

CHAMBER ACTION

1 The Committee on Agriculture recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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24 refunds; providing for a referendum on continuing this
 25 act; providing for council bylaws; providing a contingent
 26 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 created
 31 to read:

32 570.9135 Beef Market Development Act; definitions; Florida
 33 Beef Council, Inc., creation, purposes, governing board, powers,
 34 and duties; referendum on assessments imposed on gross receipts
 35 from cattle sales; payments to organizations for services;
 36 collecting and refunding assessments; vote on continuing the
 37 act; council bylaws.--

38 (1) POPULAR NAME.--This act shall be known by the popular
 39 name the "Beef Market Development Act."

40 (2) LEGISLATIVE INTENT.--The Legislature intends by this
 41 act to promote the growth of the cattle industry in this state;
 42 to assure the public an adequate and wholesome food supply; to
 43 provide for the general economic welfare of producers and
 44 consumers of beef and the state; and to provide the beef cattle
 45 production and feeding industry of this state with the authority
 46 to establish a self-financed, self-governed program to help
 47 develop, maintain, and expand the state, national, and foreign
 48 markets for beef and beef products that are produced, processed,
 49 or manufactured in this state.

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

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

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

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

61 (d) "Department" means the Department of Agriculture and
 62 Consumer Services.

63 (e) "Market agent," "market agency," "collection agent,"
 64 or "collection agency" means a person who sells, offers for
 65 sale, markets, distributes, trades, or processes cattle that
 66 have been purchased or acquired from a producer or that are
 67 marketed on behalf of a producer. The terms also include
 68 meatpacking firms and their agents which purchase or consign to
 69 purchase cattle.

70 (f) "Person" means any natural person, partnership,
 71 corporation, company, association, society, trust, or other
 72 business unit or organization.

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

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

76 (a) There is created the Florida Beef Council, Inc., a
 77 not-for-profit corporation organized under the laws of this

78 | state and operating as a direct-service organization of the
79 | department.

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

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

85 | 1. Plan, implement, and conduct programs of promotion,
86 | research, and consumer information or industry information which
87 | are designed to strengthen the cattle industry's market position
88 | in this state and in the nation and to maintain and expand
89 | domestic and foreign markets and uses for beef and beef
90 | products.

91 | 2. Administer and receive assessments from any cattle sold
92 | in this state for the purpose of funding cattle production and
93 | beef research, education, promotion, and consumer and industry
94 | information in this state and in the nation.

95 | 3. Develop, implement, and monitor the assessment-
96 | collection system for this state.

97 | 4. Plan and implement a cattle and beef industry feedback
98 | program in this state.

99 | 5. Coordinate the assessment system for this state with
100 | any national program, as well as with other states, so as to
101 | coordinate research, education, promotion, industry, and
102 | consumer information programs.

103 | 6. Develop new uses and markets for beef and beef
104 | products.

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105 7. Develop and improve methods of distributing beef and
106 beef products to the consumer.

107 8. Develop methods of improving the quality of beef and
108 beef products for the benefit of consumers.

109 9. Inform and educate the public concerning the nutritive
110 and economic values of beef and beef products.

111 10. Serve as a liaison within the beef and other food
112 industries of the state and elsewhere in matters that would
113 increase efficiencies that ultimately benefit both consumers and
114 industry.

115 11. Establish the amount per head for an assessment to be
116 collected for this state.

117 12. Coordinate collection of assessments among neighboring
118 states.

119 13. Establish refund procedures and criteria for any
120 producer from whom an assessment has been collected.

121 14. Buy, sell, mortgage, rent, or improve, in any manner
122 that the council considers expedient, real property or personal
123 property, or both.

124 15. Publish and distribute such papers or periodicals as
125 the board of directors considers necessary to encourage and
126 accomplish the purposes of the council.

127 16. Do all other acts necessary or expedient for the
128 administration of the affairs and attainment of the purposes of
129 the council.

130 17. Approve an annual plan, budget, and audit for the
131 council.

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132 (d)1. The council may not participate in or intervene in
 133 any political campaign on behalf of or in opposition to any
 134 candidate for public office. This restriction includes, but is
 135 not limited to, a prohibition against publishing or distributing
 136 any statements.

137 2. No part of the net receipts of the council shall inure
 138 to the benefit of or be distributable to its directors, its
 139 officers, or other private persons, except that the council may
 140 pay reasonable compensation for services rendered by staff
 141 employees and may make payments and distributions in furtherance
 142 of the purposes of this act.

