

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY APRIL 11, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1389**

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**Introduced by Committee on Agriculture**

March 4, 2013

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An act to *amend Sections 27571, 78211, 78214, 78225, 78225.5, 78235, 78236, and 78276 of, and to add Article 13 (commencing with Section 52991) to Chapter 4 of Division 18 of, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as amended, Committee on Agriculture. ~~San Joaquin Valley Quality Cotton District—Agriculture.~~

*(1) Existing law requires the Secretary of Food and Agriculture to appoint a Shell Egg Advisory Committee consisting of 7 members, 6 of whom are selected by the secretary from egg handlers. Existing law also requires the secretary to appoint 2 alternates who may serve in the absence of any of the 6 egg handler representatives. Existing law further requires the California Agricultural Commissioners and Sealers Association to annually designate one of its members who is required to serve in a nonvoting capacity as the 7th member of the committee and authorizes the secretary to appoint one additional member of the committee who is required to be a public member.*

*This bill would instead require the committee to consist of 10 members, 8 of whom are selected by the secretary from egg handlers,*

*one of whom is designated by the association, and one of whom is selected by the secretary as a public member.*

~~Existing~~

(2) *Existing* law establishes the San Joaquin Valley Quality Cotton District for the purposes of promoting, encouraging, aiding, and protecting the planting and growing of cotton in California. Existing law establishes the San Joaquin Valley Cotton Board and establishes the powers of the board to include, among others, establishing quality standards and making recommendations to the Secretary of Food and Agriculture on all matters pertaining to the district. Existing law provides funding for the board and enforcement of the provisions through assessments and requires that all moneys received pursuant to these provisions, which are deposited in the continuously appropriated Department of Food and Agriculture Fund, be expended only for purposes of the provisions relating to the San Joaquin Valley Quality Cotton District.

This bill would make these provisions and related regulations inoperative on January 1, 2014, unless a resolution is approved to continue the operation of these provisions or the secretary receives a petition from members of the cotton industry in the San Joaquin Valley and makes a determination that it is in the best interests of the cotton industry and the state to continue these provisions. The bill, if the secretary makes that specified determination, would authorize the secretary to establish an advisory committee. The bill would require the Department of Food and Agriculture to post whether these provisions have become operative on its Internet Web site and would prohibit the secretary from being required to administer any of these provisions that have become operative unless the secretary determines there are sufficient funds to pay the costs incurred by the secretary, as specified. Because the bill would authorize the use of continuously appropriated funds for a new purpose, the bill would make an appropriation.

(3) *Existing* law establishes the California Asparagus Commission in the state government, consisting of 12 producers elected and one public member appointed by the Secretary of Food and Agriculture to, among other things, conduct programs for promotion of asparagus sales, including marketing research, advertising, and promotion. Existing law makes those provisions applicable to specified geographical areas and divides those areas into 2 districts.

This bill would delete the provisions dividing the geographical areas into 2 districts. The bill would authorize the commission to modify the

number of producers who serve on the commission by a <sup>2</sup>/<sub>3</sub> vote, in accordance with specified procedures, and would specify that individuals appointed as ex officio members to the commission would be nonvoting. The bill would delete provisions limiting the term of office for members and alternate members of the commission to 3 consecutive terms, and would delete provisions specifying that the commission is a corporate body with specified corporate powers. The bill would 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 27571 of the Food and Agricultural Code  
2     is amended to read:  
3     27571. (a) The secretary shall appoint a Shell Egg Advisory  
4     Committee consisting of ~~seven members, six~~ 10 members, eight  
5     of whom shall be selected by the secretary from egg handlers and  
6     be representative of the egg industry. The secretary shall appoint  
7     two alternates who may serve in the absence of any of the ~~six~~ eight  
8     egg handler representatives. The California Agricultural  
9     Commissioners and Sealers Association shall annually designate  
10    one of its members who shall serve in a nonvoting capacity as the  
11    ~~seventh~~ ninth member of the committee. The secretary ~~may also~~  
12    shall select and appoint one additional member on the committee,  
13    ~~who shall be a public member to the committee pursuant to~~  
14    subdivision (b). The members of the committee shall receive no  
15    salary.

