

LEGISLATIVE BILL 807

Approved by the Governor February 3, 1988

Introduced by Labedz, 5, Chairperson, Executive Board

AN ACT relating to agriculture; to amend sections 2-3302, 2-3803, 2-3808, 2-3809, 2-3810, and 2-3812, Reissue Revised Statutes of Nebraska, 1943, and section 2-954, Revised Statutes Supplement, 1987; to repeal definitions no longer needed; to delete references to a repealed section; to harmonize provisions with former acts of the Legislature; to repeal the original sections, and also section 2-3608, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-954, Revised Statutes Supplement, 1987, be amended to read as follows:

2-954. (1)(a) The duty of enforcing sections 2-952 to 2-963 and carrying out their provisions is vested in the control authorities designated in such sections. The control authority shall, from time to time, adopt and publish methods as official for control of noxious weeds and adopt, promulgate, and publish such ordinances, rules, and regulations as are necessary to carry out such sections. ~~The control authority shall follow the applicable rules and regulations adopted and promulgated by the director issued prior to May 27, 1987, until the control authority adopts and promulgates rules and regulations which shall be no later than January 1, 1988.~~ Whenever special weed control problems exist in a county involving weeds not defined as noxious in section 2-953, the control authority may petition the director to bring such weeds under the county control program. The petition shall contain the approval of the county board. Prior to petitioning the director, the control authority, in cooperation with the county board, shall hold a public hearing and take testimony upon the petition. Such hearing and the notice thereof shall be in the manner prescribed by the Administrative Procedure Act. A copy of the transcript of the public hearing shall accompany the petition filed with the director. The director may approve or disapprove the request. If approval is granted, the control authority may proceed under the forced control provisions of sections 2-953 to

2-955 and 2-958.

(b) The control authority shall, with - ~~With~~ the consent of the Governor, conduct investigations outside this state to protect the interest of the agricultural industry of this state from noxious weeds not generally distributed therein; with the consent of the federal agency involved, control noxious weeds on federal lands within this state, with or without reimbursement, when deemed by the control authority to be necessary to an effective weed control program; advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control thereof; call and attend meetings and conferences dealing with the subject of noxious weeds; disseminate information and conduct educational campaigns with respect to control of noxious weeds; procure materials and equipment and employ personnel necessary to carry out the control authority's duties and responsibilities; and perform such other acts as may be necessary or appropriate to the administration of sections 2-952 to 2-963.

(2)(a) Each control authority shall carry out the duties and responsibilities vested in it under sections 2-952 to 2-963 with respect to land under its jurisdiction, in accordance with ordinances, rules, and regulations prescribed by the control authority. Such duties shall include the establishment of a coordinated program for control of noxious weeds within the county.

(b) A control authority may cooperate with any person in carrying out its duties and responsibilities under sections 2-952 to 2-963.

(3)(a) Each county board shall employ one or more weed control superintendents. Such superintendent shall, as a condition precedent to employment, be certified in writing by the federal Environmental Protection Agency as a commercial applicator under the Federal Insecticide, Fungicide, and Rodenticide Act to be qualified to detect and treat noxious weeds. Each superintendent shall be bonded for such sum as the county board shall prescribe. The same person may be a weed control superintendent for more than one county. Such employment may be for such tenure and at such rates of compensation and reimbursement for travel expenses as the county board may prescribe. Such superintendent shall be reimbursed for mileage at a rate equal to or greater than the rate provided in section 23-1112 for county officers and employees.

(b) Under the direction of the ~~employing~~ control authority, it shall be the duty of every weed

control superintendent to examine all land under the jurisdiction of the control authority for the purpose of determining whether sections 2-952 to 2-963 and the ordinances, rules, and regulations adopted and promulgated by the control authority pursuant to such sections have been complied with. He or she shall: (i) Compile such data on infested areas and controlled areas and such other reports as the control authority may require; (ii) consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and render assistance and direction for the most effective control; (iii) investigate or aid in the investigation and prosecution of any violation of sections 2-952 to 2-963; and (iv) perform such other duties as required by the control authority in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable and shall supervise the carrying out of the coordinated control program within the county.

(c) In cases involving counties in which municipalities have ordinances for weed control, the control authority may enter into agreements with municipal authorities for the enforcement of local weed ordinances and may follow collection procedures as may be established by such ordinances. All money received shall be deposited in the weed control authority fund.

