

Senate Study Bill 2132

Bill Text

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1 1 Section 1. Section [196A.1](#), subsections 3 and 5, Code 1997,
1 2 are amended to read as follows:
1 3 3. "Egg

~~by product~~

- product" means a product produced in
1 4 whole or in part from eggs or spent fowl.

1 5 5. "Market development" means

~~research and educational~~

1 6 programs which are directed toward any of the following:

1 7 a. Better and more efficient production, marketing, and

1 8 utilization of eggs or egg

~~by products produced for resale~~

1 9 products.

1 10 b.

~~Better methods, including, but not limited to, public~~

1 11

~~relations and other promotion techniques, for the~~

- The

1 12 maintenance of present markets and

~~for~~

- the development of new

1 13 or larger

~~domestic or foreign~~

- markets

~~and~~

- for the sale of eggs

1 14 or egg

~~by products~~

- products.

1 15 c. Prevention, modification, or elimination of trade

1 16 barriers which obstruct the free flow of eggs or egg

~~by~~

1 17

~~products to market~~

- products in commerce.

1 18 Sec. 2. Section [196A.1](#), Code 1997, is amended by adding

1 19 the following new subsection:

1 20 NEW SUBSECTION. 4A. "Eligible voter" means a producer who

1 21 is qualified to vote in a referendum conducted under this

1 22 chapter according to the requirements of section 196A.4 or

1 23 196A.4A.

1 24 Sec. 3. Section [196A.4](#), subsection 3, Code 1997, is
1 25 amended to read as follows:
1 26 3. a. Each producer who signs a statement certifying that
1 27 the producer is a bona fide producer shall be an eligible
1 28 voter under this section. An eligible voter is entitled to
1 29 cast one vote in each referendum conducted under this section.
1 30 b. At the close of the referendum, the secretary shall
1 31 count and tabulate the ballots cast.
1 32 (1) If a majority of eligible voters

~~favor~~

~~- approve~~

1 33 establishing an Iowa egg council and imposing an assessment, a
1 34 council shall be established, and an assessment shall be
1 35 imposed commencing not more than sixty days following the
2 1 referendum as determined by the council and shall continue

~~for~~

~~-~~

2 2

~~a period of five years unless extended as provided in section~~

~~-~~

2 3

~~196A.4C~~

~~- until eligible voters voting in a referendum held~~

2 4 pursuant to section 196A.4C vote to abolish the council and
2 5 terminate the imposition of the assessment.

2 6 (2) If a majority of the voters do not

~~favor~~

~~- approve~~

2 7 establishing the council and imposing the assessment, the
2 8 council shall not be established and an assessment shall not
2 9 be imposed until another referendum is held under this chapter
2 10 and a majority of the eligible voters approve establishing a
2 11 council and imposing the assessment. If a referendum should
2 12 fail, another referendum shall not be held within one hundred
2 13 eighty days.

2 14 Sec. 4. Section [196A.4A](#), unnumbered paragraph 1, Code
2 15 1997, is amended to read as follows:

2 16

~~If approved by a majority of voters at a referendum as~~

~~-~~

2 17

~~provided in this chapter, an~~

~~- The council shall establish an~~

2 18 assessment amount

~~set by the council at not more than five~~

~~-~~

2 19

~~cents~~

~~- for each thirty dozen eggs produced in this state. The~~

2 20 assessment shall be imposed on

~~the~~

~~- a producer at the time of~~

2 21 delivery to a purchaser who

~~will~~

~~- shall deduct the assessment~~

2 22 from the price paid to

~~the~~

- a producer at the time of sale.

2 23 The assessment shall not be refundable. The assessment is due
2 24 to be paid to the council within thirty days following each
2 25 calendar quarter, as provided by the council.

2 26 Sec. 5. Section 196A.4C, Code 1997, is amended to read as
2 27 follows:

2 28 196A.4C REFERENDUMS CONDUCTED

~~DURING THE TENURE OF~~

~~TO~~

2 29 ABOLISH THE COUNCIL AND TERMINATE IMPOSITION OF THE
2 30 ASSESSMENT.

2 31 1. A referendum

~~shall be conducted as follows:~~

~~may be~~

2 32 called to abolish the council and terminate the imposition of
2 33 the assessment.

