Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
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CHAPTER 92

HOUSE BILL 2114

AN ACT

AMENDING SECTIONS 3-526.01, 3-526.02, 3-526.04, 3-526.06 AND 41-2706, ARIZONA REVISED STATUTES; RELATING TO THE ICEBERG LETTUCE RESEARCH COUNCIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 3-526.01, Arizona Revised Statutes, is amended to read:

3-526.01. Arizona iceberg lettuce research council; appointment; term

A. The Arizona iceberg lettuce research council is established consisting of seven producers appointed by the governor. The members shall be appointed as follows:

1. Four producers from district one, including Yuma and La Paz counties.

2. One producer from district two, including the remainder of the iceberg lettuce producing areas in this state.

3. Two producers appointed at large.

B. The governor may consult with any recognized vegetable grower and shipper organizations in this state in appointing members to the council.

C. The term of office of each council member is for three years beginning January 1 and ending December 31 of the appropriate year. Members are limited to two consecutive terms of office, except that a member who is appointed to fill a vacancy may serve two consecutive terms plus the unexpired term that fills the vacancy. A MEMBER WHO COMPLETES A SECOND THREE-YEAR TERM IS INELIGIBLE FOR REAPPOINTMENT FOR ONE YEAR. On the expiration of a term of a member or in the event of a vacancy, the governor shall appoint a successor.

D. The office of a member is deemed vacant and the governor shall appoint a person to fill the remainder of the term under any of the following circumstances:

1. The member is no longer a producer.

2. The member is unable to perform ~~his~~ THE duties OF THE OFFICE.

3. The absence of the member from four consecutive council meetings if the absences have not been excused by the council.

E. Members of the council are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2.

Sec. 2. Section 3-526.02, Arizona Revised Statutes, is amended to read:

3-526.02. Powers and duties of the council

A. The council shall:

1. Receive and disburse monies to be used in administering this article.

2. Annually elect a chairman, secretary and treasurer from among its members.

3. Meet at least once each calendar quarter or at such times as called by the chairman or when requested by four or more members of the council. A quorum consists of four or more members of the council.

4. Keep a permanent record of its proceedings and make these records available for public inspection for any lawful purpose.

5. Prepare for the governor and the iceberg lettuce industry an annual report of its activities, receipts and expenditures. A copy of the annual report shall be available to any interested iceberg lettuce producer and the general public on request.

~~6. Provide for an annual audit of its accounts by a qualified public accounting firm and make an annual financial statement available to any producer and the auditor general on request.~~

~~7.~~ 6. Organize and administer any referendum called under subsection C, paragraph 11 of this section.

~~8.~~ 7. Prescribe fees to be assessed within the limits prescribed in section 3-526.04.

B. The council may authorize or contract for ~~programs relating to~~:

1. Research, development and survey programs concerning varietal development.

2. Programs for lettuce pest eradication.

3. Programs concerning production, harvesting, handling and hauling from field to market.

4. Any other programs, excluding sales or marketing, that the council deems to be appropriate for the purposes of this article.

C. The council may:

1. Disseminate reliable information, including the results of research studies, surveys and information obtained as a result of research.

2. Sue and be sued as a council, without individual liability, for acts of the council within the scope of the powers and duties conferred on it by this article.

3. Enter into contracts to carry out the purposes of this article, including contracts for research and development of iceberg lettuce.

4. Appoint advisory groups composed of representatives from organizations, institutions or businesses related to or interested in the welfare of the iceberg lettuce industry.

5. Make grants to research agencies for financing appropriate studies, or for purchase or acquisition of equipment and facilities consistent with this article.

6. Employ or retain and fix the compensation of a qualified person or a qualified entity to manage the affairs of the council on behalf of the council and other personnel that are necessary to carry out the provisions of this article.

7. Cooperate with any local, state or nationwide organization or agency engaged in work or activities similar or related to those of the council and enter into contracts with such organizations or agencies for carrying on joint programs.

