

insuring its employes and retired employes, or any class or classes thereof, under a policy or policies of group insurance covering life, health, hospitalization, medical service, or accident insurance, and may contract with any such company granting annuities or pensions, for the pensioning of such employes, and may contract with any such company insuring members of the school board under policies of travel and accident insurance while on the official business of the board, including travel to and returning from meetings of the board or committees thereof, and for such purposes may agree to pay part or all of the premiums or charges for carrying such contracts, and may appropriate out of its treasury any money necessary to pay such premiums or charges or portions thereof. No contract or contracts of insurance authorized by this section shall be purchased from or through any person employed by the school district in a teaching or administrative capacity.

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Section 2. This act shall take effect immediately.

APPROVED—The 16th day of July, A. D. 1968.

RAYMOND P. SHAFER.

No. 179
AN ACT

SB 1273

Reenacting and amending the title and act of September 20, 1961 (P. L. 1541), entitled "An act providing for the issuing, administration, enforcement and termination of marketing orders on apples; imposing powers and duties on the Secretary of Agriculture; providing for the creation and operation of an advisory board; prescribing the contents of orders; and providing for the imposition and collection of fees," extending the act to agricultural commodities, changing the word "order" to "program," increasing the allowance for expenses of personnel, and revising the provisions for a referendum.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and act of September 20, 1961 (P. L. 1541), known as the "Pennsylvania Apple Marketing Act of 1961," are re-enacted and amended to read:

AN ACT

Providing for the issuing, administration, enforcement and termination of marketing [orders] programs on [apples] agricultural commodities; imposing powers and duties on the Secretary of Agriculture; providing for the creation and operation of [an advisory board] advisory boards; prescribing the [contents of orders] content of programs; and providing for the imposition and collection of fees.

Section 1. Short Title.—This act shall be known and may be cited as the "Pennsylvania [Apple] Agricultural Commodities Marketing Act of [1961.]" 1968."

Section 2. Definitions.—When used in this act, the following words and phrases shall have the following meanings, unless the context indicates otherwise:

(1) "Producer" means any person engaged within this State or any production area therein in the business of producing [apples] agricultural commodities, or causing [apples] agricultural commodities to be produced.

(2) "Person" means an individual, firm, corporation, association or any other business unit.

(3) "Secretary" means the Secretary of Agriculture of the Commonwealth of Pennsylvania.

(4) "Advisory board" means the persons appointed by the Secretary of Agriculture from nominations from the [apple industry] producers of such commodities to assist the secretary in administering [an order] a program.

(5) "Marketing [order]" development program" means [an order] a program, issued by the Secretary of Agriculture pursuant to this act, governing the collection of fees and administration of budgets for the [specified provisions] programs to benefit producers in Pennsylvania during any specified period or periods.

(6) "Agricultural commodity" means agricultural, horticultural, viticultural and dairy products, livestock and the products thereof, ranch raised fur bearing animals and the products thereof, the products of poultry and bee raising, forestry and forestry products, and any and all products raised or produced on farms intended for human consumption and the processed or manufactured products thereof intended for human consumption, transported or intended to be transported in commerce.

Section 3. Powers and Duties of the Secretary; Marketing [Orders] Programs.—(a) The Secretary of Agriculture shall administer and enforce the provisions of this act, and shall have and may exercise any or all of the administrative powers conferred upon the head of a department [of a state]. In order to effectuate this act, the Secretary of Agriculture is hereby authorized to issue, and, only in accordance with the advice and assistance of the advisory board, administer and enforce the provisions of marketing [orders] programs.

(b) Whenever the secretary has reason to believe that the issuance of a marketing [order] program or amendments to an existing marketing [order] program will tend to effectuate this act, he shall, either upon his own motion or upon application of any producer or any organization of producers, give due notice of an opportunity for a public hearing upon a proposed marketing [order of] program or such amendments to such existing marketing [order] program.

(c) Notice of any hearing called for such purpose shall be given by the secretary by publishing a notice of such hearing, for a period of not less than five consecutive publication days, in a daily newspaper of general circulation, published in the capital of the State and in such other newspaper or newspapers as the secretary may prescribe. No such public hearing shall be held prior to twenty days after the last day of such a period of publication.

(d) The secretary shall also mail a copy of such notice of a hearing, and a copy of such proposed marketing [order] program or pro-

posed amendments, to all producers whose names and addresses appear upon lists of such persons which shall be compiled in the Department of Agriculture.

(e) Such notice of hearing shall set forth the date and place of said hearing, and the area covered by such proposed marketing [order] program, or such proposed amendments, and a statement that the secretary will receive at such hearing, in addition to testimony and evidence as to the proposed marketing [order] program, testimony and evidence as to other necessary and relevant matters, including rate of assessment, and with respect to the accuracy and sufficiency of lists on file with the secretary, which show the names and addresses of producers and the quantities of [apples] agricultural commodities produced by such producers in the marketing season next preceding such hearing.