2 34

~~a. A referendum to extend the imposition of the assessment~~

2 35

~~imposed pursuant to section 196A.4 shall be held every five~~

3 1

~~years in the year prior to the expiration of the assessment in~~

3 2

~~force.~~

3 3

~~b.~~

- The secretary shall call, and the department shall

3 4 conduct,

~~a~~

- the referendum upon the department's receipt of a

3 5 petition

~~which is signed by at least twenty producers~~

3 6 requesting

~~a referendum to determine whether to terminate the~~

3 7

~~council and the imposition of the assessment~~

~~the referendum.~~

3 8 The petition must be signed by at least twenty eligible voters
3 9 or fifty percent of all eligible voters whichever is greater.

3 10 In order to be an eligible voter under this section, a

3 11 producer must have paid an assessment in the year of the

3 12 referendum. The referendum shall be conducted within sixty

3 13 days following receipt of the petition. The petitioners shall

3 14 guarantee payment of the cost of the referendum by providing

3 15 evidence of financial security as required by the department.

3 16 2. The following procedures shall apply to a referendum

3 17 conducted pursuant to this section:

3 18 a. The department shall

~~give~~

- publish a notice of the
3 19 referendum

~~on the question whether to continue the council and~~

-

3 20

~~the assessment by publishing the notice~~

- for a period of not

3 21 less than five days in at least one newspaper of general
3 22 circulation in the state. The notice shall state the voting
3 23 places, period of time for voting, and other information
3 24 deemed necessary by the department. A referendum shall not be
3 25 commenced until five days after the last date of publication.
3 26 b. Upon signing a statement certifying to the secretary
3 27 that

~~a person~~

- the producer is

~~a bona fide producer~~

- an eligible

3 28 voter,

~~the person~~

- a producer is entitled to one vote in each

3 29 referendum conducted pursuant to this section. The department
3 30 may conduct the referendum by mail, electronic means, or a
3 31 general meeting of eligible voters. The department shall
3 32 conduct the referendum and count and tabulate the ballots
3 33 filed during the referendum within thirty days following the
3 34 close of the referendum.

3 35 (1) If a majority of the total number of

~~producers voting~~

-

4 1 eligible voters who vote in the referendum

~~approves~~

- approve

4 2 the continuation of the council and the imposition of the
4 3 assessment

~~as provided in the referendum~~

- , the council

~~shall~~

-

4 4

~~remain in existence~~

- and the imposition of the assessment shall

4 5

~~be levied~~

- continue as provided in this chapter.

4 6 (2) If a majority of the total number of

~~producers voting~~

-

4 7 eligible voters who vote in the referendum held pursuant to
4 8 this section do not approve continuing the council and the
4 9 imposition of the assessment

~~as provided in the referendum~~

4 10 the secretary shall terminate the collection of the assessment
4 11 on the first day of the year for which the referendum was to
4 12 continue. The secretary shall terminate the activities of the
4 13 council in an orderly manner as soon as practicable after the
4 14 determination. An additional referendum may be held as
4 15 provided in section 196A.4. However, the subsequent
4 16 referendum shall not be held within one hundred eighty days.
4 17 Sec. 6. Section 196A.5, unnumbered paragraph 1, Code 1997,
4 18 is amended to read as follows:
4 19 The Iowa egg council established under this chapter shall
4 20 be composed of seven

~~producers~~
~~members~~. Each

~~council~~
member

4 21 must be a natural person who is a resident of this state and a
4 22 producer or an officer, equity owner, or employee of a
4 23 producer. A producer shall not be represented more than once
4 24 on the council. Two persons shall represent large producers,
4 25 two persons shall represent medium producers, and three
4 26 persons shall represent small producers. The council shall
4 27 adopt rules pursuant to chapter 17A establishing
4 28 classifications for large, medium, and small producers. The
4 29 following persons or their designees shall serve as ex officio
4 30 nonvoting members:

4 31 Sec. 7. Section 196A.5B, subsections 1 and 3, Code 1997,
4 32 are amended to read as follows:

4 33 1. The council shall appoint a committee to nominate
4 34 candidates to stand for election to the council. The council
4 35 may require that the committee nominate candidates to be
5 1 appointed by the council to fill a vacancy in a position for
5 2 the unexpired term of a member.

~~The committee shall be~~

5 3

~~comprised of five producers, including the chairperson of the~~

5 4

~~council who shall serve as the chairperson of the nominating~~

5 5

~~committee. The nominating committee shall include at least~~

5 6

~~one member of the council whose term is next to expire. The~~

5 7

~~committee shall also include at least one producer who is~~

5 8

~~classified as a large producer, if a member whose term is to~~

5 9

~~expire represents large producers; at least one producer who~~

5 10

~~is classified as a medium producer, if a member whose term is~~

5 11

~~to expire represents medium producers; and at least one~~

5 12

~~producer who is classified as a small producer, if a member~~

5 13

~~whose term is to expire represents small producers.~~

5 14 3.

