

FEB 19 1974

Ways and Means *Pass per 1132 3/20*

HOUSE FILE **1226**

By COMMITTEE ON AGRICULTURE

House File 1226
Den Herder, Chairman
Bennett
Dunton

*Substituted
for S. F. 1192*

Passed House, Date 3-25-74 (1222) Passed Senate, Date 3-28-74 (1073)

Vote: Ayes 82 Nays 4 Vote: Ayes 40 Nays 6

Approved April 19, 1974

*Passed per Senate amendment
4-2-74 (1409)
80-5*

A BILL FOR

1 An Act relating to the dairy industry commission.

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

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

1 Section 1. Section one hundred seventy-nine point one
2 (179.1), Code 1973, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. "Collection period" means a calendar
5 month.

6 Sec. 2. Section one hundred seventy-nine point two (179.2),
7 Code 1973, is amended by striking the section and inserting
8 in lieu thereof the following:

9 179.2 COMMISSION CREATED. There is created an Iowa dairy
10 industry commission, referred to in this chapter as the commis-
11 sion. The commission shall be composed of the head of the
12 dairy science department and the head of the food technology
13 department of Iowa state university of science and technology,
14 the secretary of agriculture or his designee, and nine members
15 appointed by the secretary of agriculture as provided in this
16 section.

17 For purposes of this chapter, the board of directors of
18 the Iowa state dairy association shall divide the state, by
19 counties, into nine districts, each having approximately an
20 equal number of cows kept for milking purposes, based on the
21 latest available United States census. The districts shall
22 be numbered consecutively by the board.

23 On or before May 15, 1975 and each year thereafter, the
24 board of directors of the Iowa state dairy association shall
25 nominate for the offices of appointive commissioners, three
26 resident producers from each of the nine representative
27 districts. The list of nominees shall be certified to the
28 secretary of agriculture by the president and secretary of
29 the Iowa state dairy association. On or before June 10, 1975,
30 the secretary of agriculture shall appoint one of the nominees
31 so certified from each of the districts as a commissioner
32 of the Iowa dairy industry commission. Commissioners selected
33 from districts one, four, and seven shall be appointed for
34 one-year terms; commissioners appointed from districts two,
35 five, and eight shall be appointed for two-year terms; and

1 commissioners appointed from districts three, six, and nine
2 shall be appointed for three-year terms. Thereafter, com-
3 missioners shall be appointed for three-year terms in the
4 manner provided in this section.

5 Commissioners shall serve until their successors are duly
6 appointed and qualify. Vacancies occurring in the membership
7 of the commission resulting from removal from the district,
8 death, inability or refusal to serve, or failure to meet the
9 definition of a producer, shall be filled within three months
10 of the time the vacancy occurs in the manner provided in this
11 section. Vacancy appointments shall be only for the remainder
12 of the unexpired term. A commissioner shall not serve more
13 than two consecutive full terms.

14 Appointive members of the commission shall receive forty
15 dollars for each day spent on official business of the commis-
16 sion, not to exceed six hundred dollars per annum, and their
17 actual and necessary expenses, including mileage at the rate
18 of ten cents per mile, while engaged in commission activity.

19 Sec. 3. Section one hundred seventy-nine point five
20 (179.5), subsection one (1), Code 1973, is amended to read
21 as follows:

22 1. There Except as otherwise provided in section seven
23 (7) of this Act, there is hereby levied and imposed an excise
24 tax of one cent per pound or fraction thereof upon all
25 butterfat sold in cream and four cents per hundredweight or
26 fraction thereof in milk produced in the state during the
27 period beginning May 1 and terminating June 30, inclusive,
28 annually; provided, however, that the provisions of this
29 section shall not apply to butterfat in milk and cream produced
30 outside the state. For-the-purpose-of-computing-the-tax-in
31 markets-where-butterfat-tests-are-not-available, or-the
32 butterfat-content-not-definitely-known, the amount of butter-
33 fat-in-milk-and-cream-shall-be-computed-on-the-basis-of-four
34 percent-in-the-case-of-milk, and thirty-two-percent-in-the
35 case-of-cream;

1 Sec. 4. Section one hundred seventy-nine point five
2 (179.5), subsection two (2), paragraph a, Code 1973, is amended
3 to read as follows:

4 a. Where the producer produces milk or cream from cows
5 and thereafter sells the same as milk, cream, or other dairy
6 products, directly to the consumer the taxes aforesaid shall
7 be ~~held~~ remitted by such producer.

