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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

HOUSE BILL No. 2082

(By Delegates Martin Lore, Wallace
and L. White)



Passed April 8, 1993

In Effect July 1, 1993 ~~Passage~~

ENROLLED
H. B. 2082

(By DELEGATES MARTIN, LOVE, WALLACE AND L. WHITE)

[Passed April 8, 1993; in effect July 1, 1993.]

AN ACT to repeal sections four, five and eight, article two-g, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections six, seven and ten of said article two-g, all relating to the tree fruit industry self-improvement assessment program; deleting provision for implementing or terminating the program by referendum of producers; deleting provision allowing refunds of assessments to producers; requiring promulgation of rules by board; requiring board to set amount of assessments by rule; continuation of program.

Be it enacted by the Legislature of West Virginia:

That sections four, five and eight, article two-g, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections six, seven and ten of said article two-g be amended and reenacted to read as follows:

ARTICLE 2G. TREE FRUIT INDUSTRY SELF-IMPROVEMENT ASSESSMENT PROGRAM.

§19-2G-6. Tree fruit industry self-improvement assessment board; administration of program; report to Legislature; rules and regulations.

- 1 (a) There is hereby created a West Virginia tree fruit
- 2 self-improvement assessment board consisting of nine
- 3 persons who are residents of the state and citizens of the
- 4 United States and who are and have been actually

5 engaged in the industry of producing tree fruits for the
6 preceding five years. The nine persons who shall serve
7 as members of the board shall be appointed by the
8 governor for terms of three years and may serve
9 successive terms: *Provided*, That the initial appoint-
10 ments of members of the board shall be three members
11 to serve for terms of one year each, three members to
12 serve for terms of two years each and three members
13 to serve for terms of three years each.

14 (b) The governor shall make appointments to fill any
15 vacancies which may occur on the board and these
16 appointments shall be only for the unexpired term of the
17 position on the board. In making appointments to the
18 board, the governor shall consider the recommendations
19 made by organizations and groups in West Virginia
20 which are concerned with or engaged in the production
21 of tree fruits for the purpose of marketing tree fruits
22 to consumers or processors. If the governor fails to make
23 an appointment within ninety days after the expiration
24 of any term or within ninety days after a vacancy
25 occurs, the board shall, with the concurrence of a
26 majority of the members still serving, make the
27 necessary appointment. Each member shall hold office
28 until the expiration of his term or until a successor is
29 duly appointed and qualified.

30 (c) The board shall elect a chairman, a secretary and
31 a treasurer from its membership and shall meet at such
32 times and places as designated by call of the chairman
33 or by a majority of the board. All board meetings shall
34 be held in accordance with the state open meetings law.
35 A stipend shall be paid to each member from board
36 collections not to exceed thirty-five dollars per meeting
37 for each meeting actually attended, and each member
38 shall be reimbursed for his actual expenses incurred
39 with respect to each meeting for room, meals and
40 mileage in the same amount as is provided for by the
41 rules and regulations promulgated by the governor for
42 reimbursing state officials and employees of the state.
43 No board member may receive any other salary or
44 compensation for his services.

45 (d) The board may contract for services, employ and

46 discharge employees, provide for such facilities and
47 equipment as are necessary for the employees to
48 perform their duties and may cooperate with other state
49 or federal agencies or other organizations whose
50 activities may be beneficial to the purposes of this
51 article. The board may not expend funds to influence
52 legislation or for any political campaign.

53 (e) The board shall administer the tree fruit self-
54 improvement assessment program. All such activities
55 shall be directed toward increasing the sale of tree fruits
56 produced in the state without reference to any partic-
57 ular firm, individual, brand or trade name.

58 (f) The board shall submit a report, including a
59 complete fiscal accounting of its activities, to the
60 Legislature not later than the fifteenth day of January
61 of each year.

62 (g) The board shall promulgate rules and regulations
63 to carry out the purposes of this article after a public
64 hearing following due notice to all interested persons
65 and compliance with the provisions of the state admi-
66 nistrative procedures set forth in chapter twenty-nine-
67 a of this code.

**§19-2G-7. Assessment on sales; reimbursement for
collecting.**

1 (a) All tree fruit markets, packers, processors,
2 wholesalers, dealers and other persons, excluding
3 persons purchasing tree fruits for their personal
4 consumption or use, purchasing tree fruits, including
5 direct shipments from producers, shall deduct the
6 assessments, which shall be set by rules promulgated by
7 the board as provided for in section six of this article,
8 from the settlement for such tree fruit and to forward
9 it within thirty days to the treasurer of the board.

10 (b) The board shall keep accurate records of the
11 amounts of assessments and the dates on which they are
12 received, and of the expenditures of funds and the dates
13 on which they are made. These records shall be
14 preserved for at least five years.

§19-2G-10. Continuation of program.

1 Pursuant to the provisions of section four, article ten,
2 chapter four of this code, and following a preliminary
3 performance review conducted through the joint com-
4 mittee on government operations, the tree fruit industry
5 self-improvement assessment board shall continue to
6 exist until the first day of July, one thousand nine
7 hundred ninety-nine, to allow for the completion of an
8 audit by the joint committee on government operations.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Handwritten Signature]
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originating in the House.

Takes effect July 1, 1993.

[Handwritten Signature]
.....
Clerk of the Senate

Donald L. Kipp
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

The within is approved..... this the *19th*
day of *April*....., 1993.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/16/93

Time 1:00 pm