

An Act

ENROLLED HOUSE
BILL NO. 1431

By: Hilbert of the House

and

Pederson of the Senate

An Act relating to agricultural associations and committees; amending 2 O.S. 2011, Sections 18-241, 18-245, 18-246 and 18-251, which relate to the Oklahoma Sorghum Resources Act; modifying definitions; requiring unexpended balance to transfer at certain date; clarifying statutory language; modifying entity that designates referendum locations; designating Governor to certify results of referendum; repealing 2 O.S. 2011, Sections 18-242, as amended by Section 1, Chapter 107, O.S.L. 2013 (2 O.S. Supp. 2016, Section 18-242), 18-243, as amended by Section 16, Chapter 304, O.S.L. 2012 (2 O.S. Supp. 2016, Section 18-243), 18-244, 18-247, 18-249 and 18-250, which relate to the Oklahoma Sorghum Resources Act; and providing an effective date.

SUBJECT: Agricultural associations and committees

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 18-241, is amended to read as follows:

Section 18-241. As used in the Oklahoma Sorghum Resources Act:

1. "Commercial channels" means the sale of sorghum for any use, when sold to any commercial buyer, dealer, processor, cooperative, or to any person, public or private, who resells any sorghum or product produced from sorghum;

2. "Commercial quantities" means and includes all bushels of sorghum produced for market in any calendar year by any producer;

3. "Commission" means the Oklahoma Sorghum Commission;

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

5. "First purchaser" means any person buying or acquiring after harvest the property in or to sorghum from a sorghum producer. A mortgagee, pledgee, lienholder, or other person having a claim against the sorghum producer under a nonrecourse loan made against the sorghum after harvest shall be a purchaser. The term "first purchaser" shall not include a harvesting or threshing lienee;

~~6. "Fiscal year" means the sorghum accounting year beginning July 1 of each year and ending June 30 of the following year;~~

~~7.~~ "President" means the President of the State Board of Agriculture;

~~8. "Sorghum processor" means a person who commercially manufactures products made from grain sorghum or animal feed; and~~

~~9.~~ 7. "Sorghum producer" or "producer" means an individual engaged in the production of sorghum, who markets sorghum in commercial quantities in Oklahoma. Each individual determined to be an entity pursuant to rules promulgated by the United States Department of Agriculture Farm Service Agency shall be considered a sorghum producer.

SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-245, is amended to read as follows:

Section 18-245. A. 1. ~~Beginning ninety (90) days after the election of the initial Oklahoma Sorghum Commission, there~~ There is hereby assessed a fee of one cent (\$0.01) per bushel upon all sorghum marketed by sorghum producers in this state and sold or handled through commercial channels. The fee shall be assessed and imposed upon the sorghum producer at the time of sale or delivery and shall be collected and remitted by the first purchaser to the Commission. Pursuant to the provisions of the Oklahoma Sorghum Resources Act, no sorghum shall be subject to assessment of a fee more than once.

2. No assessments for sorghum shall be collected in accordance with this section while a national checkoff program for sorghum established pursuant to 7 CFR 1221 remains in effect. The collection of assessments in accordance with this section shall be reinstated upon suspension or termination of the program for sorghum established pursuant to 7 CFR 1221.

B. 1. The first purchaser shall collect the assessment by deducting the appropriate amount from the purchase price of the sorghum or from any funds advanced for that purpose.

2. The Commission, by registered or certified mail, shall notify each first purchaser of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the first purchaser is to begin collecting the assessment.

3. The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction. The first purchaser shall furnish a copy of the document to the sorghum producer.

4. The Commission shall establish, ~~by rule,~~ through bylaws the procedures for the collection and remittance of the assessment.

C. Any unexpended balance contained in the Oklahoma Sorghum Resources Fund as of November 1, 2017, shall be transferred and deposited to the credit of the General Revenue Fund of the State Treasury.

SECTION 3. AMENDATORY 2 O.S. 2011, Section 18-246, is amended to read as follows:

Section 18-246. A. The first purchaser shall render and have on file a report along with remittance of the fees collected pursuant to the Oklahoma Sorghum Resources Act on the fifteenth of each calendar quarter. The report shall include the total amount of fees assessed by the first purchaser, the total amount of sorghum purchased and other information as may be required by the Oklahoma Sorghum Commission.

