

**SB91 ENROLLED**



1    WVRC59-2  
2    By Senators Carnley, Williams, Sessions, Chesteen, Stewart,  
3    Price, Barfoot, Melson, Bell, Kelley, Scofield  
4    RFD: Agriculture, Conservation, and Forestry  
5    First Read: 21-Mar-23  
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1 Enrolled, An Act,

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4 Relating to Agriculture, to amend Sections 2-8-126,  
5 2-8-128, 2-8-131, 2-8-133, 2-8-134, 2-8-135, and 2-8-323, Code  
6 of Alabama 1975, to revise the requirements for giving notice  
7 of a referendum on an assessment to be used to promote peanuts  
8 specifically as well as other nuts, bulbs, fruits, and  
9 vegetables; to revise the time an assessment on the sale of  
10 nuts, bulbs, fruits, or vegetables is effective between  
11 referendums; to revise the percentage the Commissioner of  
12 Agriculture and Industries may deduct from the sum of the  
13 assessment on nuts, bulbs, fruit, and vegetables; to revise  
14 the length of time between audits of an organization certified  
15 to conduct a referendum regarding an assessment on the sale of  
16 sheep and goats; and to make nonsubstantive, technical  
17 revisions to update the existing code language to current  
18 style.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 2-8-126, 2-8-128, 2-8-131, 2-8-133,  
21 2-8-134, 2-8-135, and 2-8-323, Code of Alabama 1975, are  
22 amended to read as follows:

23 "§2-8-126

24 When a referendum has been authorized as provided in  
25 Section 2-8-125, the certified organization shall, before  
26 calling and announcing ~~such~~ the referendum, fix, determine, and  
27 and publicly announce, at least 30 days before the date  
28 determined upon for ~~such~~ the referendum, the date, hours, and



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29 polling places for voting in ~~such~~ the referendum, the amount  
30 and basis of the assessment proposed to be collected, the  
31 means by which ~~such~~ the assessment shall be collected if  
32 authorized by the growers, and the general purposes to which  
33 ~~said~~ the amount ~~so~~ collected shall be applied. ~~Such~~  
34 ~~notice~~ Notice shall be published by the certified association  
35 through the medium of an established farm publication, and  
36 written notice ~~thereof~~ shall be given to each county extension  
37 chairman in the area covered by the referendum. ~~Provided,~~  
38 ~~however, any referendum called under the provisions of this~~  
39 ~~article for the assessment of peanuts, notice shall also be~~  
40 ~~published once a week in a newspaper in the county in which~~  
41 ~~USDA inspection and buying points for peanuts are located for~~  
42 ~~three successive weeks next preceding the referendum.~~ No  
43 annual assessment levied under the provisions of this article  
44 shall exceed three fourths of one percent of the value of the  
45 year's production of such agricultural commodity grown by any  
46 farmer, producer, or grower included in the group to which  
47 ~~such~~ the referendum is submitted."

48 "§2-8-128

49 Any referendum conducted under ~~the provisions of~~ this  
50 article may be held either on an area or statewide basis, as  
51 may be determined by the certified organization before the  
52 referendum is called. The referendum, ~~either on an area or~~  
53 ~~statewide basis,~~ may be participated in by all producers  
54 engaged in the production of the agricultural commodity on a  
55 commercial basis who ~~shall be~~ are subject to any assessments  
56 levied under this article and who produced the agricultural



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57 commodity in any of the three crop years immediately preceding  
58 the referendum. In the referendum, individuals eligible for  
59 participation shall vote upon the question of whether or not  
60 there shall be levied an annual assessment for a period of  
61 ~~three~~ five years in the amount set forth in the call for the  
62 referendum on the agricultural product covered by the  
63 referendum."

64 "§2-8-131

65 The hours, voting places, and rules ~~and regulations~~ for  
66 any referendum authorized in this article with respect to any  
67 of the agricultural commodities herein referred to and the  
68 area in which ~~such~~ the referendum shall be held shall be  
69 established and determined by the organization of the  
70 commercial growers and producers of such agricultural  
71 commodity duly certified by the State Board of Agriculture and  
72 Industries as provided in this article. The ~~said~~ referendum  
73 date, area, hours, voting places, and rules ~~and regulations~~  
74 with respect to the holding of ~~such~~ the referendum shall be  
75 published in accordance with Section 2-8-126 ~~by such~~  
76 ~~organization conducting the same through the medium of the~~  
77 ~~public press in the State of Alabama at least 30 days before~~  
78 ~~the holding of such referendum, and direct written notice~~  
79 ~~thereof shall likewise be given to farm organizations within~~  
80 ~~the State of Alabama and to each county agent in any county in~~  
81 ~~which such agricultural product is grown. Such notice~~ Notice  
82 shall likewise contain a statement of the amount of annual  
83 assessment proposed to be levied, which shall not exceed the  
84 amount specified in Section 2-8-126, and shall likewise state



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85 the method by which ~~such~~ the assessment shall be collected and  
86 how the proceeds ~~thereof~~ shall be administered and the  
87 purposes to which the same shall be applied, which purposes  
88 shall be in keeping with the provisions of this article."

