

AMENDED IN SENATE MARCH 19, 2009

AMENDED IN SENATE FEBRUARY 24, 2009

SENATE BILL

No. 2

Introduced by Senator Wiggins

(Principal coauthors: Assembly Members Chesbro and Evans)

**(Coauthors: Senators Ashburn, Benoit, Cox, Florez, Maldonado,
and Wright)**

(Coauthors: Assembly Members Bill Berryhill, Tom Berryhill, Huffman,
Jeffries, Smyth, and Torres)

December 1, 2008

An act to amend Sections 6046, 6047.1, 6047.2, 6047.4, 6047.19, 6047.20, 6047.21, 6047.27, and 6047.29 of, *and to add Section 6047.30 to*, the Food and Agricultural Code, relating to pest control, *and* making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as amended, Wiggins. Pest control: Pierce's disease: glassy-winged sharpshooter.

(1) Existing law establishes the Pierce's Disease Control Program in the Department of Food and Agriculture, and the Pierce's Disease Management Account in the Food and Agriculture Fund. Existing law allows money in this account to be expended as specified to combat Pierce's disease and its vectors. Existing law declares that these provisions shall become inoperative on March 1, 2011.

This bill would *allow specified money in the account to also be expended for purposes relating to other designated pests and diseases, as provided, and would delete a requirement that the department receive specified commitments from nonstate sources prior to the expenditure of state General Fund moneys in the account. The bill would change*

the date on which ~~these~~ *the above* provisions become inoperative to March 1, 2016.

(2) Existing law creates in the Department of Food and Agriculture the Pierce's Disease and Glassy-winged Sharpshooter Board, which consists of specified numbers of representatives of producers and processors, as defined, in the grape industry who are appointed by the Secretary of Food and Agriculture. Existing law sets forth the powers of the board and provides for an annual assessment to be paid by the processors into the Department of Food and Agriculture Fund for the purposes of, among other things, research and other activities related to the transmittal of the plant killing Pierce's disease bacterium, and its vectors, particularly the glassy-winged sharpshooter. Existing law repeals these provisions on March 1, 2011.

This bill would *authorize the expenditure of the assessments for purposes relating to other designated pests and diseases, as provided, and would* extend the repeal date of these provisions to March 1, 2016, except that this bill would make these provisions inoperative as of March 1, 2011, unless the secretary finds, in a referendum conducted by him or her, or a person designated by him or her, that a favorable vote has been given. The bill would require, no later than April 15, 2010, the secretary to establish a list of those individuals eligible to vote on the continued implementation of these provisions, as specified. The bill would also make a conforming change and other technical changes.

Because assessments collected pursuant to these provisions are deposited in the Department of Food and Agriculture Fund, which is continuously appropriated, by extending the collection of these assessments *and authorizing expenditure for a new purpose*, this bill would make an appropriation.

(3) Existing law, operative until March 1, 2011, provides that the Secretary of Food and Agriculture shall appoint an advisory task force to advise him or her on the control and management of Pierce's disease.

This bill would extend these provisions to March 1, 2016.

This bill would authorize the Pierce's Disease and Glassy-winged Sharpshooter Board, after consulting with the advisory task force and upon making specified findings, to recommend to the secretary, and the secretary may determine, that a pest or disease affecting grapes grown in California and crushed for wine, wine vinegar, juice, concentrate, or beverage brandy be designated as an other designated pest or disease, and that money should be expended on research and outreach

programs for specified purposes relating to the other designated pest or disease. The bill would also make conforming changes.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 6046 of the Food and Agricultural Code
- 2 is amended to read:
- 3 6046. (a) There is hereby created in the department the Pierce's
- 4 Disease Control Program.
- 5 (b) The Governor shall appoint a statewide coordinator, and the
- 6 secretary shall provide an appropriate level of support staffing and
- 7 logistical support for combating Pierce's disease and its vectors.
- 8 (c) (1) There is hereby created the Pierce's Disease Management
- 9 Account in the Food and Agriculture Fund.
- 10 (2) The account shall consist of money transferred from the
- 11 General Fund and money made available from federal, industry,
- 12 and other sources. Money made available from federal, industry,
- 13 and other sources shall be available for expenditure without regard
- 14 to fiscal year for the purpose of combating Pierce's disease or its
- 15 vectors *and for the purpose described in Section 6047.30.* ~~State~~
- 16 ~~general funds to be utilized for research shall only be expended~~
- 17 ~~when the secretary has received commitments from nonstate~~
- 18 ~~sources for at least a 25-percent match for each state dollar to be~~
- 19 ~~expended.~~
- 20 (d) The funds appropriated pursuant to this section to the Food
- 21 and Agriculture Fund for the purpose of combating Pierce's disease
- 22 and its vectors shall be used for costs that are incurred by the state
- 23 or by local entities during and subsequent to the fiscal year of the
- 24 act that added this section for the purpose of research and other
- 25 efforts to combat Pierce's disease and its vectors.
- 26 (e) Whenever, in any county, funds are allocated by the
- 27 department for local assistance regarding Pierce's disease and its
- 28 vectors, those funds shall be made available to a local public entity,
- 29 or local public entities, designated by that county's board of
- 30 supervisors.
- 31 (f) Funds appropriated for local assistance shall not be allocated
- 32 to the local public entity until the local public entity creates a
- 33 Pierce's disease work plan that is approved by the department.

