

2016 Regular Session

SENATE BILL NO. 437

BY SENATOR MORRISH

AGRICULTURAL COMMODITIES. Abolishes the Louisiana Rice Research Board and the Louisiana Rice Promotion Board and creates the Louisiana Rice Promotion and Research Board. (8/01/16)

AN ACT

To enact Chapter 21-E of Title 3 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 3:3561 through 3569, and to repeal Chapter 21-B of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:3531 through 3538, and Chapter 21-C of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:3541 through 3548, relative to rice promotion and research; to create the Louisiana Rice Promotion and Research Board; to provide for definitions; to provide for the board's membership, powers, duties, and functions; to provide relative to assessments; to provide for refunds; to provide for penalties; to provide for the use of funds; to provide for limitation of liability; to abolish the Louisiana Rice Research Board and the Louisiana Rice Promotion Board; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 21-E of Title 3 of the Louisiana Revised Statutes of 1950, comprised of R.S. 3:3561 through 3569, is hereby enacted to read as follows:

CHAPTER 21-E. LOUISIANA RICE PROMOTION AND

RESEARCH BOARD

§3561. Definitions

1 As used in this Chapter, the following terms shall have the following
2 meanings:

3 (1) "Board" means the Louisiana Rice Promotion and Research Board.

4 (2) "Buyer" means any person who purchases rice at the first point of
5 sale only.

6 (3) "CCC" means the Commodity Credit Corporation.

7 (4) "Collection" means collecting and refunding the assessments.

8 (5) "Commissioner" means the commissioner of agriculture for the state
9 of Louisiana.

10 (6) "Fiscal year" means July first through June thirtieth of the following
11 year.

12 (7) "Handler" means any person engaged in the business of handling
13 rice.

14 (8) "Hundredweight" means one hundred pounds, excluding tare.

15 (9) "Louisiana Rice Council" means the Louisiana section of the Rice
16 Council for Market Development.

17 (10) "Miller" means any person engaged within or without the state in
18 the operation of milling rice.

19 (11) "Person" means an individual, partnership, firm, corporation,
20 association or other business unit.

21 (12) "Producer" means any person who receives a share in the proceeds
22 from the sale of rice produced in this state.

23 (13) "Producer Administrative Area" means that area as stated in the
24 ASCS Regulations, Part 730.62(b)-(11).

25 (14) "Rice" means all marketable green and dry rough "paddy" rice
26 produced within the state of Louisiana for milling, seed or other commercial
27 purposes.

28 §3562. Purpose

29 The purpose of this Chapter is to promote the growth and development

1 of the rice industry in Louisiana by expanding research and promotion of rice,
2 thereby promoting the general welfare of the people of this state.

3 §3563. Creation and Organization

4 A. The Louisiana Rice Promotion and Research Board is hereby created
5 with its domicile in Baton Rouge, Louisiana.

6 B. The Board shall be composed of ten members, nine of whom shall be
7 appointed by the governor, and the commissioner of agriculture or his designee.
8 Each member shall be subject to Senate confirmation, except the commissioner
9 or his designee. Members shall serve for four-year terms which shall begin on
10 August 15, 2016, and each four years thereafter. The board shall be composed
11 of the following members:

12 (1) Two members appointed from a list of four persons who are practical
13 rice producers, nominated by the member affiliates of the USA Rice Federation.

14 (2) Two members appointed from a list of four persons who are practical
15 rice producers, nominated by the member affiliates of the US Rice Producers
16 Association.

17 (3) One person, who is involved in lending to the rice industry, from a list
18 of two persons, nominated by the Louisiana Bankers Association.

19 (4) One member, who is a non-farmer engaged in an agri-business
20 service involved in the rice industry, appointed from a list of three persons,
21 nominated by the Louisiana Farm Bureau Federation, Inc.

22 (5) Three members at-large, appointed by the governor.

23 (6) The commissioner of agriculture or his designee.