(f) Such hearing shall be public, and all testimony shall be received under oath. A full and complete record of all proceedings at such hearings shall be made and maintained on file in the office of the secretary. At such hearings the secretary shall receive, in addition to other necessary and relevant matters, testimony and evidence regarding the rate of assessment and testimony and evidence with respect to the accuracy and sufficiency of the lists on file with the secretary, which show the names of the producers and the quantities of agricultural commodities produced by such producers in the marketing season next preceding such hearing.

(g) After such notice and hearing, the secretary may issue a marketing [order] program if he finds and sets forth in such marketing [order] program that such [order] program will tend to effectuate the purposes of this act.

Section 4. Advisory Board.—(a) Any marketing [order] program, issued pursuant to this act, shall provide for the establishment of an advisory board to advise and assist the secretary in the administration of the marketing [orders] programs. The members of the board shall be appointed by the secretary from nominations submitted by [apple] producers of such agricultural commodities as the order will affect, and shall hold office until the expiration of the term established in the [order] program, or until such appointment is terminated by majority action of the board. The number of members of any such board and their term of office shall ¹ be set forth in the

¹ "be" not in original.

marketing [order] program, and shall be of such number as is necessary to properly administer such [order] program, but shall be a minimum of five.

(b) No member of any such board shall receive a salary, but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized. Any marketing [order] program established under the act may authorize a per diem payment not to exceed [fifteen dollars (\$15)] twenty dollars (\$20) per day, and expenses for each day in which a board member or subcommittee member is performing a duty necessary to the function of the board. The secretary may authorize such board to employ necessary personnel, fix their compensation and terms of employment, and to incur such expenses to be paid by the secretary from moneys collected, as provided in this act, as the secretary may deem necessary and proper, to enable such board to perform its duties as are authorized herein. The duties of any such board shall be administrative only and may include [only] the following:

(1) Subject to the approval of the secretary, to administer such marketing [order] program.

(2) To recommend to the secretary administrative rules and regulations relating to the marketing [order] program.

(3) To receive and report to the secretary complaints or violations of the marketing [order] program.

(4) To recommend to the secretary amendments to the marketing [order] program.

(5) To assist the secretary in assessment of members of the industry in the collection of funds to cover expenses incurred in administration of the [apple] agricultural commodity marketing [order] program.

(6) To assist the secretary in collection of such necessary information and data as the secretary may deem necessary to the proper administration of this act.

(c) Upon approval of the secretary, the board may establish committees or subcommittees to carry out assigned duties and functions, and designate the persons who need not be members of the board to serve upon such committees.

Section 5. Provisions of Marketing [Orders] Programs.—Subject to the legislative restrictions and limitations set forth in this act, any marketing [order] program issued by [this] the secretary pursuant to this act may contain any or all of the following provisions:

(1) Provisions for the establishment of plans for advertising and sales promotion to maintain present markets, or to create new or

larger markets for [apples] agricultural commodities grown or produced in the State of Pennsylvania. The secretary is hereby authorized to prepare, issue, administer and enforce plans for promoting the sale of [apples] agricultural commodities: Provided, That any such plans shall be directed toward increasing the sale of such [commodity] commodities without reference to any particular firm's or individual's brand or trade name: And provided, That no advertising or sales promotion program shall be issued by the secretary, which shall make use of false or unwarranted claims on behalf of any such product or disparage the quality, value, sale or use of any other agricultural commodity.

(2) Provisions for the establishment of research programs designed to benefit producers, or for agriculture in general.

(3) Provisions establishing or providing authority for establishing an information and service program designed to acquaint producers and other interested persons with quality standards and quality improvements.

(4) Provisions allowing the secretary and the advisory board to cooperate with any other state or Federal agency, or other organization whose activities may be deemed beneficial to the purpose of this act.

Section 6. *Effecting Marketing [Orders] Programs.*—No marketing [order] program, or amendment thereto, shall become effective unless and until the secretary determines by a referendum whether or not the affected producers assent to the proposed action. The secretary shall conduct the referendum among the affected producers and the affected producers shall be deemed to have assented to the proposed [order] program if, of those replying, not less than sixty-six and two thirds per centum by number and not less than fifty per centum by volume assent to the proposed [order] program.

Any referendum required under this act shall be conducted in accordance with reasonable rules and regulations to be established and promulgated by the secretary.

Section 7. *Terminating Marketing [Orders] Programs.*—The secretary shall suspend or terminate any marketing [order] program or any provisions of any marketing [order] program whenever he finds that such provisions or [order] program does not tend to effectuate this act within the standards and subject to the limitations and restrictions imposed in this act: Provided, That such suspension or termination shall not be effective until the expiration of the current marketing season. If the secretary finds that the termination of any

marketing [order] program is requested, in writing, by more than thirty-three and one third per centum of the affected producers who produce for market more than fifty per centum of the volume of [apples] agricultural commodities produced within the designated production area for market, the secretary shall terminate or suspend for a specified period such marketing [order] program or provisions thereof: Provided, That such termination shall be effective only if announced on or before such date as may be specified in such [order] program. If ten per centum of the producers who participated in the referendum effecting a marketing [order] program request, in writing, that a referendum be held on the question of terminating the [order] program, the secretary must announce and conduct such a referendum within a reasonable period of time, and in any case, within one year of the request, a marketing [order] program shall be terminated if so voted by a majority of those voting.

