

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

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BILL: SB 1220

INTRODUCER: Senators Grimsley and Evers

SUBJECT: Cattle Market Development Act

DATE: March 16, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>
2.	<u>Blizzard</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 1220 makes a number of changes to the Beef Market Development Act. The bill:

- Renames the Beef Market Development Act as the Cattle Market Development Act;
- Renames the Florida Beef Council, Inc., as the Florida Cattle Enhancement Board, Inc. (board);
- Authorizes the board to impose additional assessments, accept grants and gifts, and make payments to organizations for services performed.

The bill may have an indeterminate, but negative impact on cattle producers. If approved by referendum, beef producers will pay an assessment of up to \$1 for each head of cattle sold in the state.

The bill has an effective date of July 1, 2015.

**II. Present Situation:**

The 1985 Farm Bill established a national beef check-off program that became mandatory in 1988. The program is based on a \$1 per head assessment, of which one-half is controlled by beef councils at the state level. The check-off funds are expended on advertising, marketing, education, and research – all aimed at stimulating beef sales.

In 2003 the U.S. Court of Appeals of the 8<sup>th</sup> Circuit, in Livestock Marketing Association v. United States Department of Agriculture, 335 F.3d 711, (8<sup>th</sup> Cir. 2003), affirmed a decision of the U.S. District Court in South Dakota which held the national beef check-off program was unconstitutional. The beef producers in Florida resolved that it was in their interest to have a state-level program on stand-by if the national check-off program was ruled unconstitutional by the U.S. Supreme Court.

The 2004 Legislature established the Beef Market Development Act<sup>1</sup> (act), which generally:

- Established legislative intent;
- Created definitions;
- Established a not-for-profit corporation, the Florida Beef Council (council), organized to operate as a direct-support organization under the Department of Agriculture and Consumer Services;
- Established the council's governance structure through a 13-member board of directors;
- Established procedures for a referendum on assessments up to \$1 per head of cattle;
- Established the powers and duties of the council;
- Set forth procedures for the collection and remission of assessments at the time of sale by a collection agent;
- Established procedures for a producer of cattle to obtain a full refund upon request within 45 days after the sale transaction takes place;
- Provided that a referendum to vote to continue the act could be held once in a three-year period if certain criteria were met;
- Directed the council to adopt bylaws to carry out the intent and purposes of the act; and
- Provided an effective date of when the bill became law, but assessments or a referendum relating to such assessments would be delayed until certain criteria were met.

The U.S. Supreme Court ruled that the national check-off program was constitutional, so the assessment provided for in the act was never implemented.<sup>2</sup>

### III. Effect of Proposed Changes:

**Section 1** renames the Beef Market Development Act as the Cattle Market Development Act and renames the Florida Beef Council, Inc., as the Florida Cattle Enhancement Board, Inc.

The bill provides for a referendum to take place within 180 days after July 1, 2015, which will ask Florida producers if they approve of an assessment program of up to \$1 per head of cattle. This assessment is in addition to the national check-off program. The referendum may not be held more often than once every three years. The contributions would be mandatory and refundable upon request. The bill also provides for additional referenda to increase the assessment if petitions are received from at least 1,800 producers or 10 percent of Florida's producers.

The bill specifies that the assessment fee will be collected at the time of sale and will be forwarded to the board by the 15<sup>th</sup> of each month. It establishes a procedure for the refund of the assessment.

The bill grants the board the same powers as the former Florida Beef Council, while removing duplicative powers and consolidating the governing language into one section. The bill removes the ability of the board to accept grants and gifts or make payments to organizations for services performed.

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<sup>1</sup> Chapter 2004-65, Laws of Florida.

<sup>2</sup> Johans v. Livestock Marketing Association, 544 U.S. 550 (2005).

The bill deletes a provision that the act is repealed on October 1, 2019, unless saved from repeal by the Legislature.

The bill revises the definition of “cattle” to eliminate the provision that a cow and nursing calf sold together are considered one unit.

**Section 2** provides that the act shall take effect July 1, 2015.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the assessment authorized in SB 1220 is approved, it would result in an additional cost to beef producers, of up to \$1 per head of cattle sold.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 570.83 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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