



Climate Change Statutes

STATE OF ILLINOIS

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [Climate Change Statutes](#).

Current through the 2009 Legislative Session of the Illinois General Assembly.

§ 145/1. Short title

This Act may be cited as the Wheat Development Act.

§ 145/5. Legislative purpose

The following is declared to be the legislative policy of this Act:

- (1) to foster development of new markets for wheat and wheat products;
- (2) to provide research needed to improve the efficiency of the wheat production, marketing and utilization of wheat;
- (3) to enhance more efficient and economical production of wheat;
- (4) to enable the wheat industry to adapt to changing market demands; and
- (5) to foster communications and cooperation in all phases of the wheat industry-producers, business, institutions, and agencies in order to provide an adequate and equitable level of economic returns.

§ 145/10. Definitions

For the purpose of this Act, unless the context clearly requires otherwise:

"Bushel" means 60 pounds of wheat by weight.

"Department" means the Department of Agriculture.

"Director" means the Director of Agriculture.

"Eligible voter" means one who is defined both as a person and a producer in this program.

"First purchaser" means a person who resells wheat purchased from a producer or offers for sale any product produced from wheat for any purpose.

"Person" means a natural person, partnership, corporation, society, association, representative, or other fiduciary.

“Producer” means a person who is actively engaged in the production of wheat and who receives income from the production of wheat, unless otherwise defined in wheat marketing program.

“Wheat” means and includes all kinds and varieties of wheat grown in this State and marketed and sold as wheat by the producer.

“Wheat development” means to engage in research and educational programs directed toward improving production and utilization of wheat, providing methods and means for the maintenance of present markets, and developing new and larger domestic and foreign markets.

“Wheat development board” means the board established under this Act to administer a wheat development program.

“Wheat development program” means a program established under this Act which prescribes procedures for the development of markets for wheat and wheat products.

§ 145/15. Wheat development programs; requirements

A wheat development program proposed or adopted under this Act shall include where applicable the following:

- (1) a definition of terms;
- (2) the purpose of the program;
- (3) the maximum assessment rates and equitable procedures for adjustment of the maximum assessment rates provided for by the program;
- (4) equitable procedures for collection of the assessment provided for by the program;
- (5) the election procedure and qualifications of the wheat development board members, representation on the wheat development board, terms of office, compensation, if any, and other necessary provisions pertaining to the board;
- (6) the operating procedures of the program; and
- (7) the qualifications for exempting wheat or producers where exemptions are applicable.

§ 145/20. Optional programs; contracts; political activities

A wheat development program proposed or adopted under this Act may include any of the following:

- (1) Wheat development and research programs.
- (2) Wheat promotion, education and public relations programs.
- (3) Wheat information services.
- (4) The right to contract with qualified organizations, agencies or individuals for any of the activities listed in items (1), (2), and (3) of this Section.
- (5) A provision that assessments authorized in a development program shall not be used for political activity or for preferential treatment of any person to the detriment of other persons in the development program.

(6) Other provisions not inconsistent with this Act or other Illinois or federal laws and regulations.

§ 145/25. Temporary program committee; proposals; procedures

After the effective date of this Act if there are sponsors willing and able to meet the requirements of Section 35, the Director shall appoint a temporary wheat development program committee consisting of 7 members who are wheat producers to develop a wheat development program proposal. The proposal shall be considered at a public hearing. After the close of the public hearing, the Director and temporary wheat development program committee shall send copies of their findings to all parties of record appearing at the hearing. If the proposal is approved by the temporary wheat development program committee, a referendum shall be held on the proposal in accordance with Section 30 of this Act.

The Director, upon recommendation of the temporary wheat development program committee, shall establish procedures for the qualifications of producers for wheat development programs, the participation of producers in hearings and referenda, and other procedures necessary in the development and adoption of a wheat development program. These procedures shall not be subject to the provisions of the Illinois Administrative Procedure Act; however, the Director shall take any necessary steps to inform affected persons of the procedures, including publication of the procedures in the Illinois Register.

§ 145/30. Referenda; petitions

Within 90 days after final approval of any proposed wheat development program by the temporary wheat development program committee, the Director shall determine by referendum whether the affected producers assent to the proposed wheat development program. The proposed wheat development program is approved when a majority of those voting in the referendum vote in favor of the proposed wheat development program. Following approval of the program, the Department shall file the program with the Secretary of State as provided in Section 5-65 of the Illinois Administrative Procedure Act.

If a proposed wheat development program is not approved by referendum, no additional referendum on a wheat development program may be held for 2 years from the date of the close of the referendum period. An additional referendum shall be called by the Director upon request by petition of 500 producers of wheat from across the State. Before holding an additional referendum, the Director shall appoint a temporary wheat development program committee consisting of 7 members who are wheat producers. The temporary wheat development program committee shall follow the procedures set forth in Section 25.

