

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2566

By: DeWitt

4
5 AS INTRODUCED

6 An Act relating to agriculture; amending 2 O.S. 2011,
7 Sections 5-60.10, 5-60.11, 5-60.12, 5-60.13, 5-60.14,
8 5-60.15, 5-60.16, 5-60.18, 5-60.19, 5-60.20, 5-60.21,
9 5-60.22, 5-60.23, 5-60.24, 5-60.26, 5-60.27, 5-60.28,
10 5-60.29, 5-60.30, 5-60.31, 5-60.32, 5-60.33 and 5-
11 60.34, which relate to the Oklahoma Agricultural
12 Commodity Referendum Act; renaming act; expanding
13 purpose of act; modifying certain board status;
14 modifying definitions; authorizing certain
15 organizations to petition the Commissioner of the
16 Oklahoma Department of Agriculture, Food, and
17 Forestry to replace certain boards; requiring certain
18 information in petition; directing certain
19 organizations to follow certain referendum notice,
20 election, ballot, exemption, contest of election,
21 election result and certification requirements;
22 modifying references to board; specifying certain
23 election schedule; modifying citation; modifying
24 powers and duties of certain board; adding powers and
duties of certain board; removing budget proposal and
approval requirements; requiring certain board to
provide annual budget and report to Commissioner;
specifying certain schedule for certain audits;
extending date which certain annual report is due;
modifying reference to certain grant; directing
certain organizations to follow certain assessment
collection requirements; directing certain
organizations to follow certain assessment refund
requirements; modifying references to certain board;
replacing certain secretary treasurer with certain
organization; directing certain organizations to
follow certain assessment and referendum
requirements; modifying reference to certain
assessment; providing for applicability of certain
act; providing that certain persons remain members of
certain retirement system and eligible employees;
requiring certain organization to pay certain

1 contributions; excluding certain persons to
2 participate in certain retirement system; requiring
3 certain organization to recognize certain employee
4 accumulated sick and annual leave; providing
5 requirements for accrual, inclusion and reimbursement
6 of certain leave; transferring certain property to
7 certain organization upon approval; providing for
8 status of certain property; amending 2 O.S. 2011,
9 Section 18-50, which relates to the Oklahoma Peanut
10 Act; modifying citation; dissolving the Oklahoma
11 Peanut Commission when certain circumstances are met;
12 amending 2 O.S. 2011, Section 18-300, which relates
13 to the Wheat Resources Act; modifying citation;
14 dissolving the Oklahoma Wheat Commission when certain
15 circumstances are met; providing for codification;
16 providing an effective date; and declaring an
17 emergency.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 2 O.S. 2011, Section 5-60.10, is
20 amended to read as follows:

21 Section 5-60.10 This act shall be known and may be cited as the
22 "Oklahoma Agricultural Commodity ~~Referendum~~ Act".

23 SECTION 2. AMENDATORY 2 O.S. 2011, Section 5-60.11, is
24 amended to read as follows:

Section 5-60.11 A. The purpose of the Oklahoma Agricultural
Commodity ~~Referendum~~ Act is to:

1. To authorize and prescribe the necessary procedures by which
the producers of agricultural commodities grown in this state may
establish agricultural commodity producers boards to finance
programs devised to alleviate any circumstance or condition that

1 serves to impede the production, marketing, research or use of
2 agricultural commodities; and

3 2. To establish a procedure for an existing statutory commodity
4 board to privatize and convert to a successor organization.

5 B. Agriculture commodity producers boards established pursuant
6 to the Oklahoma Agricultural Commodity ~~Referendum~~ Act shall ~~not~~ be
7 ~~agencies of the state~~ agencies for purposes of The Governmental Tort
8 Claims Act and are exempt from taxation in the same manner and to
9 the same extent as other state agencies. The board shall not be
10 considered a state agency for any other purpose.

