

ASSEMBLY AGRICULTURE COMMITTEE MINUTES

MARCH 11, 1975

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MEMBERS PRESENT: Chairman Hickey, Vice Chairman Price,
Mr. Jeffrey, Mr. Getto, Mr. Coulter (late)

MEMBERS ABSENT: Mr. Howard and Dr. Robinson (excused)

GUESTS: Phyllis Berkson, Nevada State Dairy Commission
Louis Bergevin, Nevada Cattlemen's Association
Clarence J. Cassady, Dairy Commission
Ray L. Jassman, Meadow Gold Dairies
John Olsen, Association Nevada Dairymen
Fred Weaver, All-Jersey of Nevada
S. D. Mastroianni, State Division of Nevada
L. A. Anker,
Gail G. Munk, Lovelock Alfalfa Seed Growers Association
Allen Brinkerhoff, Brinkerhoff Ranch, Inc.
Roy Phillips, Nevada Nile Ranch
Robert Hepworth, Northrup King & Co.
H. E. Gallaway, Nevada Department of Agriculture
James A. Edmundson, Nevada Health Division
Tom Bahan, Anderson Dairy
Chuck White, Farm Bureau
John Picetti, Producer
Bill Canepa, Dairy Commission

The meeting was called to order by Chairman Hickey at 8:15 a.m. for the purpose of hearing testimony on AB 288, 80, 19, and 213.

AB 288, requires State Board of Agriculture to appoint representative to National Livestock and Meat Board. Louis Bergevin, Nevada Cattlemen's Association, stated that he was speaking for the bill on behalf of Assemblyman Young. This bill is enabling legislation which would allow the Nevada State Department of Agriculture to appoint a representative to the National Livestock and Meat Board. The rules of this board states that if the contributions to the beef promotion fund within the state go over \$20,000 the state is entitled to have a representative on the National Board. Last year they collected \$19,059 for this fund and so far this year they have collected \$19,730 which is indicative that they soon will go over the \$20,000 mark. The bill will allow the appointment of this representative. This is an industry funded program and no state funds will be expended.

Mr. Hickey asked if they wanted to wait until after July 1 to make this effective. Mr. Bergevin stated that it would be better to make it effective as soon as possible.

Mr. Hickey appointed Mr. Jeffrey to get the appropriate amendment to the bill that would make it effective upon passage and approval.

Mr. Gallaway of the State Department of Agriculture stated that the State Board of Agriculture had discussed this legislation and gave their support to it.

AB 47, provides for alfalfa seed research and promotional projects. Mr. Gallaway, Department of Agriculture, stated that he was the author of this bill. The Nevada Alfalfa Seed Council had come to the department and asked for help to develop a program to raise money for research and promotion of the alfalfa seed industry. Mr. Gallaway conducted a study on this and with the help of the council this is what they came up with. The State Board of Agriculture has given their support for the bill and has agreed to except the responsibility it will place upon them.

The concept of the bill was created by the industry itself. They recommend that an advisory board be appointed. \$.50/CWT will be allowed to be assessed for the alfalfa seed grown in this State. This money will be collected by the Department and placed in a special fund for research and promotion. They will develop a program and contract out to the recommended agencies for research. Department will be the collection agency and will retain 5% of what is collected for administrative costs. State Board of Agriculture will have veto power over the programs developed should they feel that the program suggested will be detrimental to the industry or the State.

Mr. Price asked if everyone in the State who grows alfalfa seed will be required to belong. Mr. Gallaway stated that it was mandatory but that there was an escape clause included, whereby, with proof of having paid the assessment, a grower would be able to get his money back within a set length of time, should he be dissatisfied with the program. This refund cannot be denied.

Mr. Price than asked how much alfalfa seed was grown in this State. Mr. Gallaway stated that in 1973, 8,400,000 lbs. were grown, which at \$.50 per CWT would be about \$40,000 for this program. They do not anticipate that they will begin the program with the \$.50 assessment but rather with an assessment of perhaps \$.30/CWT.

Mr. Hickey asked about the fiscal note which was attached to the bill. Mr. Gallaway stated that he had been requested to show how much would be collected and the use of the 5% which will go to the Department.

Mr. Getto asked if they had the Attorney General's office go over the language of the bill to make sure that it said what they intended it to. Mr. Gallaway stated that they had not but that the industry had gone over and over it and that the Legislative Counsel Bureau had gone over it and was satisfied with the language.

Allen Brinkerhoff, Brinkerhoff Ranch, Inc. stated that he grew about 25% of total amount grown in the State and he was speaking in favor of the bill. This is what is needed to get money to solve some of the problems of research and promotion. This bill

would be paid for by the industry itself. Mr. Brinkerhoff stated that he was very much in favor of the escape clause as it made the bill uncontroversial. He cited the situation in the past where the industry had raised some money and how helpful it had been and how well it had worked out.

