

**[No. 484]**

**(HB 5967)**

AN ACT to amend 1965 PA 114, entitled "An act relating to dry, edible beans; to create a bean commission and prescribe its functions; to levy and collect assessments on bean production; and to provide penalties for violation of this act," by amending sections 1, 2, 3, 4, 10, 12, 14, and 17 (MCL 290.551, 290.552, 290.553, 290.554, 290.560, 290.562, 290.564, and 290.567), sections 1, 14, and 17 as amended by 1980 PA 493 and sections 2 and 3 as amended by 1989 PA 144.

*The People of the State of Michigan enact:*

**290.551 Definitions. [M.S.A. 12.106(1)]**

Sec. 1. As used in this act:

(a) "Beans" means Michigan dry, edible beans, except soybeans.

(b) "Commission" means the Michigan bean commission.

(c) "Director" means the director of the department of agriculture.

(d) "Grower" means any business unit, including a family operation, sole proprietorship, partnership, corporation, company, association, trust, or other business organization engaged in the business of producing beans for sale within 1 of the past 3 years.

(e) "Processor" means a person who cleans and grades, dries, dehydrates, cans, powders, extracts, cooks, or uses in producing or manufacturing a product or article, ships, or otherwise handles beans, including seed.

(f) "Sold or shipped for processing" means that beans are loaded by the grower, in bulk or loose in bags or other containers, or packed in any style package, in a car, boat, truck, wagon, or other conveyance to be transported to a processor.

**290.552 Division of state into districts. [M.S.A. 12.106(2)]**

Sec. 2. For the purposes of this act, the state is divided into 8 districts:

(a) District 1 consists of the counties of Arenac, Bay, and Midland plus all counties north of Midland county that are not otherwise designated in a district.

(b) District 2 consists of the county of Gratiot.

(c) District 3 consists of the county of Tuscola.

(d) District 4 consists of the counties of Genesee, Lapeer, Macomb, St. Clair, and Sanilac.

(e) District 5 consists of the eastern half of the county of Huron using highway 53 as the western boundary.

(f) District 6 consists of the western half of the county of Huron using highway 53 as the eastern boundary.

(g) District 7 consists of the counties of Montcalm, Kent, Isabella, Mecosta, Eaton, Ingham, Clinton, and Shiawassee plus all counties west and south of this district not otherwise designated in a district.

(h) District 8 consists of the county of Saginaw.

**290.553 Michigan bean commission; creation; appointment, qualifications, and terms of members; ex officio members; reapportionment. [M.S.A. 12.106(3)]**

Sec. 3. (1) The Michigan bean commission of 9 voting members is created, consisting of a grower from each district created under section 2 and 1 processor shipper handler member under section 4(2). The director and the dean of the college of agriculture of

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Michigan state university, or their designees, are ex officio members without vote. An appointed member shall be of legal voting age in this state and shall be a citizen and resident of this state. Commission members, except for the processor member, shall be or shall have been engaged in the actual growing or producing of beans within the state.

(2) The terms of office of members of the commission shall be 3 years after the date of appointment or until their successors are appointed and qualified.

(3) Not less than 5 years after June 29, 1989 and every 5 calendar years after that date, the commission may, with the advice and consent of the director and the commission of agriculture, reapportion the districts described in section 2. Reapportionment of the districts shall be on the basis of 1 or more counties with the amount of planted dry bean acreage being as nearly equal as possible between districts except that if 1 county constitutes greater than 20% of the total bean production within the state, then that county may be divided into 2 or more relatively equal districts.

(4) After the reapportionment described in subsection (3), if the residence of a member of the commission falls outside of the district for which he or she serves on the commission and falls within the district for which another member serves on the commission, then both members shall continue to serve on the commission for a term equal to the remaining term of the member who served for the longest period of time. If after the reapportionment described in subsection (3) a district is created in which no member serving on the commission resides, then a member shall be selected in a manner described in section 4(2).

### **290.554 Michigan bean commission; procedure for appointment of members; meetings; cessation of membership; vacancies. [M.S.A. 12.106(4)]**

Sec. 4. (1) The governor shall appoint the first members of the commission within 30 days after this act takes effect with the advice and consent of the senate and without use of the nominating procedures provided in this section. The governor shall appoint subsequent members only from the lists of nominees submitted to him or her and subject to the advice and consent of the senate. If a list is not submitted to the governor at least 30 days before the term of office of a member would normally expire, or within 30 days after a vacancy otherwise occurs, the governor may appoint any person who is otherwise qualified under this act.

(2) A meeting of growers shall be held in each district in each year when a vacancy occurs. The commission shall give notice of each meeting by at least 2 insertions in a farm publication of general circulation in the district where the meeting is to be held, with the final insertion to be at least 10 days before the meeting. The commission shall supervise the conduct of the meeting. Two nominees for members of the commission shall be selected at each meeting and submitted to the governor. Appointment of a processor shipper handler member shall be made only from any list submitted to the governor by the commission with 2 names submitted for the appointment of that member.