11 SECTION 3. AMENDATORY 2 O.S. 2011, Section 5-60.12, is
12 amended to read as follows:

13 Section 5-60.12 As used in the Oklahoma Agricultural Commodity
14 ~~Referendum~~ Act:

15 1. "Agricultural commodity" means an agricultural commodity,
16 horticultural commodity, silvicultural commodity, or agricultural
17 product, horticultural product, viticulture, or silvicultural
18 product, or bees and honey, planting seed, ~~rice~~, livestock or
19 livestock product, or poultry or poultry product, produced in this
20 state, either in its natural state or as processed by the producer;

21 2. "Board" means an agricultural commodity producers board of a
22 certified organization or a successor organization;

23
24

1 3. "Certified organization" means the agricultural commodity
2 entity certified by the Oklahoma Department of Agriculture, Food,
3 and Forestry to conduct a referendum;

4 4. "Commissioner" means the Commissioner of the ~~State~~ Oklahoma
5 Department of Agriculture, Food, and Forestry;

6 ~~4.~~ 5. "District" means a geographical area within the
7 jurisdiction of a board;

8 6. "Person" means an individual, firm, corporation,
9 association, or any other business entity;

10 ~~5.~~ 7. "Processor" means a person who:

- 11 a. is a purchaser, warehouseman, processor, or other
12 commercial handler of an agricultural commodity, or
13 b. is engaged in the operation of packing, grading,
14 selling, offering for sale or marketing any
15 agricultural commodity in commercial quantities as
16 defined in a marketing program, who as owner, agent,
17 or otherwise, ships or causes agricultural commodities
18 to be shipped;

19 ~~6.~~ 8. "Producer" means a person engaged in the business of
20 producing or causing to be produced for commercial purposes an
21 agricultural commodity. The term "producer" includes the owner of a
22 farm on which the commodity is produced and the owner's tenant or
23 sharecropper;

1 7. ~~"Person" means an individual, firm, corporation,~~
2 ~~association, or any other business entity;~~

3 8. ~~"Secretary-treasurer" means the secretary-treasurer of a~~
4 ~~board;~~

5 9. "Certified Successor organization" means the agricultural
6 commodity entity ~~certified~~ approved by the Commissioner of the State
7 Oklahoma Department of Agriculture, Food, and Forestry to ~~conduct a~~
8 ~~referendum~~ succeed an existing statutory commodity producers board;
9 and

10 10. "Volume of production" shall be defined by the certified
11 organization and can refer to units of product sold such as pounds,
12 tons, bushels, gallons, flats, containers, packages, or other
13 commonly recognized units of measure, square footage or acreage of
14 production space or other appropriate measurement units, or number
15 of production units such as trees, vines, head count of livestock or
16 poultry, or other commonly recognized measurement units, or gross
17 sales.

18 SECTION 4. AMENDATORY 2 O.S. 2011, Section 5-60.13, is
19 amended to read as follows:

20 Section 5-60.13 A. 1. Any nonprofit organization authorized
21 under the laws of this state representing the producers of an
22 agricultural commodity may petition the Commissioner of the ~~State~~
23 Oklahoma Department of Agriculture, Food, and Forestry for
24 certification as the organization authorized to establish a new

1 commodity producers board and conduct an assessment referendum
2 pursuant to the Oklahoma Agricultural Commodity ~~Referendum~~ Act.

3 2. The petition shall state:

4 a. the reasons for and the purposes of the commodity
5 producers board,

6 b. the number of board members and board organization,

7 c. propose either a six-member, nine-member, twelve-
8 member or fifteen-member board and whether board
9 members will be appointed by district or appointed at
10 large,

11 d. the maximum assessment to be levied pursuant to an
12 election, and

13 e. such other information required by the ~~commissioner~~
14 Commissioner;

15 3. The petition shall be signed by at least twenty percent
16 (20%) of the commodity producers in the state or at least two
17 hundred commodity producers, whichever is less.

18 B. 1. Any new nonprofit organization authorized under the laws
19 of this state representing the producers of an agricultural
20 commodity may petition the Commissioner for approval as a successor
21 organization authorized to replace an existing statutory commodity
22 producers board.

23 2. The petition shall:
24

- a. state the existing statutory commodity producers board to be replaced,
- b. provide the bylaws for review and approval by the Commissioner for the new nonprofit organization, and
- c. provide any other information required by the Commissioner.

3. The petition shall be signed by a majority of the board members of the existing statutory commodity producers board.

4. Any new nonprofit organization petitioning the Commissioner may retain the name of the existing statutory commodity producers board.

C. 1. Within fifteen (15) days following the day on which a petition for certification is received, the Commissioner shall schedule a public hearing to consider the petition. The public hearing shall be scheduled no later than forty (40) days after receipt of the completed petition is received by the Department.

2. Upon the scheduling of the public hearing, the nonprofit organization shall provide for notification of interested commodity producers in the manner, method and locations required by the ~~State~~ Department of Agriculture.

