

HB180 INTRODUCED



1 350WEE-1

2 By Representatives Fidler, Marques, Sorrells, Clouse, Mooney,

3 Travis, Rehm, Standridge, Sells, Forte, Givens, Holk-Jones,

4 Lee, Hammett, Shirey, Gidley, Paramore, Baker, Crawford

5 RFD: Agriculture and Forestry

6 First Read: 22-Mar-23

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SYNOPSIS:

Under existing law, an organization certified by the Alabama Department of Agriculture and Industries to conduct a referendum on levying an assessment to promote a commodity must follow certain requirements for how notice must be given for the referendum.

Existing law specifies the amount of time an assessment on the sale of nuts, bulbs, fruits, or vegetables is effective before another referendum is required.

Under existing law, the Commissioner of Agriculture and Industries may deduct a percentage of the sums remitted to him or her for distribution pursuant to the assessment charged on the sale of nuts, bulbs, fruits, and vegetables.

This bill would revise the requirements for how notice must be given for a referendum on an assessment regarding nuts, bulbs, fruits, and vegetables in general and regarding peanuts specifically.

This bill would change the length of time an assessment on the sale of nuts, bulbs, fruits, and vegetables is in effect before a referendum is needed.

This bill would change the percentage the Commissioner of Agriculture and Industries may deduct from the sum of the assessment on the sale of nuts,



HB180 INTRODUCED

29 bulbs, fruits, and vegetables for administrative costs.

30 Existing law also provides for the length of
31 time between audits of the books and accounts of an
32 organization certified to conduct a referendum
33 regarding an assessment on sheep and goat sales.

34 This bill would change the length of time
35 between audits of the books and accounts of an
36 organization certified to conduct a referendum
37 regarding an assessment on the sale of sheep and goats.

38 This bill would also make nonsubstantive,
39 technical revisions to update the existing code
40 language to current style.

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A BILL

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TO BE ENTITLED

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AN ACT

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47 Relating to Agriculture, to amend Sections 2-8-126,
48 2-8-128, 2-8-131, 2-8-133, 2-8-134, 2-8-135, and 2-8-323, Code
49 of Alabama 1975, to revise the requirements for giving notice
50 of a referendum on an assessment to be used to promote peanuts
51 specifically as well as other nuts, bulbs, fruits, and
52 vegetables; to revise the time an assessment on the sale of
53 nuts, bulbs, fruits, or vegetables is effective between
54 referendums; to revise the percentage the Commissioner of
55 Agriculture and Industries may deduct from the sum of the
56 assessment on nuts, bulbs, fruit, and vegetables; to revise



HB180 INTRODUCED

57 the length of time between audits of an organization certified
58 to conduct a referendum regarding an assessment on the sale of
59 sheep and goats; and to make nonsubstantive, technical
60 revisions to update the existing code language to current
61 style.

62 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

63 Section 1. Sections 2-8-126, 2-8-128, 2-8-131, 2-8-133,
64 2-8-134, 2-8-135, and 2-8-323, Code of Alabama 1975, are
65 amended to read as follows:

66 "§2-8-126

67 When a referendum has been authorized as provided in
68 Section 2-8-125, the certified organization shall, before
69 calling and announcing ~~such~~ the referendum, fix, determine,
70 and publicly announce, at least 30 days before the date
71 determined upon for ~~such~~ the referendum, the date, hours, and
72 polling places for voting in ~~such~~ the referendum, the amount
73 and basis of the assessment proposed to be collected, the
74 means by which ~~such~~ the assessment shall be collected if
75 authorized by the growers, and the general purposes to which
76 ~~said~~ the amount ~~so~~ collected shall be applied. ~~Such~~
77 ~~notice~~ Notice shall be published by the certified association
78 through the medium of an established farm publication, and
79 written notice ~~thereof~~ shall be given to each county extension
80 chairman in the area covered by the referendum. ~~Provided,~~
81 ~~however, any referendum called under the provisions of this~~
82 ~~article for the assessment of peanuts, notice shall also be~~
83 ~~published once a week in a newspaper in the county in which~~
84 ~~USDA inspection and buying points for peanuts are located for~~



HB180 INTRODUCED

85 ~~three successive weeks next preceding the referendum.~~ No
86 annual assessment levied under the provisions of this article
87 shall exceed three fourths of one percent of the value of the
88 year's production of such agricultural commodity grown by any
89 farmer, producer, or grower included in the group to which
90 ~~such~~ the referendum is submitted."

