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Agriculture

HOUSE FILE 542
BY DRAKE, MERTZ, DE BOEF,
and GREINER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the Iowa soybean association, by providing for
2 its board of directors, market development, and providing for
3 an assessment.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 542

1 Section 1. Section 185.1, subsections 1 and 8, Code 2005,
2 are amended by striking the subsections.

3 Sec. 2. Section 185.1, Code 2005, is amended by adding the
4 following new subsections:

5 NEW SUBSECTION. 1A. "Association" means the Iowa soybean
6 association as recognized in section 185.1A.

7 NEW SUBSECTION. 5A. "Influencing legislation" means the
8 same as defined in 26 C.F.R. § 56.4911 as that section exists
9 on the effective date of this Act.

10 NEW SUBSECTION. 8A. "National assessment" means the
11 assessment on soybeans collected pursuant to 7 U.S.C. ch. 92.

12 NEW SUBSECTION. 8B. "Net market price" means the sales
13 price received by a producer for soybeans after adjustments
14 for any premium or discount based on grading or quality
15 factors.

16 NEW SUBSECTION. 12A. "Secretary" means the secretary of
17 agriculture.

18 NEW SUBSECTION. 13A. "State assessment" or "assessment"
19 means an excise tax on each bushel of soybeans marketed in
20 this state which is imposed pursuant to a promotional order as
21 provided in this chapter.

22 Sec. 3. Section 185.1, subsections 2, 9, 10, and 12, Code
23 2005, are amended to read as follows:

24 2. "Board" means the Iowa soybean promotion association
25 board of directors established by this chapter.

26 9. "Producer" means ~~any individual, firm, corporation,~~
27 ~~partnership, or association~~ a person engaged in this state in
28 the business of producing and marketing in their the person's
29 name at least two hundred fifty bushels of soybeans in the
30 previous ~~marketing~~ year.

31 10. "Promotional order" means an order administered
32 pursuant to this chapter which establishes a program for the
33 promotion, research, and market development of soybeans and
34 provides for ~~an~~ a state assessment to finance the program.

35 12. "Sale" or "purchase" includes but is not limited to

1 the pledge or other encumbrance of soybeans as security for a
 2 loan extended under a federal price support loan program.
 3 Sale and actual delivery of the soybeans under the federal
 4 price support loan program occurs when the soybeans are
 5 marketed following redemption by the producer or when the
 6 soybeans are forfeited in lieu of loan repayment. If the
 7 soybeans are forfeited in lieu of repayment, the purchase
 8 price of the soybeans is the principal amount of the loan
 9 extended and the state assessment shall be collected at the
 10 time of loan settlement.

11 Sec. 4. NEW SECTION. 185.1A RECOGNITION OF IOWA SOYBEAN
 12 ASSOCIATION.

13 The corporation known as the Iowa soybean association
 14 incorporated under the laws of this state shall be entitled to
 15 the benefits of this chapter by filing each year with the
 16 secretary a verified proof of its organization, the names of
 17 its officers, and any other information required by the
 18 secretary.

19 Sec. 5. NEW SECTION. 185.1B DUTIES AND OBJECTS OF THE
 20 ASSOCIATION.

21 The Iowa soybean association shall aid in the promotion of
 22 the soybean industry through research, education, public
 23 relations, promotion, and market development projects and
 24 programs as directed by the board to accomplish its purposes
 25 as provided in section 185.11.

26 Sec. 6. Section 185.3, Code 2005, is amended to read as
 27 follows:

28 185.3 BOARD ESTABLISHED -- ELECTIONS.

29 ~~If a majority of the producers voting in the referendum~~
 30 ~~election approve the passage of the promotional order, an~~ The
 31 Iowa soybean promotion association board of directors shall be
 32 established administer this chapter.

33 1. The board shall consist of one-director directors who
 34 are producers residing in Iowa at the time of the election.
 35 The directors shall include all of the following:

1 a. Four producers who are elected from the state at large.

2 b. One producer who is elected from each district in the
3 state, except that. However, two producers shall be elected
4 from a district producing more than an average of twenty-five
5 million bushels of soybeans in the three previous marketing
6 years is entitled to two directors.

7 A producer shall be entitled to vote in the election
8 regardless of whether the producer is a member of the
9 association.