3. If the Commissioner determines that, on the basis of testimony presented at the public hearing, the petitioning organization is representative of the producers of the agricultural commodity and that the petition conforms to the purposes and

1 provisions of the Oklahoma Agricultural Commodity ~~Referendum~~ Act,
2 the Commissioner shall:

3 a. certify that the organization is representative of the
4 producers of the commodity and is authorized to
5 establish the commodity producers board and to conduct
6 the board election and assessment referendum, or

7 b. approve the new nonprofit organization as a successor
8 organization authorized to accept the statutory
9 assessment.

10 SECTION 5. AMENDATORY 2 O.S. 2011, Section 5-60.14, is
11 amended to read as follows:

12 Section 5-60.14 A. A certified organization that does not have
13 a statutory assessment may establish a new commodity producers board
14 and conduct an election of members to the commodity producers board
15 for the commodity. The ballot shall also provide for a referendum
16 of the producers of an agricultural commodity on the proposition of
17 whether or not the producers shall levy an assessment on themselves
18 to finance programs of research, disease and insect control,
19 predator control, education, or promotion designed to encourage the
20 production, marketing, and use of the commodity. The certified
21 organization shall give public notice of:

22 1. The date, hours, and polling places for voting in the
23 referendum and election;

24

1 2. The estimated amount and basis of the assessment proposed to
2 be collected;

3 3. Whether a producer exemption is to be allowed in accordance
4 with Section ~~9~~ 5-60.18 of this ~~act~~ title; and

5 4. A description of the manner in which the assessment is to be
6 collected and the proceeds administered and used.

7 B. The notice under subsection A of this section shall be
8 published in one or more newspapers published and distributed within
9 the boundaries described in the petition. The notice shall be
10 published for not less than once a week for three (3) consecutive
11 weeks, beginning at least sixty (60) days before the date of the
12 election. In addition, at least sixty (60) days before the date of
13 the election, the certified organization shall give direct written
14 notice to each county extension educator in any county within the
15 boundaries described in the petition.

16 C. A successor organization shall follow the referendum
17 requirements established in the statutory assessment provisions for
18 the particular commodity represented by the successor organization.

19 SECTION 6. AMENDATORY 2 O.S. 2011, Section 5-60.15, is
20 amended to read as follows:

21 Section 5-60.15 A. Subject to the approval of the Commissioner
22 ~~of the State Department of Agriculture~~, the certified organization
23 shall conduct the election and referendum on a statewide basis.

24

1 B. A producer of the agricultural commodity is eligible to vote
2 in the election and referendum if:

- 3 1. The producer's production occurs within the state; and
- 4 2. The producer would be required under the referendum to pay
5 the assessment.

6 C. Any producer who is eligible to vote at the election and
7 referendum is eligible to be a member or a candidate for membership
8 on the commodity producers board.

9 D. A potential candidate ~~must~~ shall file with the certified
10 organization an application to have the name of such potential
11 candidate printed on the ballot. The application ~~must~~ shall be
12 signed by the candidate and by at least ten producers who are
13 eligible to vote at the election. The application ~~must~~ shall be
14 filed at least thirty (30) days before the date set for the
15 election.

16 E. A voter may vote for board members by writing in the name of
17 any eligible person whose name is not printed on the ballot.

18 F. A successor organization shall follow the referendum
19 requirements established in the statutory assessment provisions for
20 the particular commodity represented by the successor organization.

21 SECTION 7. AMENDATORY 2 O.S. 2011, Section 5-60.16, is
22 amended to read as follows:

23 Section 5-60.16 A. The certified organization shall prepare
24 and distribute all necessary ballots in advance of the referendum

1 and election and shall cause ballots to be available at all polling
2 places.

3 B. The referendum provisions of the ballot shall specify a
4 maximum rate for the authorized assessment.

5 C. The election provisions of the ballot may be printed only
6 with the names of candidates who have filed valid petitions under
7 Section ~~6~~ 5-60.15 of this ~~act~~ title, but the ballot shall provide a
8 space for write-in votes.

9 D. The ballot shall provide a space for the voter to certify
10 the volume of the voter's production of the commodity during the
11 preceding year or other relevant production period, as designated on
12 the ballot.

13 E. A successor organization shall follow the referendum
14 requirements established in the statutory assessment provisions for
15 the particular commodity represented by the successor organization.