§ 145/35. Wheat Commodity Trust Fund; expenses; reimbursements

Before considering any proposed wheat development program or amendment, the Director may require the sponsors to deposit an amount not to exceed \$5,000 to defray the expenses of preparing, holding hearings, and conducting the referendum on the wheat development program or amendment. Any funds received by the Director shall be deposited with the State Treasurer as ex-officio custodian and held separate and apart from any other public moneys of this State in a trust fund designated as the Wheat Commodity Trust Fund. Money in the Fund may be disbursed only upon a voucher or order issued by the Director and paid by a warrant drawn by the State Comptroller and countersigned by the State Treasurer. The Director shall order disbursements from the Wheat Commodity Trust Fund only for payment of the expenses authorized by this Act. Any funds collected beyond actual expenses shall be refunded to the sponsors. The treasurer of the wheat development board shall reimburse the sponsors

in the amount of the deposit, less any refunds, from fees received under the program if a program is established.

§ 145/40. Voting; polling places; qualifications

In a referendum under this Act, voting shall be by ballot cast by eligible voters in a manner, as determined by the Director, that will make it easy to vote throughout the State. A producer who is qualified under the wheat development program is entitled to one vote. The referendum area includes the entire State of Illinois.

Reasonable publicity and notification of the referendum date and voting locations shall be provided in trade publications, the public press, and the official state newspaper, at least 2 weeks prior to the referendum date.

§ 145/45. Duration of program; termination

A wheat development program established under this Act shall remain in effect for 5 years. Thereafter, the program shall automatically be extended from year to year unless a referendum for continued approval is required by written petition of no less than 5% of the affected producers from across the State. The referendum to determine the continued approval of a wheat development program shall be in accordance with Section 40 of this Act. Continuation or termination shall be determined by the same voting requirements as for adoption of the wheat development program set forth in Section 30.

§ 145/50. Wheat Development board; officers; expenses

A wheat development program established under this Act shall provide for a wheat development board consisting of at least one member from each district which will be charged with the administration of the program.

The board shall consist of one member elected from each of the districts as established in the wheat development program.

The wheat development board shall elect from its members a chairman, secretary, treasurer, and such other positions as may be provided for in the wheat development program. The term of office for members of the wheat development board shall be for 3 years, except that the term of the members of the board first taking office shall be for 1, 2, or 3 years as determined by the initial board. The wheat development board shall establish the number of members for each term of office of the initial wheat development board and shall provide the procedure for the election of members in subsequent years.

All voting members of the wheat development board are entitled to actual and necessary travel and incidental expenses while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board and provided for in the wheat development program.

§ 145/55. Elections; candidates; vacancies

For the initial board any wheat producer may be elected only if he first has his name placed on the ballot by filing with the Director a petition containing a number of signatures equal to the lesser of 50 or 5% of those producers in his district qualified to vote on the referendum. All candidates shall be natural persons who are producers and residents in the district for which they are nominated. Notice of the initial election of members of the board shall be given in trade publications, the public press, and statewide newspapers at least 2 weeks prior to the election. Vacancies on the wheat development board during the term of office shall be filled by the wheat development board with a producer from the district for the balance of the unexpired term. In subsequent years, an election shall be held to fill

any expiring term on the board. Elections shall be in the same fashion as for initial board members. The election procedure shall be as provided in this Section unless otherwise provided for in the wheat development program. Candidates receiving the greatest number of votes at any election shall be elected.

§ 145/60. Duties

The duties and responsibilities of the wheat development board shall be prescribed in the authority for each wheat development program and to the extent applicable shall include the following:

- (1) to develop and direct the wheat development program;
- (2) to prepare and approve a budget consistent with estimated receipts and the scope of the wheat development program;
- (3) to formulate and execute assessment procedures, rates, and methods of collection;
- (4) to procure and evaluate data and information necessary for the proper administration and operation of the wheat development program;
- (5) to employ personnel and contract for services that are necessary for the proper operation of the wheat development program;
- (6) to authorize the expenditure of funds and the contracting of expenditures to conduct proper activities of the program;
- (7) to bond the treasurer and other persons necessary to insure adequate protection of funds; and
- (8) to perform other duties that are necessary to the proper operation of the program.

§ 145/65. Director; duties

For any wheat development program approved by referendum under this Act the Director shall:

- (1) take steps to insure that adequate and proper records are kept and that an annual audit summary is available to all program participants;
- (2) take steps to insure that adequate bonds are maintained;
- (3) coordinate administrative activities between the wheat development board and the Department; and
- (4) confer and cooperate with the legally constituted authorities of other states and the United States.

§ 145/70. Assessments

A properly qualified wheat development program shall provide for assessments against producers of the affected commodity to defray the costs of the activities provided for in the wheat development program. Assessments authorized in a wheat development program shall be based on the quantity of commodity marketed and shall be equitably assessed against all affected producers.

The total assessment levied on the commodity of any affected producer shall be 1.5 cents per bushel of wheat produced and sold by that producer. After the first 5 years a program is in operation, the

wheat development board may request the Director to hold a referendum to increase the assessment rate.