10 2. The following persons shall serve on the board as
11 nonvoting, ex officio directors:

12 a. The secretary or the secretary's designee.

13 b. The dean of the college of agriculture of Iowa state
14 university of science and technology or the dean's designee.

15 c. The director of the department of economic development
16 or the director's designee.

17 d. Any other person that the board appoints.

18 Sec. 7. Section 185.5, Code 2005, is amended to read as
19 follows:

20 185.5 NOTICE OF ELECTION FOR DIRECTORS.

21 Notice of elections for directors of the board in a
22 district shall be given by the board by publication in a
23 newspaper of general circulation in the district and in any
24 other reasonable manner as determined by the board and shall
25 set forth the period of time for voting, voting ~~places~~
26 procedures, and other information the board deems necessary.

27 Sec. 8. Section 185.6, Code 2005, is amended to read as
28 follows:

29 185.6 WHO ELECTED.

30 In districts electing one director, the candidate receiving
31 the highest number of votes shall be elected. In districts
32 electing two directors, producers shall vote for two
33 directors, and the two candidates receiving the highest number
34 of votes shall be elected. If the election results in a tie
35 vote, the board shall appoint a director from among the

1 candidates who received the same number of votes.

2 Sec. 9. Section 185.7, Code 2005, is amended to read as
3 follows:

4 185.7 TERMS.

5 ~~Director-terms~~ A director's term shall be for three years
6 ~~and-no.~~ A director of-the-board shall not serve for more than
7 three ~~complete-consecutive~~ full terms.

8 Sec. 10. Section 185.8, Code 2005, is amended to read as
9 follows:

10 185.8 ELECTIONS.

11 The board shall administer elections for its directors of
12 ~~the-board~~ with the assistance of the secretary. Prior to the
13 expiration of a director's term of office, the board shall
14 appoint a nominating committee ~~for-the-district-represented-by~~
15 ~~that-director.--The-nominating-committee-shall-consist~~ of five
16 producers ~~who-are-residents-of-the-district-from-which-a~~
17 ~~director-must-be-elected.~~ The nominating committee shall
18 nominate two resident producers as candidates for each
19 director position for which an election is to be held.
20 Additional candidates may be nominated by a written petition
21 of one hundred producers. Procedures governing the time and
22 place of filing shall be adopted and publicized by the board.
23 A place shall not be reserved on the ballot for write-in
24 candidates, and votes cast for write-in candidates shall not
25 be counted.

26 Sec. 11. Section 185.9, Code 2005, is amended to read as
27 follows:

28 185.9 VACANCIES -- REMOVAL.

29 1. The board shall by appointment fill an unexpired term
30 if a vacancy occurs in the board.

31 2. The secretary may remove a director for any reason
32 enumerated in section 66.1A.

33 Sec. 12. Section 185.11, subsection 1, Code 2005, is
34 amended to read as follows:

35 1. Enter-into-contracts-or-agreements-with-recognized-and

1 ~~qualified-agencies-or-organizations-for-the-development-and~~
2 ~~carrying-out-of~~ Provide for research and education programs
3 directed toward better and more efficient production,
4 marketing, and utilization of soybeans and soybean products.

5 Sec. 13. Section 185.13, unnumbered paragraph 1, Code
6 2005, is amended to read as follows:

7 The board ~~may~~ shall carry out its purposes as provided in
8 section 185.11. The board shall administer this chapter,
9 including by doing all of the following:

10 Sec. 14. Section 185.13, subsections 2 and 4, Code 2005,
11 are amended to read as follows:

12 2. ~~Establish~~ Acquire and establish offices, incur
13 expenses, and enter into any contracts or agreements necessary
14 to carry out the purposes of this chapter.

15 4. Enter into arrangements for collection of the state
16 assessment on soybeans marketed in this state.

17 Sec. 15. Section 185.13, Code 2005, is amended by adding
18 the following new subsection:

19 NEW SUBSECTION. 6. Administer the soybean checkoff
20 account as provided in section 185.26.

21 Sec. 16. Section 185.14, Code 2005, is amended to read as
22 follows:

23 185.14 PER DIEM AND EXPENSES.

