

## **CHAPTER 4.1-11 SOYBEAN COUNCIL**

### **4.1-11-01. Definitions.**

As used in this chapter:

1. "Council" means the nongovernmental entity, known as the North Dakota soybean council.
2. "Designated handler" means any person that initially places soybeans into the channels of trade and commerce or any person that processes soybeans into food for human consumption.
3. a. "Producer" means any person that:
  - (1) Plants or causes to be planted a soybean crop in which the person has an ownership interest, with the intent that upon maturity the crop will be harvested;
  - (2) Will have met the requirements of paragraph 1 during the next available growing season; or
  - (3) Has met the requirements of paragraph 1 during the immediately preceding growing season.
- b. The term does not include an organic producer that has been exempted from the payment of assessments, in accordance with federal law.

### **4.1-11-02. Soybean districts - Establishment - Review of district lines.**

1. The state consists of the following twelve soybean districts:
  - a. District one: Richland County;
  - b. District two: Ransom and Sargent Counties;
  - c. District three: Dickey and LaMoure Counties;
  - d. District four: Cass County;
  - e. District five: Barnes County;
  - f. District six: Stutsman County;
  - g. District seven: Grand Forks and Traill Counties;
  - h. District eight: Griggs, Nelson, and Steele Counties;
  - i. District nine: Eddy, Foster, and Wells Counties;
  - j. District ten: Cavalier, Pembina, and Walsh Counties;
  - k. District eleven: Benson, Bottineau, Burke, Divide, McHenry, Mountrail, Pierce, Ramsey, Renville, Rolette, Towner, Ward, and Williams Counties; and
  - l. District twelve: Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McKenzie, McLean, Mercer, Morton, Oliver, Sheridan, Sioux, Slope, and Stark Counties.
2. The council shall review the district boundaries at least once every seven years to ensure accurate producer representation. If, upon review, the council determines the districts do not accurately represent producers in the state based upon acreage, the council may redistrict upon a two-thirds vote of the members elected to the council.

### **4.1-11-03. North Dakota soybean council - Membership - Terms.**

1. The council consists of one producer elected from each of the districts established in section 4.1-11-02.
2. Each member of the council must be a resident of the district the member represents and a producer.
3. a. The term of each elected member is three years and begins on July first following the member's election. Except as otherwise provided in this subsection, the terms must be staggered so that no more than four expire each year.
- b. Between December first and March thirty-first of the subsequent year, each district established by section 4.1-11-02 which has a vacancy shall elect an individual to serve as a council member with a term beginning July first. The

terms of all council members expire on June thirtieth of the third year of each member's term.

4. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this section, the member's office is deemed vacant and the council, by majority vote, shall appoint another qualified producer to serve for the remainder of the term.
5. An elected member of the council may not serve more than two consecutive terms.
6. If an individual is appointed to complete a vacancy, that service is not counted as a term for purposes of this section unless the duration of that service exceeds one year.

#### **4.1-11-04. Election of county representative.**

1. Before January first, the council shall identify each district represented by a council member whose term is about to expire and notify the extension agent for each county in that member's district that an election to select a county representative must occur before March first.
2. Each year during the month of December, the council shall publish notice of the election in the official newspaper of the county for one week. The notice must contain a description of the election process, a request for the nomination of potential candidates for the position, and a deadline for the receipt of all nominations.
3. In order for a nomination to be valid, it must be submitted to the county extension agent in writing and signed by a nominating producer who resides in the county. The county extension agent shall determine if a nomination is valid. A decision by the county extension agent under this subsection is final.
4. The county extension agent shall:
  - a. Compile all valid nominations;
  - b. Contact each nominee to determine if the nominee consents to being on the ballot; and
  - c. Forward the name of each nominee to the council.
5. The council shall prepare the election ballots and mail to each producer of record in the county:
  - a. A ballot;
  - b. A stamped self-addressed return envelope;
  - c. Instructions for completing and returning the ballot; and
  - d. A statement indicating the last date by which the ballots must be postmarked or filed with the county extension agent.
6. The council shall publish notice of the pending election in the official newspaper of the county for one week. The notice must announce the election, provide information regarding the manner in which a producer may obtain a ballot if one was not received by mail, and indicate the deadline by which all ballots must be returned.
7. Any producer who resides in the county may vote in the election.
8. Immediately after the passing of the deadline by which the ballots must be returned, the county extension agent shall:
  - a. Tabulate the ballots;
  - b. Notify the director of the North Dakota state university extension service and the council that the election has taken place and provide to the director and the council the name and address of the newly elected county representative; and
  - c. Notify the newly elected county representative.
9. Subsections 1 through 8 do not apply if the county extension agent, in consultation with the executive director of the county farm service agency office, determines and notifies the council that no soybean producers willing to serve as county representatives reside within the county.