8 Sec. 5. Section one hundred seventy-nine point six (179.6),
9 Code 1973, is amended to read as follows:

10 179.6 PRODUCERS' RECORDS. Every producer shipping milk,
11 cream or other dairy products to any dealer outside of Iowa
12 who is not by agreement with the commission collecting the
13 tax imposed by this chapter, and every first dealer within
14 the state and every producer distributing milk, cream, or
15 other dairy products directly to the consumer, shall keep
16 a complete and accurate record of all butterfat taxed by this
17 chapter in milk or cream produced, bottled, processed or
18 distributed by him during ~~the any period of May 1 to June~~
19 ~~30, inclusive, of each year~~ for which an excise tax levy is
20 imposed under the provisions of this chapter. Such records
21 shall be in such form and contain such information as the
22 commission shall by rule or regulation prescribe and shall
23 be preserved by the person charged with their making for a
24 period of two years and shall be offered or submitted for
25 inspection at any time upon written or oral request by the
26 commission or its duly authorized agent or employee.

27 Sec. 6. Section one hundred seventy-nine point seven
28 (179.7), Code 1973, is amended to read as follows:

29 179.7 RETURNS FILED WITH COMMISSION. Every person charged
30 by this chapter or by agreement with the commission with the
31 keeping of records provided for in this chapter shall at such
32 times as the commission may by rule or regulation require,
33 file with the commission a return on forms to be prescribed
34 and furnished by the commission stating the quantity of dairy
35 products produced, bottled, processed, or distributed, and

1 butterfat content of all milk or cream produced by, delivered
2 to or purchased by such person from the various producers
3 of dairy products or their agents in the state during the
4 collection period ~~of-time~~ prescribed in subsection 1 of section
5 179.5 and as a result of any referendum. Such return shall
6 contain such other information as the commission may require,
7 and shall be made in triplicate, one copy of which shall be
8 for the files of the person making the return, and one copy
9 available at the office of such person, for the use of his
10 patrons, and the original filed with the commission.

11 Sec. 7. Chapter one hundred seventy-nine (179), Code 1973,
12 is amended by adding the following new sections:

13 NEW SECTION. Under such administrative procedures as the
14 department of agriculture may prescribe for conduct of
15 referendums hereinafter provided for, the department shall,
16 upon petition by one thousand five hundred or more producers,
17 or, by motion of the commission, conduct an initial referen-
18 dum within sixty days after receipt thereof on the proposition
19 of whether or not an excise tax of up to five cents per hun-
20 dredweight on all milk sold in this state separate from and
21 in addition to that provided for in section one hundred
22 seventy-nine point five (179.5) of the Code, shall be levied
23 and assessed.

24 Notice of any referendum hereunder to levy such additional
25 excise tax in the first instance, or any extension thereof,
26 including the date of the referendum and voting places, shall
27 be given by the department by publication for a period of
28 not less than five days in a newspaper of general circulation
29 in the state and in such other newspapers as the department
30 may prescribe. Referendum voting shall be conducted no sooner
31 than ten days after the last date of publication of such notice.

32 Each producer, upon signing a statement certifying to the
33 department that he is a bona fide producer as defined in this
34 chapter, shall be entitled to one vote in each referendum.
35 At the close of any referendum, the department shall within

1 thirty days thereafter count and tabulate the ballots filed
2 during such referendum. If from the tabulation the depart-
3 ment determines that a majority of the total number of pro-
4 ducers voting in the referendum favor the proposal, the excise
5 tax provided for in this section shall be imposed in the
6 manner provided in section one hundred seventy-nine point
7 five (179.5), subsection two (2) of the Code on the sixtieth
8 day after the date of determination by the department that
9 the referendum has passed. The ballots thus cast shall
10 constitute complete and conclusive evidence for use in
11 determinations made by the department under the provisions
12 of this chapter.