24 C. Not less than thirty days prior to August 15, 2016, and every four
25 years thereafter, the member affiliates of the USA Rice Federation, the member
26 affiliates of the US Rice Producers Association, the Louisiana Bankers
27 Association, and the Louisiana Farm Bureau Federation shall each submit the
28 names of their nominees to the governor, who shall appoint the required
29 number of board members from each set of nominees. In the event the governor

1 fails to appoint the members of the board in accordance with this Section, the
2 current members shall continue to serve until their successors are appointed.

3 D. Any vacancy on the board by reason of death, removal, resignation,
4 or disqualification of a member or for any other cause shall be filled by
5 appointment of the governor for the remainder of the term.

6 E. The members of the board shall meet and organize immediately after
7 their appointment and quarterly thereafter and shall elect a chairman, vice
8 chairman, and secretary-treasurer from the membership of the board. The
9 duties of the officers shall be those customarily exercised by such officers or
10 specifically designated by the board. The board shall employ a director and
11 assistant director who shall be in the unclassified service. The board may
12 establish rules and regulations for the administration of the affairs of the board
13 and shall have the additional duties, functions, and authorizations:

14 (1) To make recommendations and to advise the commissioner
15 concerning rules and regulations relating to the administration of the collection
16 of the assessments.

17 (2) To enter into contracts for rice promotion and rice research with rice
18 promotion and research organizations and other organizations relating to the
19 research, production, handling, marketing, and utilization of rice, which rice
20 promotion and research organizations may include nonprofit organizations of
21 which members of the board are members.

22 (3) To keep minutes, books, and records which will clearly reflect all of
23 its meetings, acts, and transactions. The minutes, books, and records at all times
24 shall be subject to examination by any rice producer on whom an assessment
25 has been collected.

26 (4) To publicize the actions of the board in the news media serving the
27 rice areas of Louisiana.

28 (5) To investigate and cause prosecution to be instituted for violation of
29 the provisions of this Chapter.

§3564. Levy of assessment; collection, and enforcement; records; refunds;
transfer of funds

A. Levy of assessment.

(1) There is hereby levied an assessment at the rate of three cents per
hundredweight, or the equivalent thereof, of dry rough "paddy" rice produced
in this state and a rate of two and seventy one-hundredths cents per
hundredweight, or the equivalent thereof, on rice produced in this state and sold
on a "green weight" basis.

(2) The obligation to pay the assessment shall apply to the producer for
all rice marketed by him. To facilitate collection, this assessment shall be
deducted by each miller or handler from the amount paid the producer at the
first point of sale only, whether within or outside the state.

(3) Rice which was purchased by a handler on a "green weight" basis for
resale and on which the assessment has been collected from producers must be
accompanied by a certificate showing the amount of assessments deducted when
resale is made to a miller by the handler.

(4) Assessments on seed rice shall be due at the time such rice is
marketed as seed and shall be collected from the handler performing the
cleaning. Such handler shall add such assessment to any amount charged to the
producer or other person for whom such cleaning service is performed.

(5) Assessments on rice put under loan to the Commodity Credit
Corporation or purchased by the Commodity Credit Corporation and delivered
to it shall be payable when such rice is placed under loan or is purchased.

(6) The Commodity Credit Corporation may require deduction and
payment of the assessment from the loan proceeds or from the purchase price
on behalf of the producer.

(7) Assessments on rice put under loan to the Commodity Credit
Corporation and redeemed by the producer prior to the takeover date, if
already paid by having been deducted from the loan proceeds, shall not be

1 deducted by each miller or handler from the amount paid the producer at the
2 first point of sale as provided in this Section; otherwise, the assessment shall be
3 deducted.

4 B. Collection and enforcement. The assessment levied by this Chapter
5 shall be collected by the commissioner. On rice sold by the producer, collection
6 shall be from the buyer of the rice at the first point of sale only. On rice put
7 under loan or purchased by the Commodity Credit Corporation and delivered
8 to the Commodity Credit Corporation, collection shall be from the producer,
9 or from the Commodity Credit Corporation on the producer's behalf. On seed
10 rice, collection shall be from the handler performing the cleaning.