1 Any funds allocated by the department to a designated local public
2 entity shall be utilized for activities consistent with the local
3 Pierce's disease work plan or other programs or work plans
4 approved by the department. It shall be the responsibility of the
5 designated local public entity to develop and implement the local
6 Pierce's disease work plan. Upon request, the department shall
7 provide consultation to the local public entity regarding its work
8 plan.

9 (g) The work plan created by the designated local public entity
10 shall include, but is not limited to, all of the following:

11 (1) In coordination with the department, the development and
12 delivery of producer outreach information and training to local
13 communities, groups, and individuals to organize their involvement
14 with the work plan and to raise awareness regarding Pierce's
15 disease and its vectors.

16 (2) In coordination with the department, the development and
17 delivery of ongoing training of the designated local public entity's
18 employees in the biology, survey, and treatment of Pierce's disease
19 and its vectors.

20 (3) The identification within the designated local public entity
21 of a local Pierce's disease coordinator.

22 (4) The proposed treatment of Pierce's disease and its vectors.
23 Treatment programs shall comply with all applicable laws and
24 regulations and shall be conducted in an environmentally
25 responsible manner.

26 (5) In coordination with the department, the development and
27 implementation of a data collection system to track and report new
28 infestations of Pierce's disease and its vectors in a manner
29 respectful of property and other rights of those affected.

30 (6) On an annual basis, while funds appropriated by this section
31 are available for encumbrance, the department shall review the
32 progress of each local public entity's activities regarding Pierce's
33 disease and its vectors and, as needed, make recommendations
34 regarding those activities to the local public entity.

35 (h) Notwithstanding Section 7550.5 of the Government Code,
36 the department shall report to the Legislature on January 1, 2001,
37 and each January 1 while this section is operative, regarding its
38 expenditures, progress, and ongoing priorities in combating
39 Pierce's disease and its vectors in California.

1 (i) This article shall become inoperative on March 1, 2016, and
2 as of January 1, 2017, is repealed, unless a later enacted statute
3 that is enacted before January 1, 2017, deletes or extends the dates
4 on which it becomes inoperative and is repealed.

5 *SEC. 2. Section 6047.1 of the Food and Agricultural Code is*
6 *amended to read:*

7 6047.1. The Legislature finds and declares the following:

8 (a) The state's agricultural business economy could be seriously
9 damaged if measures are not taken to prevent the transmittal of
10 the plant killing bacterium that causes Pierce's disease and to
11 contain its vectors, particularly the glassy-winged sharpshooter,
12 *and if measures are not taken to prevent or inhibit infestations by*
13 *other designated pests and diseases.* Furthermore, progress made
14 by winegrape growers and others in the adoption of integrated pest
15 management and sustainable farming practices is threatened by
16 these destructive pests and diseases.

17 (b) The funding to accomplish the purposes of this article shall
18 be derived from an assessment on all grapes grown in California
19 and crushed for wine, wine vinegar, juice, concentrate, or beverage
20 brandy.

21 (c) This article is not intended to establish a precedent, or to
22 supersede, or to reduce or in any way alter government funding
23 of the effort to combat Pierce's disease and other pests in this state.

24 (d) The purposes of this article are enhanced by the many and
25 varied efforts of other agricultural commodities' industries to
26 combat this bacterium and its vectors *and other designated pests*
27 *and diseases.*

28 (e) This article is enacted for the protection of the winegrape
29 industry and is also declared to be enacted in the public interest
30 and in the exercise of the police power of the state for the purpose
31 of protecting the health, peace, safety, and general welfare of the
32 people of this state.

