

# Legislative Analysis



## POTATO INDUSTRY COMMISSION

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**House Bill 4546 (reported from committee with amendment)**

**Sponsor: Rep. Rick Outman**

**Committee: Agriculture**

**First Analysis (5-30-13)**

**BRIEF SUMMARY:** The bill would reconfigure the membership of the Potato Industry Commission and alter its assessment structure.

**FISCAL IMPACT:** A fiscal analysis is in process.

### **THE APPARENT PROBLEM:**

The Michigan Potato Industry Commission was created by Public Act 29 of 1970 to conduct research, promotional, and educational activities for Michigan's potato growers.

Prior to the enactment of 1970 PA 29, these services were performed by the Michigan Potato Industry Council. The Commission is directed by a board of ten individuals representing growers, two individuals representing processors, two individuals representing shippers, and one individual representing retailers. The director of the Department of Agriculture and Rural Development and a staff member from Michigan State University's College of Agriculture serve as ex-officio, non-voting members.

By statute, the Commission is directed to foster, develop, and promote the potato industry through research, promotion, advertising, market expansion, development of new markets, education, and the development and dissemination of market and industry information. To accomplish its purpose, the Commission must collect, prepare, and distribute information relating to all of the following:

- Importance of potatoes in human nutrition.
- Manner, method, and means used and technology employed in the production, transportation, marketing, and grading of potatoes.
- State laws relating to the production, transportation, marketing, processing, and grading of potatoes to ensure a wholesome and pure product.
- Factors that affect the industry, such as unbalanced production, weather, consumer purchasing power, and price relative to other foods.
- Branding, labeling, stenciling, sealing, or packaging potatoes to protect their identity.
- Other information to promote increased consumption of potatoes and foster a better understanding and more efficient cooperation between the industry and consumers.

The Potato Industry Commission's activities are funded through a mandatory assessment on growers and shippers in the state. According to its website, the assessment rates are as follows:

- For shippers, \$0.015 per hundredweight.
- For growers, \$0.035 per hundredweight.
- For a grower/shipper, \$0.050 per hundred weight.

[Hundredweight is a unit of measurement for weight that is generally used in certain commodity trading contracts. In North America, hundredweight is equal to 100 pounds.]

According to testimony, the bill is a request of the potato industry. Potato growing has become more complex, and it is important the industry stays engaged in educational and research activities. While the current funding mechanism is working to meet current needs, the industry feels the changes provided for in the bill would allow for more revenue to be generated if special projects arise. The bill would allow the Potato Industry Commission to alter the assessment when needed to meet the research and educational needs of the industry.

### ***THE CONTENT OF THE BILL:***

#### Potato Industry Commission Membership

Currently, the Commission consists of the following 17 members:

- The director of the Department of Agriculture and Rural Development or a designee from staff (ex officio, without vote).
- A staff member from Michigan State University appointed by the dean of Agriculture (ex officio, without vote).
- Ten growers, two processors, two shippers, and one retailer, all appointed by the Governor.

Under the bill the Commission would have the following 9 members:

- The director of the Department of Agriculture and Rural Development or a designee (ex officio, without vote).
- A staff member from Michigan State University, appointed by the dean of the College of Agriculture and Natural Resources (ex officio, without vote).
- The following members appointed by the Governor:
  - Two individuals representing the seed potato industry.
  - Two individuals representing the fresh potato industry.
  - One individual representing shippers.
  - One individual representing shippers or retailers.
  - One additional member from any of the abovementioned categories.

The bill would also eliminate the requirement that grower members be appointed from geographic districts, and that the other members of the Commission have been associated with the potato industry for at least two years prior to appointment.

The bill also clarifies (1) that members appointed by the Governor would serve three-year terms, and (2) the Commission could accept royalties, licensee fees, interest, income, or other items of value that enhance the programs established under the act, in addition to gifts and grants.

#### Calling of Special Meetings

Under the act, Commission meetings must be called by the chairperson, except for special meetings, which can be called by the chairperson on petition of eight members. The bill would reduce the necessary number of members to call a special meeting to five.

#### Reapportionment of Members

The bill would eliminate a provision allowing the Commission to reapportion either the number of members or member districts, or both, with the advice and consent of the department director and Agriculture Commission.