~~A~~

~~The council shall provide a notice of an election for~~
5 15 members of the council

~~shall be provided by the council by~~

5 16

~~publication in a newspaper of general circulation in the state~~

5 17

~~and in any other reasonable manner required by the council~~

~~by~~

5 18 any means deemed reasonable by the council. The notice shall
5 19 include the period of time for voting, voting places, and any
5 20 other information determined necessary by the council.

5 21 Sec. 8. Section 196A.11, Code 1997, is amended to read as
5 22 follows:

5 23 196A.11 DUTIES OF COUNCIL.

5 24 The Iowa egg council shall do all of the following:

5 25 1.

~~Provide methods, including, but not limited to public~~

5 26

~~relations and other promotion techniques, for the maintenance~~

5 27

~~of present markets. However, the council shall not impose any~~

5 28

~~marketing order or similar restriction.~~

~~Promote all of the~~

5 29 following:

5 30 a. The increased utilization of eggs and egg products.

5 31 b. Health benefits associated with the consumption of eggs

5 32 or egg products.

5 33 c. Economic benefits associated with the production and

5 34 processing of eggs or egg products.

5 35 d. The safe use and consumption of eggs and egg products.

6 1 2.

~~Assist in other~~

~~Provide for market development.~~

6 2 3. Administer elections for members of the council and

6 3 provide for the appointment of persons to fill vacancies

6 4 occurring on the council, as provided in section 196A.5B. The
6 5 department may assist the council in administering an
6 6 election, upon request to the secretary by the council.
6 7 4. Perform

~~all acts necessary~~
- ~~any other function the~~
6 8 council deems necessary to

~~effectuate~~
- carry out the provisions
6 9 of this chapter.
6 10 Sec. 9. Section 196A.12, unnumbered paragraph 1, Code
6 11 1997, is amended to read as follows:
6 12 The Iowa egg council may do all of the following:
6 13 Sec. 10. Section 196A.12, Code 1997, is amended by adding
6 14 the following new subsection:
6 15 NEW SUBSECTION. 5. Receive gifts, rents, royalties,
6 16 license fees or other moneys for deposit in the Iowa egg fund
6 17 as provided in section 196A.17.
6 18 Sec. 11. Section 196A.13, Code 1997, is amended to read as
6 19 follows:
6 20 196A.13 PROHIBITED ACTIONS.
6 21 The Iowa egg council shall not do any of the following:
6 22 1. Become a dues-paying member of any organization,
6 23 including but not limited to a firm, association, or
6 24 corporation, regardless of whether the organization is public
6 25 or private. However,

~~upon approval by the council,~~
- the
6 26 council may become a dues-paying member of an organization
6 27 carrying out a purpose related to the increased consumption
6 28 and utilization of eggs or egg

~~by products~~
- products.
6 29 2. Provide direct or indirect financial support to or for
6 30 the benefit of any other person

~~, except as provided in~~
-
6 31

~~subsection 1 or for~~
- However, the council may do any of the
6 32 following:
6 33 a. Provide support to an organization carrying out a
6 34 purpose related to the increased consumption and utilization
6 35 of eggs or egg products.
7 1 b. Execute contracts for services related to

~~research,~~
-
7 2
~~promotional, or public relations programs, or for the~~
- carrying
7 3 out the duties of the council as provided in section 196A.11.
7 4 c. Pay for administrative expenses of the council.
7 5 3. Act, directly or indirectly, in any capacity in
7 6 marketing or making contracts for the marketing of eggs or

~~egg~~
-
7 7

~~by products~~

~~products.~~

7 8 4. Act, directly or indirectly, in any capacity in selling
7 9 or contracting for the selling of eggs, egg products, or

~~egg~~

7 10

~~by product~~

~~equipment used in the manufacturing of egg~~

7 11 products.

7 12 5. a. Make any contribution of council moneys, either
7 13 directly or indirectly, to any political party or organization
7 14 or in support of a political candidate for public office

~~, or~~

7 15

~~make~~

7 16 b. Make payments to a political candidate including but
7 17 not limited to a member of Congress or the general assembly
7 18 for honorariums, speeches, or for any other purposes above
7 19 actual and necessary expenses.