143 3. Notwithstanding any other provision of law, the council
 144 may not carry on any other activities not permitted to be
 145 carried on:

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

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

152 4. Notwithstanding any other statement of the purposes and
 153 responsibilities of the council, the council may not engage in
 154 any activities or exercise any powers that are not in
 155 furtherance of its specific and primary purposes.

156 (5) GOVERNING BOARD.--

157 (a) The Florida Beef Council, Inc., shall be governed by a
 158 board of directors composed of 13 members, including 8
 159 representatives of the Florida Cattlemen's Association, of whom

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160 one is a representative of the Florida Association of Livestock
161 Markets; one a representative of the Dairy Farmers, Inc.; one a
162 representative of the Florida CattleWomen, Inc.; one a
163 representative of the Florida Farm Bureau Federation; one an
164 allied-industry representative; and one an Institute of Food and
165 Agricultural Sciences representative.

166 (b) The initial board of directors shall be appointed by
167 the Commissioner of Agriculture for a term of 1 year. Each
168 subsequent vacancy shall be filled in accordance with the bylaws
169 of the council. Thereafter, each board member shall be appointed
170 to serve a 3-year term and may be reappointed to serve an
171 additional consecutive term. A member may not serve more than
172 two consecutive terms. A member must be a resident of this state
173 and must be a beef producer who has been a beef producer for at
174 least the 5 years immediately preceding the first day of his or
175 her service on the board, except that the representative of the
176 Florida Farm Bureau Federation, the allied-industry
177 representative, and the Institute of Food and Agricultural
178 Sciences representative need not be beef producers. All beef
179 council board positions shall be unsalaried; however, the board
180 members are entitled to reimbursement as provided in s. 112.061
181 for travel and other expenses incurred in carrying out the
182 intents and purposes of this act.

183 (c) The council shall provide for its officers through its
184 bylaws, including the ability to set forth offices and
185 responsibilities and form committees necessary for the
186 implementation of this act. The Commissioner of Agriculture may

187 designate an ex officio nonvoting member of the board of
188 directors.

189 (d) If a member of the board misses three consecutive,
190 officially called meetings, the board of directors may declare
191 that position vacant.

192 (6) REFERENDUM ON ASSESSMENTS.--All beef producers in this
193 state shall have the opportunity to vote in a referendum to
194 determine whether the assessment program pursuant to this act
195 should be approved, with a separate question to determine
196 whether the program, if approved, will be funded through
197 specific contributions that are mandatory and refundable upon
198 request or voluntary at the point of sale.

199 (a) A referendum held under this section must be conducted
200 by secret ballot at extension offices of the Institute of Food
201 and Agricultural Sciences of the University of Florida or at
202 offices of the United States Department of Agriculture with the
203 cooperation of the department.

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

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

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

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

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

218 (a) The council shall:

219 1. Receive and disburse funds, as prescribed elsewhere in
 220 this act, to be used in administering and implementing the act.

221 2. Maintain a permanent record of its business
 222 proceedings.

223 3. Maintain a permanent, detailed record of its financial
 224 dealings.

225 4. Prepare periodic reports and an annual report of its
 226 activities for the fiscal year, for review by the beef industry
 227 in this state, and file its annual report with the department.

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

232 6. Appoint a licensed banking institution to serve as the
 233 depository for program funds and to handle disbursements of
 234 those funds.

235 7. Maintain frequent communication with officers and
 236 industry representatives at the state and national levels,
 237 including the department.

238 8. Maintain an office in this state.

239 (b) The council may:

240 1. Conduct or contract for scientific research with any
 241 accredited university, college, or similar institution, and
 242 enter into other contracts or agreements that will aid in

243 carrying out the purposes of the program, including contracts
 244 for the purchase or acquisition of facilities or equipment
 245 necessary to carry out the purposes of the program.

246 2. Disseminate reliable information benefiting the
 247 consumer and the beef industry on subjects such as, but not
 248 limited to, the purchase, identification, care, storage,
 249 handling, cookery, preparation, serving, and nutritive value of
 250 beef and beef products.

251 3. Provide to government bodies, on request, information
 252 relating to subjects of concern to the beef industry, and may
 253 act jointly or in cooperation with the state or Federal
 254 Government, and agencies thereof, in the development or
 255 administration of programs that the council considers to be
 256 consistent with the objectives of the program.