16    (b) Upon the secretary’s request, the committee shall submit to  
17    the secretary the names of three or more natural persons, each of  
18    whom shall be a citizen and resident of this state and not a  
19    producer, shipper, or processor nor financially interested in any  
20    producer, shipper, or processor, for appointment by the secretary  
21    as a public member of the committee. The secretary may appoint  
22    one of the nominees as the public member on the committee. If  
23    all nominees are unsatisfactory to the secretary, the committee  
24    shall continue to submit lists of nominees until the secretary has  
25    made a selection. ~~Any~~ A vacancy in the office of the public member  
26    of the committee shall be filled by appointment by the secretary  
27    from the nominee or nominees similarly qualified submitted by

1 the committee. The public member of the committee shall represent  
2 the interests of the general public in all matters coming before the  
3 committee and shall have the same voting and other rights and  
4 immunities as other members of the committee.

5 **SECTION 1.**

6 *SEC. 2.* Article 13 (commencing with Section 52991) is added  
7 to Chapter 4 of Division 18 of the Food and Agricultural Code, to  
8 read:

9

10 **Article 13. Operation**

11

12 52991. (a) Except as specified in Section 52992, on and after  
13 January 1, 2014, the provisions of this chapter, and any regulations  
14 adopted pursuant to this chapter, shall become inoperative unless  
15 either of the following occurs:

16 (1) A resolution is approved in accordance with the procedures  
17 specified in subdivision (c) of Section 52891.1, as that section read  
18 on January 1, 2013, to continue the operation of this chapter.

19 (2) The secretary receives a petition from members of the cotton  
20 industry in the San Joaquin Valley and makes a determination that  
21 circumstances in the California cotton industry indicate that the  
22 operation of specified sections of this chapter is in the best interests  
23 of the cotton industry and the state. If the secretary makes that  
24 determination, the secretary may establish a committee to advise  
25 the secretary. The committee shall be comprised of cotton growers,  
26 handlers of whole cottonseed, handlers of raw cotton fiber, and  
27 representatives of cotton ginning organizations.

28 (b) If the provisions of this chapter become operative as  
29 described in paragraphs (1) and (2) of subdivision (a), the  
30 department shall post this fact on its Internet Web site.

31 52992. The following sections of this chapter shall remain  
32 operative and shall be administered by the secretary:

33 (a) Section 52893 as it relates to certified cottonseed.

34 (b) Section 52901 as it relates to certified cottonseed and colored  
35 cotton.

36 (c) Section 52981 as it relates to colored cotton.

37 52993. The secretary shall not be required to administer this  
38 article or any provisions of this chapter that are operative pursuant  
39 to Sections 52991 and 52992 unless the secretary determines that  
40 there are sufficient funds remaining in the Department of Food

1 and Agriculture Fund that were deposited and authorized to be  
2 expended for the purposes of this chapter, or from other sources,  
3 including the California cotton industry, to pay the costs incurred  
4 by the secretary.

5 *SEC. 3. Section 78211 of the Food and Agricultural Code is*  
6 *amended to read:*

7 78211. “Asparagus” means all types of vegetables grown in  
8 District 1 and District 2 from the plant family Liliaceae or Lily;  
9 Genus, *Asparagus officinalis*.

10 *SEC. 4. Section 78214 of the Food and Agricultural Code is*  
11 *amended to read:*

12 ~~78214. (a) Except as otherwise provided in Section 78225.5,~~  
13 ~~“districts” consist of the following geographical areas:~~

14 ~~(1) District 1 consists of the Counties~~

15 ~~78214. This chapter is applicable to the Counties of Alameda,~~  
16 ~~Alpine, Amador, Calaveras, Contra Costa, Sacramento, San~~  
17 ~~Joaquin, San Mateo, Sutter, Yolo, the City and County of San~~  
18 ~~Francisco, and all other counties north of those counties to the~~  
19 ~~Oregon border which are not included in any other district.~~

20 ~~(2) District 2 consists of the Counties; and the Counties of~~  
21 ~~Fresno, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa,~~  
22 ~~Merced, Mono, Monterey, San Benito, San Bernardino, San Luis~~  
23 ~~Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus,~~  
24 ~~Tuolumne, Tulare, and Ventura.~~

