

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 945

89TH GENERAL ASSEMBLY

1998

S3987.03T

AN ACT

To repeal section 275.350, RSMo 1994, and section 263.527, RSMo Supp. 1997, relating to agricultural commodities, and to enact in lieu thereof two new sections relating to the same subject, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 275.350, RSMo 1994, and section 263.527, RSMo Supp. 1997, are repealed and two new sections enacted in lieu thereof, to be known as sections 263.527 and 275.350, to read as follows:

263.527. 1. At the request of the certified organization, the department shall authorize a statewide referendum among cotton growers on the question of whether an assessment shall be levied upon cotton growers in the state to offset, in whole or in part, the cost of boll weevil suppression or eradication programs authorized by sections 263.500 to 263.537 or any other law of this state. Such program shall be designed on a regional basis so as to reflect the differences in boll weevil infestation and the relative cost of financing a boll weevil suppression and eradication program in the respective regions.

2. The assessment levied under sections 263.500 to 263.537 shall be based upon the number of acres of cotton planted in the eradication area. The amount of the assessment, the period of time for which it shall be levied, how it shall be levied, when it shall be paid, and the geographical area to be covered by the assessment shall be determined by the department in consultation with the official cotton board of directors established in section 263.523. The department shall promulgate regulations pursuant to this section.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

3. All affected cotton growers [and landowners with a cotton base shall be entitled to vote in any such referendum based upon the number of acres owned or worked by such growers and landowners which are dedicated to the production or manufacture of cotton, with each acre representing one vote. The department] **shall be entitled to one vote in any such referendum. The department, after consultation with the certified organization,** shall determine any questions of eligibility to vote.

4. Each eligible cotton grower shall be mailed a ballot upon which to cast a vote for or against the boll weevil suppression and eradication program.

5. If at least two-thirds of those voting vote in favor of the assessment, then the assessment shall be collected by the department from the affected cotton growers. All such moneys collected shall be deposited in the boll weevil suppression and eradication fund created pursuant to section 263.537.

6. The assessments collected by the department under sections 263.500 to 263.537 shall be promptly remitted to the certified organization under such terms and conditions as the department shall deem necessary to ensure that such assessments are used in a sound program of eradication or suppression of the boll weevil.

7. The certified organization shall provide to the department an annual audit of its accounts performed by a certified public accountant.

8. The assessments collected by the department under sections 263.500 to 263.537 shall not be state funds.

275.350. 1. Any fee imposed under the commodity merchandising program shall be collected by the [director] **appropriate commodity council** whether directly from the producers or indirectly from the handlers or processors as stipulated by the provision of the commodity merchandising program. **The councils are authorized to contract with the director pursuant to subsection 5 of this section to perform the duties of this section. The director shall transfer any fees collected to the director of revenue.**

2. If any merchandising fee is unpaid on the date on which the fee was due and payable, a penalty of one percent per month shall apply from and after that date until payment plus the penalty is received by the director. If, after due notice, any person defaults in any payment of the fee or penalties thereon, the amount due [shall] **may** be collected by civil action [in the name of the state of Missouri at the relation of the director], and the person adjudged in default shall pay the costs of the action. The attorney general[, at the request of the director, and,] **or**, if requested by the attorney general, the prosecuting attorney of any county, in which a cause of action arose under the provisions for the collection of fees due and unpaid shall institute proper action in the courts of this state for the collection of fees and penalties thereon due and unpaid. The statute of limitation period for the institution of suit for collection shall be one year.

3. All fees **paid to the director for administration pursuant to section 275.370** shall

be [paid to the state treasurer to be] credited to the "Commodity Council Merchandising Fund" which is hereby created. All money credited to the commodity council merchandising fund shall be appropriated by the general assembly for the use and benefit of the [commodity councils through the] state department of agriculture and specified in the annual appropriations to said state department to be for [such purposes, and when so made shall be by the director of the department of agriculture paid to the treasurer of the council] **administration of the commodity merchandising programs.** The unexpended balance in the commodity council merchandising fund at the end of the annual period shall not be transferred to the ordinary revenue fund of the state treasurer and accordingly shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of funds to the ordinary revenue funds of the state by the treasurer.

4. [At least annually, the director shall submit to the council a statement showing all receipts, refunds and the balance credited to the commodity council merchandising fund]. **The revisions to the Commodity Merchandising Councils Act made by this section and effective on the effective date of this section shall not be deemed to be a major change for purposes of section 275.330.**

5. **The director may enter into contracts with appropriate commodity councils, at the request of the commodity councils, to collect, audit and administer checkoff funds and may retain only such fees for the cost of such services, to be deposited into the commodity council merchandising fund. Such contracts shall be implemented as follows:**

(1) **All other fees paid to the director shall not be considered state funds and shall be administered by the director of revenue pursuant to article IV, section 15 of the Missouri constitution. The department of agriculture shall keep accurate records of the amount of money collected for each council and the records shall be open to the inspection of officers of the councils. The director shall provide the director of revenue with the information and reports necessary to facilitate accurate distribution of moneys to the appropriate councils;**

(2) **Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited as nonstate funds during the preceding month to the treasurers of the appropriate councils, less all authorized refunds paid during the preceding month. Moneys collected pursuant to national commodity assessment programs shall be distributed pursuant to law.**

Section B. Because of the necessity to insure the availability of funds for the commodity programs, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon passage and approval or on July 1, 1998, whichever occurs later.

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Unofficial

Bill

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