24 Each ~~member~~ director of the board shall receive a per diem
25 as specified in section 7E.6 and actual expenses in performing
26 official board functions ~~not-to-exceed-forty-days-per-year.~~

27 ~~No-member~~ A director of the board shall not be a salaried
28 employee of the board or any organization or agency which is
29 receiving funds moneys from the board. The board shall meet
30 at least ~~once-every-three-months,-and-at-such-other-times-as~~
31 ~~deemed-necessary-by-the-board~~ four times each year.

32 Sec. 17. Section 185.20, Code 2005, is amended to read as
33 follows:

34 185.20 PRODUCERS ONLY TO VOTE.

35 Only producers are eligible to vote in an election for

1 directors or a referendum election and only in the district in
2 which they reside. A producer shall sign an affidavit
3 ~~furnished-by-the-secretary~~ at the time of voting certifying
4 the producer's eligibility to vote. Each qualified producer
5 shall be entitled to one vote.

6 Sec. 18. Section 185.21, Code 2005, is amended to read as
7 follows:

8 185.21 ASSESSMENT.

9 1. An A state assessment which is adopted upon the
10 initiation of a promotional order shall be collected during
11 the effective period of the promotional order, and shall be of
12 no force or effect upon termination of the promotional order.

13 ~~2. The-board-shall-determine-and-set-the-assessment-rate-~~
14 ~~Assessments-pursuant-to-the-promotional-order~~ The state
15 assessment shall be paid into the soybean promotion fund
16 established in section 185.26.

17 3. An The rate of the state assessment shall not-exceed be
18 as follows:

19 a. If the national assessment is being collected, the rate
20 of the state assessment shall be one-quarter of one percent of
21 the net market price of the soybeans marketed in this state
22 ~~and-sold-to-a-first-purchaser. The-net-market-price-is-the~~
23 ~~sales-price-received-by-a-producer-for-soybeans-after~~
24 ~~adjustments-for-any-premium-or-discount-based-on-grading-or~~
25 ~~quality-factors.--The-rate-of-assessment-shall-be-determined~~
26 ~~by-the-board.--The-board-shall-determine-the-effective-date-of~~
27 ~~a-rate-change-~~

28 b. If the national assessment is not being collected, the
29 rate of the state assessment shall be one-half of one percent
30 of the net market price of soybeans marketed in this state.

31 Sec. 19. Section 185.22, Code 2005, is amended to read as
32 follows:

33 185.22 PROMOTIONAL ORDER.

34 After a promotional order has been issued, the first
35 purchaser at the time of payment for soybeans shall show the

1 total amount of state assessment deducted from the sale on the
2 purchase invoice.

3 Sec. 20. Section 185.23, Code 2005, is amended to read as
4 follows:

5 185.23 DEDUCTION OF ASSESSMENT.

6 The state assessment shall be deducted from the purchase
7 price of soybeans at the time of sale, and forwarded to the
8 board by the first purchaser in the manner and at intervals
9 determined by the board.

10 Sec. 21. Section 185.24, Code 2005, is amended to read as
11 follows:

12 185.24 TERMINATION OF A PROMOTIONAL ORDER.

13 If a promotional order is not extended as determined by a
14 referendum the secretary and the board shall terminate the
15 promotional order in an orderly manner as soon as practicable.
16 After all funds moneys collected from the state assessment are
17 expended, the board shall ~~cease-to-function--Any-funds~~
18 ~~remaining-one-year-following-the-termination-of-a-promotional~~
19 ~~order-shall-be-disbursed-by-the-board-to-the-Iowa-soybean~~
20 association remain in existence as provided in its articles of
21 incorporation or bylaws. The directors shall no longer be
22 elected as required in this chapter. The ex officio directors
23 shall no longer serve on the board. The board shall cease to
24 administer this chapter, and the board shall no longer carry
25 out its duties or exercise its powers as provided in this
26 chapter. However, if a future referendum passes, the board
27 shall be reorganized by the secretary and members the
28 directors then serving on the board shall be deemed to be the
29 same directors who served on the board when the promotional
30 order was terminated. The directors shall serve out their
31 terms as though there had been no lapse of time between the
32 two effective orders.

33 Sec. 22. Section 185.26, Code 2005, is amended to read as
34 follows:

35 185.26 ADMINISTRATION OF MONEYS.