25 ~~(b) The boundaries of any district may be changed by a~~  
26 ~~two-thirds vote of the membership of the commission, that is~~  
27 ~~concurrent in by the secretary, when necessary to ensure proper~~  
28 ~~representation by producers. These boundaries need not coincide~~  
29 ~~with county lines.~~

30 *SEC. 5. Section 78225 of the Food and Agricultural Code is*  
31 *amended to read:*

32 78225. (a) There is in the state government the California  
33 Asparagus Commission. The commission shall be composed of  
34 13 members, as follows:

35 (1) ~~Twelve producers, of which eight shall be from District 1~~  
36 ~~and four from District 2, each of whom shall be elected by and~~  
37 ~~from producers within the respective districts~~ *producers who shall*  
38 *be elected by producers subject to this chapter as*  
39 *members-at-large.*

40 (2) ~~One member shall be a public member.~~

1 ~~(b) The~~  
 2 (2) *One* public member, *who* shall be appointed by the secretary  
 3 from the nominees recommended by the commission.

4 ~~(e)~~  
 5 (b) The secretary and other appropriate individuals, as  
 6 determined by the commission, shall be *nonvoting* ex officio  
 7 members of the commission.

8 (c) *The commission may modify the number of producers who*  
 9 *serve on the commission by a two-thirds vote of the members of*  
 10 *the commission present at the meeting at which there is a quorum*  
 11 *when the action is taken and is concurred in by the secretary, so*  
 12 *long as proper notice is provided to all persons subject to this*  
 13 *chapter prior to the action.*

14 *SEC. 6. Section 78225.5 of the Food and Agricultural Code is*  
 15 *amended to read:*

16 78225.5. (a) Producers ~~who~~ *in counties that* are not subject to  
 17 this chapter ~~on the date it becomes operative pursuant to Article 5~~  
 18 ~~(commencing with Section 78270)~~ may petition the commission  
 19 to establish an additional district that includes all of the counties  
 20 ~~which are not in District 1 or District 2~~ *be subject to this chapter.*  
 21 If the petition is approved by a two-thirds vote of the *members of*  
 22 *the* commission, the secretary shall conduct an implementation  
 23 vote of the producers from those counties in accordance with  
 24 Article 5 (commencing with Section 78270).

25 (b) If the secretary certifies a favorable vote, all producers from  
 26 those counties shall be subject to this chapter. ~~Thereafter, in~~  
 27 ~~accordance with procedures established by the commission, the~~  
 28 ~~number of producers serving on the commission from each district~~  
 29 ~~shall be modified, if necessary, to ensure proper representation of~~  
 30 ~~each district. However, the commission shall not be composed of~~  
 31 ~~more than 14 producers.~~

32 *SEC. 7. Section 78235 of the Food and Agricultural Code is*  
 33 *amended to read:*

34 78235. The term of office of all members and alternate  
 35 members of the commission, except ex officio members, is three  
 36 years commencing with the first day of December ~~prior to~~ *before*  
 37 the beginning of the marketing year in the year of their election  
 38 and until qualified successors are elected. ~~The terms of office of~~  
 39 ~~each member and alternate member of the commission shall be~~  
 40 ~~limited to three consecutive terms.~~

1     *SEC. 8. Section 78236 of the Food and Agricultural Code is*  
2 *amended to read:*

3     78236. The commission ~~is hereby declared and created a~~  
4 ~~corporate body. It~~ may sue and be sued, *and may* enter into  
5 contracts, adopt a seal, and has all of the powers of a corporation  
6 *contracts*. Copies of its proceedings, records, and acts, when  
7 authenticated, shall be prima facie evidence of the truth of all  
8 statements therein.

9     *SEC. 9. Section 78276 of the Food and Agricultural Code is*  
10 *amended to read:*

11     78276. Upon certification of the commission, the secretary  
12 shall contact all producers ~~in each district~~ by mail, or call meetings  
13 of producers ~~in each district~~, for the purpose of nominating and  
14 electing persons to the commission. All producers on the  
15 secretary's list shall be given written notice of any election  
16 meetings at least 10 days ~~prior to~~ *before* the meeting date. To be  
17 eligible for election to the commission, producer nominees shall  
18 present to the secretary a nomination petition with the signatures  
19 of at least three eligible producers ~~from the district from which~~  
20 ~~the nominee is seeking election.~~