Robert Hepworth, Chairman of the Nevada Alfalfa Seed Council gave a brief background on the council and the membership within it. He stated that they were very much in favor of this bill as they feel research is imperative to this industry. Passage of this bill will be a step in the right direction. He concluded his testimony by stating that Nevada ranks 5th in the Nation in alfalfa production.

AB 80, makes various changes in provisions concerning milk and milk products. Al Edmundson, Inspector for the Division of Health and S. D. Mastroianni, also of the Health Division, appeared on behalf of AB 80. Mr. Edmundson stated that he wished to make it clear that this would not allow uninspected milk to be imported to Nevada. As the bill now reads, yearly inspections must be made by State health officials rather than by local agencies existing in the area where the milk is processed before being shipped to Nevada. The purpose behind the bill is to enable Nevada to accept reciprocal agreement inspections from surrounding states, California, Utah, Arizona etc. Mr. Edmundson continued that at this time California is no longer coming to Nevada for inspections of Nevada milk. At present Nevada is shipping several tankers a week to the Sacramento area. Nevada is presently an exporting area. Under this reciprocal agreement, plants that are short in surrounding areas can simply ask us for more milk. A book published by the U.S. Public Health Department rates every dairy. If these ratings are 90% or better in compliance with the Public Health standards, this milk is acceptable and can be used in Nevada during those periods when Nevada does not have a sufficient supply. This practice is common among many milksheds across the country and serves as a necessary tool to ship milk between states. In 1951, the Interstate Milk Shipping Agreement was effected in which every state has an equal voice to establish requirements. Mr. Edmundson that it has been a very workable agreement and does not lower the standards of milk coming into Nevada. If questions arise regarding the quality of milk coming into the state, Nevada still has the prerogative of inspecting milk outside the state. He also discussed further changes proposed in the bill where "Board of Health" would be changed to "Health Division" and in Section 3 increasing the time period for retaining milk samples from 24 to 72 hours. This would eliminate problems caused by week ends and pay periods and also be a better check on whether testing is being done correctly. Mastroianni stated that inspections by his office are paid for by the producer being checked.

Mr. Price asked Mr. Edmundson how milk from Colorado shipped to Minersville and into Southern Nevada can be controlled. Mr. Edmundson stated that tanks can be sealed at the point of origin and measurements and size of tanks would have to coincide with tickets issued on them.

He further stated that he does not feel that any illegal milk is coming into Nevada at the present time. To Mr. Price's question, Mr. Edmundson stated that no notice is given of their inspections although word usually gets around since because of courtesy, they do advise the local inspector. Mr. Edmundson told the committee of one bacteria problem from a producer in St. George who was cut off six weeks ago and whose milk is not coming into Nevada now. To Mr. Hickey's question of milk with high bacteria count, Mr. Edmundson stated that this is dried or powdered or put into cheese. If there are any antibiotics in the milk, it is dumped.

Mr. Hickey asked if they count the protein content of the milk and Mr. Edmundson stated that milk in Nevada is purchased on a fat basis and must contain 8.5% solids. He stated that milk has not been found to be coming from any producers but our own and the co-op is bringing milk from high surplus areas and taken to cheese plants. "We have no control over this." He stated that the Minersville plant contains only a few small producers who pool their milk. The co-op would be charged for all inspections in Minersville where the Utah inspector does inspect. Mr. Edmundson stated that he had been to Minersville about 5 times and did not feel the operation was any worse than other operations. Discussion was held as to the difference in bacteria count in "bucket" style milking as compared to machine milking and it was agreed that in some cases, bucket milking had a lower bacteria count. Mr. Getto made the point that this all depended upon the carefulness of the operator not the type of machinery or method used.

Mr. Mastroianni stated that there is no milk coming in from Colorado and that there are three or four loads being sent to California weekly. He verified this with John Olsen of Associated Nevada Dairies. He stated that individual samples are taken from each producer and that tankers coming in from Utah are sampled. Mr. Edmundson admitted that the Co-op was diluting the prices received by pool members in southern Nevada but again there was nothing the Health Division could do about that.

AB 213, makes certain changes in provisions relating to registration and distribution of fertilizers. Mr. Galway stated that this was an administrative bill to clarify certain points within this section of NRS. It contains a new definition of "substance" and in Section 3 simplifies the labeling requirements of materials containing only one plant food element. It authorizes the single designation. Section 5 prohibits the use of numerical designations that could be used to confuse the guarantee statement as it relates to the contents. Basically this bill simplifies, clarifies, and promotes labeling standards.

