

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 510

By: Pederson

6 AS INTRODUCED

7 An Act relating to agricultural associations and
committees; amending 2 O.S. 2011, Sections 18-241,
8 18-245, 18-246 and 18-251, which relate to the
Oklahoma Sorghum Resources Act; modifying
9 definitions; requiring unexpended balance to transfer
at certain date; clarifying statutory language;
10 modifying entity that designates referendum
locations; designating Governor to certify results of
11 referendum; repealing 2 O.S. 2011, Sections 18-242,
as amended by Section 1, Chapter 107, O.S.L. 2013 (2
12 O.S. Supp. 2016, Section 18-242), 18-243, as amended
by Section 16, Chapter 304, O.S.L. 2012 (2 O.S. Supp.
13 2016, Section 18-243), 18-244, 18-247, 18-249 and 18-
250, which relate to the Oklahoma Sorghum Resources
14 Act; and providing an effective date.

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

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

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

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

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

3 3. "Commission" means the Oklahoma Sorghum Commission;

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

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

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

14 7. "President" means the President of the State Board of
15 Agriculture;

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

18 9. 7. "Sorghum producer" or "producer" means an individual
19 engaged in the production of sorghum, who markets sorghum in
20 commercial quantities in Oklahoma. Each individual determined to be
21 an entity pursuant to rules promulgated by the United States
22 Department of Agriculture Farm Service Agency shall be considered a
23 sorghum producer.
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1 SECTION 2. AMENDATORY 2 O.S. 2011, Section 18-245, is
2 amended to read as follows:

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

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

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

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

1 on or after which the first purchaser is to begin collecting the
2 assessment.

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

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

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

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

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

22 B. If the first purchaser fails to make a report and remittance
23 as required by the Oklahoma Sorghum Resources Act, the Commission
24 shall determine the amount collected and owed by the first

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

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

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

22 SECTION 4. AMENDATORY 2 O.S. 2011, Section 18-251, is
23 amended to read as follows:
24

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

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

20 YES () NO ()

21 B. Places within each county for conducting the referendum
22 shall be designated by the ~~Oklahoma Sorghum Commission~~ Agricultural
23 Extension Division of Oklahoma State University, and voting in each
24 county shall be supervised by the county agricultural extension

1 agent, or person designated by the Department. The Oklahoma Sorghum
2 Commission shall ensure sufficient ballots and supplies necessary
3 for the conduct of the voting and tabulation of returns. Certified
4 results of the referendum in each district shall be transmitted
5 within twenty-four (24) hours after voting ends to the President,
6 and the ballots shall be transmitted to the President within forty-
7 eight (48) hours. Ballots shall be preserved by the President for a
8 period of at least three (3) months.

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

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

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

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

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

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

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

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

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

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

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