7 20 Sec. 12. Section 196A.19, unnumbered paragraph 2, Code
7 21 1997, is amended to read as follows:

7 22 Moneys collected, deposited in the fund, and transferred to
7 23 the council as provided in this chapter are subject to audit
7 24 by the auditor of state. The moneys transferred to the
7 25 council shall be used by the council first for the payment of
7 26 collection expenses, second for payment of the costs and
7 27 expenses arising in connection with conducting referendums,
7 28 and third

~~for market development~~

~~to carry out the duties of~~

7 29 the council as provided in section 196A.11. Moneys remaining
7 30 after

~~a~~

~~the council is abolished and the imposition of an~~

7 31 assessment is terminated pursuant to a referendum

~~is held when~~

7 32

~~a majority of the voters do not favor extending the assessment~~

7 33 conducted pursuant to section 196A.4C shall continue to be
7 34 expended in accordance with this chapter until exhausted.

7 35 Sec. 13. TRANSFER. The Code editor shall transfer chapter
8 1 196A to or near chapter 184 and shall renumber the chapter's
8 2 sections to enhance the chapter's readability.

8 3 Sec. 14. Section 196A.25, Code 1997, is repealed.

8 4 EXPLANATION

8 5 This bill amends a number of provisions in Code chapter
8 6 196A providing for the establishment and administration of the
8 7 Iowa egg council and the assessment of an excise tax on eggs
8 8 used to support the council's activities.

8 9 Under current law, the council is required to provide for
8 10 market development which includes sponsoring research and
8 11 educational programs, and providing for public relations.

8 12 This bill eliminates these functions. The bill provides that
8 13 the council must promote the increased utilization of eggs and

8 14 egg products, health benefits associated with the consumption
8 15 of eggs or egg products, economic benefits associated with the
8 16 production and processing of eggs or egg products, and the
8 17 safe use and consumption of eggs and egg products.

8 18 Under current law, the Iowa egg council is established
8 19 pursuant to a referendum approved by a majority of the state's
8 20 egg producers. The same referendum also establishes a state
8 21 excise tax (referred to as an assessment). If approved by a
8 22 majority of voters at the referendum, an assessment amount set
8 23 by the council at not more than five cents for each 30 dozen
8 24 eggs produced in the state is imposed on producers. The
8 25 assessment is paid at the time of delivery to a purchaser who
8 26 deducts the assessment from the sales price paid to the
8 27 producer. The assessment expires every five years unless it
8 28 is continued pursuant to another referendum. The council may
8 29 be abolished and the assessment terminated if approved by a
8 30 majority of producers voting in a special referendum called by
8 31 at least 20 producers. This bill provides that at least 20
8 32 eligible voters of 50 percent of all eligible voters,
8 33 whichever is greater, must call the referendum. This bill
8 34 provides that the assessment continues indefinitely unless the
8 35 special referendum called by producers abolishes the council
9 1 and terminates the assessment. The bill provides that the
9 2 department may conduct the referendum by mail, electronic
9 3 means, or a general meeting. The bill provides that in order
9 4 to be eligible to vote in the referendum, a producer must have
9 5 paid an assessment in the year of the referendum. The bill
9 6 also eliminates the ceiling on the assessment amount
9 7 established by the council.

9 8 Current law provides for the qualifications of persons who
9 9 serve as members of the council. The council is composed of
9 10 seven members who must be producers. This bill provides that
9 11 a member must also be a resident of the state. Currently, the
9 12 council is required to appoint a committee to nominate
9 13 candidates to stand for election to the council. The
9 14 committee must be composed of five producers, including the
9 15 five producers including the chairperson of the council. The
9 16 committee must also include members of the council
9 17 representing different sized producers whose terms are next to
9 18 expire. The bill eliminates requirements relating to a
9 19 nominating committee's composition. The bill eliminates a
9 20 requirement that notice of an election must be published in a
9 21 newspaper.

9 22 Currently, the council is responsible for administering the
9 23 Iowa egg fund which includes moneys collected in assessments
9 24 which are used to support administration of the chapter,
9 25 including conducting referendums and providing for market
9 26 development. The bill provides that the council may receive
9 27 gifts, rents, royalties, license fees, or other moneys for
9 28 deposit in the fund. The bill provides that the fund may be
9 29 used to carry out the duties of the council as established in
9 30 the bill.

9 31 Currently, the council must annually prepare and submit a
9 32 report summarizing council activities to the auditor of state
9 33 and the secretary of agriculture. The report must show all
9 34 council income and expenses. The bill eliminates the
9 35 reporting requirement.