

## Assembly Bill No. 1389

### CHAPTER 383

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.

[Approved by Governor September 27, 2013. Filed with  
Secretary of State September 27, 2013.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1389, Committee on Agriculture. 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.

(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, except as specified, 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 to advise the secretary. 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 or are to remain 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 by producers 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  $\frac{2}{3}$  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.

Appropriation: yes.

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

SECTION 1. Section 27571 of the Food and Agricultural Code is amended to read:

27571. (a) The secretary shall appoint a Shell Egg Advisory Committee consisting of 10 members, eight of whom shall be selected by the secretary from egg handlers and be representative of the egg industry. The secretary shall appoint two alternates who may serve in the absence of any of the eight egg handler representatives. The California Agricultural Commissioners and Sealers Association shall annually designate one of its members who shall serve in a nonvoting capacity as the ninth member of the committee. The secretary also shall select and appoint one public member to the committee pursuant to subdivision (b). The members of the committee shall receive no salary.

(b) Upon the secretary's request, the committee shall submit to the secretary the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the secretary as a public member of the committee. The

secretary may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the secretary, the committee shall continue to submit lists of nominees until the secretary has made a selection. A vacancy in the office of the public member of the committee shall be filled by appointment by the secretary from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

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

### Article 13. Operation

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

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

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

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

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

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

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

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

52993. The secretary shall not be required to administer this article or any provisions of this chapter that are operative pursuant to Sections 52991 and 52992 unless the secretary determines that there are sufficient funds remaining in the Department of Food and Agriculture Fund that were deposited and authorized to be expended for the purposes of this chapter, or from other sources, including the California cotton industry, to pay the costs incurred by the secretary.

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

78211. “Asparagus” means all types of vegetables grown from the plant family Liliaceae or Lily; Genus, *Asparagus officinalis*.

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

78214. This chapter is applicable to the Counties of Alameda, Alpine, Amador, Calaveras, Contra Costa, Sacramento, San Joaquin, San Mateo, Sutter, Yolo, the City and County of San Francisco, and all other counties north of those counties to the Oregon border; and the Counties of Fresno, Inyo, Kern, Kings, Los Angeles, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Bernardino, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tuolumne, Tulare, and Ventura.

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

78225. (a) There is in the state government the California Asparagus Commission. The commission shall be composed as follows:

(1) Twelve producers who shall be elected by producers subject to this chapter as members-at-large.

(2) One public member, who shall be appointed by the secretary from the nominees recommended by the commission.

(b) The secretary and other appropriate individuals, as determined by the commission, shall be nonvoting ex officio members of the commission.

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

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

78225.5. (a) Producers in counties that are not subject to this chapter may petition the commission to be subject to this chapter. If the petition is approved by a two-thirds vote of the members of the commission, the secretary shall conduct an implementation vote of the producers from those counties in accordance with Article 5 (commencing with Section 78270).

(b) If the secretary certifies a favorable vote, all producers from those counties shall be subject to this chapter.

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

78235. The term of office of all members and alternate members of the commission, except ex officio members, is three years commencing with the first day of December before the beginning of the marketing year in the year of their election and until qualified successors are elected.

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

78236. The commission may sue and be sued, and may enter into contracts. Copies of its proceedings, records, and acts, when authenticated, shall be prima facie evidence of the truth of all statements therein.

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

78276. Upon certification of the commission, the secretary shall contact all producers by mail, or call meetings of producers, for the purpose of nominating and electing persons to the commission. All producers on the secretary's list shall be given written notice of any election meetings at least 10 days before the meeting date. To be eligible for election to the commission, producer nominees shall present to the secretary a nomination petition with the signatures of at least three eligible producers.

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