(3) A member of the commission who fails to meet the qualifications of this act shall cease to be a member of the commission. This vacancy or a vacancy for another reason shall be filled by the governor for the unexpired term in the same manner as the original appointment.

### **290.560 Michigan bean commission; powers and duties generally; prohibitions. [M.S.A. 12.106(10)]**

Sec. 10. (1) The commission shall perform the following:

(a) Adopt, amend, or rescind rules, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the exercise of its powers and performance of its duties.

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(b) Administer this act and investigate violations of this act, and perform all acts and exercise all powers reasonably necessary to implement this act.

(c) Employ and discharge employees as it considers necessary, prescribe their powers and duties, and fix their compensation.

(d) Establish offices, incur expenses, enter into contracts and agreements, and create liabilities, when reasonable, for the proper administration and enforcement of this act.

(e) Enter into in the name of the commission necessary advertising contracts and other agreements and cooperate with and support national and state associations of bean growers or processors in implementing this act.

(f) Keep accurate books, records, and accounts of all commission dealings, which shall be open to inspection by the public, and shall be audited by the auditor general or by a certified public accountant. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(g) Promote research on bean varieties and agronomic practices.

(h) Promote scientific research to develop and discover the health, food, therapeutic, nutritional, and dietetic value of beans and bean products.

(i) Carry out market development, market research, and promotional programs.

(j) Compile and publish commodity information.

(2) The commission may develop, publish, and dispense to growers information pertaining to markets and marketing, and shall include such items as competing production areas, practices, crop production, crop conditions, crop prices, and other factors affecting the pricing structure of dry beans throughout the world.

(3) The commission shall not be a party to a procedure which includes price setting or production quotas. The commission shall not engage in marketing or an activity which would result in the setting up of a marketing order.

### **290.562 Grower assessment on beans grown and produced.**

#### **[M.S.A. 12.106(12)]**

Sec. 12. (1) A grower assessment of 10 cents per hundredweight, when sold or shipped, is levied and imposed upon all beans grown and produced in this state in the year 2000, and annually thereafter. The grower or certified seed grower shall pay the assessment.

(2) The first receiver who purchases or receives beans from growers shall deduct the assessment from the price paid and remit it to the commission on or before the fifteenth of the following month.

(3) The commission may set a reasonable fee for the collecting of assessments from growers.

(4) Money levied and collected under this act shall be spent for purposes authorized by this act.

### **290.564 Supplemental assessment for special projects; referendum to determine rate; collection. [M.S.A. 12.106(14)]**

Sec. 14. (1) Whenever 800 of the growers, of which not more than 200 are in the same district, petition the commission, the commission shall conduct a referendum among the growers of the state to determine the rate of supplemental assessment for special projects.

(2) The supplemental assessment provided for in subsection (1) shall be collected and remitted to the commission in the same manner as provided in section 12. The referendum shall be conducted in a manner to protect the purity of the ballot.

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(3) If a majority of the growers voting upon the question vote in favor of the proposed change, the assessment shall be ineffective in the year in which it is voted unless the change is published before June 1 of that year.

(4) The total rate of supplemental assessment shall not exceed 25 cents per hundredweight.

### **290.567 Referendum on continuation of commission functions; referendum on termination of commission; petition; notice; hearings; cessation of operations and transfer of assets; voting; submitting ballot to legislative committees for review. [M.S.A. 12.106(17)]**

Sec. 17. (1) Five years after the latest referendum held under this section, the department of agriculture shall conduct a referendum at which growers shall vote whether or not the commission shall continue to levy the assessments and otherwise carry out this act. If a majority of the growers voting who represent a majority of the hundredweight sold in any 1 of the previous 3 years of those voting, vote against having the commission continue to function, the commission shall cease its operations and deliver its assets to the director who shall transfer the assets to Michigan state university for bean research. A grower is entitled to 1 vote and the grower must be able to verify the hundredweight claimed as being sold as indicated on the ballot.

(2) Upon written petition signed by at least 200 growers but with not more than 100 of them from any 1 district, the director shall, within 30 days, give 10 days' notice and hold a hearing on termination of the commission. Within 45 days after the close of the hearings, the director shall conduct a referendum to determine whether the growers assent to the proposed action. The commission is terminated if a majority by number of those voting, representing a majority of the hundredweight sold in any 1 of the previous 3 years of those voting, vote against its continuation. The commission shall then cease its operations and deliver its assets to the director who shall transfer the assets to Michigan state university for bean research. A referendum described in this subsection shall not be conducted within 1 year before or after any other referendum. A grower is entitled to 1 vote and the grower must be able to verify the hundredweight claimed as being sold as indicated on the ballot.

(3) Not less than 30 days before the referendum required by subsection (1), the department of agriculture shall submit for review the ballot to be used in conducting the referendum to the senate's and the house of representatives' standing committees dealing primarily with agricultural issues.

This act is ordered to take immediate effect.

Approved January 10, 2001.

Filed with Secretary of State January 11, 2001.

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