33 (f) The assessments shall be collected and expended for purposes
34 consistent with ~~Section~~ *Sections 6046 and 6047.30.*

35 *SEC. 3. Section 6047.2 of the Food and Agricultural Code is*
36 *amended to read:*

37 6047.2. For the purposes of this article, the following
38 definitions shall govern its construction:

39 (a) "Board" means the Pierce's Disease and Glassy-winged
40 Sharpshooter Board.

1 (b) “Department” means the Department of Food and
2 Agriculture.

3 (c) “Marketing season” begins July 1 of each year and ends
4 June 30 of the next year.

5 (d) “Producer” means a grower, including a cooperative, of
6 grapes in California for wine, wine vinegar, juice, concentrate, or
7 beverage brandy.

8 (e) “Processor” means a processor who crushes grapes in
9 California for wine, wine vinegar, juice, concentrate, or beverage
10 brandy.

11 (f) “Person” means a producer, processor, or any other entity
12 that holds title to grapes subject to assessment.

13 (g) “Purchase” means the taking by sale, discount, negotiation,
14 mortgage, pledge, lien, issue or reissue, gift, or any other voluntary
15 transaction creating an interest in property. For purposes of this
16 paragraph subdivision, “sale” shall consist of the passing of title
17 from the seller to the buyer for a price.

18 (h) “Purchased grapes” means grapes grown in California,
19 crushed by a processor for wine, wine vinegar, juice, concentrate,
20 or beverage brandy, and purchased from a person considered a
21 separate entity from the purchaser.

22 (i) “Grapes not purchased” means all other grapes grown in
23 California and crushed by a processor for wine, wine vinegar,
24 juice, concentrate, or beverage brandy, including, but not limited
25 to, the following:

26 (1) Grapes grown by a person who is not considered a separate
27 entity from the processor or who is a member of the processor
28 cooperative.

29 (2) Grapes not purchased and crushed to the account of a person
30 who retains ownership of the grapes.

31 (j) “Secretary” means the Secretary of Food and Agriculture.

32 (k) “*Other designated pests and diseases*” means pests and
33 diseases designated by the secretary as provided in Section
34 6047.30.

35 SEC. 4. Section 6047.4 of the Food and Agricultural Code is
36 amended to read:

37 6047.4. (a) The powers of the board shall be the following:

38 (1) Submit recommendations to the secretary on, but not limited
39 to, the following:

40 (A) Selection of officers.

1 (B) Terms of office for board members.

2 (C) Annual assessment rate.

3 (D) Annual budget.

4 (E) Expenditures authorized under ~~Section~~ *Sections 6047.5 and*
5 *6047.30.*

6 (2) Receive money from the assessment and other sources.

7 (3) Adopt, amend, and rescind all proper and necessary bylaws
8 and procedures.

9 (4) Coordinate its activities with the secretary's science advisory
10 board and agricultural/governmental advisory task force.

11 (b) A majority of the members of the board shall constitute a
12 quorum of the board. The vote of a majority of the members present
13 at a meeting at which there is a quorum constitutes an act of the
14 board, except for actions taken pursuant to subdivision (a) of
15 Section 6047.7, which shall require a majority of the vote of the
16 board. The board may continue to transact business at a meeting
17 where a quorum is initially present, notwithstanding the withdrawal
18 of members, provided any action is approved by the requisite
19 majority of the required quorum.

20 (c) As authorized by the board, members of the board may
21 receive per diem and mileage in accordance with the rules of the
22 Department of Personnel Administration for attendance at meetings
23 and other approved board activities.

24 ~~SEC. 2.~~

25 *SEC. 5.* Section 6047.19 of the Food and Agricultural Code is
26 amended to read:

27 6047.19. (a) On or before December 31st of every other year,
28 the secretary, after consultation with the board, shall report on the
29 status of this article to the chairs of the policy and fiscal committees
30 that have the appropriate subject matter jurisdiction in the
31 Assembly and the Senate.

32 (b) The report shall include a financial accounting, including
33 the distribution of industry assessments and any unexpended
34 amount on deposit, of the department's efforts to contain Pierce's
35 disease and its vectors.

36 (c) This article shall remain in effect only until March 1, 2016,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before March 1, 2016, deletes or extends that date.

1 ~~SEC. 3.~~

2 *SEC. 6.* Section 6047.20 of the Food and Agricultural Code is
3 amended to read:

4 6047.20. This article shall become inoperative, as of March 1,
5 2011, unless the secretary finds, in a referendum conducted by
6 him or her, or a person designated by him or her, subsequent to
7 the operative date of the amendments to this section adopted in
8 2009, that a favorable vote has been given pursuant to this article.

