

State Marketing Orders and Agreements?

Community Farm Bureau Discussion Topic for October

Background Material for Program in October by Our 1525 Community Farm Bureau Discussion Groups

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Should Michigan pass a law which would enable agricultural producers to establish marketing orders and agreements on certain farm products? This question may be before our Legislature soon. Some fruit and vegetable growers' groups have formed a "Producers Committee on Enabling Legislation for Michigan." They have prepared a proposed legislative bill which would form the basis for such a law.

Proposals bearing on similar matters have developed a considerable amount of interest in Michigan. The Michigan Legislature established a joint committee of House and Senate members in 1961 "to study the need of a law for agricultural promotion and research."

This most recent proposal by the Producers Committee is a new idea for Michigan. Other states have similar laws in effect and become a source of ideas for the Michigan proposal.

As outlined it would simply permit the establishment of marketing orders and agreements for a crop, after proper petitions, hearings and referendum votes by eligible producers of the crop had been held. And if a marketing order were approved by a prescribed majority of the producers, it would then become binding on all producers and handlers of the product.

Activities permitted under such orders would include advertising and promotion, research, market information and grading of products, or other features deemed desirable. The present proposal would exclude all features involving quantities produced or marketed. Each marketing order would contain its own provisions and features to be voted on and could contain any or all of those mentioned:

Costs of such a program would be covered by the collection of fees from producers who marketed the product. A check-off would be made on the dollar volume of sales. The rate could be up to 5% but not higher.

Orders and agreements would be administered by the State Director of Agriculture who would direct the use of the funds and make necessary decisions on petitions and referenda. He would work with an Advisory Board of producers, handlers, processors and distributors.

This Advisory Board would be appointed by the Director of Agriculture from persons nominated by the groups affected by the order. The size of the board and the number from each group involved would be set forth in the order.

New Legislation Necessary

Producers of Michigan cannot legally proceed to establish marketing programs which would set quotas or collect fees from producers. This is an opinion of the Michigan Attorney General given in 1961. At present any order would require special legislation for each producer group.

Agreements Differ from Orders

Marketing Agreements are VOLUNTARY contracts between the handler of the product and the State Director of Agriculture. The producer who handles his own products becomes a handler. He could sign an agreement. Agreements are binding only on those who sign them.

Marketing Orders are voted in to being by a stated majority of the producers of the product. When this vote results in approval, the order becomes BINDING upon all producers and handlers. It affects all who carry on operations within the industry.

Marketing orders and agreements, state or federal, have been used to regulate marketings of farm products for over 25 years. Some have been tried and have been rejected. Others have been found somewhat useful and have been retained.

Other States

Nine states now have enabling legislation which permits producers to establish marketing orders and agreements on most agricultural products. These include California, Colorado, Georgia, New York, North Carolina, Oregon, Utah, Washington and Wisconsin.

Viewpoints Favoring Enabling Legislation

Remember that this proposal deals simply with ENABLING legislation. Some think that such legislation could be helpful to producer groups. The goal, however, is to make marketing orders possible.

Proponents for state marketing orders and agreements feel that today's producers face certain handicaps and problems in today's markets. Traditionally, farmers have been at a disadvantage in "price received" for products. Aside from being unable to determine that price, as industry does, the farmer has been in a poor position to have much influence on it.

Today the marketing system has been integrated and organized so thoroughly that prices and other terms of sale are dictated by the handlers to a great degree.

Wholesale and retail chains control much of the flow of products from farm to market. In some cases, market practices are such as to harm producers by undermining price or off-grading standards on products sold.

Marketing agreements are criticized along with other types of voluntary programs because it becomes difficult to get enough producers to sign them, and handlers often do not want to have their marketing programs disturbed. This often means inadequate support for the program all across the board—support that is needed to make the program successful.

Protest Free Riders

Producers who actively support marketing programs of this kind often protest the existence of "escape clauses" in cases where fees are collected for promotion, research or other activities authorized by the enabling legislation.

They declare that in such cases (a) many producers and handlers enjoy the benefits of the programs at the expense of those who do contribute, while contributing nothing themselves, and (b) the programs suffer from a lack of needed funds to assure their success.

An effective program of market development demands a high percentage of participation among the growers. Too many growers are not willing to yield

Discussion Topics

These topics were chosen by your State Discussion Topic Committee from the results of the ballots returned by the Community Farm Bureaus.

- Nov. Why Farm Organizations Differ in Policy.
- Dec. The Issue of "Right to Work" Laws.
- Jan. Proposals Emerging at the Constitutional Convention.
- Feb. Challenges to Americanism in our Schools.

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Some of their independence and commit themselves voluntarily to support an industry-wide program. The supporter believes that the marketing order becomes necessary to force participation of all growers so that none can undermine the effectiveness of the program.

Strength of the Law

Successful marketing programs need a legal hold on the grower, say proponents. Voluntary membership and bargaining associations have strength through their signed marketing agreements. Marketing orders have their strength through law. The law is needed so that "growers may force themselves and their neighbor to live up to their word."

Under the Michigan proposal a marketing order would be approved if two-thirds of those voting who represented 51% of the crop approved the order—or if 51% of those voting representing two-thirds of the crop gave approval.

In either case, the voice of the majority of growers makes the decision, say the proponents. All growers are given a chance to vote.