Sec. 2. That section 2-3302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3302. As used in ~~sections 2-3301 to 2-3324~~ the Nebraska Soybean Resources Act, unless the context otherwise requires:

(1) Board shall mean the Soybean Development, Utilization, and Marketing Board;

(2) Grower shall mean any landowner personally engaged in growing soybeans, a tenant of the landowner personally engaged in growing soybeans, and both the owner and tenant jointly, and shall include a person, partnership, association, corporation, cooperative, trust, and sharecropper, and any other business unit, device, and arrangement;

(3) First purchaser shall mean any person, public or private corporation, association, or partnership buying, accepting for shipment, or otherwise acquiring the property rights in or to soybeans from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, when the actual or constructive possession of such soybeans is taken as part payment or

in satisfaction of such mortgage, pledge, lien, or claim;

(4) Commercial channels shall mean the sale of soybeans for any use, to any commercial buyer, dealer, processor, or cooperative, or to any person, public or private, who resells any soybeans or product produced from soybeans; and

(5) ~~Trial period shall mean the first three years of the program after the initial board takes office; and~~

~~(6) Sale shall include any pledge or mortgage of soybeans after harvest to any person, public or private.~~

Sec. 3. That section 2-3803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3803. For purposes of ~~sections 2-3801 to 2-3811~~ the Nebraska Agricultural Products Marketing Act, unless the context otherwise requires, the definitions found in sections 2-3804 to 2-3807 shall be used.

Sec. 4. That section 2-3808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3808. To achieve the purposes of ~~sections 2-3801 to 2-3811~~ the Nebraska Agricultural Products Marketing Act, the department may perform the following marketing activities:

(1) Coordinating the various marketing programs and policies of each of the state's agricultural commodities so that they will complement one another;

(2) Assisting the producers, processors, and distributors of agricultural products and commodities in conducting and administering marketing programs and policies conceived, desired, and formulated by and for such persons;

(3) Conducting activities designed to locate and study trade barriers adversely affecting the marketing of Nebraska agricultural products; and conducting activities aimed at eliminating or mitigating any such barriers;

(4) Collecting and disseminating information relevant and beneficial to the economical, efficient, and profitable marketing of agricultural products by the Nebraska producers, processors, and distributors thereof;

(5) Assisting in matching up potential buyers and sellers of agricultural products produced in Nebraska;

(6) Cooperating with other local, state, or national agricultural marketing entities, public or private, in carrying out sections 2-3801 to 2-3811, the act and entering into such contracts as may be necessary;

(7) Adopting and promulgating such reasonable rules and regulations as are necessary to effectively carry out the intent of sections 2-3801 to 2-3811 the act;

(8) Accepting funds or fees from any source, including federal, state, public, or private, to be used in carrying out the provisions of sections 2-3801 to 2-3811 act;

(9) Expending funds for purposes of carrying out the provisions of sections 2-3801 to 2-3811 act; and

(10) Conducting any other programs for the development, utilization, and marketing of agricultural products grown or produced in the state.

Sec. 5. That section 2-3809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3809. (1) Sections 2-3801 to 2-3811 The Nebraska Agricultural Products Marketing Act shall not be construed:

(1) As as altering the provisions of any other act or acts dealing with the marketing of agricultural products; or as detracting from the authorities provided for in any such acts; -

(2) Sections 2-3801 to 2-3811 shall not be construed as As empowering the department to require cooperative marketing efforts of persons or groups within any segment of the agriculture industry, but shall be construed only to authorize such cooperative marketing efforts; or -

(3) Sections 2-3801 to 2-3811 shall not be construed as As empowering the department to purchase or otherwise obtain agricultural products or commodities for the purpose of resale.

Sec. 6. That section 2-3810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3810. The department in entering into contracts authorized under sections 2-3801 to 2-3811, the Nebraska Agricultural Products Marketing Act shall not be authorized to set up marketing units or agencies of its own. Only contracts necessary to the furtherance of the intent and purposes of sections 2-3801 to 2-3811 the act shall be entered into.

Sec. 7. That section 2-3812, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

2-3812. There is hereby created a cash fund to be known as the Nebraska Agricultural Products Marketing Cash Fund. The fund shall consist of money appropriated by the Legislature which is received as gifts or grants or collected as fees or charges from any source including federal, state, public, and private. The fund shall be utilized for the purpose of carrying out ~~sections 2-3801 to 2-3811~~ the Nebraska Agricultural Products Marketing Act. Any money in such fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 8. That original sections 2-3302, 2-3803, 2-3808, 2-3809, 2-3810, and 2-3812, Reissue Revised Statutes of Nebraska, 1943, and section 2-954, Revised Statutes Supplement, 1987, and also section 2-3608, Reissue Revised Statutes of Nebraska, 1943, are repealed.