8. Act jointly and in cooperation with this state or any other state or the federal government, and spend monies to administer any program deemed by the council to be beneficial to the iceberg lettuce industry of this state.

9. Adopt rules necessary to promptly and effectively administer this article.

10. Accept grants, donations, contributions, gifts, property or services or other assistance from public or private sources to further the objectives of this article.

11. Refer to the iceberg lettuce producers in this state for an advisory vote the question of setting fees or establishing or continuing any program authorized by this article.

12. Investigate and prosecute in the name of this state any action or suit to enforce the collection or ensure payment of the authorized fees.

13. PROVIDE FOR AN ANNUAL AUDIT OF ITS ACCOUNTS BY A QUALIFIED PUBLIC ACCOUNTING FIRM AND, IF AN AUDIT OR FINANCIAL STATEMENT IS PREPARED, SHALL MAKE THE AUDIT OR FINANCIAL STATEMENT AVAILABLE TO THE GENERAL PUBLIC AND THE AUDITOR GENERAL ON REQUEST.

Sec. 3. Section 3-526.04, Arizona Revised Statutes, is amended to read:

3-526.04. Fees; collection; budget

A. On or before July 1 of each calendar year, the council shall assess a fee of not more than one-half cent per carton of packed iceberg lettuce or bulk bins assessed according to forty-five pounds of equivalent weight of iceberg lettuce prepared for market or an equivalent basis.

B. Each grower-shipper, shipper and handler shall keep a complete and accurate record of all iceberg lettuce handled by such entities and the producer. These records shall contain such information as required to be kept for the citrus, fruit and vegetable revolving fund pursuant to articles 2 and 4 of this chapter and rules adopted pursuant to those articles.

C. Assessments shall be collected from the grower-shipper, shipper or handler first marketing the iceberg lettuce being assessed. The grower-shipper, shipper or handler is a trustee of the monies until they are paid to the council at the time and in the manner prescribed by the council. An iceberg lettuce producer is responsible for paying the fee unless the fee is withheld for payment by the grower-shipper, shipper or handler first marketing the iceberg lettuce.

D. Before establishing the annual fee, the council shall establish a budget. The budget is effective on approval of the council.

E. Title 41, chapter 6 does not apply to setting and collecting the fee under this section, but the council shall provide thirty days' advance notice of the meeting at which ~~the~~ ANY fee will be ~~adopted~~ INCREASED and the amount of the proposed fee. The council shall receive public testimony at the meeting regarding the fee.

Sec. 4. Section 3-526.06, Arizona Revised Statutes, is amended to read:

3-526.06. Deposit of fees; use on termination

A. Monies collected pursuant to section 3-526.04 shall be deposited in the council's accounts ~~to be~~ THAT ARE administered by the department AS THE COUNCIL'S AGENT and disbursed as approved by the council for the purposes prescribed in this article.

B. If the council is terminated, any monies in the council's accounts shall be expended to meet existing legal obligations of the council. The council shall expend any remaining monies on any program consistent with this article.

C. The monies in the account may be invested pursuant to section 35-313. Interest earned on these monies shall be credited to the account.

Sec. 5. Section 41-2706, Arizona Revised Statutes, is amended to read:

41-2706. Applicability of chapter

A. This chapter applies to the solicitation of grants initiated after August 6, 1999.

B. This chapter does not apply to:

1. Any grant program that was exempt from chapter 23, article 3 of this title and for which administrative rules establishing grant solicitation procedures were adopted pursuant to chapter 6 of this title before August 6, 1999.

2. The Arizona board of regents and schools, colleges, institutions and universities under its control if the Arizona board of regents adopts rules or policies governing the award of grants that encourage as much competition as practicable.

3. Grants made by the cotton research and protection council for research programs related to cotton production or protection.

4. GRANTS MADE BY THE ARIZONA ICEBERG LETTUCE RESEARCH COUNCIL FOR RESEARCH PROGRAMS UNDER SECTION 3-526.02, SUBSECTION C, PARAGRAPH 3 OR 5.

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.