

DAIRY COMMISSION AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Craig W. Buttars

AN ACT RELATING TO AGRICULTURE; AMENDING THE COMPOSITION OF THE UTAH DAIRY COMMISSION; ELIMINATING THE TERM LIMITATION FOR COMMISSION MEMBERS; AMENDING ELECTION PROVISIONS; AMENDING THE ASSESSMENT STATEMENT REQUIREMENTS; DECREASING THE ADDITIONAL ASSESSMENT AMOUNT FOR GOVERNMENT LIAISON AND INDUSTRY RELATIONS PROGRAMS; AND MAKING TECHNICAL AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

4-22-2, as last amended by Chapter 82, Laws of Utah 1997

4-22-6, as enacted by Chapter 2, Laws of Utah 1979

4-22-7, as last amended by Chapter 139, Laws of Utah 1992

4-22-8.5, as enacted by Chapter 253, Laws of Utah 1994

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-22-2** is amended to read:

4-22-2. Utah Dairy Commission created -- Composition -- Elected members -- Terms of elected members -- Qualifications for election.

(1) There is created an independent state agency known as the Utah Dairy Commission.

(2) The Utah Dairy Commission consists of [~~14~~] 13 members as follows:

(a) the commissioner of agriculture and food, or [~~his~~] the commissioner's representative;

(b) the dean of the College of Agriculture at Utah State University, or [~~his~~] the dean's representative;

(c) the president of the Utah Dairy [~~Wives~~] Women's Association or the president of the Utah Dairy Women's Association's representative;

(d) a member from District 1, northern Cache County, which member shall have a Cornish, Lewiston, Richmond/Cove, or Trenton mailing address;

(e) a member from District 2, central Cache County and Rich County, which member shall have a Newton, Clarkston, Amalga, Smithfield, Benson, Hyde Park, Mendon, or Petersboro mailing address;

(f) a member from District 3, southern Cache County, which member shall have a Logan, Providence, Nibley, Hyrum, Paradise, Wellsville, College Ward, Young Ward, or Millville mailing address;

(g) a member from District 4, Box Elder County;

(h) a member from District 5, Weber and Morgan Counties;

(i) a member from District 6, Salt Lake, Davis, Utah, and Tooele Counties;

~~[(j) a member from District 7, Utah County;]~~

~~[(k)]~~ (j) a member from District [8] 7, Wasatch, Summit, Duchesne, Uintah, and Daggett Counties;

~~[(l)]~~ (k) a member from District [9] 8, Millard, Beaver, Iron, and Washington Counties;

~~[(m)]~~ (l) a member from District [10] 9, Sanpete, Carbon, Emery, Grand, Juab, and San Juan Counties; and

~~[(n)]~~ (m) a member from District [11] 10, Piute, Wayne, Kane, Garfield, and Sevier Counties.

(3) The ex officio members listed in Subsections (2)(a) and (b) shall serve without a vote.

(4) ~~[(a)]~~ The members listed in Subsections (2)(d) through ~~[(n)-(i)]~~ (m) shall be elected to four-year terms of office as provided in Section 4-22-6~~;~~ and.

~~[(ii) may serve no more than three terms.]~~

~~[(b) The limitation on the number of terms served as provided in Subsection (a) shall apply to any person who has served or will serve on the commission before, on, or after May 2, 1994, the effective date of this act.]~~

(5) Members shall enter office on July 1 of the year in which they are elected.

(6) The commission, by two-thirds vote, may ~~[periodically]~~ alter the boundaries comprising the districts established in this section to maintain equitable representation of active milk producers on the commission.

- (7) Each member shall be:
- (a) a citizen of the United States;
 - (b) 26 years of age or older;
 - (c) an active milk producer with five consecutive years experience in milk production within this state immediately preceding election; and
 - (d) a resident of Utah and the district represented.

Section 2. Section **4-22-6** is amended to read:

4-22-6. Commission to conduct elections -- Nomination of candidates -- Expenses of election paid by commission.

- (1) (a) The commissioner shall administer all commission elections.
 - (b) ~~[Not later than May 15 of each election year, the]~~ The commissioner shall mail a ballot to each producer within the district in which an election is to be held by May 15 of each election year.
 - (c) The candidate who receives the highest number of votes cast in the candidate's district ~~[is deemed]~~ shall be elected.
 - (d) The commissioner shall determine all questions of eligibility.
 - (e) ~~[No]~~ A ballot must be postmarked ~~[later than]~~ by May 31 of an election year ~~[is valid]~~.
 - (f) (i) All ballots received by the commissioner shall be counted and tallied by ~~[the commission on the first working day after]~~ June ~~[10; provided, that no]~~ 15.
 - (ii) A member of the commission whose name appears on ~~[any]~~ a ballot ~~[being counted or tallied by the commission shall]~~ may not participate in counting or tallying the ballots.
- (2) (a) Candidates for election to the commission shall be nominated, not later than April 15, by a petition signed by ~~[15]~~ five or more producers who are residents of the district in which the election is to be held~~[-; provided, that if]~~.
- (b) If two or more candidates are not nominated by petition, the commission shall select a nominating committee composed of three ~~[persons]~~ producers who are residents of the district ~~[which]~~ who shall select ~~[one or two]~~ the candidates ~~[depending upon the number]~~ not nominated by petition.