257 4. Sue and be sued as a council without individual
 258 liability of the members for acts of the council when acting
 259 within the scope of the powers of this act and in the manner
 260 prescribed by the laws of this state.

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

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

267 7. Appoint advisory groups composed of representatives
 268 from organizations, institutions, governments, or businesses
 269 related to or interested in the welfare of the beef industry and
 270 the consuming public.

271 8. Employ subordinate officers and employees of the
 272 council, prescribe their duties, and fix their compensation and
 273 terms of employment.

274 9. Cooperate with any local, state, regional, or
 275 nationwide organization or agency engaged in work or activities
 276 consistent with the objectives of the program.

277 10. Cause any duly authorized agent or representative to
 278 enter upon the premises of any market agency, market agent,
 279 collection agency, or collection agent and examine or cause to
 280 be examined by the authorized agent only books, papers, and
 281 records that deal with the payment of the assessment provided
 282 for in this act or with the enforcement of this act.

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

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

290 (9) PAYMENTS TO ORGANIZATIONS.--

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

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

297 1. Furnish at least annually, or more frequently on
 298 request of the council, written or printed reports of program

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299 activities and reports of financial data that are relative to
300 the council's funding of such activities; and

301 2. Agree to have appropriate representatives attend
302 business meetings of the council as reasonably requested by the
303 chairperson of the council.

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

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

308 (a) Each marketing agency licensed to do business in this
309 state may deduct from the gross receipts of the seller, at the
310 time of sale, an assessment established by referendum in an
311 amount of up to \$1 per head, as recommended by the council, on
312 all cattle marketed in this state.

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

317 (c) The council shall maintain within its financial
318 records a separate accounting of all moneys received under this
319 subsection.

320 (d) Any due and payable assessment required under this act
321 constitutes a personal debt of the person who is so assessed or
322 who otherwise owes the assessment. If a person fails to remit
323 any properly due assessment, the council may bring a civil
324 action against that person in the circuit court of any county
325 for the collection thereof, and may add a penalty in the amount
326 of 10 percent of the assessment owed, the cost of enforcing the

327 collection of the assessment, court costs, and reasonable
 328 attorney fees. The action shall be tried and judgment rendered
 329 as in any other cause of action for debts due and payable. All
 330 assessments, penalties, and enforcement costs are due and
 331 payable to the council.

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

335 (f) The council may adopt reciprocal agreements with other
 336 beef councils or similar organizations relating to moneys
 337 collected at Florida collecting agencies on cattle from other
 338 states and to Florida cattle sold at other state markets.

339 (g) The collecting agent shall be entitled to deduct 2.5
 340 percent of the amount collected to retain as a reasonable
 341 collection allowance prior to remitting the funds to the
 342 council.

343 (11) REFUNDS.--

344 (a) A seller of cattle who has had moneys deducted from
 345 his or her gross sales receipts under this act is entitled to a
 346 prompt and full refund on request.

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

351 (c) A refund claim made by the cattle producer or owner
 352 must include the claimant's signature, date of sale, place of
 353 sale, number of cattle, and amount of assessment deducted, and
 354 must have attached thereto proof of the assessment deducted.

355 (d) If the council has reasonable doubt that a refund
 356 claim is valid, it may withhold payment and take such action as
 357 it considers necessary to determine the validity of the claim.
 358 Any dispute arising under this subsection shall be determined as
 359 specified in paragraph (10)(d).

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

361 (12) VOTE ON CONTINUING THE ACT.--Upon the delivery by
 362 certified mail to the Florida Beef Council office of petitions
 363 from at least 15 counties containing signatures of at least 200
 364 beef producers from each county and stating "Shall the Beef
 365 Market Development Act continue," the council shall, within 90
 366 days, conduct a referendum to determine whether a majority of
 367 the beef producers voting in the referendum support the
 368 continuation of the Beef Market Development Act. A referendum
 369 held under this subsection may not be held more than one time in
 370 each 3-year period. Qualifications for signature and vote are
 371 the same as those required in subsection (6).

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

379 Section 2. This act shall take effect upon becoming a law;
 380 however, an assessment on head of cattle sold may not be imposed
 381 under this act, nor may a referendum relating to such
 382 assessments be conducted, before the effective date of

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383 | dissolution of the Beef Promotion and Research Act of 1985, Pub.
384 | L. No. 99-198, which date shall be determined by the Florida
385 | Commissioner of Agriculture.