

By the Committee on Agriculture; and Senators Argenziano, Dockery, Crist, Hill, Bullard, Wasserman Schultz, Siplin, Pruitt, Aronberg, Posey, Smith, Peaden, Campbell, Alexander and Bennett

303-2144-04

1 A bill to be entitled
2 An act relating to the Florida beef industry;
3 creating s. 570.9135, F.S.; providing a short
4 title; providing legislative intent; defining
5 terms; creating the Florida Beef Council, Inc.;
6 providing purposes; providing powers and duties
7 of the council and restrictions upon actions of
8 the council; providing for a board of directors
9 of the council; providing for a referendum on
10 assessments proposed to be deducted from the
11 sale of each head of cattle; allowing the
12 council to accept grants and gifts; providing
13 guidelines for payments to other organizations;
14 providing for the collection of assessments at
15 the time of marketing; providing duties of
16 marketing agents and collecting agents;
17 requiring the council to maintain a separate
18 accounting of moneys received from assessments;
19 providing for legal action to collect
20 delinquent assessments; providing for the
21 collection of penalties, enforcement costs,
22 court costs, and reasonable attorney's fees;
23 providing for a collection allowance; providing
24 for refunds; providing for a referendum on
25 continuing this act; providing for council
26 bylaws; providing a contingent effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Section 570.9135, Florida Statutes, is
31 created to read:

1 570.9135 Beef Market Development Act; definitions;
2 Florida Beef Council, Inc., creation, purposes, governing
3 board, powers, and duties; referendum on assessments imposed
4 on gross receipts from cattle sales; payments to organizations
5 for services; collecting and refunding assessments; vote on
6 continuing the act; council bylaws.--

7 (1) SHORT TITLE.--This act may be cited as the "Beef
8 Market Development Act."

9 (2) LEGISLATIVE INTENT.--The Legislature intends by
10 this act to promote the growth of the cattle industry in this
11 state; to assure the public an adequate and wholesome food
12 supply; to provide for the general economic welfare of
13 producers and consumers of beef and the state; and to provide
14 the beef cattle production and feeding industry of this state
15 with the authority to establish a self-financed, self-governed
16 program to help develop, maintain, and expand the state,
17 national, and foreign markets for beef and beef products that
18 are produced, processed, or manufactured in this state.

19 (3) DEFINITIONS.--As used in this act, the term:

20 (a) "Beef" or "beef products" means the products of
21 beef intended for human consumption which are derived from any
22 bovine animal, regardless of age, including, but not limited
23 to, veal.

24 (b) "Cattle" means such animals as are so designated
25 by federal law, including any marketing, promotion, and
26 research orders as are in effect. Unless such federal law
27 provides to the contrary, the term "cattle" includes all
28 bovine animals, regardless of age, including, but not limited
29 to, calves. A cow and nursing calf sold together are
30 considered one unit.

31 (c) "Council" means the Florida Beef Council, Inc.

1 (d) "Department" means the Department of Agriculture
2 and Consumer Services.

3 (e) "Market agent," "market agency," "collection
4 agent," or "collection agency" means a person who sells,
5 offers for sale, markets, distributes, trades, or processes
6 cattle that have been purchased or acquired from a producer or
7 that are marketed on behalf of a producer. The terms also
8 include meatpacking firms and their agents which purchase or
9 consign to purchase cattle.

10 (f) "Person" means any natural person, partnership,
11 corporation, company, association, society, trust, or other
12 business unit or organization.

13 (g) "Producer" means a person that has owned or sold
14 cattle in the previous calendar year or presently owns cattle.

15 (4) FLORIDA BEEF COUNCIL, INC.; CREATION; PURPOSES.--

16 (a) There is created the Florida Beef Council, Inc., a
17 not-for-profit corporation organized under the laws of this
18 state and operating as a direct-service organization of the
19 department.

20 (b) The intents and purposes of this act shall be
21 financed through an assessment imposed on each head of cattle
22 sold in this state, which assessment must be approved by a
23 simple majority vote of beef producers in this state.

24 (c) The purposes and objectives of the program are to:

25 1. Plan, implement, and conduct programs of promotion,
26 research, and consumer information or industry information
27 which are designed to strengthen the cattle industry's market
28 position in this state and in the nation and to maintain and
29 expand domestic and foreign markets and uses for beef and beef
30 products.