91 "§2-8-128

92 Any referendum conducted under ~~the provisions of~~ this
93 article may be held either on an area or statewide basis, as
94 may be determined by the certified organization before the
95 referendum is called. The referendum, ~~either on an area or~~
96 ~~statewide basis,~~ may be participated in by all producers
97 engaged in the production of the agricultural commodity on a
98 commercial basis who ~~shall be~~ are subject to any assessments
99 levied under this article and who produced the agricultural
100 commodity in any of the three crop years immediately preceding
101 the referendum. In the referendum, individuals eligible for
102 participation shall vote upon the question of whether or not
103 there shall be levied an annual assessment for a period of
104 ~~three~~ five years in the amount set forth in the call for the
105 referendum on the agricultural product covered by the
106 referendum."

107 "§2-8-131

108 The hours, voting places, and rules ~~and regulations~~ for
109 any referendum authorized in this article with respect to any
110 of the agricultural commodities herein referred to and the
111 area in which ~~such~~ the referendum shall be held shall be
112 established and determined by the organization of the



HB180 INTRODUCED

113 commercial growers and producers of such agricultural
114 commodity duly certified by the State Board of Agriculture and
115 Industries as provided in this article. The ~~said~~ referendum
116 date, area, hours, voting places, and rules ~~and regulations~~
117 with respect to the holding of ~~such~~ the referendum shall be
118 published in accordance with Section 2-8-126 ~~by such~~
119 ~~organization conducting the same through the medium of the~~
120 ~~public press in the State of Alabama at least 30 days before~~
121 ~~the holding of such referendum, and direct written notice~~
122 ~~thereof shall likewise be given to farm organizations within~~
123 ~~the State of Alabama and to each county agent in any county in~~
124 ~~which such agricultural product is grown. Such notice~~ Notice
125 shall likewise contain a statement of the amount of annual
126 assessment proposed to be levied, which shall not exceed the
127 amount specified in Section 2-8-126, and shall likewise state
128 the method by which ~~such~~ the assessment shall be collected and
129 how the proceeds ~~thereof~~ shall be administered and the
130 purposes to which the same shall be applied, which purposes
131 shall be in keeping with the provisions of this article."

132 "§2-8-133

133 (a) In the event a majority of the producers eligible
134 for participation in a referendum conducted under ~~the~~
135 ~~provisions of~~ this article and voting therein, ~~shall~~ vote in
136 favor of the assessment, ~~then~~ the assessment shall be
137 collected annually for ~~three~~ five years, as set forth in the
138 call for the referendum, and the collection of the assessment
139 shall be under such method, rules, and regulations as may be
140 determined by the organization conducting the referendum. The



HB180 INTRODUCED

141 assessment collected shall be paid into the treasury of the
142 organization conducting the referendum, to be used together
143 with other funds from other sources, including donations from
144 individuals, ~~concerns, or corporations~~ or other entities and
145 grants from state or governmental agencies, for the purpose of
146 promoting and ~~stimulating~~ encouraging, by research, education,
147 advertising, and other methods, the increased use and sale,
148 domestic and foreign, of the agricultural commodity covered by
149 the referendum.