B. If the first purchaser fails to make a report and remittance as required by the Oklahoma Sorghum Resources Act, the Commission shall determine the amount collected and owed by the first purchaser, which shall be prima facie correct. Any first purchaser

having failed to make the report as required by the Oklahoma Sorghum Resources Act shall, within ten (10) days after notice of the computed collection amount established by the Commission is mailed to the first purchaser, pay the computed collection amount, together with a penalty of five percent (5%) of the computed collection amount. The first purchaser may dispute the computed collection amount established by the Commission and request the Commission to hold a hearing to redetermine the amount of the computed collection and the penalty to be imposed. No payment shall be made until the Commission enters its order determining the amount of payment. The payment of the determined collection amount and penalty shall be paid within ten (10) days of notice of the decision.

C. At any time the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry may request an audit of the first purchaser to determine whether the collection and proper disposition of the collected assessment were made pursuant to the provisions of the Oklahoma Sorghum Resources Act ~~and rules promulgated thereto.~~

D. The first purchaser shall retain any records or reports relating to the collection of the assessment for at least three (3) years.

SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-251, is amended to read as follows:

Section 18-251. A. Sorghum producers may petition for a referendum to determine if the assessment is to be continued, at any time ~~after five (5) years following November 1, 1997.~~ The President of the State Board of Agriculture shall call and conduct a referendum if the petitions bear signatures of ten percent (10%) of the sorghum producers. No more than one referendum shall be conducted in any one thirty-six-month period. The ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry shall determine if the petition bears the required number of valid signatures. The President shall announce the referendum at least thirty (30) days prior to the day of voting. At least thirty (30) days before the referendum, the Department shall mail a notice of the referendum to all known sorghum producers in the State of Oklahoma who market sorghum in commercial quantities. The notice shall specify the dates, times, and places for holding the referendum, and shall include a sample ballot with the following wording:

DO YOU FAVOR A CONTINUATION OF THE ONE CENT (\$0.01) PER BUSHEL ASSESSMENT ON SORGHUM MARKETING IN OKLAHOMA FOR UTILIZATION, RESEARCH, EDUCATION, PROMOTION, AND MARKET DEVELOPMENT?

YES ()

NO ()

B. Places within each county for conducting the referendum shall be designated by the ~~Oklahoma Sorghum Commission~~ Agricultural Extension Division of Oklahoma State University, and voting in each county shall be supervised by the county agricultural extension agent, or person designated by the Department. The Oklahoma Sorghum Commission shall ensure sufficient ballots and supplies necessary for the conduct of the voting and tabulation of returns. Certified results of the referendum in each district shall be transmitted within twenty-four (24) hours after voting ends to the President, and the ballots shall be transmitted to the President within forty-eight (48) hours. Ballots shall be preserved by the President for a period of at least three (3) months.

C. 1. The results of the referendum shall be determined by the President, and the results certified to the ~~Chair of the Commission~~ Governor who shall issue a proclamation declaring the results.

2. The Commission shall bear expenses of advertising and conducting the referendum.

D. Whenever the question of levying the assessments is disapproved, by failure of sixty percent (60%) of the sorghum producers voting in the referendum to favor continuation of the assessments, the proclamation declaring the result shall provide for the termination of the assessments on April 30, following the date of the referendum.

SECTION 5. REPEALER 2 O.S. 2011, Section 18-242, as amended by Section 1, Chapter 107, O.S.L. 2013 (2 O.S. Supp. 2016, Section 18-242), is hereby repealed.

SECTION 6. REPEALER 2 O.S. 2011, Section 18-243, as amended by Section 16, Chapter 304, O.S.L. 2012 (2 O.S. Supp. 2016, Section 18-243), is hereby repealed.

SECTION 7. REPEALER 2 O.S. 2011, Section 18-244, is hereby repealed.

SECTION 8. REPEALER 2 O.S. 2011, Section 18-247, is
hereby repealed.

SECTION 9. REPEALER 2 O.S. 2011, Section 18-249, is
hereby repealed.

SECTION 10. REPEALER 2 O.S. 2011, Section 18-250, is
hereby repealed.

SECTION 11. This act shall become effective November 1, 2017.

Passed the House of Representatives the 3rd day of May, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of April, 2017.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____