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AB-454 California Rice Commission: board membership: referendum. (2023-2024)

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Assembly Bill No. 454

CHAPTER 84

An act to amend Sections 71050 and 71135 of, and to add Section 71050.5 to, the Food and Agricultural Code, relating to the California Rice Commission, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 2023. Filed with Secretary of State July 21, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 454, Aguiar-Curry. California Rice Commission: board membership: referendum.

Existing law creates the California Rice Commission with a prescribed membership and authorizes the commission, among other things, to promote the sale of rice, educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling rice, and conduct scientific research.

This bill would, before the beginning of each marketing season, authorize the commission to review drought conditions in the state and evaluate the impact of these conditions on the production and handling of rice. If the commission determines that the drought conditions had a detrimental impact upon the production and handling of rice, the bill would authorize the commission to issue a declaration that would require certain requirements pertaining to board membership, including expanded eligibility to serve on the commission, to be operative for the following marketing season, as specified.

Existing law requires the Secretary of Food and Agriculture to conduct a referendum every 5 years among handlers and producers to determine whether to continue the operations of the commission.

This bill would provide that, if the commission issues the drought declaration, a person who is eligible to serve on the commission as a handler member or a producer member under the expanded eligibility requirements is also eligible to vote in this referendum.

This bill would also make conforming and nonsubstantive changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The production of rice in California has been greatly curtailed due to extreme drought conditions that threaten the economy of communities in Northern California and along the Pacific Flyway. The future of the California Rice Commission and its many environmental, water quality, trade, and public education programs are also jeopardized.

(b) To protect communities and wildlife, board member eligibility and district representation for the California Rice Commission must be adaptive to current climate conditions.

SEC. 2. Section 71050 of the Food and Agricultural Code is amended to read:

71050. (a) There is in the state government the California Rice Commission. The commission is composed of equal numbers of handler members and producer members as set forth in this section and Section 71050.5. In addition, there may be one public member.

(b) Each eligible handler may appoint one member and one alternate member annually.

(c) Producer members and alternate members in a number equal to the number of appointed handler members shall be elected by district.

(d) The number of producers to be elected from each district shall be determined as follows:

(1) Each district shall have at least one representative.

(2) Except as provided in Section 71050.5, the allocation of any seats remaining after the allocation in paragraph (1) shall be made by dividing the total number of acres in the state planted in rice in the marketing season immediately preceding the determination by the total number of eligible handler members and dividing the acreage planted in rice in each district, starting with the district having the largest acreage planted in rice by the result and rounding to the nearest whole number.

(e) No handler who is more than 90 days delinquent in the payment of assessments or filing of reports required pursuant to this chapter is eligible to serve on the commission. If a handler is made ineligible to serve pursuant to this subdivision, the member representing District 1 who received the lowest vote total among members representing District 1 is also ineligible to serve by operation of law in order to maintain an equal number of eligible handler and producer members. Additional members are ineligible to serve by operation of law as needed in order to maintain an equal number of handler and producer members and shall be selected from the remaining districts in ascending order of the number of the district. No member who is the sole representative of a district is ineligible to serve as a result of the operation of this subdivision. Without regard to whether any ineligible producer member representing a district has been reinstated, no subsequent producer member is ineligible to serve by operation of law from any district until at least one member is ineligible to serve by operation of law from each district except those that have only one representative.

(f) (1) Members who are ineligible to serve by operation of law pursuant to subdivision (e) shall be immediately disqualified from voting on matters before the commission.

(2) The eligibility of handler and producer members shall be reinstated at the first meeting after the handler's payments and reports are made current.

(g) The commission shall annually establish the number of eligible handler members of the commission based on the volume of rice handled in the immediately preceding marketing season, and, if necessary, adjust and reallocate the number of producer members. Any additional producer members shall be elected at the next regularly scheduled election of producer members. Any handler who does not appoint a member and alternate within 15 days of being notified of their eligibility shall be deemed to have waived their right to a seat for the then current marketing season and shall not be counted in the calculation of producer seats.

(h) The public member, if any, shall be appointed to the commission by the secretary from the nominees recommended by the commission.