31

- 1 2. Administer and receive assessments from any cattle
2 sold in this state for the purpose of funding cattle
3 production and beef research, education, promotion, and
4 consumer and industry information in this state and in the
5 nation.
- 6 3. Develop, implement, and monitor the
7 assessment-collection system for this state.
- 8 4. Plan and implement a cattle and beef industry
9 feedback program in this state.
- 10 5. Coordinate the assessment system for this state
11 with any national program, as well as with other states, so as
12 to coordinate research, education, promotion, industry, and
13 consumer information programs.
- 14 6. Develop new uses and markets for beef and beef
15 products.
- 16 7. Develop and improve methods of distributing beef
17 and beef products to the consumer.
- 18 8. Develop methods of improving the quality of beef
19 and beef products for the benefit of consumers.
- 20 9. Inform and educate the public concerning the
21 nutritive and economic values of beef and beef products.
- 22 10. Serve as a liaison within the beef and other food
23 industries of the state and elsewhere in matters that would
24 increase efficiencies that ultimately benefit both consumers
25 and industry.
- 26 11. Establish the amount per head for an assessment to
27 be collected for this state.
- 28 12. Coordinate collection of assessments among
29 neighboring states.
- 30 13. Establish refund procedures and criteria for any
31 producer from whom an assessment has been collected.

1 14. Buy, sell, mortgage, rent, or improve, in any
2 manner that the council considers expedient, real property or
3 personal property, or both.

4 15. Publish and distribute such papers or periodicals
5 as the board of directors considers necessary to encourage and
6 accomplish the purposes of the council.

7 16. Do all other acts necessary or expedient for the
8 administration of the affairs and attainment of the purposes
9 of the council.

10 17. Approve an annual plan, budget, and audit for the
11 council.

12 (d)1. The council may not participate in or intervene
13 in any political campaign on behalf of or in opposition to any
14 candidate for public office. This restriction includes, but is
15 not limited to, a prohibition against publishing or
16 distributing any statements.

17 2. No part of the net receipts of the council shall
18 inure to the benefit of or be distributable to its directors,
19 its officers, or other private persons, except that the
20 council may pay reasonable compensation for services rendered
21 by staff employees and may make payments and distributions in
22 furtherance of the purposes of this act.

23 3. Notwithstanding any other provision of law, the
24 council may not carry on any other activities not permitted to
25 be carried on:

26 a. By a corporation exempt from federal income tax
27 under s. 501(c)(3) of the Internal Revenue Code of 1986, as
28 amended; or

29 b. By a corporation to which contributions are
30 deductible under s. 170(c)(2) of the Internal Revenue Code of
31 1986, as amended.

1 4. Notwithstanding any other statement of the purposes
2 and responsibilities of the council, the council may not
3 engage in any activities or exercise any powers that are not
4 in furtherance of its specific and primary purposes.

5 (5) GOVERNING BOARD.--

6 (a) The Florida Beef Council, Inc., shall be governed
7 by a board of directors composed of 13 members, including 8
8 representatives of the Florida Cattlemen's Association, of
9 whom one is a representative of the Florida Association of
10 Livestock Markets; one a representative of the Dairy Farmers,
11 Inc.; one a representative of the Florida CattleWomen, Inc.;
12 one a representative of the Florida Farm Bureau Federation;
13 one an allied-industry representative; and one an Institute of
14 Food and Agricultural Sciences representative.

15 (b) The initial board of directors shall be appointed
16 by the Commissioner of Agriculture for a term of 1 year. Each
17 subsequent vacancy shall be filled in accordance with the
18 bylaws of the council. Thereafter, each board member shall be
19 appointed to serve a 3-year term and may be reappointed to
20 serve an additional consecutive term. A member may not serve
21 more than two consecutive terms. A member must be a resident
22 of this state and must be a beef producer who has been a beef
23 producer for at least the 5 years immediately preceding the
24 first day of his or her service on the board, except that the
25 representative of the Florida Farm Bureau Federation, the
26 allied-industry representative, and the Institute of Food and
27 Agricultural Sciences representative need not be beef
28 producers. All beef council board positions shall be
29 unsalaried; however, the board members are entitled to
30 reimbursement as provided in s. 112.061 for travel and other
31

1 expenses incurred in carrying out the intents and purposes of
2 this act.

3 (c) The council shall provide for its officers through
4 its bylaws, including the ability to set forth offices and
5 responsibilities and form committees necessary for the
6 implementation of this act. The Commissioner of Agriculture
7 may designate an exofficio nonvoting member of the board of
8 directors.

9 (d) If a member of the board misses three consecutive,
10 officially called meetings, the board of directors may declare
11 that position vacant.

12 (6) REFERENDUM ON ASSESSMENTS.--All beef producers in
13 this state shall have the opportunity to vote in a referendum
14 to determine whether the assessment program within this act
15 should be approved, with a separate question to determine
16 whether the program, if approved, will be funded through
17 specific contributions that are mandatory and refundable upon
18 request or voluntary at the point of sale.

19 (a) A referendum held under this section must be
20 conducted by secret ballot at extension offices of the
21 Institute of Food and Agricultural Sciences of the University
22 of Florida or at offices of the United States Department of
23 Agriculture with the cooperation of the department.

