

**Assembly Bill No. 1913**

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Passed the Assembly April 24, 2008

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*Chief Clerk of the Assembly*

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Passed the Senate July 3, 2008

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 52851, 52852, 52856, 52863, 52871, 52873, 52876, 52879, 52882, 52883, 52886, 52887, 52891.1, 52892, 52893, 52901, 52931, 52932, 52934, 52935, 52936, 52937, 52951, 52953, 52972, and 52975 of, and to add Sections 52867 and 52868 to, the Food and Agricultural Code, relating to agriculture.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1913, Fuller. Cotton.

Existing law establishes within state government the San Joaquin Valley Cotton Board, which is composed of 10 cotton growers, 6 cotton industry members operating in the San Joaquin Valley, and one public member.

This bill would change the composition of that board to 7 cotton growers, 3 cotton industry members, and one public member, as specified, and would make other changes related to the board's duties.

Existing law relating to the San Joaquin Valley Cotton Board defines terms governing those provisions.

This bill would define "cotton growers" or "growers" to mean any person in the district who produces or causes to be produced cotton for market. The bill would also define "handlers of whole cottonseed" as any person or organization that is engaged in the business of buying, selling, or processing whole cottonseed.

Existing law makes it unlawful for a person in the San Joaquin Valley Quality Cotton District to plant, possess for planting, pick, harvest, gin, or delint any cotton, except as specified.

This bill would exempt from that restriction certain provisions related to the growing of nonapproved varieties of cotton.

The bill would also revise the legislative findings governing those provisions and would make other related and technical changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 52851 of the Food and Agricultural Code is amended to read:

52851. The Legislature hereby declares that the purposes of this chapter are to promote, encourage, aid, and protect the planting and growing of cotton in the State of California; that it believes that these purposes can best be accomplished by restricting within certain areas the planting and growing of but two types of cotton, which are Acala and Pima; that, by this means, it is possible to bring the cotton-growing industry in the state to its highest possible development and to ensure the growing of the most superior varieties of cotton; that the planting of pure seed is essential to the production of more marketable and better grades of cotton and cottonseeds, and for the production of grades of fiber best suited for manufacturing purposes; and that the planting of impure seeds or plants, other than those authorized in these areas, is an economic harm and loss to the planter thereof and an irreparable injury to the adjoining or neighboring growers.

SEC. 2. Section 52852 of the Food and Agricultural Code is amended to read:

52852. The Legislature also declares that the restriction of the use to which cotton lands and cotton gins may be used, as provided in this chapter, is essential to the highest development of the cotton-growing industry; otherwise the different types of seed will be mixed, crossing will take place in the field, the varieties will be mongrelized and cease to be uniform, the fiber will deteriorate in quality, and the seed will be rendered unfit for planting.

SEC. 3. Section 52856 of the Food and Agricultural Code is amended to read:

52856. The Legislature further declares that all cotton approved by the board for planting in the district is for the benefit of the cotton-growing industry and is not for the exclusive or limited use of any person.

SEC. 4. Section 52863 of the Food and Agricultural Code is amended to read:

52863. “Handlers of raw cotton fiber” or “merchant” means any person or organization that is primarily engaged in the business of buying and selling spot cotton or forward contract cotton.

SEC. 5. Section 52867 is added to the Food and Agricultural Code, to read:

52867. “Cotton growers” or “growers” means any person in the district who produces, or causes to be produced, cotton for market.

SEC. 6. Section 52868 is added to the Food and Agricultural Code, to read:

52868. “Handlers of whole cottonseed” means any person or organization that is engaged in the business of buying, selling, or processing whole cottonseed.

SEC. 7. Section 52871 of the Food and Agricultural Code is amended to read:

52871. There is in the state government the San Joaquin Valley Cotton Board. The board shall be composed of seven cotton growers, three cotton industry members operating in the San Joaquin Valley, and one public member.

(a) The grower members shall be elected by the cotton growers in the county they represent, as follows:

(1) There shall be five elected growers representing each of the five counties within the district with the largest cotton acreage.

(2) There shall be an additional elected grower from each of the two counties within the district with the largest cotton acreage.

(b) The three cotton industry members shall be elected as follows:

(1) One member elected from and by handlers of whole cottonseed.

(2) One member elected from and by handlers of raw cotton fiber.

(3) One member elected from and by cotton ginning organizations.

(4) An organization may not be represented in more than one of the categories specified in the foregoing paragraphs.

(c) One public member shall be appointed by the secretary. The board shall submit a list of three public members to the secretary. The secretary shall choose one public member from the list to serve as a member on the board. If the secretary determines that those on the list are unacceptable, the board shall submit a new list containing the names of three public members from which the secretary shall choose one. This procedure shall continue until a

public member has been selected by the secretary to serve on the board.

(d) In addition, the board shall select one representative each from the United States Department of Agriculture and the University of California, and two representatives each from cotton planting seed delinting organizations, and organizations involved in the reproduction, sale, and distribution of cottonseed in the district, to serve as nonvoting ex officio members of the board. These members shall not be selected from the same organization.