SEC. 3. Section 71050.5 is added to the Food and Agricultural Code, to read:

71050.5. (a) Before the beginning of each marketing season, the commission may review drought conditions in the state and evaluate the impact of these conditions on the production and handling of rice. If the commission determines that the drought conditions had a detrimental impact upon the production and handling of rice, the commission may issue a declaration that requires the following provisions to be operative for the next marketing season:

(1) (A) A person shall be eligible to serve on the commission as a producer member or alternate producer member if either or both of the following conditions are met:

(i) The person meets the eligibility requirements set forth in Sections 71032 and 71057 and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(ii) The person received an indemnity payment from the prevented planting program in the same calendar year that the declaration is issued or in one or more of the four calendar years before the issuance of the declaration and is not

ineligible to serve pursuant to subdivision (e) of Section 71050.

(B) A person described in clause (ii) of subparagraph (A) shall not be eligible to serve on the commission pursuant to this paragraph if the person voluntarily sells or transfers water during the marketing season, that sale or transfer of water lasts for a period of time longer than one year, and that sale or transfer of water results in the person not producing rice on any portion of the field acreage under the control of that person that is not eligible for the prevented planting program.

(2) A person shall be eligible to serve on the commission as a handler member or alternate handler member if either or both of the following conditions are met:

(A) The person meets the eligibility requirements set forth in Sections 71026 and 71058 and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(B) The person has met the eligibility requirements set forth in Sections 71026 and 71058 in the same calendar year that the declaration is issued or in one or more of the four calendar years before the issuance of the declaration and is not ineligible to serve pursuant to subdivision (e) of Section 71050.

(3) For purposes of the calculation set forth in paragraph (2) of subdivision (d) of Section 71050, the "total number of acres in the state planted in rice" and the "acreage planted in rice in each district" shall include both of the following:

(A) The total number of acres planted in rice in the state or district, as applicable, in the immediately preceding marketing season.

(B) The total number of prevented planted acres of rice in the state or district, as applicable, in the immediately preceding marketing season.

(b) Notwithstanding subdivision (a), for the 2022–23 marketing season, the commission may undertake the duties specified in subdivision (a) as soon as possible after the effective date of this section. If the commission issues the declaration for the 2022–23 marketing season, the provisions set forth in paragraphs (1) to (3), inclusive, of subdivision (a) shall be operative for the 2022–23 marketing season immediately upon the issuance of the declaration.

(c) For purposes of this section, the following definitions apply:

(1) "Prevented planted acre" means an acre of land that was not planted in rice for which a person received an indemnity payment as part of the prevented planting coverage program.

(2) "Prevented planting program" means the prevented planting coverage provisions administered by the Risk Management Agency within the United States Department of Agriculture Risk Management Agency pursuant to the Federal Crop Insurance Act (Subchapter I (commencing with Section 1501) of Chapter 36 of Title 7 of the United States Code).

SEC. 4. Section 71135 of the Food and Agricultural Code is amended to read:

71135. (a) (1) Every five years, commencing with the fifth marketing season following the certification pursuant to Section 71104, the secretary shall conduct a referendum among handlers and producers. The operations of the commission shall continue unless the secretary determines from the referendum that a majority of the eligible handlers and a majority of the eligible producers voting in the referendum voted in favor of terminating the operations of this chapter.

(2) Notwithstanding paragraph (1), if the commission issues a declaration pursuant to Section 71050.5 and that declaration is in effect at the time that the secretary conducts a referendum pursuant to this section, a person shall be eligible to vote in the referendum conducted pursuant to this section if either of the following apply:

(A) The person is a producer or handler.

(B) The person is eligible to serve on the commission as a producer or handler member pursuant to clause (ii) of subparagraph (A) of paragraph (1) of, or subparagraph (B) of paragraph (2) of, subdivision (a) of Section 71050.5.

(b) If the secretary finds that the vote favors continuation, the secretary shall so certify and this chapter shall remain operative. If the secretary finds that the vote favors termination, the secretary shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the then current marketing season. Thereupon, the operations of the commission shall be concluded and funds distributed as provided in Section 71137.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the continuation of the membership of the California Rice Commission and by extension, the associated environmental, biodiversity, water quality, trade, and public benefits and education programs, it is necessary that this act take effect immediately.