16 SECTION 8. AMENDATORY 2 O.S. 2011, Section 5-60.18, is
17 amended to read as follows:

18 Section 5-60.18 A. The original referendum and subsequent
19 ~~biennial~~ board elections may provide exemptions for producers from
20 payment of the assessment if the exemptions are included in full
21 written form on the election ballot and are approved by:

- 22 1. Two-thirds or more of those voting in the election; or
- 23 2. More than one-half of those voting in the election and those
24 voting in favor of the proposition produce at least fifty percent

1 (50%) of the volume of production of the commodity during the
2 relevant production period.

3 B. A successor organization shall follow the referendum
4 requirements established in the statutory assessment provisions for
5 the particular commodity represented by the successor organization.

6 SECTION 9. AMENDATORY 2 O.S. 2011, Section 5-60.19, is
7 amended to read as follows:

8 Section 5-60.19 A. In any contest of an election, a ballot is
9 void if the voter overstated the volume of production of the
10 producer by more than ten percent (10%). Any other error in stating
11 volume of production is not grounds for invalidating the ballot.

12 B. If a ballot is void or if any other error is made in stating
13 production volume, the returns shall be corrected and the results
14 adjusted accordingly.

15 C. In the original referendum election, the Commissioner ~~of the~~
16 ~~State Department of Agriculture~~ shall be authorized and is
17 responsible for making the determination if a ballot is void due to
18 overstatement of production volume. In any subsequent referendum
19 elections the individual commodity producer boards are authorized
20 and shall be responsible for making such determination.

21 D. A successor organization shall follow the referendum
22 requirements established in the statutory assessment provisions for
23 the particular commodity represented by the successor organization.

1 SECTION 10. AMENDATORY 2 O.S. 2011, Section 5-60.20, is
2 amended to read as follows:

3 Section 5-60.20 A. Upon receiving the report of the returns of
4 an election and referendum, the Commissioner ~~of the State Department~~
5 ~~of Agriculture~~ shall determine:

6 1. The number of votes cast for and against the referendum
7 proposition;

8 2. The total volume of production of the commodity during the
9 relevant production period;

10 3. The percentage of the total volume of production of the
11 commodity that was produced by those voting in favor of the
12 referendum proposition; and

13 4. The appropriate number of candidates receiving the highest
14 number of votes for membership on the commodity producers board.

15 B. A successor organization shall follow the referendum
16 requirements established in the statutory assessment provisions for
17 the particular commodity represented by the successor organization.

18 SECTION 11. AMENDATORY 2 O.S. 2011, Section 5-60.21, is
19 amended to read as follows:

20 Section 5-60.21 A. In a referendum election, if the
21 Commissioner ~~of the State Department of Agriculture~~ finds that
22 either of the two conditions set forth in subsection B of this
23 section are met, the Commissioner shall publicly certify the
24 adoption of the referendum proposition and issue certificates of

1 election to those persons elected to the board. Otherwise the
2 Commissioner shall certify that the referendum proposition was
3 defeated.

4 B. The referendum proposition will be adopted upon a finding
5 that:

6 1. Two-thirds or more of those voting in the election voted in
7 favor of the referendum proposition; or

8 2. More than one-half of those voting in the election voted in
9 favor of the referendum proposition, and those voting in favor of
10 the proposition produced at least fifty percent (50%) of the volume
11 of the production of the commodity during the relevant production
12 period.

13 C. A successor organization shall follow the referendum
14 requirements established in the statutory assessment provisions for
15 the particular commodity represented by the successor organization.

16 SECTION 12. AMENDATORY 2 O.S. 2011, Section 5-60.22, is
17 amended to read as follows:

18 Section 5-60.22 A ~~commodity producers board~~ certified
19 organization shall conduct ~~biennial~~ elections for the purpose of
20 electing members to the board on a schedule listed in the bylaws of
21 the certified organization. The board shall give notice and hold
22 the election in accordance with the applicable provisions of the
23 Oklahoma Agricultural Commodity ~~Referendum~~ Act relating to the
24 initial election and, to the extent necessary, in accordance with

1 the rules of the ~~Commissioner of the State~~ Oklahoma Department of
2 Agriculture, Food, and Forestry.

3 SECTION 13. AMENDATORY 2 O.S. 2011, Section 5-60.23, is
4 amended to read as follows:

5 Section 5-60.23 If the Commissioner of the ~~State~~ Oklahoma
6 Department of Agriculture, Food, and Forestry certifies adoption of
7 a referendum proposition under Section ~~12~~ 5-60.21 of this ~~act~~ title,
8 the new commodity producers board is established and has the powers
9 and duties prescribed by the Oklahoma Agricultural Commodity
10 ~~Referendum~~ Act.