A referendum to increase the assessment rate shall be considered approved if a majority of those producers voting in the referendum vote in favor of the increase. The wheat development board shall increase the rate as set in the referendum.

The wheat development board shall require the first purchaser of wheat to withhold and remit the assessments to the wheat development board. A first purchaser remitting the assessments for any producer shall deduct the proper amount of assessment from any amount that he owes to the producer. The wheat development board shall have the power to cause any duly authorized agent or representative to enter upon the premises of any purchaser of wheat and examine or cause to be examined only books, papers, and records that deal in any way with respect to the payment of the assessment or enforcement of this Act.

§ 145/75. Refunds

A producer who has sold wheat and has an assessment deducted from the sale price may, by application in writing to the board, secure a refund in the amount deducted. The refund shall be payable only if the application has been made to the board within 60 days after the deduction. Interest shall be allowed and paid at the rate of 6% per annum upon the total amount of the assessment imposed by this Act, except that if any assessment is refunded within 90 days after an application for refund has been made within the required 60 days after deduction or within 90 days after the first purchaser of wheat remits the assessments withheld and deducted to the wheat development board, whichever is later, no interest shall be allowed on such assessment. An application for refund by a producer shall provide proof of assessment deducted.

§ 145/80. Collection of assessments; penalties; actions

Persons who collect wheat development program assessment funds pursuant to Section 70 of this Act shall remit those funds to the wheat development board which shall deposit the funds in an account to be used as authorized by the wheat development program.

A due and payable assessment required under the provisions of a wheat development program created under this Act constitutes a personal debt of the person so assessed or who otherwise owes the assessment. The assessment is due and payable to the wheat development board not more frequently than quarterly or when stipulated in the wheat development program and called for by the wheat development board. In the event any person fails to remit the full amount of the assessment or other sum within 30 days after the due date, the person owing the assessment shall be given an opportunity to present his case as provided for in Section 95 of this Act. When established that the assessment is correct, the wheat marketing board may add to the unpaid assessment or sum a penalty amount not exceeding 10% of the amount due plus all the cost of enforcing the collection of the assessment or amount due. If a person fails to remit any properly due assessment or sum, the wheat development board may bring a civil action for collection against the person in the circuit court of any county, together with the additional specified 10% penalty assessment, cost of enforcing the collection of the assessment, and court costs. The action shall be tried and judgment rendered as in any other cause of action for debts due and payable. All assessments are due and payable to the wheat development board.

§ 145/85. Reports; audit

The wheat development board shall publish annually an activity and financial report for the wheat development program. The report shall be available to all of the affected producers of the wheat development program. All expenditures under each wheat development program shall be audited at

least annually by a registered public accountant. Within 30 days after completion of an audit, the results shall be made available to the Director.

§ 145/90. Termination of program; unobligated funds

Upon termination of a wheat development program, all remaining unobligated funds shall be refunded to the Illinois Department of Agriculture to be used for wheat development programs.

§ 145/95. Enforcement; actions; injunctions

No person shall knowingly fail or refuse to comply with any requirement of this Act where obligated to comply by a duly approved wheat development program. The wheat development board may institute any action necessary to enforce compliance with any provision of this Act or any wheat development program adopted pursuant to this Act. In addition to any other remedy provided by law, the wheat development board may petition for injunctive relief without being required to allege or prove the absence of any adequate remedy at law.

Before the wheat development board may institute any proceedings under this Act, the alleged violator shall first be given an opportunity to present his views to the wheat development board as to why proceedings should not be instituted. Such hearings shall be subject to the Illinois Administrative Procedure Act.

§ 145/100. Amendments; hearings; referendum

A proposed amendment to an existing wheat development program may be requested by petition to the Director by 5% of the affected producers from across the State or by a two-thirds majority vote of the wheat development board. If any amendment to an existing wheat development program is proposed, the Director shall hold a public hearing to consider the amendment. After the close of the public hearing, the Director and the wheat development board shall send copies of their findings to all parties of record appearing at the hearing. A referendum may be held on the amendment in accordance with Section 40 subject to the same voting requirements for adoption of the wheat development program as set forth in Section 30. When an amendment is approved by referendum, the Department shall file the amendment with the Secretary of State as provided in Section 5-65 of the Illinois Administrative Procedure Act.

The Director, upon recommendation of the wheat development board, shall establish procedures necessary in the development and adoption of the proposed amendment to an existing wheat development program. The procedures shall be included in the rules of the Department required by Section 5-15 of the Illinois Administrative Procedure Act.

§ 145/105. Suspension of program

The operation of a wheat development program or any part thereof may be temporarily suspended for any reasonable cause by the wheat development board, for any period of time not to exceed one growing and marketing season.

§ 145/110. Administrative Procedure Act; application

Sections 25 and 30 of this Act shall not be subject to Sections 5-35, 5-40, 5-100, 5-105, 5-110, 5-115, 5-120, 5-125, and 5-130 of the Illinois Administrative Procedure Act.

§ 145/199. Effective date

This Act takes effect upon becoming law.

