

HOUSE BILL No. 2335

By Committee on Agriculture

2-10

1 AN ACT concerning agriculture; creating the Kansas cotton commission;
2 relating to the powers and duties thereof; requiring the commission to
3 levy an assessment upon cotton marketed through commercial channels
4 in the state of Kansas at a rate of not more than 10 cents per bale.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. Sections 1 through 10, and amendments thereto, shall be
8 known and may be cited as the Kansas cotton commission act.

9 Sec. 2. As used in sections 1 through 10, and amendments thereto:

10 (a) "Act" means the Kansas cotton commission act.

11 (b) "Commercial channels" means the sale of cotton for any
12 industrial, chemurgic or similar commercial use, when sold to any
13 commercial buyer, dealer, processor, cooperative or any person who
14 resells any cotton or cotton product.

15 (c) "Commission" means the Kansas cotton commission.

16 (d) "Cotton pest" means boll weevils or any other pest that may
17 infest, destroy or otherwise inhibit the growth of cotton.

18 (e) "First purchaser" means any person buying or otherwise acquiring
19 rights to or an interest in cotton from the grower of such cotton after the
20 cotton is harvested. "First purchaser" includes any mortgagee, pledgee,
21 lienholder or other person who has a claim against the grower under the
22 terms of a nonrecourse loan made against such cotton after the harvest
23 thereof. "First purchaser" does not include any harvesting or threshing
24 lienholder.

25 (f) "Grower" means any person engaged in the growing of cotton in
26 this state who owns such cotton or shares in the ownership and risk of loss
27 of such cotton, whether as a landlord or tenant.

28 (g) "Person" means a natural person, public or private corporation,
29 partnership, association or other legal entity.

30 (h) "Sale" means any pledge or mortgage of any interest in cotton,
31 after harvest, to any person.

32 (i) "Secretary" means the secretary of agriculture or the secretary's
33 designee.

34 Sec. 3. (a) There is hereby created the Kansas cotton commission.

35 (b) (1) The commission shall consist of five voting members who
36 shall be elected and qualified at the annual meeting of the Kansas cotton

1 association.

2 (2) The board of directors of the Kansas cotton association shall act
3 as interim commission members until commission members can be elected
4 and qualified.

5 (3) Vacancies shall be filled for unexpired terms by the board of
6 directors of the Kansas cotton association from among the growers of the
7 state.

8 (4) Each commission member elected, other than a commission
9 member appointed to fill a vacancy for an unexpired term, shall be elected
10 for a term of four years except that two of the commission members first
11 elected on and after the effective date of this act shall be elected for a term
12 of two years.

13 (5) No member may serve more than two consecutive terms.

14 (6) Upon the expiration of a term of a member of the commission,
15 such member shall continue to serve as a member of the commission until
16 a successor to such member is elected and qualified.

17 (c) Members of the commission shall be active growers. The
18 elections shall be held at the annual meeting of the Kansas cotton
19 association.

20 (d) The dean of the college of agriculture of Kansas state university
21 or the dean's representative and the secretary or the secretary's designee
22 shall serve as ex officio, nonvoting members of the commission.

23 (e) The commission shall annually elect a chairperson from its
24 membership.

25 (f) A majority of the commission may adopt a resolution to dismiss a
26 member for any of the following reasons:

27 (1) Failure to attend two or more regular meetings of the commission,
28 if unexcused; or

29 (2) ceasing to be a grower.

30 (g) Members of the commission who attend meetings of such
31 commission, including subcommittee meetings authorized by such
32 commission, may be paid compensation, mileage and expenses as
33 provided under K.S.A. 75-3223, and amendments thereto.

34 (h) (1) The commission shall meet at least once every calendar
35 quarter and hold an annual meeting that shall be open to the public.

36 (2) The day, time and place of each meeting shall be determined by
37 the commission.

38 (3) The chairperson or any two members of the commission may call
39 meetings of the commission upon such notice as may be prescribed in the
40 bylaws of the commission, but such notice shall be not less than seven
41 days.

42 Sec. 4. To implement and administer this act, the commission shall
43 have the authority to:

- 1 (a) Operate a cotton pest monitoring program, including:
2 (1) The development and distribution of educational materials; and
3 (2) authority to enter private property to:
4 (A) Perform inspections for the purpose of determining whether an
5 infestation of cotton exists or whether cotton pests are present on the
6 property; and
7 (B) set traps and monitor such traps after providing notice and
8 receiving any necessary approvals and permission;
9 (b) if funds are available and the commission determines such
10 activities would be beneficial to industry, conduct a campaign of cotton
11 industry development through research, education and information;
12 (c) accept grants and donations;
13 (d) sue and be sued;
14 (e) appoint and compensate an administrator who is knowledgeable
15 about the cotton industry and establish an office for such administrator at
16 any place in the state selected by the commission. With the approval of the
17 commission, the administrator may appoint other personnel as needed;
18 (f) enter into such contracts as may be necessary or advisable for the
19 purposes of this act, including with any local, state or national organization
20 or agency, whether private or created by state or federal law, engaged in
21 work or activities similar to the work and activities of the commission to
22 carry out a joint campaign of research, education and promotion; and
23 (g) approve an annual budget and establish a reserve of funds. Each
24 project budgeted and approved by the commission shall include a stated
25 objective and anticipated results. In the commission's annual report to the
26 industry, the commission shall include those objectives and actual results.
- 27 Sec. 5. If the presence of boll weevils or any other cotton pest is
28 discovered within the state, the commission may authorize the
29 development of an eradication plan and implement such plan in
30 coordination with the secretary pursuant to the plant pest and agriculture
31 commodity certification act, K.S.A. 2-2112 et seq., and amendments
32 thereto.
- 33 Sec. 6. (a) (1) (A) There is hereby levied an assessment upon cotton
34 marketed through commercial channels in the state of Kansas.
35 (B) The commission shall set the assessment at a rate of not more
36 than 10 cents per bale.
37 (C) The commission shall not change the assessment rate, either to
38 increase or reduce such assessment, more than once per year.
39 (D) Such assessment shall be levied and assessed to the grower at the
40 time of sale and shall be shown as a deduction by the first purchaser from
41 the price paid in settlement to the grower.
42 (E) Under the provisions of this act, no cotton shall be subject to the
43 assessment more than once.

