

**SB91 INTRODUCED**



1    WVRC59-1  
2    By Senator Carnley  
3    RFD: Agriculture, Conservation, and Forestry  
4    First Read: 21-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,



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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



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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~~



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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



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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



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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



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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





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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



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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.