11 SECTION 14. AMENDATORY 2 O.S. 2011, Section 5-60.24, is
12 amended to read as follows:

13 Section 5-60.24 A. On receiving certificates of election from
14 the Commissioner of the ~~State~~ Oklahoma Department of Agriculture,
15 Food, and Forestry, the ~~members of the commodity producers~~ certified
16 organization's board shall meet and organize.

17 B. Members of the certified organization's initial board shall
18 draw lots so that one-third (1/3) of the members shall hold office
19 for two (2) years, one-third (1/3) for four (4) years, and one-third
20 (1/3) for six (6) years. Thereafter, members of the board shall
21 serve for terms of six (6) years.

22 C. Each member holds office until a successor is elected and
23 has qualified.

24

1 SECTION 15. AMENDATORY 2 O.S. 2011, Section 5-60.26, is
2 amended to read as follows:

3 Section 5-60.26 A. The commodity producers board shall have
4 the power and duty to:

5 1. Employ personnel deemed necessary by the board, fix the
6 amount and manner of their compensation, and incur other expenses
7 that are necessary and proper to enable the board to effectively
8 carry out the purposes of the Oklahoma Agricultural Commodity
9 ~~Referendum~~ Act;

10 2. Adopt ~~rules~~ and amend bylaws as necessary to promptly and
11 effectively administer the Oklahoma Agricultural Commodity
12 ~~Referendum~~ Act;

13 3. Retain legal counsel as is required to fulfill the purposes
14 of the Oklahoma Agricultural Commodity ~~Referendum~~ Act;

15 4. Sue and be sued;

16 5. Initiate prosecution and civil remedies necessary to collect
17 any assessments due and owing to the commodity producers board;

18 6. Cooperate with local, state or national organizations,
19 whether public or private, in carrying out the purposes of contracts
20 as may be necessary;

21 7. Make such reasonable expenditures of funds as is necessary
22 to carry out the provisions of the Oklahoma Agricultural Commodity
23 ~~Referendum~~ Act;

24

1 8. Call and conduct such meetings and elections as may be
2 necessary in carrying out the provisions of the Oklahoma
3 Agricultural Commodity ~~Referendum~~ Act;

4 9. Keep minutes of its meetings and other books and records
5 that clearly reflect all acts and transactions of the board. The
6 board shall open its records to examination by any participating
7 producer or the Commissioner of the Oklahoma Department of
8 Agriculture, Food, and Forestry during regular business hours;
9 provided, the board may determine ~~by rule~~ in bylaws that certain
10 information provided by a commodity producer is confidential due to
11 proprietary and is confidential or privacy reasons;

12 10. Set the rate of the assessment. The rate may not exceed
13 the maximum established by statute in the case of successor
14 organization or in the election authorizing the assessment or a
15 subsequent election establishing a maximum rate in the case of a
16 certified organization;

17 11. Deposit all monies received by the board, including but not
18 limited to assessments, donations, and grants, in a bank selected by
19 the board;

20 12. Establish an office or headquarters as necessary;

21 13. Purchase, lease, sell, exchange or dispose of real or
22 personal property;

23 14. Formulate general policies and programs for the education,
24 discovery, promotion, and development of markets and industries for

1 the utilization of the commodity in cooperation with the Oklahoma
2 Department of Agriculture, Food, and Forestry;

3 15. Hire or retain legal counsel to represent the board in any
4 matters and producers in matters pertaining to transportation
5 problems and other matters which could result in potential
6 substantial loss to producers;

7 16. Act separately or in cooperation with any person in
8 developing, carrying out, and participating in programs of research,
9 disease and insect control, predator control, education, and
10 promotion designed to encourage the production, marketing, and use
11 of the commodity on which the assessment is levied; and

12 ~~12.~~ 17. Exercise such other powers as necessary to carry out
13 the purposes of the Oklahoma Agricultural Commodity Referendum Act.

14 B. ~~The Commissioner of the State Department~~ Board of
15 Agriculture shall may promulgate rules for the establishment of
16 commodity producer boards pursuant to the Oklahoma Agricultural
17 Commodity Referendum Act as necessary. The rules shall ensure that
18 such commodity producer boards are established and administered in a
19 uniform manner.

