

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7231

BILL NUMBER: HB 1483

NOTE PREPARED: Feb 15, 2021

BILL AMENDED: Feb 4, 2021

SUBJECT: Grain Indemnity Fund.

FIRST AUTHOR: Rep. Snow

FIRST SPONSOR: Sen. Leising

BILL STATUS: As Passed House

FUNDS AFFECTED: **X** GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *Definitions:* This bill amends the definition of "failed" and "failure", adds a definition of "suspension" under the Indiana Grain Buyers and Warehouse Licensing Law (licensing law), and adds a definition of "conflict of interest".

Director Duties: This bill provides that the director of the Indiana Grain Buyers and Warehouse Licensing Agency (agency) may share information with board members of the Indiana Grain Indemnity Corporation (corporation) regarding the risk that a person licensed under the licensing law (licensee) may fail and the potential financial impact to the Indiana Grain Indemnity Fund (fund) if the licensee does fail. It requires the director of the agency to engage a third party firm to conduct a performance review of the agency's auditing practices and procedures at least once every five years. It also provides that, if the director or director's designated representative determines that the licensee has not complied with the deferred pricing or delayed payment requirements prescribed in this bill, the director shall issue a notice stating that the licensee has 30 days to issue payment for the initial deferred pricing agreement or delayed payment agreement, and establishes penalties for noncompliance.

Board/Agency Duties: This bill requires the agency to make reasonable efforts to implement any corrective measures identified in the performance review. It provides that a board member of the corporation with a conflict of interest in a proceeding before the board is recused from the proceedings. It provides that, if a board member is found to have violated the terms of a confidentiality agreement, the board member forfeits the member's appointment to the board and shall be removed as a member of the board. This bill also increases the amount from \$250,000 to \$350,000 that may be transferred to the administrative expense account (account) and allows money in the account to be used for an actuarial study and a performance review. It also allows interest transfers from the Indiana Grain Indemnity Fund to a professional development

account.

Fees and Suspensions: This bill requires that if the director of the agency finds a deficiency in minimum net worth before the licensee's next audit by the agency, the director shall issue a notice of deficiency to the licensee stating that the licensee has 30 days to correct the deficiency and if the licensee fails to correct a deficiency in minimum net worth within the 30 day period, the director may issue a fine. It also provides that if a licensee fails to correct a deficiency in minimum net worth within 60 days of receiving a fine the director may issue a temporary suspension.

Deferred Pricing Agreements: This bill prohibits a licensee, beginning after June 30, 2021, from entering into a deferred pricing agreement or a delayed payment agreement in connection with grain purchases that extends beyond one year from the date of delivery of the grain. It provides specified phase out periods for deferred pricing agreements or delayed payment agreements that were entered into by a licensee before July 1, 2021. It also prohibits the transfer of a deferred pricing agreement or delayed payment agreement to a new contract beyond one year from the date of delivery of grain.

Effective Date: Upon passage.

Explanation of State Expenditures: *Director Duties:* The director of the agency must engage an independent third party firm to conduct a performance review of the agency's auditing practices and procedures at least once every five years. These reviews may be paid from the fund's administrative expense account. The administrative expense account may be funded, up to a maximum of \$350,000 per year, from dollars allocated to the fund. Costs for third party reviews will vary depending on the firm contracted and the scope of the review. Additionally, the director may issue fines and temporary suspensions to licensees for failing to issue payment for deferred pricing agreements or delayed payment agreements as prescribed in this bill.

The added duties of the director may help the board prepare for the failure of a licensee or take precautionary actions to limit the impact of such failure. This bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Board/Agency Duties: This bill authorizes the board to use the interest earned by the fund, based on the limitations outlined in the bill, to pay for 1) professional development and training programs, and 2) technology software updates and technology support services, that are closely relevant to the auditing, licensing, and other regulatory functions of the agency. This bill's requirements are within the board's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary staffing and resource levels.

Based on the findings of the required performance reviews, the agency must make reasonable efforts to implement any corrective measures identified to enhance and improve their auditing practices and procedures. This requirement is within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Additionally, the corporation must require an actuarial study from a third party of the fund at least once every five years. Any costs required to complete such studies may be paid from the fund's administrative expense account.

Explanation of State Revenues: *Fines and Suspensions:* This bill adds fines of up to \$1,000 each to be collected, at the discretion of the director, for a licensee failing to issue payment for a deferred pricing agreement or delayed payment agreement within 30 days of being notified. Money collected from these fees will be deposited into the Grain Buyers and Warehouse Licensing Agency License Fee Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Grain Buyers and Warehouse Licensing Agency.

Local Agencies Affected:

Information Sources:

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