

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 377
Committee Substitute Favorable 3/29/23

Short Title: Grade "A" Dairy Assessment Act.

(Public)

Sponsors:

Referred to:

March 16, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A VOLUNTARY ASSESSMENT FOR GRADE "A" DAIRY
3 PRODUCERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 106 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 68B.

8 "Grade "A" Dairy Assessment Act.

9 **"§ 106-816. Title.**

10 This Article shall be known as the "Grade "A" Dairy Assessment Act."

11 **"§ 106-816.1. Purpose.**

12 It is in the public interest for the State to enable dairy producers to assess themselves in order
13 to raise funds to promote the interests of the dairy industry.

14 **"§ 106-816.2. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) Association. – The North Carolina Dairy Producers Association.
17 (2) Dairy cooperative. – An association of dairy producers owned by its members
18 and organized to provide services to its members, including finding markets
19 for milk produced by its members.
20 (3) Dairy producer. – A person who is a North Carolina resident, produces Grade
21 "A" milk for commercial sale, and holds a Grade "A" milk permit from the
22 Department.
23 (4) Department. – The North Carolina Department of Agriculture and Consumer
24 Services.
25 (5) Grade "A" milk. – Fluid milk and milk products which have been produced,
26 transported, handled, processed, and distributed in accordance with the
27 provisions of the rules adopted by the Board of Agriculture.
28 (6) Milk. – The lacteal secretion practically free from colostrum obtained by the
29 milking of one or more cows.
30 (7) Milk handler. – Any person, firm, corporation, or dairy cooperative engaged
31 in the receiving, handling, distribution, or sale of fluid milk or milk products
32 that are intended for bottling, manufacturing, processing, distribution, or sale
33 in this State.

34 **"§ 106-816.3. Referendum.**

35 (a) The Association may conduct among dairy producers a referendum upon the question
36 of whether an assessment shall be levied as provided for herein.



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1 **(b)** The Association shall determine all of the following:

2 **(1)** The amount of the proposed assessment.

3 **(2)** The time and place of the referendum.

4 **(3)** Procedures for conducting the referendum and counting of votes.

5 **(4)** Any other matters pertaining to the referendum.

6 **(c)** The amount of the proposed referendum shall be stated on the referendum ballot. The
7 amount may not exceed five cents (5¢) for each hundredweight of Grade "A" milk produced by
8 a dairy producer in this State. If the assessment is approved in the referendum, the Association
9 may set the assessment at an amount equal to or less than the amount stated on the ballot. If the
10 Association sets a lower amount than the amount approved by referendum, it may increase the
11 amount annually without a referendum by no more than one cent (1¢) for each hundredweight of
12 Grade "A" milk. The increased rate may not exceed the amount approved by referendum and
13 may not exceed the maximum allowable rate of five cents (5¢) for each hundredweight of Grade
14 "A" milk.

15 **(d)** All dairy producers may vote in the referendum. Any dispute over eligibility to vote
16 or any other matter relating to the referendum shall be determined by the Association. The
17 Association shall make reasonable efforts to provide dairy producers with notice of the
18 referendum and an opportunity to vote.

19 **§ 106-816.4. Payment and collection of assessment.**

20 **(a)** The assessment shall not be collected unless more than half of the votes cast in the
21 referendum are in favor of the assessment. If more than half of the votes cast in the referendum
22 are in favor of the assessment, then the Association shall notify the Department of the amount of
23 the assessment and the effective date of the assessment. The Department shall notify all dairy
24 producers of the assessment.

25 **(b)** Each dairy producer shall pay an assessment on each hundredweight of Grade "A"
26 milk produced in this State and sold commercially.

