

**ASSEMBLY BILL**

**No. 2769**

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**Introduced by Committee on Agriculture (Cardoza (Chair),  
Brown, Ducheny, Machado, Murray, and Thomson)**

February 26, 1998

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An act to amend Sections 6981, 6982, 6983, 6986, 6987, 6988, and 6989 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2769, as introduced, Committee on Agriculture. Special assessments: fruit trees.

Existing law provides for an annual assessment of 1% on the gross sales of all deciduous pome and stone fruit trees, nut trees, and grapevines produced and sold within the state or produced within and shipped from the state by any licensed nursery dealer, as specified. Under existing law, the funds from the assessment are continuously appropriated to the Department of Food and Agriculture to carry out certain programs of the department and the University of California concerning these trees and grapevines. Under existing law, these provisions become inoperative on April 10, 1998, and as of January 1, 1999, are repealed unless a later enacted statute that becomes effective on or before January 1, 1999, deletes or extends the dates on which they become inoperative and are repealed.

This bill would extend the dates on which these provisions become inoperative and are repealed by providing that they shall remain in effect until January 1, 2004, and as of that date

are repealed, unless a later enacted statute that is enacted on or before January 1, 2004, deletes or extends that date. Thus, the bill would make an appropriation by continuing the above-mentioned continuous appropriation for a specified length of time.

The bill also would make technical, nonsubstantive changes, by referring to the secretary, rather than to the director, of the Department of Food and Agriculture.

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 6981 of the Food and  
2 Agricultural Code is amended to read:

3 6981. (a) An annual assessment of 1 percent shall be  
4 levied on the gross sales of all deciduous pome and stone  
5 fruit trees, nut trees, and grapevines, including seeds,  
6 seedlings, rootstocks, and topstock, including ornamental  
7 varieties of apple, apricot, crabapple, cherry, nectarine,  
8 peach, pear, and plum, produced and sold within the state  
9 or produced within and shipped from the state by any  
10 licensed nursery dealer. For packaged or containerized  
11 stock, the assessment shall be levied on the producer's  
12 bareroot price of the plants.

13 (b) The ~~director~~ *secretary*, as appropriate, and on the  
14 recommendation of the board established pursuant to  
15 Section 6988, may exempt from the assessment certain  
16 species of pome and stone fruit, nut trees, grapevines, or  
17 ornamental varieties of apple, apricot, crabapple, cherry,  
18 nectarine, peach, pear, and plum if it can be  
19 demonstrated that no benefit is derived by these species  
20 from programs described in subdivision (d).

21 (c) The assessment shall be applied at the point of sale  
22 where the nursery stock is sold by a producer to persons  
23 other than California producers of nursery stock that is  
24 subject to assessment under subdivision (a).

25 (d) The ~~director~~ *secretary* may set the assessment at  
26 a lower percent to cover the costs necessary to implement  
27 and carry out all department programs established



1 pursuant to Article 7 (commencing with Section 5821) of  
2 Chapter 8 of Part 1 concerning the registration and  
3 certification of pome and stone fruit trees, nut trees, and  
4 grapevines; the University of California foundation plant  
5 materials service activities concerning pome and stone  
6 fruit trees, nut trees, and grapevines; and other activities  
7 related to the development of planting materials for  
8 pome and stone fruit trees, nut trees, and grapevines.

9 SEC. 2. Section 6982 of the Food and Agricultural  
10 Code is amended to read:

11 6982. The assessment shall be due and payable to the  
12 ~~director~~ *secretary* annually by March 10. Assessments not  
13 paid within 30 days of the due date shall be considered  
14 delinquent.

15 SEC. 3. Section 6983 of the Food and Agricultural  
16 Code is amended to read:

17 6983. (a) The measure of gross sales shall be the gross  
18 sales for the previous fiscal year of each licensee.

19 (b) The ~~director~~ *secretary* may conduct audits and  
20 ensure that an assessment is being properly paid.

21 SEC. 4. Section 6986 of the Food and Agricultural  
22 Code is amended to read:

23 6986. The ~~director~~ *secretary* shall levy on all  
24 delinquent and unpaid assessments pursuant to this  
25 article a collection charge of 20 percent of the amount  
26 due.

27 SEC. 5. Section 6987 of the Food and Agricultural  
28 Code is amended to read:

29 6987. The ~~director~~ *secretary* shall not renew a nursery  
30 license to any applicant who has failed to pay an  
31 assessment due pursuant to this article within 60 days of  
32 the due date.

33 SEC. 6. Section 6988 of the Food and Agricultural  
34 Code is amended to read:

35 6988. The ~~director~~ *secretary*, upon consultation  
36 with the pome and stone fruit tree, nut tree, and  
37 grapevine nursery industry, *shall* appoint a board to assist  
38 and advise him or her concerning the implementation of  
39 this article.



1 (a) Membership on the board shall consist of 11  
2 representatives, a majority of whom are licensed  
3 producers of pome, stone, nut, and grape nursery stock,  
4 but also users and a public member as follows:

5 (1) Two each from the stone fruit (including  
6 almonds), pome fruit, and nut (other than almond)  
7 industries.

8 (2) Four from the grape industry.

9 (3) One public representative.

10 (b) Board members shall represent all areas of the  
11 state involved in the production of pome and stone fruit  
12 trees, nut trees, and grapevines.

13 (c) The members of the board shall serve for a term of  
14 two years. The ~~director~~ secretary, upon nomination by  
15 the industry, may appoint a member for three  
16 consecutive terms. Every two years, the ~~director~~  
17 secretary shall reappoint no more than eight of the  
18 then-current members of the board.

19 (d) The board shall meet at least twice a year. The  
20 chair or the ~~director~~ secretary may call any other meeting  
21 when it is deemed necessary by one or both of them. Each  
22 member shall be allowed per diem and mileage in  
23 accordance with Department of Personnel  
24 Administration rules for attending any meeting of the  
25 board.

26 (e) The board shall review and make  
27 recommendations to the ~~director~~ secretary concerning  
28 the ongoing operations of the department and the  
29 University of California pertaining to this article. This  
30 shall include advice on fiscal expenditure, assessments  
31 needed to cover costs, and proposals concerning the  
32 development of planting materials.

33 SEC. 7. Section 6989 of the Food and Agricultural  
34 Code is amended to read:

35 6989. This article shall ~~become inoperative on April~~  
36 ~~10, 1998, and, as of January 1, 1999, remain in effect only~~  
37 ~~until January 1, 2004, and as of that date is repealed, unless~~  
38 ~~a later enacted statute, which becomes effective on or~~  
39 ~~before January 1, 1999, deletes or extends the dates on~~  
40 ~~which it becomes inoperative and is repealed. If not~~



1 ~~extended, the final assessment pursuant to this article~~  
2 ~~shall be due on or before April 10, 1998 that is enacted on~~  
3 ~~or before January 1, 2004, deletes or extends that date.~~

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5 CORRECTIONS

6 **Heading — Line 2.**

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