1 (2) (A) The commission shall furnish to every first purchaser receipt
2 forms that shall be issued by such first purchaser to the grower upon the
3 payment of such assessment.

4 (B) The receipt form shall indicate the procedure by which the
5 grower may obtain a refund of any such assessment, except a refund shall
6 not be issued unless the amount of the refund is \$5 or more.

7 (3) (A) Within one year after any and all sales during such period the
8 grower may, upon submission of a request therefor to the commission,
9 obtain a refund in the amount of the assessments deducted by the first
10 purchaser.

11 (B) Such request shall be accompanied by evidence of the payment of
12 the assessments, and such evidence shall not be required to be verified.

13 (b) (1) The commission shall keep complete records of all refunds
14 made under the provisions of this section.

15 (2) Records of refunds may be destroyed two years after the refund is
16 made.

17 (3) All funds expended by the commission in the administration of
18 this act and for the payment of all claims arising out of the performance or
19 neglect of any duties or activities pursuant to this act shall be paid from the
20 proceeds derived from the assessment levied pursuant to subsection (a).

21 (4) In the case of a lienholder who is a first purchaser as defined in
22 this act, the assessment shall:

23 (A) Be deducted by the lienholder from the proceeds of the claim
24 secured by such lien at the time the cotton is pledged or mortgaged;

25 (B) constitute a preferred lien and shall have priority over all other
26 liens and encumbrances upon such cotton; and

27 (C) be deducted and paid as provided in this section whether such
28 cotton is stored in this or any other state.

29 (c) Any cotton acquired by a grower under the provisions of any
30 federal program shall be subject to the provisions of this section.

31 Sec. 7. (a) The commission shall negotiate and contract with a person
32 to collect and disburse the assessments levied pursuant to this act.

33 (b) On or before the 20th day of the calendar month following the date
34 of settlement, such assessment shall be paid by the purchaser and remitted
35 to the person contracted with pursuant to subsection (a). The person shall
36 issue a receipt to the purchaser and shall remit all moneys received in
37 payment of such assessment to a bank account at least monthly.

38 (c) Each bank account used for operating and conducting the
39 commission's duties shall be secured by pledge of securities in the manner
40 prescribed for state bank accounts under K.S.A. 75-4218, and amendments
41 thereto, or, if such bank account is in an institution outside the state of
42 Kansas, the institution shall be licensed by a state or the federal
43 government.

1 (d) All money collected pursuant to K.S.A. 47-230, and amendments
2 thereto, shall be expended in the administration of this act, and for the
3 payment of claims based upon obligations incurred in the performance of
4 the activities and functions set forth in this act, and for no other purpose.

5 Sec. 8. If the cotton assessment is not paid within ten days of the time
6 frame provided in section 7, and amendments thereto, the lien may, within
7 one year after the expiration of such 10-day period, be foreclosed on in
8 any court that has jurisdiction in the county in which the cotton was grown
9 or sold or in which such cotton may be found or may have been
10 commingled with other like cotton or cotton products.

11 Sec. 9. Any violation of this act shall be a class C nonperson
12 misdemeanor and shall be punishable by a fine of not less than \$25 and not
13 more than \$500 or by imprisonment in the county jail for not less than 30
14 and not more than 90 days, or by both such fine and imprisonment.

15 Sec. 10. (a) The commission, or any activity or program conducted
16 under this act, may be discontinued upon resolution of the commission and
17 with approval by the secretary when the secretary determines that any such
18 activity is no longer necessary or it is no longer reasonable to operate the
19 commission or such activity pursuant to this act.

20 (b) (1) Prior to any such dissolution of the commission, the
21 commission shall file a final report with the secretary, including a financial
22 report, and submit all remaining funds into the trust of the secretary. Final
23 books of the commission shall be filed with the secretary and are subject to
24 audit by the secretary.

25 (2) The secretary shall pay from the commission's remaining funds all
26 of the commission's outstanding obligations and may continue to collect
27 assessments until all such obligations are paid.

28 (3) Funds remaining after payment under paragraph (2) shall be
29 returned to contributing growers on a pro rata basis.

30 (4) The secretary shall provide a final report to the legislature upon
31 conclusion of all activities related to the dissolution of the commission.

32 Sec. 11. This act shall take effect and be in force from and after its
33 publication in the statute book.