After a brief recess called in order to get the entire committee together, AB 29 was again presented to the committee for their comments and consideration.

Mr. Hickey began by reviewing the hearing held in North Las Vegas last Saturday and informed the committee and audience of recommendations coming from that hearing: 1) eliminate minimum pricing except to producers, 2) retain unfair trade practices, 3) prohibit sales below cost; 4) provide data in accordance with a code not now presently available to the public; 5) establish a uniform system for setting prices. He mentioned the fact that the Consumers League of Nevada is presently suing the Dairy Commission for a myriad of reasons, including the unconstitutional composition of the Commission with a majority of industry reps.

He also suggested changing the word "consumer" member to "public" member. He discussed the Virginia milk market and advised the (Exhibit I) committee that from information obtained from the Legislative Counsel Bureau, the USDA can interfere with co-ops flooding the market and prevent independent producers being coerced into joining a co-op. Mr. Hickey continued that he feels the Commission performs a service on the producer level and should not be abolished. Regarding Mr. Cassady, the Administrator of the Commission, Mr. Hickey stated that there may be changes in his status. He asked how the Commission can set prices without retailer costs; he stated that Mr. Cassady is in a bad position as an administrator and tries to move in such ways as to convince people and move them in certain directions. He didn't feel that Mr. Cassady has really been strong enough; that only 4/10 of 1% of revenue have been derived from other than assessments. He felt that the Commission should use it's powers more than they do presently to get the information necessary for decision making. He doesn't entirely blame Mr. Cassady for these problems and feels the Commission has not acted entirely with propriety. He continued stating that another Commission problem is that of the Commission not being appraised or receiving agendas in advance of meetings and that at public hearings, those testifying should be able to present advance testimony to the Commission for their purusal prior to meetings. "These are things we want straightened out; I don't know whose fault it is." Mr. Hickey continued saying that he is not in favor of abolishing the Commission; that records are going to be demanded for the public and that he is concerned about maintaining a level in the Commission and that the producer price must still be maintained. He stated that the Commission has been a buffer in the Lake Mead Order against the co-ops and commended Mr. Cassady for this.

Mr. Jeffrey stated that Mr. Cassady is in the classified service and is not as responsive as he should be and that this should be investigated. He continued that he does know the circumstances and if the criticism is warranted but that a system of checks and balances is necessary; that if Mr. Cassady doesn't have to be responsive the matter should be looked into.

Mr. Price presented a series of recommendations a copy of which are herewith attached as Exhibit II and made a part of this record.

Mr. Coulter stated that he had no objections to the recommended revisions to AB 29 and suggested that they be drafted in final form and added as amendments.

Mr. Howard asked Mr. Price to explain why in suggesting the suspension of price controls, he would still want the unfair trade practices maintained. Mr. Price stated that the intent is to make sure that there is available milk in the market and for this there is no need for minimum retail and wholesale pricing. He continued that if the producer is protected by minimum pricing and the consumer and retail market is protected from stores such as Safeway selling below cost, then it seems reasonable that fair trade practices will be maintained. This is the way it is done in other states. A free market can operate on its own, he continued, and distributors will have to address themselves to good business practices.

Mr. Jeffrey pointed out that from testimony elicited in the Las Vegas hearing, out-of-state operators such as Safeway can come in and just handle the high volume items with lower costs. Mr. Hickey pointed out that school milk is not bid; Mr. Cassady further explained that the distributors take turns supplying this milk as well as hospitals etc. Mr. Jeffrey stated that he would like more input on this before controls on price are removed.

Mr. Hickey stated that other amendments would be developed and brought before the committee; such as 3 producers and 3 public members for Commission composition. This would only be if the price on the distributor and retailer were dropped.

Mr. Coulter questioned whether this proposed 3 and 3 composition wouldn't simply boil down to consumer vs industry. Mr. Price explained that in the past the consumer and the producer were more reasonable to each other's needs and it was the distributor and retailer who weren't. If there was a request for an increase to producers, it would be up to the producer to convince a least one public member of its merit in order to pass. And if a deadlock was reached, it would still be to the consumer's advantage. Mr. Hickey suggested another amendment which would prohibit a member of one segment from voting on a raise for that segment of the industry, i.e., producer representative not voting for own raise. Mr. Cassady asked for clarification of the committee's proposed amendments as to suspension of price controls and credit.

Mr. Robinson questioned the problem of absenteeism with a 3 and 3 membership on the Commission. He felt that voting on price changes should require a full Commission being present at hearings.