1 1. Assessments The state assessment collected by the board
2 ~~from a sale of soybeans~~ shall be deposited in a special fund
3 known as the soybean promotion fund, in the office of the
4 treasurer of state. The fund may also contain any gifts, or
5 federal or state grant received by the board. Moneys
6 collected, deposited into the fund, and transferred to the
7 board, as provided in this chapter, shall be subject to audit
8 by the auditor of state. The department of administrative
9 services shall transfer moneys from the fund to the board for
10 deposit into an account known as the soybean checkoff account
11 which shall be established by the board in a qualified
12 financial institution. The department shall transfer the
13 moneys into the account as provided in a resolution adopted by
14 the board. However, the department is only required to
15 transfer moneys once during each day and only during hours
16 when the offices of the state are open. From moneys
17 collected, deposited, and transferred to the board soybean
18 checkoff account as provided in this section, the board shall
19 first pay the costs of referendums, elections, and other
20 expenses incurred in the administration of this chapter,
21 before moneys may be expended ~~for the purpose of market~~
22 development to carry out the purposes of the board as provided
23 in section 185.11. The association shall strictly segregate
24 moneys in the soybean checkoff account from all other moneys
25 of the association. Moneys in the soybean checkoff account
26 shall be expended exclusively for the purposes of the board as
27 provided in section 185.11. The account shall be subject to
28 audit by the auditor of state.

29 2. The fiscal year of the association shall commence on
30 October 1 and end on September 30.

31 Sec. 23. Section 185.27, Code 2005, is amended to read as
32 follows:

33 185.27 REFUND OF ASSESSMENT.

34 A producer who has sold soybeans and had ~~an~~ the state
35 assessment deducted from the sale price may, by application in

1 writing to the board, secure a refund in the amount deducted.
2 The refund shall be payable only when the application shall
3 ~~have-been~~ is made to the board within sixty days after the
4 deduction. Application forms shall be given by the board to
5 each first purchaser when requested and the first purchaser
6 shall make the applications available to any producer. Each
7 application for refund by a producer shall have attached
8 thereto proof of assessment deducted. The proof of assessment
9 may be in the form of a duplicate or certified copy of the
10 purchase invoice by the first purchaser. The board shall have
11 thirty days from the date the application for refund is
12 received to remit the refund to the producer.

13 Sec. 24. Section 185.29, Code 2005, is amended to read as
14 follows:

15 185.29 REMISSION OF EXCESS-FUNDS REMAINING MONEYS.

16 After the board has paid the costs of elections,
17 referendum, necessary board expenses, and administrative
18 costs, ~~at-least-seventy-five-percent-of~~ the remaining moneys
19 collected, deposited in the fund, and transferred to the board
20 soybean checkoff account as provided in ~~this-chapter,~~ section
21 185.26 shall be expended by the board ~~for-market-development~~
22 ~~activities,-including-developing-and-expanding-new-markets-for~~
23 ~~soybeans-and-soybean-products-worldwide:--The-moneys-shall~~
24 ~~only-be-used-for-research,-promotion,-and-education-in~~
25 cooperation-with-qualified-agencies as is necessary to carry
26 out its purposes as provided in section 185.11.

27 Sec. 25. Section 185.34, Code 2005, is amended to read as
28 follows:

29 185.34 NOT A STATE AGENCY.

30 1. ~~The Iowa-soybean-promotion-board-shall~~ association is
31 not be a state agency.

32 2. a. Except as provided in paragraph "b", the board is
33 not a state agency or a governmental entity as defined in
34 section 8A.101, public employer as defined in section 20.3, or
35 an authority or instrumentality of the state.

1 b. The board is deemed to be all of the following:

2 (1) A department for purposes of chapter 11.

3 (2) A public body for purposes of chapter 12C. Moneys
4 deposited into the soybean checkoff account as established in
5 section 185.26 shall be deemed to be public funds under
6 chapter 12C.

7 (3) An agency for purposes of an appeal from its final
8 decision under chapter 17A. A person who is aggrieved or
9 adversely affected by the board's final agency action is
10 entitled to judicial review as provided in section 17A.19.

11 (4) A governmental body for purposes of chapter 21.

