

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 669*
Second Edition Engrossed 4/29/91

Short Title: Pork Promotion Assessment. (Public)

Sponsors: Senators Speed; Ballance, Basnight, Bryan, Conder, Daniel, Daughtry, Hunt, Hyde, Martin of Pitt, Martin of Guilford, Marvin, Parnell, Perdue, Plyler, Royall, Sands, Shaw, Smith, Soles, Tally, and Warren.

Referred to: Agriculture, Marine Resources, and Wildlife.

April 17, 1991

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE A PORK PROMOTION ASSESSMENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

“ARTICLE 66.
"PORK PROMOTION ASSESSMENT ACT.

"§ 106-790. Title.

This Article shall be known as the ‘Pork Promotion Assessment Act.’

"§ 106-791. Purpose.

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

"§ 106-792. Definitions.

As used in this Article:

(1) ‘Association’ means the North Carolina Pork Producers Association, Inc., a North Carolina nonprofit corporation.

(2) ‘Commissioner’ means the Commissioner of Agriculture.

(3) ‘Department’ means the North Carolina Department of Agriculture.

(4) ‘Porcine animal’ means swine raised for feeder pigs, seed stock or slaughter.

"§ 106-793. Referendum.

1 (a) The Association may conduct among pork producers a referendum upon the
2 question of whether an assessment shall be levied upon the sale of porcine animals as
3 set forth herein.

4 (b) The amount of the proposed assessment shall be set forth on the referendum
5 ballot. The assessment shall not exceed five cents (5¢) per head of swine produced or
6 sold in this State. The assessment may be set at less than five cents (5¢) per head by the
7 Association, and may be increased on an annual basis by no more than one cent (1¢) per
8 head, subject to the maximum of five cents (5¢) per head.

9 (c) The Board of Directors of the Association shall determine who may vote in
10 the referendum, as prescribed by Article II of the Bylaws of the Association.

11 (d) The referendum shall be conducted under rules and procedures determined by
12 the Association. The Association may provide for balloting by mail. Any dispute over
13 eligibility to vote or any other matter relating to the referendum shall be determined by
14 the Association. The Association shall make reasonable efforts to provide pork
15 producers with notice of the referendum and an opportunity to vote.

16 (e) If more than half of the votes cast in the referendum are in favor of the
17 assessment, the Association shall so notify the Commissioner and the assessment shall
18 be collected as set forth herein.

19 **"§ 106-794. Collection of assessment.**

20 (a) Upon passage of the referendum, the Commissioner of Agriculture shall
21 notify all buyers of porcine animals of the assessment. The assessment shall be
22 deducted from the purchase price of the animal at the time of sale and remitted to the
23 Commissioner no later than the tenth day of the following month. The Commissioner
24 shall provide forms to buyers for reporting the assessment. If the total assessments due
25 in any month are less than twenty-five dollars (\$25.00), the buyer may retain such
26 assessments until the total amount due is twenty-five dollars (\$25.00) or more. All
27 buyers shall file at least one report in each calendar quarter, regardless of the amount
28 due. All assessments received by the Commissioner shall be promptly remitted to the
29 Association.

30 (b) Buyers of swine shall keep records of the number of swine purchased and the
31 date of purchase. The Association may bring an action in a court of competent
32 jurisdiction to recover any unpaid assessments, plus the reasonable cost incurred in such
33 action, including attorney fees, as approved by the court. All information or records
34 regarding swine purchases by individual buyers shall be kept confidential by employees
35 or agents of the Department and the Association, and shall not be disclosed except by
36 court order.

37 (c) Any pork producer may request a refund of assessments paid under this act
38 by submitting a written request for a refund to the Association within 30 days after the
39 assessment has been collected by the buyer. The refund request must be accompanied
40 by proof of payment of the assessment satisfactory to the Association. The Association
41 shall mail the refund to the producer within 30 days of receipt of a properly documented
42 refund request.

43 **"§ 106-795. Use of assessments.**

1 Assessments collected under this Article shall be used for promoting the interests of
2 the pork industry, including representation before governmental bodies on matters
3 affecting the pork industry. In order to prevent duplication of effort, these funds shall
4 not be used for activities funded under the Pork Promotion, Research, and Consumer
5 Information Act of 1985, 7 USC 4801, et seq.

6 **"§ 106-796. Termination of assessment.**

7 Upon receipt of petition signed by at least ten percent (10%) of the pork producers in
8 North Carolina known to the Association, the Commissioner shall notify the
9 Association, and the Association shall, within six months, conduct a referendum upon
10 the question of the continuation of the assessment. If a majority of the votes cast in
11 such referendum are against continuation of the assessment, or if the Association fails to
12 conduct a referendum within the six-month period, the collection of the assessment shall
13 cease at the end of the six-month period. If a majority of the votes cast in such
14 referendum are in favor of the continuation of the assessment, then no subsequent
15 referendum shall be held for a least three years."

16 Sec. 2. G.S. 106-550 reads as rewritten:

17 **"§ 106-550. Policy as to promotion of use of, and markets for, farm products.**

18 It is declared to be in the interest of the public welfare that the North Carolina
19 farmers who are producers of livestock, poultry, field crops and other agricultural
20 products, including cattle, swine, sheep, broilers, turkeys, commercial eggs, peanuts,
21 cotton, potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well
22 as bulbs and flowers and other agricultural products having a domestic or foreign
23 market, shall be permitted and encouraged to act jointly and in cooperation with
24 growers, handlers, dealers and processors of such products in promoting and
25 stimulating, by advertising and other methods, the increased production, use and sale,
26 domestic and foreign, of any and all of such agricultural commodities. The provisions of
27 this Article, however, shall not include the agricultural products of tobacco,
28 strawberries, ~~or~~ strawberry plants, or porcine animals, with respect to which separate
29 provisions have been made."

30 Sec. 3. This act is effective upon ratification.