

SUBSTITUTE FOR
HOUSE BILL NO. 4623

A bill to amend 1970 PA 29, entitled

"An act relating to potatoes; to create a potato commission; to prescribe its powers and duties and authority; to impose an assessment on the privilege of introducing potatoes into the channels of trade and commerce; to provide for the collection of the assessment; to provide for penalties; and to repeal certain acts and parts of acts,"

by amending section 2 (MCL 290.422), as amended by 2000 PA 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) The state potato industry commission is created
2 within the department. The commission shall be composed of the
3 director or a person designated by the director from the director's
4 staff, who shall serve ex officio, without vote; a staff member of
5 Michigan state university appointed by the dean of agriculture of
6 that university to serve at the pleasure of the dean, ex officio,

1 without vote; and 10 growers, 2 processors, 2 shippers, and 1
2 retailer appointed by the governor with the advice and consent of
3 the senate. A member appointed by the governor shall be a citizen
4 and resident of this state and of the district from which
5 appointed, shall be 18 years of age or older, and shall be in
6 compliance with this act. A commission member in the grower
7 category shall be engaged and have been engaged in growing potatoes
8 within this state for a period of not less than 2 years immediately
9 before appointment, and shall have derived a substantial portion of
10 his or her income from this activity.

11 (2) Eight growers shall be appointed to serve on the
12 commission, representing 7 districts throughout the state as
13 follows: District 1--Upper Peninsula counties shall be represented
14 by 2 members. The following districts shall be represented by 1
15 member each: district 2--Antrim, Manistee, Wexford, Missaukee,
16 Roscommon, Mason, Lake, Osceola, Clare, Benzie, Charlevoix,
17 Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Leelanau, and
18 Otsego; district 3--Alcona, Alpena, Montmorency, Oscoda, Presque
19 Isle, Iosco, and Ogemaw; district 4--Kent, Montcalm, Newaygo,
20 Isabella, Mecosta, and Oceana; district 5--Bay, Arenac, Midland,
21 Tuscola, Huron, Sanilac, Gratiot, Gladwin, and Saginaw; district 6--
22 Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, Berrien,
23 Cass, Clinton, Ionia, Ottawa, Muskegon, St. Joseph, and Branch;
24 district 7--Ingham, Livingston, Oakland, Macomb, Jackson,
25 Washtenaw, Wayne, Hillsdale, Lenawee, Shiawassee, Genesee, Lapeer,
26 St. Clair, and Monroe. The ninth and tenth growers shall serve at
27 large. The other members of the commission, except the ex officio

1 members, shall have been associated with the potato industry for
2 not less than 2 years immediately before appointment.

3 (3) The term of office of an appointed member shall be 3
4 years. The term of an appointed member shall expire on July 1,
5 except that a term shall continue until a successor is appointed
6 and qualified. If during a term a member ceases to possess any of
7 the qualifications prescribed in this act, that member's office
8 shall be vacated. A person appointed to fill a vacancy shall serve
9 for the remainder of the unexpired term and until a successor is
10 appointed and qualified.

11 (4) The commission shall conduct a meeting of growers and
12 shippers annually.

13 (5) The commission may conduct a meeting of growers in the
14 district where a vacancy will occur by expiration of a term, to
15 elect nominees for appointment to the commission. Instead of a
16 meeting, nominees may be selected by a vote of growers in the
17 district by mail ballot, providing ballots are mailed by the
18 commission to all growers of record, and in compliance with this
19 act. Not more than 2 nominees for each vacancy on the commission
20 shall be selected. The names of all nominees shall be placed on a
21 list of nominees recommended to the governor, and the governor
22 shall make appointments from that list. The growers at large shall
23 be nominated by a majority of the 8 growers representing the
24 districts. A majority of the 10 grower members shall nominate the
25 processor, shipper, and retail candidates for appointment to the
26 commission. Vacancies on the commission, except from the expiration
27 of term, shall be filled by the governor from nominees selected by

1 the commission. A person appointed as a commission member shall
2 qualify by filing a written acceptance and oath of office within 10
3 days after being notified by the governor of the appointment.

4 (6) Annually, the commission members shall elect a chairperson
5 from among its appointed members. A majority of the voting members
6 of the commission constitutes a quorum for the transaction of
7 business and the carrying out of the duties of the commission. The
8 business which the commission may perform shall be conducted at a
9 public meeting of the commission held in compliance with the open
10 meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of
11 the time, date, and place of the meeting shall be given in the
12 manner required by the open meetings act, 1976 PA 267, MCL 15.261
13 to 15.275. Meetings of the commission shall be called by the
14 chairperson, except that special meetings shall be called by the
15 chairperson on petition of 8 members no later than 7 days after
16 receiving the petition.