12 Sec. 26. NEW SECTION. 185.35 POLITICAL ACTIVITY --
13 INFLUENCING LEGISLATION PROHIBITED.

14 1. Except as provided in subsection 2, all of the
15 following shall apply:

16 a. The board shall not expend any moneys on political
17 activity or on any attempt to influence legislation.

18 b. It shall be a condition of any allocation of moneys
19 that an organization receives from the board, that the
20 organization shall not expend the moneys on a political
21 activity or on an attempt to influence legislation.

22 2. Subsection 1 does not apply to a communication or
23 action taken by the board if any of the following applies:

24 a. The board may communicate or take action directed to an
25 appropriate government official or government relating to the
26 marketing of soybeans or soybean products to a foreign
27 country.

28 b. The communication or action relates to the prevention,
29 modification, or elimination of trade barriers.

30 Sec. 27. Chapter 185A, Code 2005, is repealed.

31 Sec. 28. Sections 185.10 and 185.25A, Code 2005, are
32 repealed.

33 Sec. 29. TRANSITIONAL PROVISIONS.

34 1. a. The secretary of agriculture shall establish a
35 transition Iowa soybean association board of directors by

1 appointing initial directors to the board. The directors
2 shall take office as soon as possible after the effective date
3 of this Act. The initial directors shall serve until the
4 first directors are elected pursuant to this section. The
5 board shall administer the provisions of this chapter in the
6 same manner as a board constituted pursuant to section 185.3.
7 The initial directors are not required to post a bond as
8 provided in section 185.30.

9 b. On or before July 15 following the enactment of this
10 Act, the Iowa soybean association shall appoint a nominating
11 committee. On or before July 30 following the enactment of
12 this Act, the nominating committee shall nominate two
13 producers as candidates for each position as director on the
14 board. Additional candidates may be nominated by written
15 petition. The petition must include the signatures of at
16 least one hundred producers. The petition must be delivered
17 to the initial board on or before August 15 following the
18 enactment of this Act. The procedure governing the place and
19 filing of contents of the petition shall be widely publicized
20 by the Iowa soybean association.

21 c. The election shall be conducted in conformance with
22 section 185.3, as amended by this Act. Producers shall vote
23 by ballot for the directors of the board on or before August
24 31 following the enactment of this Act. The secretary of
25 agriculture shall canvass the ballots and announce the elected
26 directors on or before September 15 following the enactment of
27 this Act. The elected directors shall as soon as possible
28 conduct an organizational meeting at which meeting the terms
29 of the initial directors shall cease.

30 2. a. Any agreement made by the Iowa soybean promotion
31 board prior to the effective date of this Act shall continue
32 in full force and effect until it expires by its terms or is
33 amended, terminated, or supplemented by the affirmative action
34 of the Iowa soybean association board.

35 b. Any rule, regulation, form, order, or directive adopted

1 or promulgated by the Iowa soybean promotion board or the
2 department of agriculture and land stewardship on behalf of
3 the board which is in effect on the effective date of this Act
4 shall continue in full force and effect until amended,
5 repealed, or supplemented by the affirmative action of the
6 Iowa soybean association board or the department of
7 agriculture and land stewardship.

8 EXPLANATION

9 GENERAL. This bill provides for the administration of
10 provisions relating to the marketing of soybeans under Code
11 chapter 185, which provides for an assessment of one quarter
12 of 1 percent of the net market price of soybeans marketed in
13 this state, and imposed upon the first purchasers of soybeans,
14 the so-called "checkoff". Moneys collected from the checkoff
15 are deposited into the state treasury and deposited into a
16 special account under the authority of the board for use in
17 supporting research, education, and promotional efforts,
18 referred to as "market development".

19 The bill abolishes that board and replaces it with the Iowa
20 soybean association's board of directors. The bill also
21 recognizes a checkoff imposed pursuant to federal law. It
22 distinguishes these two excise taxes by referring to the
23 checkoff imposed pursuant to a promotional order under Code
24 chapter 185 as the "state assessment" and the checkoff imposed
25 under federal law as the "national assessment".

