

**House Bill 4868**

**Sponsor: Rep. Keith Muxlow**

**Committee: Agriculture, Forestry &  
Minerals**

**Complete to 9-4-91**

**A SUMMARY OF HOUSE BILL 4868 AS INTRODUCED 5-23-91**

The bill would create the "Michigan corn utilization commission act," which would levy and collect assessments on corn production other than sweet corn and popcorn in order to fund promotion of non-feed uses for corn.

Districts. The bill would divide the state into eight districts, and allow any area not represented in the districts described to vote in the nearest adjacent county. Commissioners could reapportion the districts at any time, based on a three-year average in county corn production (using statistics compiled by the Department of Agriculture).

District 1 basically would include the Upper Peninsula and the northern part of the Lower Peninsula. It would consist of 43 counties: the fifteen counties in the Upper Peninsula, and the northern Lower Peninsula counties (21 in all) bounded on the south by (and including) the counties of Mason, Lake, Osceola, Clare, Arenac, and Bay in the Lower Peninsula.

District 2 would consist of ten counties in the middle and western part of the state: Midland, Gratiot, Isabella, Mecosta, Montcalm, Newaygo, Oceana, Muskegon, Kent, and Ottawa.

District 3 would consist of four counties, roughly covering the "thumb" area: Saginaw, Tuscola, Huron, and Sanilac.

District 4 would consist of the six southern mid-Michigan counties of Ionia, Clinton, Ingham, Shiawassee, Eaton, and Barry.

District 5 would consist of the six southeastern counties of Genesee, Lapeer, Macomb, St. Clair, Oakland, Wayne, and Livingston.

District 6 would consist of the five southwestern counties of Allegan, Van Buren, Kalamazoo, Cass, and Berrien.

District 7 would consist of the five southern counties of Calhoun, Jackson, Branch, Hillsdale, and St. Joseph.

District 8 would consist of the three southeastern counties of Lenawee, Monroe, and Washtenaw.

**Commission.** The Michigan corn utilization commission would consist of 16 voting members appointed by the governor and two non-voting ("ex officio") members (the director of the Department of Agriculture and the dean of the Michigan State University College of Agriculture). The governor would appoint one grower each from districts 1, 2, and 5; two growers each from the remaining districts; and three members at large from throughout the state.

The governor would appoint as the first 16 members of the commission members of the Michigan Corn Growers Association. Afterwards, the governor would have to follow the nominating process set up in the bill (when a vacancy occurred, growers would hold a meeting and select two nominees, and the governor would select the new commissioner from the list of nominees, subject to approval by the senate). These first 16 members would be appointed for staggered terms (five for one year, five for two years, and six for three years); subsequent commissioners would serve three-year terms.

Appointed members would have to: be of legal voting age, be a citizen and resident of the state who was "engaged in the actual growing of corn within the state," have lived in the region from which he or she was nominated from, and have not requested a refund of an assessment imposed under the bill. No one could serve more than three successive full terms. Members with three consecutive unexcused absences from scheduled commission meetings would be dismissed.

The bill would establish commission procedures (eg. a majority of members would constitute a quorum; members would receive per diem compensation and reimbursement for travel and other official business expenses; commission meetings would have to be held in compliance with the Open Meetings Act; the commission would elect its officers annually; and so on), and explicitly exempt the state from liability for acts of the commission. All expenses incurred by the commission would be payable only from assessments collected under the bill, and administrative expenses could not exceed fifteen percent of the assessments collected.

The commission would be responsible for a number of duties in addition to hiring the necessary employees, establishing offices, keeping accurate records which were open to the public, and so forth. It would be responsible for adopting, amending, and rescinding rules (under the Administrative Procedures Act) necessary for carrying out its duties, and for administering and implementing the bill's provisions and investigating violations (the Department of Agriculture would be responsible for enforcing the bill). In addition, the commission would be allowed to enter into any necessary advertising contracts (and other agreements) and to cooperate with national, state, and county associations in implementing the bill. It could contract for market maintenance and expansion, utilization research, transportation, and for the prevention or elimination of trade barriers obstructing the free flow of corn and corn products. It also would provide education and informational materials through the Michigan Corn Growers Association at the request of growers who did not seek assessment refunds. Finally, the commission would conduct the required and allowed referenda (see below).