SEC. 8. Section 52873 of the Food and Agricultural Code is amended to read:

52873. The secretary shall supervise and conduct any election held pursuant to Section 52871 and this section. Elections for grower members and elections for industry members shall be conducted as follows:

(a) The secretary shall distribute nomination petitions to each person or organization listed pursuant to Section 52872, and authorized to vote under Section 52871 in the election being held. The petition of signatures in support of a nominee signed by those whom the nominee represents shall be submitted to the secretary in order to nominate any candidate for election to the board within 30 days from the date of the secretary's distribution of those petitions. There shall be at least 10 signatures on each petition of nomination for a cotton grower candidate, at least two signatures on each petition of nomination for handlers of whole cottonseed candidates, at least six signatures on each petition of nomination for handlers of raw cotton fiber candidates, and at least 10 signatures on each petition of nomination for cotton ginning candidates.

(b) The submitted petitions for nomination shall be verified by the secretary, and an election ballot containing the names of persons nominated shall thereafter be mailed to the persons and organizations eligible to vote in the election.

SEC. 9. Section 52876 of the Food and Agricultural Code is amended to read:

52876. Grower members and their alternates on the board shall have a financial interest in producing, or causing to be produced, cotton for market.

Cotton industry members or their alternates shall have a financial interest in, or be employed by, any person or organization handling cotton for markets.

The public member or his or her alternate on the board shall have all the powers, rights, and privileges of any other member on the board, but shall not have any direct financial interest in the cotton industry.

SEC. 10. Section 52879 of the Food and Agricultural Code is amended to read:

52879. Upon implementation of Article 9.5 (commencing with Section 52951), the board shall have the power to sue and be sued, and to enter into contracts. Copies of its proceedings, records, and acts, when certified by the secretary of the board, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

SEC. 11. Section 52882 of the Food and Agricultural Code is amended to read:

52882. The board shall meet at least once a year, or at the call of the chairperson or the secretary, or at the request of any six voting members of the board.

SEC. 12. Section 52883 of the Food and Agricultural Code is amended to read:

52883. A quorum of the board shall be any six voting members or their alternates. The vote of a majority of members present at a meeting at which there is a quorum shall constitute the act of the board.

SEC. 13. Section 52886 of the Food and Agricultural Code is amended to read:

52886. Upon board action, all moneys received by any person from the assessments levied under the authority of Article 9.5 (commencing with Section 52951) of this chapter shall be deposited in banks designated by the board and shall be disbursed by order of the board through the agent or agents it designates for that purpose. Any designated agent shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in California, in favor of the board, conditioned upon the faithful performance of the agent's duties and the strict accounting of all funds of the board, in the amount determined by the board.

SEC. 14. Section 52887 of the Food and Agricultural Code is amended to read:

52887. The state shall not be liable for the acts of the board or its contracts. Payment of all claims arising by reason of the administration of this chapter or acts of the board shall be limited to the funds collected under this chapter. No member of the board or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the board nor shall a board member, alternate member, or employee of the board be responsible individually or jointly in any way to any cotton grower or handler or any other person for error in judgment, mistakes, or other acts, either of the board or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No board member or alternate member shall be held responsible individually for any act or omission of any member of the board. The liability of the board members shall be several and not joint, and no board members shall be liable for the default of any other board member.

SEC. 15. Section 52891.1 of the Food and Agricultural Code is amended to read:

52891.1. (a) The board may, by resolution, take actions that are in the best interest of the cotton industry in the district, which shall include, but not be limited to, the growing of cottons other than Acala and Pima. The resolution may contain provisions to protect the quality and integrity of approved fiber and seed grown within the district.

(b) The resolution shall be subject to a referendum conducted by the secretary, upon the request of the board, using information supplied by the board and other information as determined by the secretary, or a referendum shall be conducted by the secretary if a petition signed by not less than 5 percent of the qualified cotton growers in the district is presented to the board. The costs of any referendum conducted pursuant to this chapter shall be paid from funds collected pursuant to this chapter.

(c) The secretary shall find the resolution approved if either of the following conditions are met:

(1) Not less than 65 percent of the cotton growers certified by the secretary who voted in the referendum, voted in favor, and that those cotton growers so voting represent at least a majority of the cotton producing acreage of all cotton growers who voted in the referendum.

(2) At least a majority of those cotton growers who voted in the referendum voted in favor and that those cotton growers so voting represent not less than 65 percent of the cotton producing acreage of all cotton growers who voted in the referendum. The secretary shall then so certify to the board, which shall then make the approved resolution effective as an order of the board within 10 days after the certification by the secretary.

SEC. 16. Section 52892 of the Food and Agricultural Code is amended to read:

52892. Upon implementation of Article 9.5 (commencing with Section 52951) of this chapter the powers and duties of the board shall also include, but not be limited to, all of the following:

(a) To adopt, and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations, and orders for carrying out the provisions of this chapter and for exercising its powers and the performance of its duties, including rules for regulation of appeals from any rule, regulation, or order of the board.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to or in connection with or deemed reasonably necessary, proper or advisable to effectuate the purposes of this chapter.

