

TEXAS AGRICULTURAL CHECK-OFF ACT OF 1969

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Agricultural commodity producers can now design, develop and obtain their own self-help program. Through the Agricultural Check-off Act of 1969, producers now have legal authority to levy an assessment upon themselves for research, disease and insect control programs and education and promotion to encourage production, marketing and use of commodities they produce. Commodities excluded are rice, flax, broiler-fryers and cattle.

Although this Act was passed 2 years ago, amendments added by the Texas Legislature in spring 1969 are expected to make it more useful to agricultural commodity producers.

The Act is not compulsory. Producers electing to utilize it must (1) develop a program that conforms to the Act requirements; (2) follow a prescribed procedure; and (3) approve adoption of the program in open referendum.

Encourages Industry-wide Support

Previously, producers of agricultural commodities had to finance common interest programs and benefit on a voluntary basis. Although benefits were shared by all, not everyone paid for the program. This Act enables agricultural industries to undertake research, educational, promotional and disease and insect control programs with financial support from nearly all producers. Procedures for collecting the assessment, accounting for expenditure and auditing records also are set forth in the Act.

The Act is similar to the Cotton Research and Promotion Act, but does not include product and marketing regulator features contained in the California or Florida marketing agreements.

Petition Procedure

Any Texas non-profit organization, representing producers of a particular agricultural commodity, may petition the Commissioner of Agriculture for the opportunity to conduct a referendum on the proposition of levying an assessment upon themselves. The petitioning organization first must be certified by the Commissioner as the duly delegated and authorized organization of such producers. The program may be applied on an area or state-wide basis, but petition must describe boundaries of the particular area. The referendum will be conducted only in that portion of the

state affected by the program.

Under terms of the Act, a commodity producers board formulates policies and administers the program. The petition must propose either a 6, 9, 12 or 15-member board.

Action by Commissioner

Within 30 days after receiving the petition, the commissioner holds a public hearing to determine eligibility of the petitioning organization to represent the producers within the defined area and to determine if the petition conforms to the Act. If these conditions exist, the Commissioner certifies the organization to conduct among the producers in the prescribed area a referendum and election.

Referendum

Once certified, the organization may conduct a referendum on the proposition of whether producers shall levy an assessment upon themselves. Maximum rate and basis of the assessment must be specified on the ballot, as well as how it shall be collected, administered and utilized.

Along with the referendum, the organization may hold an election of members to the commodity producers board.

At least 60 days before the referendum and election, the certified organization gives public notice of the date, hours and polling places for voting. Such notice must be published in the newspapers in the designated area not less than once a week for 3 consecutive weeks. Each county agricultural agent in the designated area also will receive written notice and supply of ballots.

Ballots are prepared and distributed in advance of the referendum by the certified organization which bears all referendum expenses. If producers vote favorably, the organization's referendum expenses may be reimbursed out of collected funds. The ballot shall have space for the voter to write the quantity of the commodity he produced in the designated area during the preceding year or other period designated on the ballot.

Board Candidate Nomination

Candidates to the commodity producer board must be producers of the commodity in question. Each must file with the certified organization an application to have his name printed on the referendum ballot. The application must be signed by the candidate and by at least ten producers of the commodity who are qualified to vote at the

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referendum and filed at least 30 days prior to the referendum.

Space will be provided on the ballot for voters to write in the name of any other candidate.

Voter Eligibility

All producers, including farm owners or tenants and sharecroppers, are eligible to vote provided the particular agricultural commodity is produced within the designated area. If the voter overstates his production by more than 10 percent, his vote will not be counted.

Election

The election is conducted under the supervision of the Commissioner of Agriculture. Upon receiving the election returns, he determines the number of votes cast for and against, percentage of the total volume produced by those voting in favor of the referendum proposition and the 6, 9, 12 or 15 candidates, depending on the number designated in the petition, receiving the highest number of votes.

The referendum carries if the Commissioner finds that two-thirds or more of those voting elected "yes" or that those voting in favor produced at least 50 percent of the total production in the area during a designated period.

Producers Commodity Board

Producers elected to the board then meet and organize. One-third of the members have a 2-year term of office; one-third, a 4-year term; and one-third, a 6-year term, determined by drawing lots. Successors hold office for terms of 6 years.

The board elects a chairman, a secretary-treasurer and other offices deemed necessary. The secretary-treasurer must execute a corporate surety bond in an amount designated by the board, so that he will faithfully account for all money.

The board shall elect board members each 2 years. Unexpired terms of office shall be filled by board appointments.

A majority of the board members constitutes a quorum. Any action voted requires a majority vote of all members present. Although members receive no compensation, they are reimbursed for expenses incurred in discharge of their duties.

Powers and Duties of the Board

1. Employ personnel, fix their salary and incur other necessary expenses.
2. Promulgate and adopt reasonable rules.
3. Keep minutes and other records reflecting all acts and transactions.
4. Set the rate of assessment.
5. Develop and carry out jointly with others or separately programs of research, education, pro-

motion and disease and insect control designed to encourage production, marketing and use of the commodity upon which the assessment is levied.

6. File a report itemizing all income and expenditures with the Commissioner within 30 days after the end of the fiscal year. All records are open to examination by participating producers during normal business hours.

7. Funds collected by the board shall not be expended directly or indirectly to promote or oppose the election of any candidate for public office or to influence legislation.

Collection and Refund

Processors shall collect the assessment at a point and in the manner determined and notified by registered or certified mail by the board. The amounts deducted shall be shown on the producer's sales invoice or other documents relating to the transaction. Processors are required to remit check-offs monthly, within 10 days after the end of the collection month. These monies are deposited by the secretary-treasurer. Any producer may obtain refund of paid-in assessments by making a written request within 60 days after the payment date, on a form designed and furnished by the board.

The request for refund must be accompanied by proof of assessment payment. All applications received during the month are refunded by the secretary-treasurer by the tenth of the following month.

The board may, at the time of the biennial election, ask producers to vote to increase the rate of assessment. Favorable action requires a two-thirds "yes" vote or at least 50 percent of the volume of production during the last preceding calendar year or relevant production period produced by those voting in favor.

By a two-thirds favorable vote, those voting may also exempt certain producers within the designated area from paying the check-off. The names of those seeking exemptions must be prelisted on the election ballot.

Budget

The board shall prepare a budget in advance of each fiscal year. Once approved by the Commissioner of Agriculture, the funds may be expended. The state auditor shall audit all funds.

Termination

This program will be terminated if a simple majority of the qualified voters in a referendum, held upon the petition of 10 percent of the participating producers, vote in favor of termination. The referendum to terminate is conducted by the board within 90 days after receiving the petition.