11 C. Records. Every buyer shall keep a complete and accurate record of
12 all rice purchased by him. Such records shall be in such form and contain such
13 other information as the board shall by rule or regulation prescribe. The
14 records shall be preserved by the buyer for a period of two years and shall be
15 offered for inspection at any time upon oral or written demand by the
16 commissioner or his duly authorized representative or agent thereof. Every
17 buyer, at such time or times as the commissioner may require, shall submit
18 reports or other documentary information deemed necessary for the efficient
19 and equitable collection of the assessment levied in this Chapter. The
20 commissioner shall have the power to cause any duly authorized agent or
21 representative to enter upon the premises of any buyer of rice from which
22 assessments were collected or to be collected and examine or cause to be
23 examined by such agent any books, papers and records which deal in any way
24 with respect to the payment of the assessment or enforcement of the provisions
25 of this Chapter.

26 D. Refunds.

27 (1) Any rice producer may request and receive a refund of the amount
28 deducted from his share of the proceeds from the sale of his rice provided he
29 makes a written application with the commissioner within thirty days from the

1 date of sale supported by copies of sales slips signed by the producer and
2 provided further that the application is filed before the annual accounting is
3 made and the funds paid to the board.

4 (2) The refund shall be paid to the producer no later than sixty days after
5 the commissioner receives the producer's application for a refund.

6 (3) Any repeal of the refund provided in this Subsection shall require
7 two-thirds vote of the legislature.

8 E. Transfer of funds.

9 (1) The commissioner of agriculture shall monthly pay over to the
10 Louisiana Rice Promotion and Research Board the funds collected less the
11 actual cost of administering and collecting the assessment levied herein up to
12 but not to exceed two percent of the gross amount collected.

13 (2) The annual settlement to the Louisiana Rice Promotion and Research
14 Board shall be made as of the first day of July of each year and shall be
15 accompanied by a complete audit of all funds collected and disbursed, and costs
16 actually incurred in the collection and administration of the assessment.

17 §3565. Levy of assessment; collection; enforcement; transfer of funds

18 A. Levy of assessment.

19 (1) There is imposed and levied an assessment at the rate of three cents
20 per hundredweight, or the equivalent thereof, of dry rough "paddy" rice
21 produced in this state.

22 (2) For rice sold on a "green weight" basis, a reduction of ten percent
23 will be allowed for weight loss in computing the assessment.

24 (3) The obligation to pay the assessment shall apply to the producer for
25 all rice marketed by him. To facilitate collection, this assessment is to be
26 deducted by each miller or handler from the amount paid the producer at the
27 first point of sale only, whether within or outside the state.

28 (4) Rice which was purchased by a handler on a "green weight" basis for
29 resale and on which the assessment has been collected from producers must be

1 accompanied by a certificate showing the amount of assessments deducted when
2 resale is made to a miller by the handler.

3 (5) Assessments on seed rice shall be due at the time such rice is
4 marketed as seed and shall be collected from the handler performing the
5 cleaning. Such handler shall add such assessment to any amount charged to the
6 producer or other person for whom such cleaning service is performed.

7 (6) Assessments on rice put under loan to the Commodity Credit
8 Corporation or purchased by the Commodity Credit Corporation and delivered
9 to it shall be payable when such rice is placed under loan or is purchased.

10 (7) The Commodity Credit Corporation may require deduction and
11 payment of the assessment from the loan proceeds or from the purchase price
12 on behalf of the producer.

13 (8) Assessments on rice put under loan to the Commodity Credit
14 Corporation and redeemed by the producer prior to the takeover date, if
15 already paid by having been deducted from the loan proceeds, shall not be
16 deducted by each miller or handler from the amount paid the producer at the
17 first point of sale as provided in this Section; otherwise, the assessment shall be
18 deducted.

19 (9) The assessment imposed by this Subsection shall be effective for a
20 period of five crop years.