20 SECTION 16. AMENDATORY 2 O.S. 2011, Section 5-60.27, is
21 amended to read as follows:

22 Section 5-60.27 A. The commodity producers board shall ~~file~~
23 ~~with the Director of the Market Development Division of~~ provide the
24 annual budget to the ~~State Department of Agriculture a proposed~~

1 ~~budget and may expend funds only after the division director has~~
2 ~~approved the budget. If after thorough review the division director~~
3 ~~disapproves the proposed budget, the proposed budget shall be~~
4 ~~returned to the submitting board not later than forty-five (45) days~~
5 ~~after the date on which the proposed budget is submitted with a~~
6 ~~statement of reasons for disapproval~~ Commissioner of the Oklahoma
7 Department of Agriculture, Food, and Forestry.

8 B. Accounts of the board are subject to audit ~~by the State~~
9 ~~Auditor and Inspector~~ on a consistent schedule as established in the
10 organization's bylaws.

11 C. Within ~~thirty (30)~~ ninety (90) days following the end of
12 each fiscal year of the board, the board shall submit ~~to the~~
13 ~~Director of the Market Development Division of the State Department~~
14 ~~of Agriculture~~ an annual report itemizing all income and
15 expenditures and describing all activities of the board during the
16 previous fiscal year to the Commissioner.

17 D. Funds collected by the commodity producers board pursuant to
18 the Oklahoma Agricultural Commodity ~~Referendum~~ Act or other statute
19 authorizing an assessment shall not be subject to state budget and
20 expenditure limitations. Such funds shall at no time become monies
21 of the state or become part of the general budget of the state.
22 Debts or obligations of the board shall not be construed to be debts
23 or obligations of this state.

1 SECTION 17. AMENDATORY 2 O.S. 2011, Section 5-60.28, is
2 amended to read as follows:

3 Section 5-60.28 A. The board is authorized to receive
4 assessments as provided for in the Oklahoma Agricultural Commodity
5 ~~Referendum Act~~ or other statute authorizing an assessment, and
6 donations or grants from any source ~~and grants from governmental~~
7 ~~agencies.~~

8 B. Money received by the board may be expended for the purpose
9 of implementing the provisions of the Oklahoma Agricultural
10 Commodity ~~Referendum~~ Act.

11 C. Funds assessed and collected under this act shall not be
12 expended for use directly or indirectly to promote or oppose the
13 election of any candidate for public office ~~or to influence~~
14 ~~legislation.~~

15 SECTION 18. AMENDATORY 2 O.S. 2011, Section 5-60.29, is
16 amended to read as follows:

17 Section 5-60.29 A. The processor at the first point of sale
18 determined by the board shall collect the assessment. Except as
19 provided by subsection B of this section, the processor at that
20 point shall collect the assessment by deducting the appropriate
21 amount from the purchase price of the commodity or from any funds
22 advanced for that purpose.

23 B. If the producer and processor are the same legal entity, or
24 if the producer retains ownership after processing, such entity

1 shall remit the assessment at the time of first sale of the
2 commodity.

3 C. The ~~secretary-treasurer of the commodity producers~~ board, by
4 registered or certified mail, shall notify each processor of the
5 duty to collect the assessment, the manner in which the assessment
6 is to be collected, and the date on or after which the processor is
7 to begin collecting the assessment.

8 D. The amount of the assessment collected shall be clearly
9 shown on the sales invoice or other document evidencing the
10 transaction. The processor shall furnish a copy of the document to
11 the producer.

12 E. Unless otherwise provided by the original referendum, no
13 later than the tenth day of each month the processor shall remit the
14 amount collected during the previous month to the ~~secretary-~~
15 ~~treasurer of the board.~~

16 F. No commodity shall be subject to the applicable fee more
17 than once per growing season.

18 G. A successor organization shall follow the assessment
19 requirements and procedures established in the statutory provisions
20 for the particular commodity represented by the successor
21 organization, if applicable.

22 SECTION 19. AMENDATORY 2 O.S. 2011, Section 5-60.30, is
23 amended to read as follows:

24

1 Section 5-60.30 A. A producer who has paid an assessment may
2 obtain a refund of the amount paid by filing an application for
3 refund with the ~~secretary-treasurer of the commodity producers board~~
4 certified organization within sixty (60) days after the date of
5 payment. The application ~~must~~ shall be in writing, on a form
6 prescribed by the board for that purpose, and accompanied by proof
7 of payment of the assessment.

8 B. The ~~secretary-treasurer~~ certified organization shall pay the
9 refund to the producer before the eleventh day of the month
10 following the month in which the application for refund and proof of
11 payment are received.