17 (7) THE COMMISSION, WITH THE ADVICE AND CONSENT OF THE
18 DIRECTOR AND THE COMMISSION OF AGRICULTURE, MAY REAPPORTION EITHER
19 THE NUMBER OF COMMISSION MEMBERS OR MEMBER DISTRICTS, OR BOTH.
20 REAPPORTIONMENT OF THE DISTRICTS SHALL BE ON THE BASIS OF
21 PRODUCTION OR INDUSTRY REPRESENTATION. REAPPORTIONMENT MAY BE
22 COMMENCED NOT EARLIER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THE
23 AMENDATORY ACT THAT ADDED THIS SUBSECTION. REAPPORTIONMENT OF
24 EITHER MEMBERS OR DISTRICTS SHALL NOT OCCUR MORE THAN TWICE IN ANY
25 5-YEAR PERIOD AND SHALL NOT OCCUR WITHIN 6 MONTHS BEFORE A
26 REFERENDUM. AFTER REAPPORTIONMENT UNDER THIS SUBSECTION, IF THE
27 RESIDENCE OF A MEMBER OF THE COMMISSION FALLS OUTSIDE THE DISTRICT

1 FOR WHICH HE OR SHE SERVES ON THE COMMISSION AND FALLS WITHIN THE
2 DISTRICT FOR WHICH ANOTHER MEMBER SERVES ON THE COMMISSION, THEN
3 BOTH MEMBERS SHALL CONTINUE TO SERVE ON THE COMMISSION FOR A TERM
4 EQUAL TO THE REMAINING TERM OF THE MEMBER WHO SERVED FOR THE
5 LONGEST PERIOD OF TIME. AFTER THE REAPPORTIONMENT DESCRIBED IN THIS
6 SUBSECTION, IF A DISTRICT IS CREATED WITHIN WHICH NO MEMBER SERVING
7 ON THE COMMISSION RESIDES, THAN A MEMBER SHALL BE SELECTED IN THE
8 MANNER AS PRESCRIBED IN THIS SECTION. AFTER A REAPPORTIONMENT OR
9 REDISTRICTING, THE COMMISSION MAY TEMPORARILY HAVE MORE MEMBERS
10 THAN PRESCRIBED BY THIS SECTION UNTIL THE EXPIRATION OF THE TERM OF
11 THE LONGEST-SERVING MEMBER FROM THAT DISTRICT. IN THE CASE OF A
12 REAPPORTIONMENT CONDUCTED UNDER THIS SUBSECTION, THE PROVISIONS OF
13 THIS SUBSECTION PREVAIL OVER ANY OTHER CONFLICTING PROVISIONS OF
14 THIS SECTION.

15 (8) ~~-(7)-~~ The per diem compensation of the appointed members
16 of the commission shall not exceed \$75.00 plus the reimbursement of
17 expenses incurred in attending a commission meeting.

18 (9) ~~-(8)-~~ All funds of the commission shall be handled by the
19 commission and all funds received by it shall be used to implement
20 this act. Money received by the commission shall be deposited in
21 banks or other forms of security as may be designated by the
22 commission.

23 (10) ~~-(9)-~~ Retailers, processors, and others may support the
24 programs of the commission by paying an annual fee of \$100.00.

25 (11) ~~-(10)-~~ The commission may accept gifts and grants.

26 (12) ~~-(11)-~~ The commission shall maintain accurate books,
27 records, and accounts of its transactions, which books, records,

1 and accounts shall be open to inspection by the public and shall be
2 subject to audit by the auditor general or a certified public
3 accountant. A document prepared, owned, used, in the possession of,
4 or retained by the commission in the performance of an official
5 function shall be made available to the public in compliance with
6 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
7 except as otherwise provided in section 4a.

8 (13) ~~-(12)-~~ The commission may borrow money in anticipation of
9 the receipt of assessments if all of the following conditions are
10 met:

11 (a) The loan will not be requested or authorized, or will not
12 mature, within 90 days before a resubmittal or termination
13 referendum regarding an assessment under this act.

14 (b) The amount of the loan does not exceed 50% of the annual
15 average assessment revenue during the previous 3 years.

16 (c) The loan repayment period does not exceed the time period
17 during which the assessment is made or the time period during which
18 the assessment can reasonably be expected to be imposed.

19 (d) The loan has the prior written consent of the director.
20 The director may request an audit of the commission by the auditor
21 general before approving the loan.

22 (14) ~~-(13)-~~ The director shall assess against the growers and
23 shippers all outstanding loans approved under subsection ~~-(12)-~~
24 (13), including interest, if the assessment is terminated.

25 (15) ~~-(14)-~~ A financial report shall be prepared annually and
26 made available upon request.