21 B. Collection and Enforcement. The assessment imposed and levied by
22 this Chapter shall be collected by the commissioner. On rice sold by the
23 producer, collection shall be from the buyer of the rice at the first point of sale
24 only. On rice put under loan and delivered to the Commodity Credit
25 Corporation, collection shall be from the producer, or from the Commodity
26 Credit Corporation on the producer's behalf. On seed rice, collection shall be
27 from the handler performing the cleaning.

28 C. Records. Every buyer, miller, or handler shall keep a complete and
29 accurate record of all rice purchased, milled, or handled by him. Such records

1 shall be in such form and contain such other information as the board shall, by
2 rule or regulation, prescribe. The records shall be preserved by said buyer for
3 a period of two years and shall be offered for inspection at any time upon oral
4 or written demand by the commissioner or his duly authorized representative
5 or agent thereof. Every buyer, miller, or handler, at such time or times as the
6 commissioner may require, shall submit reports or other documentary
7 information deemed necessary for the efficient and equitable collection of the
8 assessment imposed in this Chapter. The commissioner shall have the power to
9 cause any duly authorized agent or representative to enter upon the premises
10 of any buyer, miller, or handler of rice from which assessments were collected
11 or to be collected and examine or cause to be examined by such agent any
12 books, papers, and records which deal in any way with the payment of the
13 assessment or enforcement of the provision of this Chapter.

14 **D. Refunds.**

15 (1) Any rice producer may request and receive a refund of the amount
16 deducted from his share of the proceeds from the sale of his rice provided he
17 makes a written application with the commissioner within thirty days from the
18 date of sale supported by copies of weight or settlement sheets by the buyer and
19 provided further that the application is filed before the annual accounting is
20 made and the funds paid to the board.

21 (2) The refund shall be paid to the producer no later than sixty days after
22 the commissioner receives the producer's application for a refund.

23 (3) Any repeal of the refund provided in this Subsection shall require a
24 two-thirds vote of the legislature.

25 **E. Transfer of funds.**

26 (1) The proceeds of the assessment collected by the commissioner shall
27 be deposited with the state treasurer in a special fund to be established by the
28 state treasurer for the Louisiana Rice Promotion and Research Board, to the
29 credit of the Louisiana Rice Promotion and Research Board.

1 (2) The commissioner shall join with the secretary-treasurer of the board
2 in signing a warrant to have the net proceeds from the assessment paid to the
3 board.

4 (3) The commissioner of agriculture shall monthly pay over to the
5 Louisiana Rice Promotion and Research Board the funds collected less the
6 actual cost of administering and collecting the assessment levied pursuant to
7 this Section up to but not to exceed two percent of the gross amount collected.

8 (4) The annual settlement to the Louisiana Rice Promotion and Research
9 Board shall be accompanied by a complete audit of all funds collected and
10 disbursed, and costs actually incurred in the collection and administration of
11 the assessment.

12 F. Additional assessments.

13 (1) In addition to all other assessments levied pursuant to this Section
14 there is hereby levied an assessment at a rate of two cents per hundredweight,
15 or the equivalent thereof, on dry rough "paddy" rice produced in this state.

16 (2) The assessment shall be reduced ten percent for rice sold on a "green
17 weight" basis.

18 (3) Each producer shall pay the assessment on all rice marketed by the
19 producer.

20 (4) This assessment shall be deducted and collected in the same manner
21 as the other assessments provided for in this Section.

22 §3566. Failure to pay assessment; penalty

23 A. Any buyer who fails to file a report or to pay any assessment within
24 the required time by the commissioner shall forfeit to the commissioner the
25 amount of the assessment plus a penalty of five percent of the assessment
26 determined to be due, plus one percent of such amount for each month of delay
27 or fraction thereof after the first month after such report was required to be
28 filed or such assessment became due. The penalty shall be paid to the
29 commissioner and shall be disposed of by him in the same manner as funds

1 derived from the payment of the assessment imposed herein.

