

LEGISLATIVE BILL 836

Approved by the Governor March 19, 2004

Introduced by Kremer, 34; Wehrbein, 2

AN ACT relating to the Dairy Industry Development Act; to amend section 2-3951, Reissue Revised Statutes of Nebraska, and section 2-3948, Revised Statutes Supplement, 2002; to change provisions relating to board members; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; to outright repeal section 2-3964, Reissue Revised Statutes of Nebraska, and sections 2-3952, 2-3952.01, 2-3953, and 2-3954, Revised Statutes Supplement, 2002; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-3948, Revised Statutes Supplement, 2002, is amended to read:

2-3948. Sections 2-3948 to ~~2-3964~~ 2-3963 and sections 3 to 6 of this act shall be known and may be cited as the Dairy Industry Development Act.

Sec. 2. Section 2-3951, Reissue Revised Statutes of Nebraska, is amended to read:

2-3951. The Nebraska Dairy Industry Development Board is hereby created. Members of the board shall (1) be residents of Nebraska, (2) be at least twenty-one years of age, (3) have been actually engaged in the production of milk in this state for at least five years, and (4) derive a substantial portion of their income from the production of milk in Nebraska. ~~Members shall be nominated and appointed as provided in section 2-3952.~~

Sec. 3. (1) Members of the board shall, as nearly as possible, be representative of the nominees submitted by all first purchasers of milk and combinations of first purchasers and individual producer-processors in the state as provided in section 4 of this act and, to the extent practicable, result in equitable representation of the various interests of milk producers both in terms of the manner in which milk is marketed and geographic distribution of milk production units in the state. By the appointment of additional members or by reducing members by not filling a vacancy caused by a member's term expiring, the Governor shall maintain the membership of the board to approximate one member for each forty milk production units or major portion thereof.

(2) The terms of the members of the board shall be three years, except that the terms of the initial and additional members of the board shall be staggered so that one-third of the members are appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years, as determined by the Governor. Once duly appointed and qualified, no member's term shall be shortened or terminated by any subsequent certification by the Department of Agriculture of milk production units from which a first purchaser of milk purchases milk.

(3) The Director of Agriculture or his or her designee and a designee of the Nebraska Dairy Industry Association or its successor may participate in the activities of the board as ex officio members.

(4) Members of the board shall elect from among the members a chairperson, a vice-chairperson, and such other officers as they deem necessary and appropriate.

(5) Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 4. New members of the board shall be nominated and appointed as follows:

(1) Each first purchaser of milk which purchases milk from at least twenty-one milk producers may submit to the Governor the names of up to two nominees for each forty milk production units, or major portion thereof, from which the first purchaser purchases milk. The Governor shall appoint one member for each forty production units, or major portion thereof, from nominees submitted pursuant to this subdivision; and

(2) All other first purchasers of milk and individual producer-processors who are not included among milk production units claimed by a first purchaser of milk entitled to submit nominees under subdivision (1) of this section shall be combined as a group for the purpose of submitting nominees, and each first purchaser and individual producer-processor of the group may nominate up to two nominees. The Governor shall appoint two nominees from nominees submitted pursuant to this subdivision.

Sec. 5. (1) A vacancy on the board exists in the event of the death, incapacity, removal, or resignation of any member; when a member ceases to be a resident of Nebraska; when a member ceases to be a producer in Nebraska; or when the member's term expires. Members whose terms have expired shall continue to serve until their successors are appointed and qualified, except that if such a vacancy will not be filled, as determined by the Governor under section 3 of this act, the member shall not serve after the expiration of his or her term.

(2) For purposes of filling vacancies on the board, the Governor shall appoint one member from up to two nominees submitted by the first purchasers of milk or group represented by the vacating member. In the event of a vacancy, the board shall certify to the first purchasers of milk or group represented by the vacating member that such a vacancy exists and shall request nominations to fill the vacancy for the remainder of the unexpired term or for a new term, as the case may be.

Sec. 6. (1) When nominations for board members are required, written notification shall be given to each producer represented or to be represented by such member. The first purchaser or purchasers of milk shall notify each producer from whom the first purchaser buys milk that each producer may submit written nominations. If the group represented is a combination of first purchasers of milk and individual producer-processors, the individual producer-processors shall receive notification from the Department of Agriculture.

(2) Nominations shall be in writing and shall contain an acknowledgement and consent by the producer being nominated. The nomination shall be returned by the producer to the first purchaser of milk or to the department from whom the producer received notification within fifteen days after the receipt of the notification. For nominations to replace a member whose term is to expire or for a new member, the producers shall receive notification between August 1 and August 15 preceding the expiration of the term of the member or the beginning of the term of a new member. For all other vacancies, the producers shall receive notification within thirty days after the member vacates his or her position on the board.

(3) The first purchasers of milk and the department shall submit nominations to the Governor by September 30, in the case of term expiration or new member, or forty-five days after the member vacates his or her position for all other vacancies. The Governor shall make the appointments within thirty days after receipt of the nominations.

(4) All nominees shall meet the qualifications provided in section 2-3951.

(5) The Governor may choose the members of the board from the nominees submitted or may reject all nominees. If the Governor rejects all nominees, names of nominees shall again be provided to the Governor as provided in this section until the vacancies are filled.

Sec. 7. Original section 2-3951, Reissue Revised Statutes of Nebraska, and section 2-3948, Revised Statutes Supplement, 2002, are repealed.

Sec. 8. The following sections are outright repealed: Section 2-3964, Reissue Revised Statutes of Nebraska, and sections 2-3952, 2-3952.01, 2-3953, and 2-3954, Revised Statutes Supplement, 2002.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.