

State of South Dakota

SEVENTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 1999

912C0738

HOUSE ENGROSSED NO. **HB1240** - 2/22/99

Introduced by: Representatives Cutler, Chicoine, Crisp, Diedrich (Larry), Haley, Kazmerzak, Koskan, McNenny, and Waltman and Senators Frederick, Benson, Bogue, Drake, Duxbury, Flowers, Hutmacher, Kleven, and Symens

1 FOR AN ACT ENTITLED, An Act to declare that the South Dakota Oilseeds Council, the
2 South Dakota Soybean Research and Promotion Council, and the South Dakota Corn
3 Utilization Council, are not agencies of the State of South Dakota, to repeal their rulemaking
4 authority, and to revise other provisions relating to them and the Department of Agriculture.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 38-27-6 be amended to read as follows:

7 38-27-6. ~~Compensation for the oilseeds council shall be paid pursuant to § 4-7-10.4. The~~
8 ~~compensation of the secretary shall be paid by funds of the Department of Agriculture. The~~
9 council may reimburse its members for reasonable expenses incurred in connection with
10 performing their duties as council members.

11 Section 2. That § 38-27-7 be amended to read as follows:

12 38-27-7. Funds collected pursuant to this chapter shall be deposited with the state treasurer
13 in a special fund known as the "oilseeds fund." Any funds remaining in the "sunflower fund" shall
14 be transferred to the "oilseeds fund" upon implementation of the new fund. Expenditures of these
15 funds shall be made in accordance with the provisions of chapter 4-7. The council shall annually
16 submit a financial report and informational budget along with an audit to the secretary of

1 agriculture. However, the council is not required to submit an audit, if the Department of
2 Legislative Audit elects to perform the audit. The council shall submit an annual informational
3 budget to the appropriations committee of the Legislature.

4 Section 3. That § 38-27-8 be amended to read as follows:

5 38-27-8. ~~In the administration of this chapter, the~~ The oilseeds council may is not an agency
6 of the State of South Dakota and may independently:

- 7 (1) Contract and cooperate with any person or with any governmental department or
8 agency for research, education and transportation;
- 9 (2) Expend the funds collected pursuant to this chapter and appropriated for its
10 administration;
- 11 (3) Appoint, discharge, fix compensation for, and prescribe the duties of personnel as
12 necessary, ~~subject to approval of the secretary;~~
- 13 (4) Accept donations of funds, property, services, or other assistance from public or
14 private sources for the purpose of furthering the objectives of the council.

15 Section 4. That § 38-27-8.1 be repealed.

16 ~~38-27-8.1. The council may promulgate rules pursuant to chapter 1-26 concerning:~~

- 17 ~~(1) The procedures for obtaining a declaratory ruling;~~
- 18 ~~(2) The procedures for assessments collected for sunflowers, safflowers, canola or flax~~
19 ~~grown or sold to a first purchaser;~~
- 20 ~~(3) The procedures for obtaining a refund of the assessment;~~
- 21 ~~(4) The procedures for collecting delinquent assessments and assessing penalties; and~~
- 22 ~~(5) The record-keeping and reporting requirements of first purchasers.~~

23 Section 5. That § 38-27-14 be amended to read as follows:

24 38-27-14. Any first purchaser shall keep ~~as a part of his permanent records~~ a permanent
25 record of all purchases of raw sunflowers, safflowers, canola, or flax, which may be examined

1 by the oilseeds council at any reasonable time. The first purchaser shall report to the council
2 stating the quantity of sunflowers, safflowers, canola, or flax received by ~~him~~ the first purchaser.
3 The report and remittance of the assessment shall be made at the times and in the manner
4 prescribed by the council ~~pursuant to rules promulgated pursuant to chapter 1-26~~. The council
5 may implement procedures, including:

- 6 (1) Assessments collected by sunflowers, safflowers, canola, or flax grown or sold to a
7 first purchaser;
- 8 (2) Obtaining a refund of the assessment;
- 9 (3) Collecting delinquent assessments and assessing penalties; and
- 10 (4) Record-keeping and reporting requirements of first purchasers.