2 B. The commissioner shall collect the penalties levied herein, together
3 with the delinquent assessments, by any of the following methods:

4 (1) By voluntary payment by the person liable;

5 (2) By legal proceedings instituted in a court of competent jurisdiction;

6 (3) By injunctive relief to enjoin any buyer owing such assessment and/or
7 penalties from operating his business or engaging in business as a buyer of rice
8 until the delinquent assessment and/or penalties are paid.

9 C. Any person required to pay the assessments provided for in this
10 Chapter who refuses to allow full inspection of the premises, or any books,
11 records, or other documents relating to the liability of such person for the
12 assessment herein imposed, or who shall hinder or in any way delay or prevent
13 such inspection, shall be guilty of a misdemeanor and, upon conviction, shall be
14 punished by a fine not exceeding one thousand dollars or by imprisonment not
15 to exceed six months, or both.

16 D. Whoever violates any provisions of this Chapter or any rule or
17 regulation of the board pursuant to the provisions of this Chapter shall be guilty
18 of a misdemeanor and upon conviction thereof shall be punished by a fine not
19 to exceed one hundred dollars or by imprisonment not to exceed thirty days, or
20 both.

21 §3567. Limitation of liability of members of the board

22 The members and alternate members of the board shall not be
23 responsible individually in any way whatsoever to any producer or any other
24 person for errors in judgment, mistakes, or other acts, either of commission or
25 omission, except for their own individual acts of dishonesty or crime. No such
26 person shall be held responsible individually for any act or omission of any
27 other member of the board. The liability of the board shall be several and not
28 joint and no member or alternate member shall be liable for the default of any
29 other member or alternate member.

1 **§3568. Use of funds**

2 **A. After deduction from the proceeds of the assessment, the expenses of**
3 **collection and administration, the board shall dedicate the balance to rice**
4 **promotion and research. The board shall have the discretion as to what**
5 **organizations and agencies to expend monies for such purposes. Use of these**
6 **funds may be applied within or outside of the state of Louisiana, including**
7 **regional, national, and international applications.**

8 **B. Board members, and any committees of the board on which they**
9 **serve, may be reimbursed for allowable expenses necessarily incurred by them**
10 **in the performance of their duties, but no member shall receive a salary or per**
11 **diem for the performance of his duties.**

12 **§3569. National and international policy**

13 **A. The Louisiana Legislature hereby finds and declares that the factors**
14 **which affect the ability of Louisiana rice farmers to market their crop are**
15 **established by national and international forces in the world market. The**
16 **Louisiana Legislature further finds and declares that the expenditure of funds**
17 **by the board for the purpose of influencing the development and**
18 **implementation of national and international policy affecting the marketing of**
19 **rice produced by Louisiana farmers is the expenditure of funds for a public**
20 **purpose.**

21 **B. The board is hereby authorized to expend a portion of the funds**
22 **received and administered by the board for the purpose of influencing the**
23 **development and implementation of national and international policy affecting**
24 **the marketing of rice produced by Louisiana farmers.**

25 **C. The amount of funds expended by the board in each fiscal year for the**
26 **purposes authorized in this Section shall not exceed five percent of the budget**
27 **of the board for that fiscal year.**

28 **D. The board shall not expend any funds for the purpose of influencing**
29 **any legislative action on the state level.**

1 Section 2. Chapter 21-B of Title 3 of the Louisiana Revised Statutes of 1950,
2 comprised of R.S. 3:3531 through 3538, and Chapter 21-C of Title 3 of the Louisiana
3 Revised Statutes of 1950, comprised of R.S. 3:3541 through 3548, are hereby repealed in
4 their entirety.

5 Section 3. The assessments currently levied as provided in R.S. 3:3534 and R.S.
6 3:3544 shall continued to be assessed pursuant to R.S. 3:3564 and R.S. 3:3565.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Curry Lann.

	DIGEST	
SB 437 Original	2016 Regular Session	Morrish

Present law creates and provides for the powers, duties, and functions of the Louisiana Rice Research Board and the Louisiana Rice Promotion Board.

Proposed law repeals present law and transfers the powers, duties, and functions of the abolished boards to a newly created board.

