

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature Second Regular Session - 2012

IN THE SENATE

SENATE BILL NO. 1218

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO AGRICULTURE; AMENDING SECTION 22-3301, IDAHO CODE, TO REVISE A DECLARATION OF POLICY; AMENDING SECTION 22-3302, IDAHO CODE, TO REMOVE AN ASSOCIATION DESCRIPTION AND TO PROVIDE THE NAME OF AN ASSOCIATION; AMENDING SECTION 22-3304, IDAHO CODE, TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 22-3305, IDAHO CODE, TO REMOVE ARCHAIC PROVISIONS AND TO PROVIDE FOR THE WITHDRAWAL OF A COMMISSIONER'S APPOINTMENT; AMENDING SECTION 22-3308, IDAHO CODE, TO PROVIDE THAT TWO OR MORE COMMISSION MEMBERS MAY MAKE A WRITTEN REQUEST FOR A MEETING; AMENDING SECTION 22-3309, IDAHO CODE, TO REMOVE REFERENCE TO THE IDAHO STATE WHEAT GROWERS' ASSOCIATION, TO AUTHORIZE THE CALLING OF REFERENDUMS AND TO PROVIDE REFERENCE TO SPECIFIC LAW RELATING TO INSPECTION OF BOOKS, RECORDS AND ACCOUNTS BY THE PUBLIC; AMENDING SECTION 22-3310, IDAHO CODE, TO PROVIDE FOR THE SOLICITATION OF GRANTS, DONATIONS AND GIFTS BY THE COMMISSION; AMENDING SECTION 22-3311, IDAHO CODE, TO PROVIDE THAT THE COMMISSION MAY REQUIRE THAT THE EXECUTIVE DIRECTOR OR ANY AGENT OR EMPLOYEE APPOINTED BY THE COMMISSION BE BONDED; AMENDING SECTION 22-3312, IDAHO CODE, TO REMOVE PROVISIONS RELATING TO CERTAIN DUTIES OF THE EXECUTIVE DIRECTOR; REPEALING SECTION 22-3313, IDAHO CODE, RELATING TO ESTABLISHMENT OF THE EXECUTIVE DIRECTOR'S OFFICE; AMENDING SECTION 22-3315, IDAHO CODE, TO REVISE AN EFFECTIVE DATE AND TO REVISE PROVISIONS RELATING TO THE MAXIMUM TAX PER BUSHEL ON CERTAIN WHEAT; AND AMENDING SECTION 22-3318, IDAHO CODE, TO REMOVE REFERENCE TO A SPECIFIC FUND, TO PROVIDE FOR THE PAYMENT OF FINES INTO CERTAIN ACCOUNTS OF THE COMMISSION AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 22-3301, Idaho Code, be, and the same is hereby amended to read as follows:

22-3301. DECLARATION OF POLICY. It is to the interest of all the people that the abundant natural resources of Idaho be protected, fully developed and uniformly distributed. Among the agricultural industries of the state of Idaho that contribute to the economic welfare of the state is the wheat industry. ~~Because of a surplus of wheat grown in this state, and because a surplus during recurrent years has become excessive and difficult to market in the available markets, it is necessary, in order to provide a profitable enterprise for the wheat growers of the state and to promote employment of labor and to assist the wheat growers and those in the various industries dependent upon the wheat growers, that additional markets be found and developed.~~ It is the purpose of this act to promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat.

SECTION 2. That Section 22-3302, Idaho Code, be, and the same is hereby amended to read as follows:

22-3302. WHEAT COMMISSION CREATED -- MEMBERS. There is hereby created and established in the department of self-governing agencies the "Idaho Wheat Commission" to be composed of five (5) members appointed by the governor, one (1) from each of the five (5) commission districts referred to in section 22-3304, Idaho Code, who shall be appointed by the governor from a list of names with at least three (3) names for each appointive office for each district submitted to the governor by the Idaho State Wheat Growers Association, Inc., ~~a wheat growers association representing wheat growers throughout the state of Idaho,~~ doing business as the Idaho Grain Producers Association, and they shall hold office for a term of five (5) years. The dean of the College of Agriculture, University of Idaho, or his duly authorized representative, shall be an ex officio members without vote of the commission.

SECTION 3. That Section 22-3304, Idaho Code, be, and the same is hereby amended to read as follows:

22-3304. QUALIFICATION OF MEMBERS. (1) Members of the commission shall be selected and appointed because of their ability and disposition to serve the state's interest and for knowledge of the state's natural resources. Members shall be citizens over twenty-five (25) years of age, residents of the state who have been actually engaged in growing wheat in this state for at least five (5) years, and who derive a substantial portion of their income from growing wheat in the state of Idaho.