The bill would prohibit the commission from using assessments to support political action committees ("PACS") or candidates for political office or from being party to price setting or production quotas. It also could not engage in marketing or any activity that resulted in the setting up of a marketing order.

Assessments and "first purchasers." The bill would levy on corn growers an assessment of one quarter of one percent of the net value of each bushel of corn produced in the state beginning in 1991. The assessment would be collected by the "first purchaser," defined in the bill as anyone ("person, corporation, association, or partnership, including the USDA-ASCS) "buying, accepting for shipment, or otherwise acquiring the property in or to corn from a grower." ("First purchaser" would include a mortgagee, pledgee, lienor, "or other person having a claim against the grower when the actual or constructive possession of the corn is taken as part payment or in satisfaction of the mortgage, pledge, lien, or claim.") First purchasers would have to keep for two years records of corn purchased during each calendar year from each grower. First purchasers would deduct the assessment from the price paid and send this to the commission on or before the fifteenth of the following month. If a first purchaser failed to remit the assessment deducted from the grower, the director of the Department of Agriculture would initiate court action to collect the assessment. Growers who processed or retailed their own production would have to keep the same records required of first purchasers.

Refunds. Until the first referendum (see below) and within 60 days of an assessment, growers could apply to the commission for a refund application. Upon receiving a refund application (and not more than 60 days after it had been mailed to the grower) plus a record of the assessment paid by the first purchaser, the commission would have to refund to the grower the net amount of the assessment. If a grower did not request a refund within 60 days of an assessment, he or she would be presumed to have agreed to the assessment. Upon furnishing satisfactory proof to the commission, a grower who paid the assessment more than once on the same corn would receive a refund of the overpayment. These refund provisions would be good only until a majority of growers voted in favor of reaffirming the bill in the referendum required three years after the first assessment was imposed. After the growers reaffirmed the bill's provisions, no refunds would be given.

Referenda. Within three years after the first assessment was imposed under the bill, the commission would have to hold a referendum (at the county agricultural extension offices) among corn growers to decide whether to continue or reject the bill's provisions. If a majority of the growers voting on the question voted against continuing the provisions, the commission would immediately stop administering the bill.

Within three years after imposing the first assessment under the bill, the commission also could conduct a referendum (concurrently with the above required referendum) to decide whether to increase the assessment rate (to a maximum of one-half of one percent of the net value of each bushel of corn marketed during that calendar year). If a majority of growers voting on the issue voted in favor of increasing the rate of assessment, the change in assessment would be effective in the same year in which the vote took place.

Growers also could initiate referenda on whether or not to terminate the commission. Within 30 days of receiving a written petition signed by at least 3,000 growers (not more than 750 from any one district), the director of the Department of Agriculture would have to hold a hearing (after giving ten days' notice) on terminating the commission and, within 30 days after the hearings, hold a referendum on the question. If a majority of the growers voting in the referendum voted to terminate the commission, the commission would be discontinued and its assets would be transferred to the national corn development foundation for corn research. Grower-initiated petitions could not be conducted within one year before or after any other referendum. If a grower-initiated referendum on the termination of the commission failed, the Department of Agriculture would have to hold another referendum five years later on the same question. Growers would be entitled to one vote each, and would have to be able to prove that they were growers.

Penalties for violations. Members of the commission who intentionally violated the Open Meetings Act requirement would be subject to the penalties prescribed in the Open Meetings Act (namely, fines of up to \$1,000 for a first offense and up to \$2,000 and imprisonment for up to one year for subsequent offenses). Other violations of the bill would be misdemeanors. Prosecution under the bill could be initiated in the county in which the violation occurred, or in which the defendant lived, did business, or had a principal place of business.

Effective date. The bill would take effect on July 1, 1991.