Dissatisfied growers could work to have the marketing order terminated. The growers also have a second voice in affairs. They can nominate the people to represent them on the Advisory Board.

A Tool to Use, If Wanted

Many things might be included in a marketing order,—or few. An order might seek to make product advertising or promotion possible. It could even permit support for advertising under a brand name or names.

Where brand names identify high quality, this is helpful. It could emphasize marketing and quality research. It could expand marketing information to producers. It could improve the grading of products sold. All of these things could help to expand markets.

Some believe that the existence of a permissive law of this sort could support bargaining efforts of producer bargaining associations. The possibility that a marketing order might be established by producers could cause handlers and processors to be more willing to negotiate with producers.

Supporters of such a permissive law point out that if such a law covers all agricultural products it then becomes unnecessary to go to the Legislature every time a group of producers wants to establish a program.

All that is needed is to carry through the routine provided for by the permissive law. And the law itself does not push the order onto the producers by an act of the Legislature.

Supporters declare that agricultural marketing programs have too often sputtered and died out through a lack of support

from producers themselves. It is time that they took a positive stand to correct this and to bring the agricultural marketing system up to the standard set by other agencies in the market.

Viewpoints Opposing Enabling Legislation

If a producer is opposed to the idea of such enabling legislation now is the time to act on his opposition to it. If he thinks that the general idea is all right, but fears what could come in a certain order, then he should act when that particular order is proposed.

Opponents of action to make such matters "law" ask, "If the programs that might come under such a law contain real benefits, why can they not be sold on their merits without the force of law to compel them on producers?"

Many opponents declare that they wish to retain their rights of choice in such matters. Such permissive legislation would mean that this right of choice is gone after a majority—whatever its number—makes the decision for all, both those who agree and those who disagree.

The majority voting over-rides the right of free decision of those who may hold honest opposing views regarding the order. And the individual forced into the program cannot resist without being subject to the police powers of the state.

Such decisions concern his personal business affairs. He is compelled to pay fees against his will. In surrendering part of his income, he must plan his business operation on a new basis, to include this expense.

Farm costs are already high. No one can guarantee the producer that the marketing order will return the benefits intended to the producer. No one will return the money collected if the program fails.

The producer should have the right to judge whether the program, may or may not bring benefits worth the risk. Actually, in such a marketing order, someone else is making the decision for him—even if it is a majority. By what right does the majority gain this power over his personal affairs?

Policy Position?

While the Michigan Farm Bu-

reau has no policy position on the matter of state marketing orders or permissive legislation for them (and such a position should be determined), the delegates have expressed themselves on this matter of freedom of choice. The 1961 resolutions say:

"We believe that the exercise of free will, rather than force, is consistent with the maintenance of liberty...in the right of every man to choose his own occupation, to be rewarded according to his productive contribution to society; and to save, invest and spend his earnings as he chooses..."

We believe that any funds raised for the purpose of promoting the sale of farm commodities should be collected on a voluntary basis, and privately administered..."

While this does not oppose the idea of enabling legislation as proposed, it does indicate that many producers would favor a law which left the individual some right of choice in the matter exclusive of what the majority might decide.

Basis for a Reasonable Doubt

Opponents do not accept the idea that they are "ornery" just because they disagree. Many people who ask for marketing orders emphasize advertising or promotion programs as the thing wanted. Research, market information and grading programs could, no doubt, do their industry some good. But many of the marketing orders put more of the funds collected into advertising of products.

Whether general product advertising pays is a question still to be established by research. Granted,—some product advertising has helped in the short run, in a certain place and at a certain time.

But to collect funds from producers for a grand-scale program of a continued sort is a questionable procedure, say the opponents. No amount of advertising can cause consumers to use a food product continuously while they have the choice of many other items in the market. The human stomach has a limited capacity for all foods.

What happens is that producers end up competing with their advertising dollars against other producers—just to keep a share of the market. Is it worth it?

Well, the individual ought to be left some right to judge the matter. It isn't cut and dried that the program will pay dividends.

Majority Rule?

A Farm Bureau member who questions the soundness of the proposal as it now stands raises a point. His point does no more than illustrate an argument. It does not commit Michigan Farm Bureau to a position regarding the enabling legislation as such. But he commented:

"Let's turn this idea of majority rule around. Michigan Farm Bureau now has a majority of the farm families in the organization as members. Should this majority have the power to say that all farmers must join Farm Bureau—or if they decline to do so should be required to pay a penalty? I think not, and a lot of farmers would rise in violent protest if this were attempted."

"But the principle asked for in this proposal is the same. A majority of some sort is assuming the right to say that all the rest must join and pay the shot for the program. By what right should we assume that any majority has that authority over the individual farmer and his business?"

Policy Position Needed

Actually this is a delicate and important issue. Farm Bureau needs to have member action and a decision of the delegates to establish a firm position one way or another on the question. Some producers and their groups are very much sold on the proposition of enabling legislation. Others question it.

But when the matter comes up on the floor of the Legislature, it is awkward and confusing, indeed, for Farm Bureau to be found astraddle of the fence on a matter of this importance.

What do you think?

Questions

A special discussion outline and report form will be sent to your discussion leader. This form is too long to be published as a part of this article.

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Mr. Stanley Zimmerman, left, successful Jackson County farmer, accepts a \$15,546.73 check from Farm Bureau claims adjuster Fred Foster.

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