(2) There shall be one (1) member from each of the five (5) districts described hereinafter:

District 1. The six (6) northern counties: Boundary, Bonner, Kootenai, Benewah, Latah and Shoshone.

District 2. Nez Perce, Lewis, Idaho, Adams, Washington, Payette, Gem, Boise, Valley and Clearwater Counties.

District 3. Canyon, Owyhee, Ada, Elmore, Camas, Gooding, Twin Falls, Blaine, Lincoln, Jerome, Minidoka and Cassia Counties.

District 4. Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bingham and Bonneville Counties.

District 5. Power, Bannock, Caribou, Oneida, Franklin and Bear Lake Counties.

SECTION 4. That Section 22-3305, Idaho Code, be, and the same is hereby amended to read as follows:

22-3305. TERM OF MEMBERS. (1) Each year the governor shall appoint one (1) member to the commission for a term of five (5) years ending on June 30th, ~~except the first members who shall be appointed for terms of one (1) to five (5) years each, as follows: District No. 1, three (3) years; District No. 2, four (4) years; District No. 3, two (2) years; District No. 4, one (1) year; District No. 5, five (5) years; except that a member appointed to fill a vacancy occurring before the expiration of the term of a member separated~~

1 from the commission for any cause, shall be appointed for the remainder of  
2 the term of the member whose position has been vacant.

3 (2) Each member shall hold office until his successor is appointed and  
4 qualified.

5 (3) The executive committee of the Idaho State Wheat Growers Associa-  
6 tion, doing business as the Idaho Grain Producers Association, may request  
7 the removal of any commissioner, with or without cause, and upon receipt of  
8 the request the governor shall immediately withdraw the commissioner's ap-  
9 pointment. In the absence of a request or recommendation from the executive  
10 committee, the governor may withdraw a commissioner's appointment only for  
11 incompetence, intemperance, misconduct, neglect or dereliction of duty, or  
12 commission of a felony.

13 SECTION 5. That Section 22-3308, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15 22-3308. MEETINGS OF COMMISSION. The commission shall meet at least  
16 once every three (3) months regularly and at such other times as called by  
17 the chairman or upon the written request of two (2) or more commission mem-  
18 bers. The chairman may call special meetings of the commission at any time or  
19 place.

20 SECTION 6. That Section 22-3309, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 22-3309. DUTIES AND POWERS OF COMMISSION. (1) Consistent with the gen-  
23 eral purposes of this chapter, the commission shall establish the policies  
24 to be followed in the accomplishments of such purposes.

25 (2) In the administration of this act, the commission shall, ~~in con-~~  
26 ~~junction with the Idaho State Wheat Growers' Association,~~ have the following  
27 duties, authorities and powers:

28 (a) To conduct a campaign of research, education and publicity.

29 (b) To find new markets for wheat and wheat products.

30 (c) To give, publicize and promulgate reliable information showing the  
31 value of wheat and wheat products for any purpose for which it is found  
32 useful and profitable.

33 (d) To make public and encourage the widespread national and interna-  
34 tional use of the special kinds of wheat and wheat products produced  
35 from all varieties of wheat grown in Idaho.

36 (e) To investigate and participate in studies of the problems peculiar  
37 to the producers of wheat in Idaho.

38 (3) The commission shall have the duty, power and authority:

39 (a) To take such action as the commission deems necessary or advisable  
40 in order to stabilize and protect the wheat industry of the state and the  
41 health and welfare of the public.

42 (b) To sue and be sued.

43 (c) To enter into such contracts as may be necessary or advisable.

44 (d) To appoint and employ officers, agents and other personnel, includ-  
45 ing experts in agriculture and the publicizing of the products thereof,  
46 and to prescribe their duties and fix their compensation.

(e) To make use of such advertising means and methods as the commission deems advisable and to enter into contracts and agreements for research and advertising within and without the state.

(f) To cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of research, education and publicity and reciprocal enforcement.

(g) To lease, purchase or own the real or personal property deemed necessary in the administration of this act.

(h) To prosecute in the name of the state of Idaho any suit or action for collection of the tax or assessment provided for in this act.

(i) To adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties, including the calling of any referendum of the wheat growers in the state of Idaho as deemed necessary by the commission.

(j) To incur indebtedness and carry on all business activities.

(k) To keep books and records and accounts of all its doings, which books, records and accounts shall be open to inspection by the state controller ~~and public~~ at all times and to the public as set forth in chapter 3, title 9, Idaho Code.

SECTION 7. That Section 22-3310, Idaho Code, be, and the same is hereby amended to read as follows:

22-3310. COMMISSION ACCEPTING GRANTS, DONATIONS AND GIFTS. The commission may solicit and accept grants, donations and gifts of funds from any source for expenditure for any purpose consistent with this chapter which may be specified as a condition of any grant, donation or gift. All funds received under the provisions of this chapter shall be paid into a bank account in the name of the Idaho wheat commission and such moneys are hereby continuously appropriated and made available for defraying the expenses of the commission in carrying out the provisions of this chapter.

