which would increase available Commission funding for projects and research aimed at helping growers improve yields and profitability, from a current range of \$450,000 to \$550,000 to one of \$670,000 to \$850,000. The bill also would permit the Commission to receive not just gifts and grants, but also royalties, license fees, interest, income, and other items of value to enhance its programs.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.