13 If the referendum vote favors imposition of the additional
14 excise tax provided for in this section, the commission shall
15 not more frequently than once per calendar year, set the
16 initial and subsequent assessment rates as follows:

17 1. For the months of May and June an amount which when
18 added to the excise tax provided for in section one hundred
19 seventy-nine point five (179.5) of the Code equates to a total
20 of five cents or less per hundredweight on taxable milk sold
21 during those months.

22 2. For all other calendar months five cents or less per
23 hundredweight of taxable milk sold during those months.

24 The commission shall give notice of all rates thus estab-
25 lished by publication for a period of not less than three
26 consecutive days in a newspaper of general circulation in
27 the state at least thirty days in advance of the effective
28 date thereof.

29 Any excise tax adopted under this section pursuant to the
30 initial referendum shall become of no force or effect five
31 years after its commencement unless it is extended for
32 subsequent five-year periods by additional referendums.
33 Ninety days prior to termination of the initial assessment
34 period, or any extension period, the secretary shall cause
35 notice to be published in accordance with the notice required

1 in this section for the initial referendum, and a referendum
2 on the question of whether the excise tax as provided for
3 in this section should be extended for an additional five -
4 year period shall be conducted. If the department determines
5 that a majority of the total number of producers favor the
6 assessment, the excise tax provided for herein shall continue
7 to be levied for an additional five years from the ending
8 date of the preceding five-year period.

9 All excise taxes due pursuant to this section shall be
10 collected in accordance with the provisions of this chapter
11 relating to the collection of the excise tax provided for
12 in section one hundred seventy-nine point five (179.5) of
13 the Code, as nearly as may be, and deposited in the dairy
14 industry fund. Such funds may only be expended by the
15 commission pursuant to the provisions of this chapter.

16 If the department determines that any referendum has failed,
17 no subsequent referendum shall be conducted sooner than one
18 hundred eighty days after such determination. Pursuant to
19 petition or motion as hereinabove provided filed within one
20 year after its most recent determination, the department shall
21 then conduct a subsequent referendum in accordance with the
22 provisions of this section.

23 In the event of failure to make such petition within said
24 period, or, the second consecutive failure of any referendum
25 to pass, no further referendums shall be conducted and the
26 levy and assessment created in this section shall terminate
27 and be of no further force or effect.

28 NEW SECTION. INFLUENCING LEGISLATION. Neither
29 commissioners, nor employees of the commission, shall attempt
30 in any manner to influence legislation affecting any matters
31 pertaining to the activities of the commission. No portion
32 of the dairy industry fund shall be used in any manner to
33 influence legislation or support any political candidate
34 for public office, either directly or indirectly, or to support
35 any political party.

1 Sec. 8. Section one hundred seventy-nine point twelve
2 (179.12), Code 1973, is repealed.

3 EXPLANATION

4 This bill provides that membership on the Iowa dairy indus-
5 try commission reflects current dairy cow numbers. It allows
6 the excise tax rate to be changed from approximately four
7 cents per hundredweight of milk during the months of May
8 and June, to as much as five cents per hundredweight of milk
9 annually, after affirmative vote of a majority of Iowa
10 producers at a referendum election. Such referendums would
11 be called and conducted by the Iowa department of agriculture
12 pursuant to producer or Iowa dairy industry commission
13 petition. Also, the bill prohibits commission personnel from
14 attempting to influence legislation, and use of dairy funds
15 to influence legislation or support political candidates or
16 parties.

17
18
19

H--2584

1 Amend House File 1226 as follows:

2 1. Page 6, by inserting after line 23 the
3 following:

4 "However, during the first year of the excise
5 tax period created by the first favorable referendum
6 vote pursuant to the provisions of this section, the
7 assessment rate set by the commission for May and June
8 shall not exceed that established by section one
9 hundred seventy-nine point five (179.5) of the Code,
10 and the assessment rate set by the commission for all
11 other calendar months of such year shall not exceed
12 three cents per hundredweight."