Section 8. Marketing [Order] Program Review.—Every three years the Secretary of Agriculture shall call a referendum of affected producers within each agricultural commodity group for which a marketing program exists to determine whether or not a majority of the [apple] affected producers of these agricultural commodities still desire a marketing [order] program.

Section 9. Notice of Issuance.—Upon the issuance of any marketing [order] program or any suspension, amendment or termination thereof, a notice shall be published in a newspaper of general circulation published in the capital of the State and in such other newspapers as the secretary may prescribe. No [order] program or any suspension, amendment or termination thereof, shall become effective until the termination of a period of twenty days from the date of such publication. It shall also be the duty of the secretary to mail a copy of the notice of said issuance to all producers directly affected by the terms of such [order] program, suspension, amendment or termination, whose names and addresses may be on file in the office of the secretary, and to every person who files in the office of the secretary a written request for such notice.

Section 10. Budgeting and Collection of Fees.—(a) For the purpose of providing funds to defray the necessary expense incurred by the secretary in the formulation, issuance, administration and enforcement of any marketing [order] program, the secretary shall

prepare a necessary budget covering the cost of same. Likewise the board shall prepare a budget for the administration and operation costs and expenses, including advertising and sales promotion, when same is requested in any marketing [order] program executed hereunder, which budget shall be approved by the secretary. Both budgets with the provisions for the collection of such necessary fees, the time and condition of such payment and in no case to exceed five per centum of the gross market value of [apples] such agricultural commodities produced and marketed, shall become a part of any marketing [order] program upon [adopting] adoption as provided in this act. Each and every producer affected by any marketing [order] program issued pursuant to this act shall pay to the secretary at such time and in such manner as prescribed by the [order] program as adopted an assessment covering the budget provided by this section.

(b) For the convenience of making collections of any producers, assessments established pursuant to this section, the secretary may collect such assessment from the sales agent of the producer. [upon mutual agreement of the producer and sales agent.]

(c) Any money collected by the secretary pursuant to this act is hereby specifically appropriated to the Department of Agriculture for the administration of the marketing [orders] programs for which they were collected. When a marketing [order] program is discontinued, the surplus money shall be made available for the administration of this act or of future marketing [orders] programs involving the same commodity.

Section 11. Rules and Regulations for Enforcement.—The secretary may, with the advice of the advisory board, make and promulgate such rules and regulations as may be necessary to effectuate this act and to enforce the provisions of any marketing [order] program, all of which shall have the force and effect of law. The secretary may institute such action at law or in equity as may appear necessary to enforce compliance with this act, or any rule or regulation, or marketing [order] program committed to his administration in addition to any other remedy under this act.

Section 12. Advanced Deposits.—Prior to the issuance of any marketing [order] program, the secretary may require the applicant therefor to deposit with him such amount as the secretary may deem necessary to defray the expense of preparing and making effective such marketing [order] program. Such funds shall be

received, deposited and disbursed by the secretary in accordance with the provisions of handling funds in this act. The secretary may reimburse the applicant in the amount of any such deposit from any funds received through the adopting of a marketing [order] program pursuant to the provisions of this act.

Section 13. Separability.—If any section, sentence, clause, or part of this act, is for any reason held to be unconstitutional, such decision shall not affect the remaining portion of the act. The Legislature hereby declares that it would have passed this act and each sentence, clause, and part thereof, despite the fact that one or more sections, sentences, clauses or parts thereof, be declared unconstitutional.

Section 14. Effective Date.—This act shall take effect immediately.

Section 2. All acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 3. This act shall take effect immediately.

APPROVED—The 16th day of July, A. D. 1968.

RAYMOND P. SHAFER.

No. 180
AN ACT

SB 1533

Repealing the act of May 13, 1887 (P. L. 106), entitled "An act to establish a State weather service in this Commonwealth for the purpose of increasing the efficiency of the United States signal service by disseminating more speedily and thoroughly the weather forecasts storm and frost warnings, for the benefit of the citizens of this State, and for the purpose of establishing and maintaining, in each county thereof, meteorological stations for the collection of climatic data, and making an appropriation therefor."

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of May 13, 1887 (P. L. 106), entitled "An act to establish a State weather service in this Commonwealth for the purpose of increasing the efficiency of the United States signal service by disseminating more speedily and thoroughly the weather forecasts storm and frost warnings, for the benefit of the citizens of this State, and for the purpose of establishing and maintaining, in each county thereof, meteorological stations for the collection of climatic data, and making an appropriation therefor," is repealed.