150 (b) Upon the request of the ~~duly~~ certified organization
151 of producers of any agricultural products referred to in this
152 article, the Commissioner of Agriculture and Industries shall
153 notify, by registered or certified mail, all persons, ~~firms,~~
154 ~~and corporations~~ engaged in the business of purchasing any
155 such agricultural products in this state that on and after the
156 date specified in the letter the assessments shall be deducted
157 by the purchaser or his or her agent or representative from
158 the purchase price of any such agricultural products. The
159 assessment deducted ~~shall~~, on or before the twentieth day of
160 the month following the deduction, shall be remitted by the
161 purchaser to the Commissioner of Agriculture and Industries,
162 who ~~shall thereupon~~, by the end of the month, shall pay the
163 amount of the assessments to the ~~duly~~ certified organization
164 entitled thereto. The books and records of all the purchasers
165 of agricultural products shall be open at all times during
166 regular business hours ~~be open~~ for inspection by the
167 Commissioner of Agriculture and Industries or his or her ~~duly~~
168 authorized agents. The Commissioner of Agriculture and



HB180 INTRODUCED

169 Industries shall be entitled to deduct ~~five~~ three percent of
170 all sums remitted to him or her under this section to defray
171 the expense incident to the administration of this article.
172 All amounts deducted shall be paid into the State Treasury and
173 be credited to the ~~account of the~~ Agricultural Fund."

174 "§2-8-134

175 In the event a referendum conducted as provided in this
176 article shall not be supported by a majority of those eligible
177 for participation therein and voting therein, ~~then~~ the
178 organization conducting the referendum ~~shall have full power~~
179 ~~and authority to~~ may call another referendum for the purposes
180 set forth in this article no earlier than 90 days after the
181 preceding referendum, ~~whether the referendum was conducted~~
182 ~~before or after April 17, 2002~~, on the question of an annual
183 assessment for ~~three~~ five years."

184 "§2-8-135

185 In the event a referendum conducted as provided in this
186 article is carried by the vote of a majority of the eligible
187 producers participating therein and assessments in pursuance
188 thereof are levied annually for ~~three~~ five years as set forth
189 in the call for the referendum, then the organization
190 conducting the referendum ~~shall, in its discretion, have full~~
191 ~~power and authority to~~ may call and conduct, during the ~~third~~
192 fifth year of the period, another referendum in which the
193 producers of such agricultural commodity shall vote upon the
194 question of whether or not assessments shall be continued for
195 the next ensuing ~~three~~ five years. The certified organization
196 ~~shall have the full power and authority to~~ may hold subsequent



HB180 INTRODUCED

197 referendums it deems necessary to alter or modify the terms of
198 the existing assessment. Intermediary referendums shall comply
199 with the terms and conditions of the original request. In the
200 event the intermediary referendum fails to receive a favorable
201 vote, the previously approved assessment shall remain in
202 force, and subsequent referendums shall be conducted as
203 provided in this article. However, if the intermediary
204 referendum receives an affirmative vote, no subsequent
205 referendum may be conducted until the passage of one year."

206 "§2-8-323

207 (a) A certified association receiving and disbursing
208 funds, following the close of its fiscal year every ~~two~~ five
209 years, shall cause an audit of its books and accounts for the
210 ~~two~~ five-year period to be conducted by a certified public
211 accountant, disclosing receipts, disbursements, expenditures,
212 and other related information, and a copy of the auditor's
213 report shall be forwarded to the board for inspection and
214 review. The Department of Examiners of Public Accounts may
215 audit, review, and investigate the receipts and disbursements
216 of the funds in the same manner that those duties are
217 performed for examination and audits of agencies and
218 departments of the state.

219 (b) Any examination or audit required by this section
220 shall be open to public inspection.

221 (c) Within 90 days following the close of a certified
222 association's fiscal year, if it has received any funds from
223 assessments levied and collected pursuant to this article, the
224 association shall forward a copy of a financial statement to



HB180 INTRODUCED

225 the state board showing the amount received and collected and
226 the amount spent for each project and item. The statement
227 shall be available for public inspection."

228 Section 2. This act shall become effective on the first
229 day of the third month following its passage and approval by
230 the Governor, or its otherwise becoming law.