12 C. A successor organization shall follow the refund
13 requirements established in the statutory provisions for the
14 particular commodity represented by the successor organization, if
15 applicable.

16 SECTION 20. AMENDATORY 2 O.S. 2011, Section 5-60.31, is
17 amended to read as follows:

18 Section 5-60.31 A. At any ~~biennial~~ election of the commodity
19 producers board, the ~~board~~ certified organization may submit to the
20 voters a proposition to increase the maximum rate of assessment.
21 ~~The proposition is approved and the new maximum rate is in effect~~
22 ~~if:~~

23 The referendum proposition will be adopted upon a finding that:
24

1 1. Two-thirds or more of those voting in the election voted in
2 favor of the referendum proposition; or

3 2. More than one-half of those voting in the election voted in
4 favor of the referendum proposition, and those voting in favor of
5 the proposition produced at least fifty percent (50%) of the volume
6 of the production of the commodity during the relevant production
7 period.

8 B. 1. If twenty percent (20%) or more of the producers
9 participating in the program present to the ~~secretary-treasurer~~
10 certified organization a petition calling for a referendum of the
11 qualified voters on the proposition of discontinuing the assessment,
12 the ~~board~~ certified organization shall conduct a referendum for that
13 purpose. An election on a proposition of discontinuing the
14 assessment shall be held no more than once per year.

15 2. The ~~board~~ certified organization shall give notice of the
16 referendum, the referendum shall be conducted, and the results shall
17 be declared in the manner provided by law for the original
18 referendum and election, with any necessary exceptions provided ~~by~~
19 ~~rule promulgated pursuant to the Oklahoma Agricultural Commodity~~
20 ~~Referendum Act~~ in bylaws of the certified organization.

21 3. The ~~board~~ certified organization shall conduct the
22 referendum within ninety (90) days of the date of filing of the
23 petition.

24 4. The proposition shall be approved if:

- 1 a. two-thirds or more of those voting in the election
2 voted in favor of the referendum proposition, or
3 b. more than one-half of those voting in the election
4 voted in favor of the referendum proposition, and
5 those voting in favor of the proposition produced at
6 least fifty percent (50%) of the volume of the
7 production of the commodity during the relevant
8 production period.

9 C. If the proposition is approved, the assessment is abolished.

10 D. A successor organization shall follow the assessment and
11 referendum requirements established in the statutory provisions for
12 the particular commodity represented by the successor organization.

13 SECTION 21. AMENDATORY 2 O.S. 2011, Section 5-60.32, is
14 amended to read as follows:

15 Section 5-60.32 The commodity producers board may investigate
16 conditions that relate to the prompt remittance of the assessment by
17 any producer or processor. If the board determines that a person
18 has failed to remit to the board the required assessment ~~as required~~
19 ~~by the Oklahoma Agricultural Commodity Referendum Act~~, the board may
20 independently institute proceedings for recovery of the amount due
21 to the board or for injunctive or other appropriate relief.

22 SECTION 22. AMENDATORY 2 O.S. 2011, Section 5-60.33, is
23 amended to read as follows:

1 Section 5-60.33 A violation of any provision of the Oklahoma
2 Agricultural Commodity ~~Referendum~~ Act is unlawful and may be
3 enjoined by a district court of competent jurisdiction. In any
4 action brought by a board which results in an injunction against a
5 person and the court determines that such person has violated any
6 provision of the Oklahoma Agricultural Commodity ~~Referendum~~ Act, the
7 court shall award costs and attorney fees to the board.

8 SECTION 23. AMENDATORY 2 O.S. 2011, Section 5-60.34, is
9 amended to read as follows:

10 Section 5-60.34 All commissions and assessments established
11 before July 1, 1999, are exempt from the requirements and provisions
12 of the Oklahoma Agricultural Commodity ~~Referendum~~ Act. However, any
13 statutory commodity board that is replaced by a successor
14 organization approved by the Commissioner of the Oklahoma Department
15 of Agriculture, Food, and Forestry shall be subject to the
16 provisions of this act.