89 "§2-8-133

90 (a) In the event a majority of the producers eligible  
91 for participation in a referendum conducted under ~~the~~  
92 ~~provisions of~~ this article and voting therein, ~~shall~~ vote in  
93 favor of the assessment, ~~then~~ the assessment shall be  
94 collected annually for ~~three~~ five years, as set forth in the  
95 call for the referendum, and the collection of the assessment  
96 shall be under such method, rules, and regulations as may be  
97 determined by the organization conducting the referendum. The  
98 assessment collected shall be paid into the treasury of the  
99 organization conducting the referendum, to be used together  
100 with other funds from other sources, including donations from  
101 individuals, ~~concerns, or corporations~~ or other entities and  
102 grants from state or governmental agencies, for the purpose of  
103 promoting and ~~stimulating~~ encouraging, by research, education,  
104 advertising, and other methods, the increased use and sale,  
105 domestic and foreign, of the agricultural commodity covered by  
106 the referendum.

107 (b) Upon the request of the ~~duly~~ certified organization  
108 of producers of any agricultural products referred to in this  
109 article, the Commissioner of Agriculture and Industries shall  
110 notify, by registered or certified mail, all persons, ~~firms,~~  
111 ~~and corporations~~ engaged in the business of purchasing any  
112 such agricultural products in this state that on and after the



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113 date specified in the letter the assessments shall be deducted  
114 by the purchaser or his or her agent or representative from  
115 the purchase price of any such agricultural products. The  
116 assessment deducted ~~shall~~, on or before the twentieth day of  
117 the month following the deduction, shall be remitted by the  
118 purchaser to the Commissioner of Agriculture and Industries,  
119 who ~~shall thereupon~~, by the end of the month, shall pay the  
120 amount of the assessments to the ~~duly~~ certified organization  
121 entitled thereto. The books and records of all the purchasers  
122 of agricultural products shall be open at all times during  
123 regular business hours ~~be open~~ for inspection by the  
124 Commissioner of Agriculture and Industries or his or her ~~duly~~  
125 authorized agents. The Commissioner of Agriculture and  
126 Industries shall be entitled to deduct ~~five~~ three percent of  
127 all sums remitted to him or her under this section to defray  
128 the expense incident to the administration of this article.  
129 All amounts deducted shall be paid into the State Treasury and  
130 be credited to the ~~account of the~~ Agricultural Fund."

131 "§2-8-134

132 In the event a referendum conducted as provided in this  
133 article shall not be supported by a majority of those eligible  
134 for participation therein and voting therein, ~~then~~ the  
135 organization conducting the referendum ~~shall have full power~~  
136 ~~and authority to~~ may call another referendum for the purposes  
137 set forth in this article no earlier than 90 days after the  
138 preceding referendum, ~~whether the referendum was conducted~~  
139 ~~before or after April 17, 2002~~, on the question of an annual  
140 assessment for ~~three~~ five years."



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141 "§2-8-135

142 In the event a referendum conducted as provided in this  
143 article is carried by the vote of a majority of the eligible  
144 producers participating therein and assessments in pursuance  
145 thereof are levied annually for ~~three~~ five years as set forth  
146 in the call for the referendum, then the organization  
147 conducting the referendum ~~shall, in its discretion, have full~~  
148 ~~power and authority to~~ may call and conduct, during the ~~third~~  
149 fifth year of the period, another referendum in which the  
150 producers of such agricultural commodity shall vote upon the  
151 question of whether or not assessments shall be continued for  
152 the next ensuing ~~three~~ five years. The certified organization  
153 ~~shall have the full power and authority to~~ may hold subsequent  
154 referendums it deems necessary to alter or modify the terms of  
155 the existing assessment. Intermediary referendums shall comply  
156 with the terms and conditions of the original request. In the  
157 event the intermediary referendum fails to receive a favorable  
158 vote, the previously approved assessment shall remain in  
159 force, and subsequent referendums shall be conducted as  
160 provided in this article. However, if the intermediary  
161 referendum receives an affirmative vote, no subsequent  
162 referendum may be conducted until the passage of one year."

163 "§2-8-323

164 (a) A certified association receiving and disbursing  
165 funds, following the close of its fiscal year every ~~two~~ five  
166 years, shall cause an audit of its books and accounts for the  
167 ~~two~~ five-year period to be conducted by a certified public  
168 accountant, disclosing receipts, disbursements, expenditures,



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169 and other related information, and a copy of the auditor's  
170 report shall be forwarded to the board for inspection and  
171 review. The Department of Examiners of Public Accounts may  
172 audit, review, and investigate the receipts and disbursements  
173 of the funds in the same manner that those duties are  
174 performed for examination and audits of agencies and  
175 departments of the state.

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

178 (c) Within 90 days following the close of a certified  
179 association's fiscal year, if it has received any funds from  
180 assessments levied and collected pursuant to this article, the  
181 association shall forward a copy of a financial statement to  
182 the state board showing the amount received and collected and  
183 the amount spent for each project and item. The statement  
184 shall be available for public inspection."

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





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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB91  
Senate 06-Apr-23  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 18-Apr-23

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By: Senator Carnley