#### Assessment Rates

Currently, an assessment of one cent per hundredweight of potatoes grown in Michigan is levied on each particular lot or quantity of potatoes and imposed on each grower and shipper in the state. The act allows the Commission to raise the assessment by an additional one-half cent per hundredweight and (2) allows for an additional assessment to be imposed based on the recommendation of the Commission and the conducting of a referendum under the act.

The bill instead would allow the assessment to be set at not more than five and one-half cents per hundredweight for growers with at least 20 acres of land in the production of potatoes, with not more than one and one-half cents per hundredweight being levied on each particular lot or quantity shipped by each shipper in the state. Growers with less than 20 acres in the production of potatoes would be considered in full compliance with the act and could choose to participate in the programs established under the act if they paid an assessment based on production over three of the past five years. The bill would also require the commission to determine assessment rates for the year by July 1st of each year and to notify each grower and shipper of the rates.

The bill would eliminate provisions (1) that allow the Commission to raise the assessment by an additional one-half cent per hundredweight and (2) that allow for an additional assessment to be imposed based on the recommendation of the Commission and the conducting of a referendum under the act.

The bill would also stipulate that assessments could not be increased above the rate assessed on the day this bill takes effect unless authorized by a referendum under the act.

### Referendums

Section 8 of the act provides for a referendum to be held in order to concur with or terminate an assessment or assessment increase. The bill would require the Department of Agriculture and Rural Development to hold a referendum within 60 days of this bill's effective date and would allow, rather than require, the director to promulgate rules for conducting a referendum.

Under the act, the director must hold a public hearing on a proposed assessment increase if he or she receives a petition for such an increase that is signed by 25%, or 200, of the growers, whichever is less. The bill would eliminate the provision allowing for a minimum of 200 grower signatures, thus requiring petitions for assessment increases to be signed by at least 25% of the growers.

The bill clarifies that referendums are valid for five years. [Every five years, the department has to conduct a referendum at which time growers vote on whether or not the Commission should continue to levy assessments to carry out the requirements of the act.]

### ***BACKGROUND INFORMATION:***

For more information on the Potato Industry Commission, see: <http://www.mipotato.com/>

### ***ARGUMENTS:***

#### ***For:***

The bill would alter the assessment structure used to fund the Michigan Potato Industry Commission. Currently, an assessment of \$0.01 per hundredweight on potatoes grown in the state is levied on each particular lot and quantity and imposed on each grower and shipper in the state. The assessment can be raised by as much as an additional 1/2 cent per hundredweight through a majority vote of the Commission; any additional assessment increase can be imposed through a Commission recommendation and a successful referendum of the industry. Under the bill, the assessment rate would be determined by the Commission annually. Assessments would be capped at not more than \$0.055 per hundred weight and levied on growers with more than 20 acres in production, and an assessment not to exceed \$0.015 per hundredweight would be levied on each shipper.

According to testimony, the current assessment structure makes it difficult for the Potato Industry Commission to respond to emerging research and educational needs of the industry. Providing the Commission with the ability to set an annual assessment rate will provide greater flexibility and allow the industry to generate additional revenue when necessary for special projects.

#### ***Against:***

The bill retains the mandatory assessment that is imposed on every potato grower and shipper in the state and allows the Commission to set the rate annually. During committee deliberations, some claimed that the mandatory assessment charged to potato

growers as being in conflict with the philosophy behind recently enacted "right-to-work" legislation. Under that legislation, individuals were provided the ability to opt out of paying agency fees to support collective bargaining efforts. Some believe that potato growers should have the same "freedom-to-grow" and should be provided with a means of opting out of mandatory assessments to support the activities of the Potato Industry Commission. An amendment was offered, but not adopted, in committee to allow growers and shippers not wishing to participate in Potato Industry Commission programs to opt out of paying the mandatory assessment by notifying MDARD. [Note: The assessment structure being proposed in the bill would only apply to shippers and growers with at least 20 acres in production. Growers with less than 20 acres in production could opt to participate in the programs offered by the Commission by paying an assessment based on production over three of the previous five years.]

***POSITIONS:***

The Michigan Department of Agriculture and Rural Development supports the bill. (5-15-13)

Cherry Marketing Institute supports the bill. (5-15-13)

Michigan Agri-Business Association supports the bill. (5-15-13)

Michigan Corn Growers Association supports the bill. (5-15-13)

Michigan Farm Bureau supports the bill. (5-15-13)

Michigan Potato Industry Commission supports the bill. (5-8-13)

Michigan Soy Bean Association supports the bill. (5-15-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.