

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7231

BILL NUMBER: HB 1483

NOTE PREPARED: Mar 30, 2021

BILL AMENDED: Mar 30, 2021

SUBJECT: Grain Indemnity Fund.

FIRST AUTHOR: Rep. Snow

FIRST SPONSOR: Sen. Leising

BILL STATUS: CR Adopted - 2nd House

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

IMPACT: State

Summary of Legislation: (Amended) This bill has the following provisions:

Definitions: The bill adds and amends definitions under the Indiana Grain Buyers and Warehouse Licensing Law (licensing law). It adds a definition of "conflict of interest".

Director Duties: The bill modifies the duties of the Director (director) of the Indiana Grain Buyers and Warehouse Licensing Agency (agency). The bill specifies that the Grain Indemnity Fund consists of fines collected by the director. It increases the maximum amount of a bond required for a license. The bill requires that if the director 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. It provides that if a licensee fails to price grain, the director may impose a fine.

Deferred Pricing Agreements: The bill also requires contracts to purchase grain from producers to contain a notice that deferred priced grain must be priced within the crop year. The bill provides that a licensee may not enter into a deferred pricing agreement after July 1, 2022, that extends beyond the crop year for the delivered grain. It provides that if a deferred pricing agreement or delayed payment agreement in connection with a grain purchase was entered into before July 1, 2021, the licensee shall complete the licensee's payment obligations to the seller under the agreement before January 1, 2024. It also establishes criteria to determine the price date in the deferred pricing agreement.

Board/Agency Duties: The bill provides that the Attorney General may designate an attorney representative to serve on the board (board) of the Indiana Grain Indemnity Corporation (corporation). It modifies duties of the board. It also provides that a board member of the corporation with a conflict of interest in a proceeding before the board is recused from the proceedings. The bill 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. It requires that if a board member is suspected of violating a confidentiality agreement the matter must be referred to the office of the Attorney General. The bill allows the corporation to: (1) study fund solvency, practices, and procedures; and (2) pay legal fees and legal expenses in actions brought against the corporation or the board of the corporation. The bill also increases the amount from \$250,000 to \$350,000 that may be transferred to the administrative expense account. It adds a study of fund solvency, practices, and procedures, professional development and training programs, technology software updates and technology support services, and professional training for board members to listed administrative expenses allowed from the account.

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.

(Revised) *Board/Agency Duties:* This bill authorizes the board to use the interest earned by the fund in the administrative expense account, based on the limitations outlined in the bill, to pay for 1) a study of fund solvency, 2) a performance review of the agency's auditing practices, 3) professional development and training programs, and 4) technology software updates and technology support services, that are closely relevant to the auditing, licensing, and other regulatory functions of the agency. The 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.

Explanation of State Revenues: (Revised) *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. It also adds fines of up to \$2,500 per month if a licensee fails to price grain within 60 days of the notice. 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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