(c) To employ a manager to serve, at the pleasure of the board, as president and chief executive officer of the board and other personnel, including legal counsel, that is necessary to carry out the provisions of this chapter.

(d) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create such liabilities and borrow such funds in advance of receipt of assessments as may be necessary, in the opinion of the board, for the proper administration and enforcement of this chapter and the performance of its duties.

(e) To promote the sale of cotton by advertising and other promotional means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for cotton.

(f) To enter into cost-sharing advertising with other products considered, by the board, to be fair and equitable to both parties.

(g) In the discretion of the board, to make, in the name of the board, contracts to render service in formulating and conducting

plans and programs, and other contracts or agreements deemed necessary for the promotion of the sale of cotton.

(h) In the discretion of the board, to conduct, and contract with others to conduct, scientific research, including the study, analysis, dissemination, and accumulation of information obtained from that research or elsewhere regarding the marketing and production of cotton. In connection with that research, the board shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for those purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting that research.

(i) In the discretion of the board, to publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the cotton industry to growers and other industry members.

SEC. 17. Section 52893 of the Food and Agricultural Code is amended to read:

52893. The board may require that all cottonseed delinted for planting within the district be certified by a qualified seed certification agency as provided by subdivision (d) of Section 52482.

SEC. 18. Section 52901 of the Food and Agricultural Code is amended to read:

52901. The planting, possessing for planting, growing, picking, harvesting, ginning of cotton, delinting of cottonseed, or sale of lint by anyone conducting research on nonapproved varieties shall be in compliance with regulations adopted by the department. The department shall also adopt regulations to accomplish all of the following purposes:

(a) Maintain the integrity of approved Acala or Pima cotton and prevent contamination of those types of cotton.

(b) Require that applicants notify the department regarding the location of test sites and of the dates and procedures for planting, harvesting, and ginning of cotton.

(c) Establish a procedure for importing cottonseed into the district.

SEC. 19. Section 52931 of the Food and Agricultural Code is amended to read:

52931. A referendum of all cotton growers within the district shall be conducted if a petition, signed by not less than 5 percent

of the cotton growers in the district is submitted to the secretary, which calls for a referendum pertaining to the operation of this chapter.

SEC. 20. Section 52932 of the Food and Agricultural Code is amended to read:

52932. This chapter shall remain operative if either of the following conditions are met:

(a) Not less than 65 percent of the cotton growers certified by the secretary who voted in the referendum, voted in favor of this chapter, and those cotton growers so voting represent at least a majority of the cotton producing acreage of all cotton growers who voted in the referendum.

(b) At least a majority of those cotton growers who voted in the referendum voted in favor of this chapter and those cotton growers so voting represent not less than 65 percent of the cotton producing acreage of all cotton growers who voted in the referendum.

SEC. 21. Section 52934 of the Food and Agricultural Code is amended to read:

52934. If the secretary finds that a favorable vote has been given as provided in Section 52932, he or she shall so certify and give notice of that favorable vote to the cotton growers in the district.

SEC. 22. Section 52935 of the Food and Agricultural Code is amended to read:

52935. If the secretary finds that a favorable vote has not been given as provided in Section 52932, the secretary shall so certify and declare all provisions of this chapter inoperative.

SEC. 23. Section 52936 of the Food and Agricultural Code is amended to read:

52936. In addition to Section 52931, the board may hold a referendum whenever the board proposes changes to the Acala or Pima quality standard as provided in Section 52891.

SEC. 24. Section 52937 of the Food and Agricultural Code is amended to read:

52937. A referendum shall be held if the board proposes to implement promotion and research funding as provided in Article 9.5 (commencing with Section 52951) of this chapter.

SEC. 25. Section 52951 of the Food and Agricultural Code is amended to read:

52951. The board is authorized to annually assess cotton growers in the district in an amount not to exceed one-half of 1 percent of each grower's gross dollar value from the previous year's cotton crop.

SEC. 26. Section 52953 of the Food and Agricultural Code is amended to read:

52953. The board shall develop a procedure for collecting assessments under this article.

(a) Collection of the assessment may be required of cotton growers or cotton handlers.

(b) A penalty of 10 percent of the unpaid assessment fee due and payable may be imposed.

SEC. 27. Section 52972 of the Food and Agricultural Code is amended to read:

52972. Except as otherwise provided in Article 5 (commencing with Section 52901), and Article 12 (commencing with Section 52981), in the district established by this chapter, it is unlawful for any person to plant, possess for planting, pick, harvest, gin, or delint any cotton except those seeds or plants that are approved by the board for planting within the district.

SEC. 28. Section 52975 of the Food and Agricultural Code is amended to read:

52975. The district attorney of the county in which any nuisance is found, at the request of the secretary or the commissioner, shall maintain, in the name of the people of the state, a civil action to abate and prevent the nuisance. Upon judgment and order of the court, that nuisance shall be condemned and destroyed in the manner directed by the court, denatured, or otherwise processed, or released upon conditions that the court may impose to ensure that the nuisance will be abated.









Approved \_\_\_\_\_, 2008

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*Governor*