11 Section 6. That § 38-29-6 be amended to read as follows:

12 38-29-6. Moneys collected from checkoff fees shall be deposited in a special revolving fund
13 created in the state treasury and ~~shall be~~ are continuously appropriated to the soybean research
14 and promotion council. Expenditures of these funds shall be made in accordance with the
15 provisions of Title 4. The council shall annually submit a financial report and informational
16 budget along with an audit to the secretary of agriculture. However, the council is not required
17 to submit an audit, if the Department of Legislative Audit elects to perform the audit. The
18 council shall submit an annual informational budget to the appropriations committee of the
19 Legislature.

20 Section 7. That § 38-29-7 be amended to read as follows:

21 38-29-7. The Soybean Research and Promotion Council ~~may~~ is not an agency of the State
22 of South Dakota and may independently:

- 23 (1) Enter into contracts, including loans and grants, and cooperate with any person, any
24 local, state, or national organization, whether public or private, or with any
25 governmental department or agency for the discovery, promotion, development, and

1 expansion of domestic and export markets and industries and for research, education,
2 and transportation;

3 (2) Expend the funds collected pursuant to this chapter and appropriated for its
4 administration;

5 (3) Appoint, employ, discharge, fix compensation for, and prescribe the duties of such
6 personnel as it may deem necessary;

7 (4) Accept donations of funds, property, services, or other assistance from public or
8 private sources for the purpose of furthering the objectives of the council;

9 (5) Lease, purchase, own, maintain, operate, and dispose of equipment and supplies
10 necessary to carry out the provisions of this chapter.

11 Section 8. That § 38-29-7.1 be repealed.

12 ~~38-29-7.1. The council may promulgate rules pursuant to chapter 1-26 concerning:~~

13 ~~(1) The procedures for obtaining a declaratory ruling;~~

14 ~~(2) The procedures for assessments collected for soybeans grown or sold to a first~~
15 ~~purchaser;~~

16 ~~(3) The procedures for obtaining a refund of the assessment;~~

17 ~~(4) The procedures for collecting delinquent assessments and assessing penalties;~~

18 ~~(5) The record-keeping and reporting requirements of first purchasers; and~~

19 ~~(6) The requirements governing grants and loans made pursuant to § 38-29-7, including~~
20 ~~eligibility requirements and requirements for application, awards, and administration.~~

21 Section 9. That § 38-29-11 be amended to read as follows:

22 38-29-11. Any first purchaser shall keep as a part of his permanent records a record of all
23 purchases of raw soybeans, which may be examined by the soybean research and promotion
24 council at any reasonable time. Every first purchaser shall report to the council stating the
25 quantity of soybeans received by ~~him~~ the first purchaser. The report and remittance of the

assessment shall be made at the times and in the manner prescribed by the council ~~pursuant to~~
~~administrative rules promulgated pursuant to chapter 1-26.~~ The council may implement
procedures, including:

- (1) Assessments collected for soybeans grown or sold to a first purchaser;
- (2) Obtaining a refund of the assessment;
- (3) Collecting delinquent assessments and assessing penalties;
- (4) Record-keeping and reporting requirements of first purchasers; and
- (5) Requirements governing grants and loans made pursuant to § 38-29-7, including
eligibility requirements and requirements for application, awards, and administration.

Section 10. That § 38-32-3.2 be amended to read as follows:

38-32-3.2. If voting at the designated time and place would cause a hardship on any eligible voter, the council shall allow for absentee voting on forms, and in a manner, prescribed in rule by the council. Absentee ballots shall be returned either to the council office no later than five calendar days ~~prior to~~ before the day of the election or to the polling location ~~prior to~~ before the close of the polls. The council shall ensure that any absentee ballot it has received within the deadline specified in this section is delivered to the appropriate polling place ~~prior to~~ before the close of the polls. No absentee ballot that is received at the polling place after the close of the polls may be counted in the election results.

Section 11. That § 38-32-12 be amended to read as follows:

38-32-12. Moneys collected from checkoff fees shall be deposited in a special revolving fund created in the state treasury and ~~shall be~~ are continuously appropriated to the council. Expenditures of these funds shall be made in accordance with the provisions of Title 4. The council shall annually submit a financial report and informational budget along with an audit to the secretary of agriculture. However, the council is not required to submit an audit, if the Department of Legislative Audit elects to perform the audit. The council shall submit an annual

1 informational budget to the appropriations committee of the Legislature.