SECTION 8. That Section 22-3311, Idaho Code, be, and the same is hereby amended to read as follows:

22-3311. BONDS OF AGENTS AND EMPLOYEES. The commission may require that the executive director, or any agent or employee appointed by the commission shall be bonded to the state of Idaho in the time, form and manner as prescribed by chapter 8, title 59, Idaho Code. The cost of the bond is an administrative expense under this chapter.

SECTION 9. That Section 22-3312, Idaho Code, be, and the same is hereby amended to read as follows:

22-3312. APPOINTMENT OF EXECUTIVE DIRECTOR -- DUTIES -- SALARY. The commission shall appoint an executive director who shall devote full time to the administration of this chapter. ~~He shall proceed immediately to pre-~~

1 ~~pare the plans and general program necessary and adequate to carry out the~~  
2 ~~policies that are adopted by the commission.~~ The executive director shall be  
3 paid a reasonable salary fixed by the commission, commensurate with his du-  
4 ties, and all necessary expenses.

5 SECTION 10. That Section [22-3313](#), Idaho Code, be, and the same is hereby  
6 repealed.

7 SECTION 11. That Section 22-3315, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 22-3315. IMPOSITION OF TAX AND PROVISION FOR LATE FEES. (1) From and  
10 after the first day of July, ~~1992~~2012, there is hereby levied and imposed a tax  
11 not to exceed ~~two~~ five cents (25¢) per bushel on all wheat grown in the state  
12 of Idaho or given to Idaho growers under a crop reduction program, and sold  
13 or contracted through commercial channels, and each and every crop grown or  
14 wheat given to growers under a crop reduction program thereafter. The tax  
15 shall be due on wheat given to growers under a crop reduction program and sold  
16 or contracted through commercial channels, regardless of any deduction of  
17 the tax on this same wheat prior to it being given to the grower. The tax  
18 shall be due on or before the time when such wheat is first sold or contracted  
19 in the commercial channels and shall be paid at such time or times as the  
20 commission may, by rule, prescribe, as hereinafter provided, but not later  
21 than the 15th day of the month next succeeding the three (3) month period in  
22 which such wheat is sold or contracted in commercial channels. The commis-  
23 sion shall designate the quarters (three (3) month periods) for the purpose  
24 of collection of this tax.

25 (2) The tax shall be levied and assessed to the grower at the time of de-  
26 livery for sale and shall be deducted by the first purchaser from the price  
27 paid to the grower at the time of sale or in case of a lienholder who may pos-  
28 sess such wheat under his lien, the tax shall be deducted by the lienholder  
29 from the proceeds of the claim secured by such lien at the time the wheat is  
30 pledged or mortgaged. The tax shall be deducted as provided in this section  
31 whether the wheat is stored in this or any other state. The commission may,  
32 however, permit any federal corporation, such as the commodity credit corpo-  
33 ration, to waive its responsibility for the collection of the tax, provided  
34 the amount of the tax is one dollar (\$1.00) or less.

35 (3) It shall be within the discretion of the commission to establish  
36 the amount of the tax to be levied. The amount of the tax to be levied shall  
37 not exceed ~~two~~ five cents (25¢) per bushel for any fiscal year. The decision  
38 whether to adjust the amount of the tax to be levied and the time for which the  
39 adjusted levy shall be in effect shall require the vote of a majority of the  
40 commission members.

41 (4) The tax constitutes a lien prior to all other liens and encumbrances  
42 upon such wheat except liens which are declared prior by operation of a  
43 statute of this state.

44 (5) Any person or firm who makes payment to the commission at a date  
45 later than that prescribed in this section may be subject to a late payment  
46 penalty as set forth by the commission by rule. Such penalty shall not exceed  
47 the rate of fifteen percent (15%) per annum on the amount due. In addition  
48 to the above penalty, the commission shall be entitled to recover all costs,

1 fees, and reasonable attorney's fees incurred in the collection of the tax  
2 and penalty provided for in this section.

3 SECTION 12. That Section 22-3318, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 22-3318. PENALTIES. Any person who shall violate or aid in the viola-  
6 tion of any of the provisions of this act shall be guilty of a misdemeanor  
7 and upon conviction thereof be punished by a fine of not more than three hun-  
8 dred dollars (\$300) or imprisonment not to exceed ninety (90) days, or both.  
9 Fines collected for violation of this act shall be paid into the ~~"Idaho Wheat~~  
10 ~~Commission Fund."~~ any account of the commission established pursuant to sec-  
11 tion 22-3319, Idaho Code.