#### **4.1-11-05. Election of council member - District representative.**

1. Upon receiving notice that the election has taken place, as required by subsection 8 of section 4.1-11-04, the director of the North Dakota state university extension service

shall call a meeting of all county representatives in the district represented by the member whose term is to expire.

2. The director shall notify each county representative in the district of the meeting by registered mail at least five days before the meeting.
3. At the discretion of the director of the North Dakota state university extension service, the meeting may be held by any means, including by conference call or other electronic medium. If the meeting requires physical presence at a particular location, that location must be within the district.
4. At the meeting, the county representatives shall elect one from among themselves to serve as the council member from that district.
5. The director shall notify the council that the election has taken place and shall provide to the council the name and address of the newly elected council member.
6. If the county representatives fail to elect an individual, as required by this section, the director of the North Dakota state university extension service shall notify the council and the council shall appoint a producer from the district to serve as the district's council member. An individual appointed under this subsection has the same rights, duties, and privileges as an elected council member.

#### **4.1-11-06. Election costs - Responsibility.**

All costs of holding county and district elections are the responsibility of the council.

#### **4.1-11-07. Election of chairman - Meetings.**

1. Annually, the council shall elect one member to serve as the chairman.
2. The chairman shall call all meetings of the council and shall call a special meeting of the council within seven days when petitioned to do so by three council members.

#### **4.1-11-08. Council members - Compensation.**

Each member of the council is entitled to receive compensation in the amount established by the council plus reimbursement for expenses if the member is attending meetings or performing duties directed by the council.

#### **4.1-11-09. Council powers.**

The council may:

1. Expend moneys collected pursuant to this chapter for its administration;
2. Employ, bond, and compensate necessary personnel;
3. Accept gifts, grants, and donations of money, property, and services to carry out this chapter;
4. Contract with any person for any purpose permitted under this chapter;
5. Sue and be sued; and
6. Do all things necessary and proper to enforce and administer this chapter.

#### **4.1-11-10. Council duties and reports.**

1. The council shall develop policies and initiate programs to promote the development of markets for and increase the utilization of soybeans grown in this state.
2. The council shall develop and disseminate information regarding the purpose of the soybean assessment and ways in which the assessment benefits soybean producers.
3. The council shall determine the uses for which any moneys raised under this chapter may be expended. The uses may include the funding of research, education programs, and market development efforts, as well as participation in programs under the auspices of national soybean promotion organizations.
4. Annually, the council shall prepare and submit a report summarizing the activities of the council to the state auditor and commissioner. The report must show all income, expenses, and other relevant information concerning fees collected and expended.
5. The council shall request and submit a certificate of good standing, issued by the secretary of state, as part of the report described in subsection 4.

**4.1-11-11. Assessment.**

If a federal assessment under the Soybean Promotion, Research, and Consumer Information Act [Pub. L. 101-624; 104 Stat, 3881; 7 U.S.C. 92 et seq.] or a similar act remains in place, a state assessment under this section is prohibited. If the Soybean Promotion, Research, and Consumer Information Act [Pub. L. 101-624; 104 Stat, 3881; 7 U.S.C. 92 et seq.] or similar act eliminates a federal assessment, the council shall implement a state assessment equaling one-half of one percent of the value of the sale must be imposed upon all soybeans sold to a designated handler.

**4.1-11-12. Collection of assessment by designated handler - Records.**

If an assessment is in place under section 4.1-11-11:

1. Each designated handler shall collect the assessment from the seller by deducting the assessment from the purchase price of all soybeans subject to the assessment;
2. Each designated handler shall keep all records regarding the quantity of soybeans received and assessed for a period of three years; and
3. All records required by this section may be examined by the council upon request.

**4.1-11-13. Quarterly report - Submission to council.**

At the time and in the manner prescribed by the council, each designated handler shall file with the council a quarterly report stating the quantity of all soybeans the handler purchased and assessed under section 4.1-11-11.

**4.1-11-14. Submission of assessments - Delinquent assessment.**

Each designated handler shall forward to the council all assessments collected by the handler under section 4.1-11-11 within thirty days after the end of each calendar quarter. If a designated handler fails to submit the assessments as required by this section, the council shall increase the amount owed by two percent each month, beginning with the day following that on which the assessments came due.

**4.1-11-15. Continuing appropriation - Use of council funds.**

All moneys received under this chapter must be deposited in the soybean checkoff account at the Bank of North Dakota. All moneys in the soybean checkoff account are appropriated on a continuing basis to the council and may be used by the council for the payment of claims by the council based on the obligations incurred in the performance of council activities, functions, and purposes as provided in this chapter. The board shall segregate moneys in the soybean checkoff account from all other moneys of the council.

**4.1-11-16. Penalty.**

Any person willfully violating this chapter is guilty of a class B misdemeanor.