17 SECTION 24. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5-60.35 of Title 2, unless there
19 is created a duplication in numbering, reads as follows:

20 A. If a statutory commodity producers board becomes a successor
21 organization, all persons employed by a statutory commodity
22 producers board prior to the date of approval by the Commissioner
23 shall remain members of the Oklahoma Public Employees Retirement
24

1 System until retirement or termination, at the election of the
2 employee.

3 B. For all employees who remain members of the Oklahoma Public
4 Employees Retirement System pursuant to subsection A of this
5 section, the successor organization shall pay the required employer
6 contributions applicable to the participating employers in the
7 Oklahoma Public Employees Retirement System pursuant to Section 920
8 of Title 74 of the Oklahoma Statutes and the employee shall continue
9 to pay employee contributions as required by Section 919.1 of Title
10 74 of the Oklahoma Statutes.

11 C. All employees of a statutory commodity producers board who
12 remain members of the Oklahoma Public Employees Retirement System
13 pursuant to subsection A of this section shall continue to be
14 eligible employees for purposes of Sections 901 through 932 of Title
15 74 of the Oklahoma Statutes. The successor organization shall be
16 considered a participating employer, as defined by paragraph (25) of
17 Section 902 of Title 74 of the Oklahoma Statutes only for such
18 employees.

19 D. No person initially employed by the successor organization
20 after the date of approval by the Commissioner shall be allowed to
21 participate in the Oklahoma Public Employees Retirement System
22 during the term of their employment with the successor organization,
23 regardless of whether that employee was previously employed by a
24

1 participating employer in the Oklahoma Public Employees Retirement
2 System.

3 E. 1. All annual leave and sick leave accumulated prior to the
4 date of approval by the Commissioner, by an employee who remains a
5 member of the Oklahoma Public Employees Retirement System pursuant
6 to subsection A of this section will be recognized by the successor
7 organization, subject to all accrual limitations in the Oklahoma
8 Statutes.

9 2. Beginning on the date of approval by the Commissioner,
10 employees of the successor organization shall not accrue annual
11 leave and sick leave pursuant to Section 840-2.20 of Title 74 of the
12 Oklahoma Statutes, but may accrue annual leave and sick leave
13 according to a policy established by the successor organization at a
14 rate not to exceed that of state employees under Title 74 of the
15 Oklahoma Statutes.

16 3. The total participating service credit of a member who
17 retires or terminates employment and elects a vested benefit shall
18 include unused sick leave not to exceed the limitation imposed by
19 paragraph 7 of subsection B of Section 913 of Title 74 of the
20 Oklahoma Statutes. If unused sick leave entitles a member to an
21 additional year of service credit, the successor organization shall
22 reimburse the System for the cost of funding the additional reserve.
23 The successor organization shall provide the System with adequate
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1 and timely information necessary to determine additional benefits
2 and its cost under this paragraph.

3 SECTION 25. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 5-60.36 of Title 2, unless there
5 is created a duplication in numbering, reads as follows:

6 All funds, equipment, and all other property shall transfer from
7 the statutory commodity board to the successor organization
8 immediately upon approval of the successor organization by the
9 Commissioner. All funds, equipment, and other property so
10 transferred shall no longer be considered state funds or state
11 property and may be transferred or disposed by the successor
12 organization without regard to state surplus property laws.

13 SECTION 26. AMENDATORY 2 O.S. 2011, Section 18-50, is
14 amended to read as follows:

15 Section 18-50. A. Sections ~~37~~ 18-50 through ~~49~~ 18-62 of this
16 ~~act~~ title shall be known and may be cited as the "Oklahoma Peanut
17 Act".

18 B. The Oklahoma Peanut Commission shall cease to exist and be
19 replaced by a successor organization if approved by the Commissioner
20 of the Oklahoma Department of Agriculture, Food, and Forestry to
21 receive the assessment contained in the Oklahoma Peanut Act pursuant
22 to the procedures outlined in the Oklahoma Agricultural Commodity
23 Act.

24

1 SECTION 27. AMENDATORY 2 O.S. 2011, Section 18-300, is
2 amended to read as follows:

3 Section 18-300. A. Sections ~~19~~ 18-300 through ~~36~~ 18-317 of
4 this ~~act~~ title shall be known and may be cited as the "Oklahoma
5 Wheat Resources Act".

6 B. The Oklahoma Wheat Commission shall cease to exist and be
7 replaced by a successor organization if approved by the Commissioner
8 of the Oklahoma Department of Agriculture, Food, and Forestry to
9 receive the assessment contained in the Oklahoma Wheat Resources Act
10 pursuant to the procedures outlined in the Oklahoma Agricultural
11 Commodity Act.

12 SECTION 28. This act shall become effective July 1, 2014.

13 SECTION 29. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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