24 (b) Notice of a referendum to be held under this act
25 must be given at least once in trade publications, the public
26 press, and statewide newspapers at least 30 days before the
27 referendum is held.

28 (c) Only one referendum on a prospective increase in
29 the amount of assessments to be deducted from the gross
30 receipts of the sale of cattle in this state may be conducted
31 in a 3-year period.

1 (d) Each cattle producer is entitled to only one vote
2 in a referendum held under this act. Proof of identification
3 and cattle ownership must be presented before voting.

4 (e) A simple majority of those casting ballots shall
5 determine any issue that requires a referendum under this act.

6 (7) POWERS AND DUTIES OF THE COUNCIL.--

7 (a) The council shall:

8 1. Receive and disburse funds, as prescribed elsewhere
9 in this act, to be used in administering and implementing the
10 act.

11 2. Maintain a permanent record of its business
12 proceedings.

13 3. Maintain a permanent, detailed record of its
14 financial dealings.

15 4. Prepare periodic reports and an annual report of
16 its activities for the fiscal year, for review by the beef
17 industry in this state, and file its annual report with the
18 department.

19 5. Prepare, for review by the beef industry in this
20 state, periodic reports and an annual accounting for each
21 fiscal year of all receipts and expenditures, and shall retain
22 a certified public accountant for this purpose.

23 6. Appoint a licensed banking institution to serve as
24 the depository for program funds and to handle disbursements
25 of those funds.

26 7. Maintain frequent communication with officers and
27 industry representatives at the state and national levels,
28 including the department.

29 8. Maintain an office in this state.

30 (b) The council may:

31

1 1. Conduct or contract for scientific research with
2 any accredited university, college, or similar institution,
3 and enter into other contracts or agreements that will aid in
4 carrying out the purposes of the program, including contracts
5 for the purchase or acquisition of facilities or equipment
6 necessary to carry out the purposes of the program.

7 2. Disseminate reliable information benefiting the
8 consumer and the beef industry on subjects such as, but not
9 limited to, the purchase, identification, care, storage,
10 handling, cookery, preparation, serving, and nutritive value
11 of beef and beef products.

12 3. Provide to government bodies, on request,
13 information relating to subjects of concern to the beef
14 industry, and may act jointly or in cooperation with the state
15 or Federal Government, and agencies thereof, in the
16 development or administration of programs that the council
17 considers to be consistent with the objectives of the program.

18 4. Sue and be sued as a council without individual
19 liability of the members for acts of the council when acting
20 within the scope of the powers of this act and in the manner
21 prescribed by the laws of this state.

22 5. Borrow from licensed lending institutions money in
23 amounts that are not cumulatively greater than 50 percent of
24 the council's anticipated annual income.

25 6. Maintain a financial reserve for emergency use, the
26 total of which must not exceed 50 percent of the council's
27 anticipated annual income.

28 7. Appoint advisory groups composed of representatives
29 from organizations, institutions, governments, or businesses
30 related to or interested in the welfare of the beef industry
31 and the consuming public.

1 8. Employ subordinate officers and employees of the
2 council, prescribe their duties, and fix their compensation
3 and terms of employment.

4 9. Cooperate with any local, state, regional, or
5 nationwide organization or agency engaged in work or
6 activities consistent with the objectives of the program.

7 10. Cause any duly authorized agent or representative
8 to enter upon the premises of any market agency, market agent,
9 collection agency, or collection agent and examine or cause to
10 be examined by the authorized agent only books, papers, and
11 records that deal with the payment of the assessment provided
12 for in this act or with the enforcement of this act.

13 11. Do all other things necessary to further the
14 intent of this act which are not prohibited by law.

15 (8) ACCEPTANCE OF GRANTS AND GIFTS.--The council may
16 accept grants, donations, contributions, or gifts from any
17 source if the use of such resources is not restricted in any
18 manner that the council considers to be inconsistent with the
19 objectives of the program.

20 (9) PAYMENTS TO ORGANIZATIONS.--

21 (a) The council may pay funds to other organizations
22 for work or services performed which are consistent with the
23 objectives of the program.

24 (b) Before making payments described in this
25 subsection, the council must secure a written agreement that
26 the organization receiving payment will:

27 1. Furnish at least annually, or more frequently on
28 request of the council, written or printed reports of program
29 activities and reports of financial data that are relative to
30 the council's funding of such activities; and
31

1 2. Agree to have appropriate representatives attend
2 business meetings of the council as reasonably requested by
3 the chairperson of the council.

4 (c) The council may require adequate proof of security
5 bonding on funds paid to any individual, business, or other
6 organization.

7 (10) COLLECTION OF MONEYS AT TIME OF MARKETING.--

8 (a) Each marketing agency licensed to do business in
9 this state may deduct from the gross receipts of the seller,
10 at the time of sale, an assessment in an amount of up to \$1
11 per head, as recommended by the council, on all cattle
12 marketed in this state.

