

SUBJECT: Assessments by agricultural cooperatives

COMMITTEE: Constitutional Amendments

VOICE: 5 ayes--Von Dohlen*, Jones*, Bryant*, B. Clark*, Johnson

0 nays--

1 present, not voting--Close*

3 absent--Hendricks, Robbins, Schieffer

WITNESSES: FOR: Otis Harmon, Texas Wheat Growers Association;
Billie R. Clark, representing a Dimmit farmers' cooperative;
Delmar G. Nelson, Texas Wheat Producers Association and
Producers' Board;
Pat Smith, Texas Farm Bureau.

AGAINST: Daisy Moore, farmer and rancher's wife, representing herself.

DIGEST: A 1967 statute allows producers of certain agricultural products to create a commodity board by an affirmative vote of two-thirds of the producers voting in a referendum or approval of producers of 50 per cent or more of the commodity grown the previous year. These cooperatives assess participating members to finance research, advertising, education and administration. A percentage of the sale price or a flat fee per bushel or head is assessed at the point of sale and collected by the processor.

Participation by producers was voluntary until 1969, when assessments were made mandatory, with refunds available to people who requested them. A 1975 Texas Supreme Court decision declared the mandatory fees violated the constitutional prohibition against an occupational tax on agriculture. Present law permits producers to exempt their crops or animals from assessment at the point of sale as well as to ask for a refund after fees are paid.

SJR 19 overrules the 1975 Supreme Court decision by stating that mandatory commodity assessments are not taxes, so long as individual producers may request a refund. A second provision of the resolution validate current commodity referendum statutes and existing commodity boards. Assessments made prior to November 8, 1978, however, are not binding on producers.

PRO: Commodity board assessments of all producers are not occupational taxes. Full refunds are readily available to any farmer or rancher who requests them. Boards and their assessment rates are also approved in advance by a two-thirds vote.

Uniform assessment of all producers at the point of sale is the simplest way of collecting funds and assuring that those who wish to support a cooperative are not discouraged from participation. Processors who do not want to fool with the necessary forms now discourage people from paying fees and some have them sign exemptions as "just another form." A recent survey of wheat producers shows that nearly two-thirds of those who

signed exemption forms did not know they had declined assessment.

Passage of this amendment will also allow agricultural cooperatives to continue their worthwhile activities. The entire industry benefits from their research and advertising. Members are also informed of the latest developments in their field. No commodity boards were founded until mandatory funding went into effect in 1969 and assured them a sound financial base. Since the required fees were overturned, boards have suffered a serious decline in contributions, but not because of disapproval of board programs. Folks who favor its activities just find it too much hassle without the fees being automatically deducted from each sale.

Several court cases prior to the 1975 Supreme Court ruling voiding the mandatory fees upheld the constitutionality of such an assessment. To let a single 5-4 court decision tear down an institution beneficial to Texas agriculture is not in the best interests of the producers of the state or of the public.

CON: Mandatory assessments, even with the refund option, do constitute a tax on agriculture. The extra time and paperwork necessary to get a refund discourages people from requesting their assessments. If some producers want a commodity board, let them participate voluntarily. Other farmers and ranchers should not be forced to contribute along with them.

Commodity boards are not useful to many producers anyway. That's why contributions declined when mandatory fees were removed. Farmers and ranchers are well educated these days and are quite capable of coping with the "city boys." They don't need the boy wonders of the commodity boards who don't know what they're talking about, representing them and teaching them things they already know.

This resolution rips off producers for a few people who want to keep their plush jobs. There is no need to maintain an unnecessary bureaucracy and burden the public by cluttering up the ballot with this constitutional amendment.

COMMENTARY: The official position of the Farm Bureau stated in the minutes of the Constitutional Amendments committee is that it is opposed to a compulsory system, but favors this resolution.

The Supreme Court case that declared mandatory assessment with refunds unconstitutional was Colen Grain and Mercantile, Inc. v. Texas Grain Sorghum Producers Board, 519 S.W. 2d 620.

The eight products with commodity boards and their present assessments are given below.

<u>COMMODITY</u>	<u>ASSESSMENT</u>
Peanuts	\$1/net ton
Grain Sorghum	5¢/ton
Turkeys	2¢/live 100 wt. plus 1¢/head on mature birds
Soybeans	1/2¢/bushel
Wheat	5 mills/bushel
Pecans	50¢/100 lbs.
Pork	10¢/head
Mohair	2 1/2¢/lb.