13 2. Page 7, line 5, by inserting after the word
14 "producers" the words "voting in the referendum".

H--2584 Filed - *Adopted 3/25* By COMMITTEE ON WAYS AND MEANS
March 20, 1974 *Reconsidered and* STANLEY of Muscatine, Chairman
Adopted 3/25

32
33
34
35

H-2551

1 Amend House File 1226, page 7, line 5, by insert-
2 ing after the word "producers" the words "voting in
3 the referendum".

H-2551 Filed - *Withdrawn 3/25* By DEN HERDER of Sioux
March 19, 1974

SENATE AMENDMENT TO HOUSE FILE 1226

1 Amend House File 1226, as amended and passed by
2 the House, page 5, line 17, by striking the
3 following: "or, by motion of the commission".

Received from the Senate
April 1, 1974

House concurred 4/2

S-2603

1 Amend House File 1226, as amended and passed by the
2 House, as follows:
3 1. Page 5, line 17, by striking the words "or, by
4 motion of the commission,".

S-2603 Filed and adopted By PALMER
March 28, 1974

S-2601

1 Amend the Gallagher amendment S-2599, to House File
2 1226, as amended and passed by the House, as follows:
3 1. Line 9, by inserting after the word "removed" the
4 words "but not sooner than two years after the adoption
5 of such tax".
6 2. Line 9, by inserting after the period the follow-
7 ing: "The petitioners shall guarantee payment of the
8 costs of such referendum."

S-2601 Filed and adopted By BERGMAN and BURROUGHS
March 28, 1974

S-2599

1 Amend House File 1226, as amended and passed by the
2 House, as follows:
3 1. Page 7, by adding the following paragraph after
4 line 28:
5 "Any excise tax adopted under this section shall,
6 notwithstanding the provisions of unnumbered paragraph
7 five (5) of this section, be submitted to a referendum
8 upon the petition of not less than five hundred pro-
9 ducers requesting that the excise tax be removed. The
10 procedures governing referendums provided for in this
11 section or by rule, except procedures relating to the
12 number of signatures on petitions, shall apply to any
13 referendum conducted pursuant to this paragraph."

S-2599 Filed, amended and withdrawn By GALLAGHER
March 28, 1974

S-2610

1 Amend House File 1226, as amended and passed by the
2 House, as follows:
3 1. Page 5, line 23, by inserting after the period
4 the following: "The procedure prescribed by the de-
5 partment of agriculture shall include a procedure for
6 distribution of an objective explanation of the
7 referendum proposal by the department, by utilization
8 of milk collection men who are employees of dairy
9 cooperative associations. Explanations of the proposal
10 shall be distributed to dairy cooperative associations
11 and each milk collection man shall distribute an expla-
12 nation to each producer on his route. Provision shall
13 be made by the department to publish such explanation
14 as part of the published notice required by this section.

S-2610 Filed and ruled
out of order
March 28, 1974

By ORR

S-2606

1 Amend House File 1226, as amended and passed by the
2 House, as follows:
3 1. Page 5, line 23, by inserting after the period
4 the following: "The procedure prescribed by the de-
5 partment of agriculture shall include a procedure for
6 distribution of ballots, and an objective explanation
7 of the referendum proposal by the department, by
8 utilization of milk collection men who are employees
9 of dairy cooperative associations. Ballots and ex-
10 planations of the proposal shall be distributed to
11 dairy cooperative associations and each milk collec-
12 tion man shall distribute a ballot and explanation to
13 each producer on his route. The explanation shall
14 contain instructions for the first producer to trans-
15 mit his marked ballot by ordinary mail to the county
16 agricultural extension office. Provisions shall be
17 made by the department for voting by producers who
18 do not have milk collected by a dairy cooperative
19 association."

S-2606 Filed and lost
March 28, 1974

By ORR