13 (b) The collecting agent shall collect all such moneys
14 and forward them to the council periodically, at least once a
15 month, and the council shall provide appropriate business
16 forms for the convenience of the collecting agent in executing
17 this duty.

18 (c) The council shall maintain within its financial
19 records a separate accounting of all moneys received under
20 this subsection.

21 (d) Any due and payable assessment required under this
22 act constitutes a personal debt of the person who is so
23 assessed or who otherwise owes the assessment. If a person
24 fails to remit any properly due assessment, the council may
25 bring a civil action against that person in the circuit court
26 of any county for the collection thereof, and may add a
27 penalty in the amount of 10 percent of the assessment owed,
28 the cost of enforcing the collection of the assessment, court
29 costs, and reasonable attorney's fees. The action shall be
30 tried and judgment rendered as in any other cause of action
31

1 for debts due and payable. All assessments, penalties, and
2 enforcement costs are due and payable to the council.

3 (e) All moneys deducted under this subsection are
4 considered to be bona fide business expenses for the seller as
5 provided for under the tax laws of this state.

6 (f) The council may adopt reciprocal agreements with
7 other beef councils or similar organizations relating to
8 moneys collected at Florida collecting agencies on cattle from
9 other states and to Florida cattle sold at other state
10 markets.

11 (g) The collecting agent shall be entitled to deduct
12 2.5 percent of the amount collected to retain as a reasonable
13 collection allowance prior to remitting the funds to the
14 council.

15 (11) REFUNDS.--

16 (a) A seller of cattle who has had moneys deducted
17 from his gross sales receipts under this act is entitled to a
18 prompt and full refund on request.

19 (b) The council shall make available to all collecting
20 agents business forms permitting requests for refund, which
21 forms are to be submitted by the objecting cattle producer or
22 owner within 45 days after the sale transaction takes place.

23 (c) A refund claim made by the cattle producer or
24 owner must include the claimant's signature, date of sale,
25 place of sale, number of cattle, and amount of assessment
26 deducted, and must have attached thereto proof of the
27 assessment deducted.

28 (d) If the council has reasonable doubt that a refund
29 claim is valid, it may withhold payment and take such action
30 as it considers necessary to determine the validity of the
31

1 claim. Any dispute arising under this subsection shall be
2 determined as specified in paragraph (10)(d).

3 (e) Only the producer may initiate a request for
4 refund.

5 (12) VOTE ON CONTINUING THE ACT.--Upon the delivery by
6 certified mail to the Florida Beef Council office of petitions
7 from at least 15 counties containing signatures of at least
8 200 beef producers from each county and stating "Shall the
9 Beef Market Development Act continue," the council shall,
10 within 90 days, conduct a referendum to determine whether a
11 majority of the beef producers voting in the referendum
12 support the continuation of the Beef Market Development Act. A
13 referendum held under this subsection may not be held more
14 than one time in each 5-year period. Qualifications for
15 signature and vote are the same as those required in
16 subsection (6).

17 (13) BYLAWS.--The Florida Beef Council shall, within
18 90 days after this act becomes a law, adopt bylaws to carry
19 out the intents and purposes of this act. These bylaws may be
20 amended with a 30-day notice to board members at any regular
21 or special meeting called for this purpose. The bylaws must
22 conform to the requirements of this act, but may also address
23 any matter not in conflict with the general laws of this
24 state.

25 Section 2. This act shall take effect upon becoming a
26 law; however, an assessment on head of cattle sold may not be
27 imposed under this act, nor may a referendum relating to such
28 assessments be conducted, before the effective date of
29 dissolution of the Beef Promotion and Research Act of 1985,
30 Pub. L. No. 99-198, which date shall be determined by the
31 Florida Commissioner of Agriculture.

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1770
4 Instead of determining the amount of assessments on the sale
5 of cattle, the initial referendum will let the beef producers
6 decide if an assessment program is wanted, and if so, whether
7 the program would be mandatory with refund provisions or
8 voluntary at the point of sale.
9 The time period in which a referendum can address the issue of
10 a prospective increase is changed from once in a 5-year period
11 to once in a 3-year period.
12 Language is changed from "shall" to "may" to clarify that the
13 program is a voluntary program and that the assessment is
14 capped at \$1.00 per head as set by the Beef Council.
15 Deletes a provision that put the collecting agent's license at
16 risk for failure to collect and forward funds.
17 Adds "attorney fees" to amounts that can be recovered in
18 collection actions and provides that refund disputes will be
19 handled in the same manner as collection disputes.
20 Allows a collection agent to retain 2 1/2 percent as a
21 collection allowance.
22
23
24
25
26
27
28
29
30
31