27 **(c)** Each milk handler or dairy cooperative shall collect the assessment by deducting the
28 amount of the assessment from the proceeds of the sale of Grade "A" milk. The milk handler or
29 dairy cooperative shall remit to the Department no later than the twentieth day following the end
30 of each calendar month the assessment on Grade "A" milk sold during that month. Any fluid milk
31 producer-processor who markets Grade "A" milk of its own production directly to consumers, or
32 any dairy producer who does not use the services of a milk handler or dairy cooperative located
33 in this State, shall also pay the assessment under this section. Any dairy producer who fails to
34 remit the assessment for the previous year's sales by January 20 shall pay a penalty of five percent
35 (5%) of the unpaid assessment plus a penalty of one percent (1%) of the unpaid assessment for
36 each month after January 20 that the assessment remains unpaid.

37 **(d)** The Association may conduct inspections or audits of the books of any dairy
38 producer. If the inspection or audit reveals that a dairy producer has willfully failed to remit
39 assessments when due, the dairy producer shall pay the Association the reasonable costs of the
40 inspection or audit.

41 **(e)** The Association may bring an action to collect unpaid assessments, penalties, and
42 reasonable costs of any inspection or audit as provided in subsection (c) of this section against
43 any dairy producer who fails to pay the assessment, penalties, or costs. If successful, the
44 Association shall also recover the cost of such action, including attorneys' fees.

45 **§ 106-816.5. Use of assessments; refunds.**

46 **(a)** The Department shall remit all funds collected under this Article to the Association
47 at least quarterly. The Association shall use the funds to promote the interests of the dairy
48 industry. The Association shall use such funds for research and marketing related to dairy
49 products and the dairy industry, including such administrative expenses as may be reasonably
50 necessary to carry out this function.

1 (b) A dairy producer may request a refund of the assessment collected under this Article
2 by requesting in writing a refund form from the Association. The Association shall determine the
3 contents of the refund form. The Association shall provide the dairy producer with a refund form
4 within one week of receiving the dairy producer's request. After receiving the refund form from
5 the Association, the dairy producer shall complete the form and provide proof of payment of the
6 assessment to the Association no earlier than December 15 and no later than December 31 of a
7 calendar year. The Association shall mail a refund to the dairy producer within 120 days of
8 receipt of a properly completed and documented refund form.

9 **"§ 106-816.6. Termination of assessment.**

10 Upon receipt of a petition signed by at least fifty percent (50%) of the dairy producers in
11 North Carolina known to the Association, the Department shall notify the Association and the
12 Association shall, within six months, conduct a referendum upon the question of continuing the
13 assessment. The referendum shall be conducted in the same manner as the initial referendum
14 upon the question of whether an assessment shall be levied. If a majority of the votes cast in the
15 referendum are against continuing the assessment, or if the Association fails to conduct a
16 referendum within the six-month period, the assessment expires at the end of the six-month
17 period. If a majority of the votes cast in the referendum are in favor of continuing the assessment,
18 then no subsequent referendum shall be held for at least three years."

19 **SECTION 2.(a)** G.S. 106-559.1 reads as rewritten:

20 **"§ 106-559.1. Basis of vote on milk product assessment.**

21 Notwithstanding any other provision of this Article, any milk product assessment referendum
22 conducted pursuant to this Article shall be conducted on the basis of one vote per base holder."

23 **SECTION 2.(b)** G.S. 106-563.1 reads as rewritten:

24 **"§ 106-563.1. Supervision of referendum on milk product assessment.**

25 Notwithstanding any other provision of this Article, any milk product assessment referendum
26 conducted pursuant to this Article shall be conducted under the supervision of the County
27 Extension Chairman in each county in which the referendum is held."

28 **SECTION 2.(c)** G.S. 106-567.1 reads as rewritten:

29 **"§ 106-567.1. Refund of milk product assessments.**

30 Notwithstanding any other provision of this Article, on and after January 1, 1982, a milk
31 producer shall be entitled to receive a monthly refund of assessments paid by ~~him~~ the milk
32 producer pursuant to this Article by making written demand in the first month of each calendar
33 quarter upon the association receiving such assessment."

34 **SECTION 3.** This act is effective when it becomes law.