(3) The names of all nominees, whether nominated by petition or by a nominating committee, shall be submitted to the commissioner on or before May 1 of each year in which an election is held.

(4) All election expenses incurred by the commissioner [~~in the conduct of elections~~] shall be paid by the commission.

Section 3. Section ~~4-22-7~~ is amended to read:

4-22-7. Assessment imposed on sale of milk or cream produced, sold, or contracted for sale in state -- Time of assessment -- Collection by dealer or producer-handler -- Penalty for delinquent payment or collection -- Statement to be given producer -- Transfer of assessment.

(1) An assessment of ten cents is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state.

(2) The assessment[;] shall be:

(a) based upon daily or monthly settlements[;is]; and

(b) due at a time [~~prescribed~~] set by the commission, [~~but~~] which may not be later than the last day of the month next succeeding the month of sale.

(3) (a) The assessment [is] shall be:

(i) assessed against the producer at the time the milk or milk fat is delivered for sale [~~and shall be~~];

(ii) deducted [~~and collected~~] from the sales price; and

(iii) collected by the dealer or producer-handler.

(b) The proceeds of the assessment shall be paid directly to the commission [~~which~~] who shall [~~evidence~~] issue a receipt [~~of the assessment through a receipt issued~~] to the dealer or producer-handler.

(c) If a dealer or producer-handler fails to [~~timely~~] remit the proceeds of the assessment or [~~fails to~~] deduct the assessment on time, a penalty equal to 10% of the [~~assessment~~] amount due shall be added to the assessment.

(4) (a) At the time of payment of the assessment, the dealer or producer-handler[; ~~as the case may be~~;] shall deliver a statement to the producer [~~which contains~~;] calculating the assessment.

~~[(a) the name and address of the producer;]~~

~~[(b) the name and address of the purchaser, or if applicable, the name and address of the producer-handler;]~~

~~[(c) the dollar value of the milk or cream sold and the amount of assessment deducted;]~~

~~[(d) the date of the purchase; and]~~

~~[(e)]~~ (b) ~~[any other information the]~~ The commission may require other relevant information to be included in the statement.

(5) (a) A producer who objects to having the Utah Dairy Commission receive the assessment imposed under this section may, by January 31, submit a written request to the commission to transfer to the National Dairy Board an amount equal to the assessment the producer paid during the previous year.

(b) Unless the request for transfer is withdrawn, the transfer shall be made on or before May 30 of the year it is requested.

(c) If the mandatory assessment required by the Dairy and Tobacco Adjustment Act of 1983, Pub. L. No. 98-180, 97 Stat. 1128 (1150.152), is abolished, a producer who objects to payment of the assessment imposed under ~~[Subsection (a)]~~ this section, may, by January 31, submit a written request to the commission for a refund of the amount of the assessment the producer paid during the previous year.

Section 4. Section **4-22-8.5** is amended to read:

4-22-8.5. Additional assessment for government liaison and industry relations programs -- Exemption from the assessment.

(1) In addition to the assessment provided in Section 4-22-7, an assessment of three-fourths of one cent is imposed upon each 100 pounds of milk or cream produced and sold, or contracted for sale, through commercial channels in this state for the purposes specified in Subsection (3).

(2) The three-fourths of one cent assessment shall be paid in the same manner as the assessment required by Section 4-22-7.

(3) The commission shall use the revenue derived from the three-fourths of one cent assessment imposed by this section to contract out for services and expenses of government liaison

and industry relations programs created to stabilize and protect the state's dairy industry and the health and welfare of the public.

(4) A producer who objects to payment of the assessment imposed by this section may, by January 31, submit a written request to the commission to be exempted from payment of the assessment for that year. By January 1 each year, the commission shall send a postage-paid, self-addressed postcard to each person subject to the assessment which may be returned to request an exemption.

~~[(5) In 1994, a producer who objects to payment of the assessment may by June 1 submit a written request for exemption to the commission. The commission shall by May 2, 1994, send a postage-paid, self-addressed postcard to each person subject to the assessment which may be returned to request an exemption.]~~