9 ~~SEC. 4.~~

10 *SEC. 7.* Section 6047.21 of the Food and Agricultural Code is
11 amended to read:

12 6047.21. (a) No later than April 15, 2010, the secretary shall
13 establish a list of those persons eligible to vote on the continued
14 implementation of this article.

15 (b) Eligibility shall be limited to the producers, processors, and
16 persons who paid the assessment on grapes crushed in the
17 immediately preceding season.

18 (c) (1) In establishing the list, the secretary may require
19 processors, producers, and others to submit the names, mailing
20 addresses, and assessment values of all producers who paid the
21 assessment on grapes crushed in the immediately preceding
22 marketing season.

23 (2) The information required by the secretary shall be filed either
24 with the annual assessment report or no later than 30 days
25 following receipt of a written notice from the secretary requesting
26 the information.

27 (d) Any producer whose name does not appear on the secretary's
28 list may have his or her name added to the list by filing with the
29 secretary a signed statement identifying himself or herself as a
30 producer that paid an assessment during the most recent marketing
31 season.

32 ~~SEC. 5.~~

33 *SEC. 8.* Section 6047.27 of the Food and Agricultural Code is
34 amended to read:

35 6047.27. (a) If the secretary finds that a favorable vote as
36 provided in this article has not been given subsequent to the
37 operative date of the amendments to this section adopted in 2009,
38 this article shall become inoperative as of March 1, 2011.

39 (b) If the secretary finds that a favorable vote has been given
40 as provided in this article, he or she shall certify and give notice

1 of the favorable vote to all persons whose names and addresses
2 may be on file with the secretary as provided in Section 6047.21.

3 ~~SEC. 6.~~

4 *SEC. 9.* Section 6047.29 of the Food and Agricultural Code is
5 amended to read:

6 6047.29. (a) The secretary shall appoint an advisory task force
7 consisting of scientific experts, including, but not limited to,
8 university researchers and agricultural representatives, for the
9 purpose of advising the secretary on the control and management
10 of Pierce's disease.

11 (b) Members of the advisory task force, or alternate members
12 when acting as members, may be reimbursed, upon request, for
13 necessary expenses incurred by them in the performance of their
14 duties.

15 (c) Notwithstanding Sections 6047.20 and 6047.27, this section
16 shall remain in effect until March 1, 2016, and as of that date is
17 repealed, unless a later enacted statute, that is enacted before March
18 1, 2016, deletes or extends that date.

19 *SEC. 10.* Section 6047.30 is added to the Food and Agricultural
20 Code, to read:

21 6047.30. (a) *The board may, after consulting with the advisory*
22 *task force and upon making findings as described in this section,*
23 *recommend to the secretary, and the secretary may determine,*
24 *that a pest or disease affecting grapes grown in California and*
25 *crushed for wine, wine vinegar, juice, concentrate, or beverage*
26 *brandy be designated as an other designated pest or disease, and*
27 *that money should be expended on research and outreach programs*
28 *for purposes consistent with Sections 6046 and 6047.1 relating to*
29 *the other designated pest or disease.*

30 (b) *The board's findings in support of a recommendation under*
31 *this section shall include all of the following:*

32 (1) *The pest or disease would adversely affect the health of grape*
33 *vines, the yield from grape vines, or the quality of grapes grown*
34 *on the vines if the pest or disease becomes established in California*
35 *or expands to new areas of the state.*

36 (2) *The pest or disease would significantly damage the state's*
37 *agricultural business economy if allowed to become established*
38 *in California or expand to new areas of the state.*

1 (3) Significant portions of the grape producing areas of the state
2 are now affected, or reasonably likely to be adversely affected in
3 the future, by the spread of the pest or disease.

4 (4) Expenditures of money approved by the secretary based on
5 the findings and recommendations described in this section will
6 not, to a substantial degree, diminish any expenditures under
7 Article 8 (commencing with Section 6045) or this article on
8 Pierce's disease and its vectors, particularly the glassy-winged
9 sharpshooter, research, work plans, and program activities.

10 (5) Scientific experts, including, but not limited to, university
11 researchers, entomologists, plant pathologists, economists, and
12 other agricultural representatives have provided information and
13 advice in support of the findings described in paragraphs (1), (2),
14 (3), and (4). For purposes of this paragraph, it is not required that
15 all scientific experts consulted by the board agree or provide
16 similar advice.