

SUBJECT: Operation and functions of the Texas Grain Producer Indemnity Board

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 5 ayes — T. King, C. Anderson, Cyrier, González, Springer

2 nays — Rinaldi, Simpson

WITNESSES: For — John Zacek, Prosperity Bank, Texas Bankers Association; Daniel Berglund, Texas Grain Producers Indemnity Board; Ben Scholz, Texas Wheat Producers Association; (*Registered, but did not testify:* Mitchell Harris, AgTexas Farm Credit, Southwest Council of Agribusiness, Texas Grain Producer Indemnity Board; David Gibson, Corn Producers Association of Texas; Dee Vaughan, Southwest Council of Agribusiness, Corn Producers Association of Texas, Plains Cotton Growers, Inc., Texas Grain Producers Indemnity Board; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; John Heasley, Texas Bankers Association; Dale Murden, Texas Citrus Mutual; Marissa Patton, Texas Farm Bureau; Steelee Fischbacher, Texas Wheat Producers Association)

Against — (*Registered, but did not testify:* Joe Morris, Texas Poultry Federation)

On — (*Registered, but did not testify:* Jessica Escobar, Texas Department of Agriculture)

BACKGROUND: HB 1840 by Phillips, enacted by the 82nd Legislature in 2011, allows for the creation of the Texas Grain Producer Indemnity Board. In 2012, a referendum to establish the board failed to gain a two-thirds majority vote of grain producers in the state. If the referendum had passed, the board would have collected an assessment from grain producers to establish a statewide grain indemnity fund.

DIGEST: CSHB 2504 would allow for a referendum to establish the board by majority approval, instead of by a two-thirds margin as in current statute.

The bill would require that an assessment on grain be collected at the first point of sale. The board could purchase reinsurance to mitigate its financial risks. A producer could receive for an indemnification claim of 85 percent of the value of grain lost, instead of up to 90 percent as in current statute.

The board would have to set a minimum balance for the fund each year, which would be held in reserve to pay for administrative costs in case claims against the fund exceeded the fund's balance. The board would be required to post the minimum balance on its website.

The bill would repeal Agriculture Code, sec. 41.214, which in current statute allows grain producers to obtain a refund of the amount they paid in an assessment. CSHB 2504 instead would direct the board to make refunds after the minimum balance had been determined each year.

CSHB 2504 would require the board by rule to establish an administrative review process to informally review and resolve claims arising from an action of the board. A person could appeal a decision of the board to the agriculture commissioner and could appeal a decision of the commissioner in a Travis County district court.

CSHB 2504 would apply only to applications for a refund submitted on or after the effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 2504 would provide protection to farming communities against the possibility of a grain broker becoming insolvent. Grain warehouses, grain elevators, and other grain brokers are an essential part of agricultural communities. Farmers often deliver grain to a grain warehouse on a handshake deal, expecting payment once the warehouse has sold the grain to a third party. When a warehouse takes the grain but is unable to repay the producer, individual farmers can lose a great deal on a single crop cycle. Insolvent grain brokers can force farmers into bankruptcy, hurting sales at tractor dealerships, seed stores, and other establishments and

putting local banks in the position of repossessing aging equipment and foreclosing on farms.

The Texas Grain Producer Indemnity Board was created in 2011 to respond to a series of grain brokers and grain elevators that became insolvent due to volatility in the commodities market after the recession at the turn of the last decade. This bill would help to fix the problems many of the grain producers had with the board and would provide a lower threshold for a referendum to pass.

CSHB 2504 is designed to return as high of a refund as possible to grain producers. By allowing the board to purchase reinsurance, the assessment would be spent on insurance premiums instead of being paid out directly to farmers affected by an insolvent grain warehouse. In anticipation of negotiating the lowest premiums possible, CSHB 2504 would lower the amount a farmer could recover in an indemnification claim from up to 90 percent to 85 percent. By making the assessment mandatory, the board could set a lower assessment and could further reduce the cost of the reinsurance premium by expanding the risk pool. Once the board determined a minimum balance each year, it would refund any amount above the minimum balance to grain producers.

The harm from an insolvent grain broker could be handled by the private sector if there were a critical mass of producers already paying into a fund. There currently are no readily available private options to provide protection for grain producers against the possibility of a grain broker becoming insolvent. The board is intended as an immediate solution, but its function one day could be handled by the private sector.

**OPPONENTS
SAY:**

CSHB 2504 would hurt the grain market by using public funds to subsidize industries that the market had decided against. Grain producers already have rejected the referendum to enact the Grain Producer Indemnity Board. Grain producers also have failed to create a private co-op to protect against grain brokers becoming insolvent. The government should not create a mandatory assessment to enact measures that grain producers already have decided against.