2 Section 12. That § 38-32-13 be amended to read as follows:

3 38-32-13. The council ~~may, but is not limited to~~ is not an agency of the State of South
4 Dakota and may independently:

- 5 (1) Contract and cooperate with any person, organization or with any governmental
6 department or agency for market maintenance and expansion, research, education,
7 transportation, and for the prevention, modification, or elimination of trade barriers
8 which obstruct the free flow of corn and corn products to market;
- 9 (2) Expend the funds collected pursuant to this chapter and appropriated for its
10 administration;
- 11 (3) Appoint, discharge, fix compensation for, and prescribe the duties of such personnel
12 as it may deem necessary;
- 13 (4) Accept donations of funds, property, services, or other assistance from public or
14 private sources for the purpose of furthering the objectives of the council.

15 Section 13. That § 38-32-14 be repealed.

16 ~~38-32-14. The council may promulgate rules pursuant to chapter 1-26 concerning:~~

- 17 ~~(1) The procedures for obtaining a declaratory ruling;~~
- 18 ~~(2) The procedures for assessments collected for corn sold to a first purchaser;~~
- 19 ~~(3) The procedures for obtaining a refund of the assessment;~~
- 20 ~~(4) The procedures for collecting delinquent assessments and assessing penalties;~~
- 21 ~~(5) The record keeping and reporting requirements of first purchasers; and~~
- 22 ~~(6) Procedures, forms, public notices and other requirements for nominating director~~
23 ~~candidates and for conducting and certifying elections.~~

24 Section 14. That § 38-32-18 be amended to read as follows:

25 38-32-18. Any first purchaser shall keep as a part of its permanent records a record of all

purchases of corn, which may be examined by the council at any reasonable time. Every first purchaser shall report to the council stating the quantity of corn received by the first purchaser. The report and remittance of the assessment shall be made at the times and in the manner prescribed by the council ~~pursuant to administrative rules promulgated pursuant to chapter 1-26.~~

The council may implement procedures, including:

- (1) Assessments collected for corn sold to a first purchaser;
- (2) Obtaining a refund of the assessment;
- (3) Collecting delinquent assessments and assessing penalties;
- (4) Record-keeping and reporting requirements of first purchasers; and
- (5) Procedures, forms, public notices, and other requirements for nominating director candidates and for conducting and certifying elections.

Section 15. That § 38-32-22 be amended to read as follows:

~~38-32-22. Members of the corn utilization council shall receive per diem compensation pursuant to § 4-7-10.4 and shall be reimbursed for necessary expenses incurred in performing the duties prescribed by this chapter. The provisions of this section shall be retroactive in effect to July 1, 1988.~~ The council may reimburse its members for reasonable expenses incurred in connection with performing their duties as council members.

Section 16. That chapter 38-27 be amended by adding thereto a NEW SECTION to read as follows:

The open meeting provisions of chapter 1-25 apply to the council.

Section 17. That chapter 38-29 be amended by adding thereto a NEW SECTION to read as follows:

The open meeting provisions of chapter 1-25 apply to the council.

Section 18. That chapter 38-32 be amended by adding thereto a NEW SECTION to read as follows:

- 1 The open meeting provisions of chapter 1-25 apply to the council.

1 **BILL HISTORY**

2 1/28/99 First read in House and referred to committee assignment waived. H.J. 243

3 1/29/99 Referred to State Affairs. H.J. 266

4 2/3/99 Scheduled for Committee hearing on this date.

5 2/5/99 Scheduled for Committee hearing on this date.

6 2/5/99 State Affairs Deferred to another day.

7 2/8/99 Scheduled for Committee hearing on this date.

8 2/10/99 Scheduled for Committee hearing on this date.

9 2/12/99 Scheduled for Committee hearing on this date.

10 2/16/99 Scheduled for Committee hearing on this date.

11 2/16/99 State Affairs Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 558

12 2/19/99 House of Representatives Placed on Calendar. H.J. 651