Proposed law creates the Louisiana Rice Promotion and Research Board composed of ten members, nine of whom are appointed by the governor, and the commissioner of agriculture or his designee as follows:

- (1) Two members appointed from a list of four persons who are practical rice producers nominated by the member affiliates of the USA Rice Federation.
- (2) Two members appointed from a list of four persons who are practical rice producers nominated by the member affiliates of the US Rice Producers Association.
- (3) One person from a list of two persons nominated by the Louisiana Bankers Association who is involved in lending to the rice industry.
- (4) One member appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation, Inc. who is a non-farmer engaged in an agri-business service involved in the rice industry.
- (5) Three members at-large appointed by the governor.
- (6) The commissioner of agriculture or his designee.

Proposed law requires members to serve for four-year terms which shall begin on August 15, 2016 and each four years thereafter.

Proposed law requires that not less than 30 days prior to August 15, 2016 and every four years thereafter, the member affiliates of the USA Rice Federation, the member affiliates of the US Rice Producers Association, the Louisiana Bankers Association, and the Louisiana Farm Bureau Federation each submit the names of their nominees to the governor, who shall appoint the required number of board members from each set of nominees.

Proposed law provides for meeting requirements, vacancies, election and duties of officers, and requires the employment of a director and assistant director in the unclassified service.

Proposed law authorizes the board to establish rules and regulations and provides for the following duties, functions, and authorizations:

- (1) To make recommendations and to advise the commissioner concerning rules and regulations relating to the administration of the collection of the assessments.
- (2) To enter into contracts for rice promotion and rice research with rice promotion and research organizations and other organizations relating to the research, production, handling, marketing, and utilization of rice, which rice promotion and research organizations may include nonprofit organizations of which members of the board are members.
- (3) To keep minutes, books, and records which will clearly reflect all of its meetings, acts, and transactions. The minutes, books, and records at all times shall be subject to examination by any rice producer on whom an assessment has been collected.
- (4) To publicize the actions of the board in the news media serving the rice areas of Louisiana.
- (5) To investigate and cause prosecution to be instituted for violation of the provisions of proposed law.

Proposed law provides for definitions.

Present law levies an assessment at the rate of three cents per hundredweight, or the equivalent thereof, of dry rough "paddy" rice produced in this state.

Proposed law retains present law.

Present law levies an assessment at the rate of three cents per hundredweight, or the equivalent thereof, of dry rough "paddy" rice produced in this state and a rate of two and seventy one-hundredths cents per hundredweight, or the equivalent thereof, on rice produced in this state and sold on a "green weight" basis.

Proposed law retains present law.

Present law levies an assessment at a rate of two cents per hundredweight, or the equivalent thereof, on dry rough "paddy" rice produced in this state.

Proposed law retains present law.

Present law provides for collection procedures, requires certain records be kept, and authorizes refunds of the assessments.

Proposed law retains present law.

Present law requires the commissioner to monthly pay over to the Louisiana Rice Promotion Board and the Louisiana Rice Research Board the funds collected less the actual cost of administering and collecting the assessment levied up to but not to exceed two percent of the gross amount collected.

Proposed law requires the commissioner to monthly pay over to the Louisiana Rice Promotion and Research Board the funds collected and otherwise retains present law.

Present law provides for forfeiture of assessments and penalties for failure to pay assessments.

Proposed law retains present law.

Present law provides for limitation of liability for the members and alternate members of the board to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, except for their own individual acts of dishonesty or crime.

Proposed law retains present law.

Present law authorizes the board to expend a portion of the funds received and administered by the board for the purpose of influencing the development and implementation of national and international policy affecting the marketing of rice produced by Louisiana farmers.

Proposed law retains present law.

Present law prohibits the amount of funds expended by the board in each fiscal year from exceeding five percent of the budget of the board for that fiscal year.

Proposed law retains present law.

Present law prohibits the board from expending any funds for the purpose of influencing any legislative action on the state level.

Proposed law retains present law.

Effective August 1, 2016.

(Adds R.S. 3:3561-3569; repeals R.S. 3:3531-3538 and 3541-3548)