26 ELECTION AND TENURE. Much of the bill concerns procedures
27 for conducting elections to the board, and tenure of
28 directors. The bill provides for the election of voting
29 directors and the appointment of nonvoting, ex officio
30 directors to serve on the board. The voting directors must be
31 Iowa producers. Four producers must be elected from the state
32 at large and one producer must be elected from each district.
33 There is one exception. A district which produces more than
34 an average of 25 million bushels of soybeans during the
35 previous three years elects two directors. It removes a

1 requirement that an affidavit signed by the producer must be
2 furnished to the secretary of agriculture.

3 The bill eliminates a requirement that the board establish
4 voting places and provides that the board must establish
5 voting procedures for the election. The bill prohibits a
6 reserved place on a ballot for write-in candidates and
7 provides that write-in candidates are not counted when
8 tabulating the results of an election. The bill amends a
9 provision which refers to director tenure. Currently, a
10 director cannot serve for more than three consecutive terms.
11 The bill provides that the director cannot serve for more than
12 three full terms. The bill provides that the secretary of
13 agriculture may remove a director for grounds specified in
14 Code section 66.1A, which includes neglect of office,
15 misconduct, maladministration, corruption, extortion,
16 conviction of a felony, and intoxication.

17 REIMBURSEMENT AND PROCEDURES. The bill amends a provision
18 that entitles a director to receive a per diem and actual
19 expenses, but for not more than 40 days. Under the bill, a
20 director may claim compensation for any number of days. It
21 requires the board to meet four times each year.

22 CHECKOFF. The bill provides that if the national checkoff
23 is not being collected, the rate of the state assessment is
24 automatically increased from one-quarter of 1 percent to one-
25 half of 1 percent of the net market price.

26 CONTINUANCE OF THE BOARD. The bill provides that if a
27 promotional order is not extended by referendum (see Code
28 section 185.24), the board remains in existence as provided in
29 its articles of incorporation or bylaws. However, the
30 directors are no longer required to be elected as provided in
31 the bill and the ex officio directors are no longer required
32 to serve on the board. The board is required to wind down its
33 affairs under the Code chapter until the checkoff moneys are
34 expended. If a new promotional order passes by referendum,
35 the board must be reorganized by the secretary of agriculture

1 and the new directors must serve out the remaining terms of
2 their predecessors as if there had not been an interruption.

3 SOYBEAN CHECKOFF ACCOUNT. The bill names the board's
4 special account where checkoff moneys are deposited the
5 soybean checkoff account. The bill provides that the
6 association must strictly segregate moneys in the account from
7 all other moneys of the association. Moneys in the account
8 must be expended exclusively for the purposes of market
9 development and administration of the Code chapter. The bill
10 provides that the account is subject to state audit.

11 NOT A STATE AGENCY. The bill provides that the board is
12 not considered a governmental entity, except for limited
13 purposes, including state auditing practices under Code
14 chapter 11, deposit and investment requirements under Code
15 chapter 12C, and for purposes of appealing an administrative
16 action under Code chapter 17A.

17 POLITICAL ACTIVITY AND INFLUENCING LEGISLATION RESTRICTED.
18 The bill provides that generally the board cannot expend
19 moneys collected pursuant to Code chapter 185 on a political
20 activity and cannot expend moneys in an attempt to influence
21 legislation. There is an exception. It does not apply to
22 communication or action which relates to foreign trade.

23 TRANSITIONAL PROVISIONS. A number of transitional
24 provisions are included relating to the election of the board
25 of directors. The secretary appoints an initial board before
26 an election is conducted as provided in the bill. Producers
27 must vote by ballot for the new directors of the board, on or
28 before August 31, following the enactment of the bill. The
29 secretary of agriculture must announce the results of the
30 election on or before September 15. Once the elected
31 directors meet, the initial directors' terms cease. The bill
32 provides that any agreement is not affected by the mere
33 assumption of authority by a new board. In addition, any
34 rule, regulation, form, order, or direction promulgated by the
35 Iowa soybean promotion board or the department of agriculture

1 and land stewardship continues to be effective.

2 ELIMINATION OF PROVISIONS -- SPECIAL REFERENDUM ABOLISHED.

3 The bill eliminates Code chapter 185A, which recognized the
4 Iowa soybean association. It also eliminates Code section
5 185.10, which includes provisions referring to ex officio
6 members, and Code section 185.25A, which requires a special
7 referendum to increase the rate of the checkoff or extend a
8 promotional order.

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