Mr. Jeffrey pointed out the possibility of a public member not wanting a price increase and simply not attending meetings. Dr. Robinson suggested just calling 3 meetings on the proposed price increase and if a member misses two of those meetings, he is removed from the Commission. Mr. Hickey asked Mr. Cassidy to help Mr. Price draft amendments to the bill and stated that the Committee would meet in another week to discuss them.

As there was no further business for this meeting, Mr. Hickey adjourned the meeting.

Respectfully submitted

Sandra Gagnier
Assembly Attache

AGENDA FOR COMMITTEE ON AGRICULTURE
 Tuesday,
 Date..... March 11, 1975 Time..... 8:00 a.m. Room..... 240

Bills or Resolutions
 to be considered

Subject

Counsel
 requested*

THIS AGENDA CANCELS AND SUPERSEDES THE PREVIOUS AGENDA FOR THIS DATE

AB 288	Requires State Board of Agriculture to appoint representative to National Livestock and Meat Board.	
AB 47	Provides for alfalfa seed research and promotional projects.	
AB 80	Makes various changes in provisions concerning milk and milk products.	
AB 213	Makes certain changes in provisions relating to registration and distribution of fertilizers.	

*Please do not ask for counsel unless necessary.

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ARTHUR J. PALMER, Director

PERRY P. BURNETT, Legislative Counsel
EARL T. OLIVER, Legislative Auditor
ARTHUR J. PALMER, Research Director

February 11, 1975

M E M O R A N D U M

TO: Assemblyman Thomas J. Hickey
FROM: Mary Lou Love, Deputy Researcher, Office of Research
RE: Federal Marketing Orders and Milk Pricing in Nevada

Your questions on milk marketing were referred to me for response. First of all, states cannot establish quotas on milk imported into the state. Such action would constitute restraint of trade and be contrary to Article I, Section 8 of the U.S. Constitution giving the national government the right to regulate interstate commerce. Nevada does inspect imported milk, but on the same basis as home-produced milk; no artificial barriers or different standards are allowed. The trend in this matter is to have fewer and fewer state inspections and to rely on U.S. Public Health inspections.

With regard to your second question concerning a kind of "right to sell milk" law, it should be noted that nothing in the federal law (enclosed) is permissive in terms of allowing state governments to decide to opt in or out of a federal market order. Two-thirds of the producers of milk for a certain area must petition to have the order established. A simple majority must agree to have it removed. Apparently the situation in southern Nevada is such that Nevada producers would not control the vote.

I talked with the U.S. Department of Agriculture about the problem. It would evidently be a very difficult procedure to get the Secretary of Agriculture to rearrange the boundaries of a market area simply to increase prices for one group of producers. A petition to the secretary could be made, but the burden would be on the petitioners to show that the move was not to avoid the purposes of the act. Theoretically, the act could be amended by Congress to exclude Nevada; however, no other state is excluded

Memo
Assemblyman Hickey
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presently. The purpose of the act is to facilitate an orderly milk market, and every urban area in every state is potentially subject to that problem. The U.S. Department of Agriculture did indicate that it could interfere in a situation where one producer or group was attempting deliberately to drive other producers out by flooding the market.

The only other solutions are for a producer to process his own milk or sell it to a processor outside the marketing order.

I am enclosing a chart prepared for another member of your committee which you may find helpful. Also enclosed is a report from Virginia on problems of a similar nature. Their solution to keeping both producer and consumer happy, while maintaining an orderly market is for the state dairy commission to establish minimum producer prices and maximum consumer prices. The power to establish minimum retail prices is granted only in emergency situations.

MLL/jd
Encl. (3)

RECOMMENDATIONS: (As presented by Assemblyman Price)

Section 584.420, which provides for the number of members of the Commission be changed from nine to six members.

Section 584.430, which provides for the qualifications of members be changed so that 3 members of the Commission come from the producers and 3 members of the Commission be members of the public at large.

Section 584.410, which provides the purposes of 584.325 to 584.690 be amended to drop the control that fixes prices for all levels above the producer.

Sections 584.583, which provides for the Unfair Trade Practices and Investigation of Marketing and Pricing Practices be amended to include the retail sales of fresh milk or in other words adopt a Fair Trade Practice Act prohibiting sale of milk below cost.

Section 584.435, which provides for grounds for removal of member amend to provide that a member will be replaced on the Commission if they miss more than two consecutive meetings of the Commission.

Incorporate language into this Section that will require sufficient information and pertinent data be furnished the members of the Commission far enough in advance of a public hearing so that the members of the Commission may have the time to become properly prepared for this hearing. Also, that an agenda be developed in advance of a hearing similar to the methods of PSC and those persons desiring to appear before the Commission at the hearing declare their intent in advance.

Also, recommend that should the committee adopt the bill and the unfair trace practice is included, that the Commission be given proper power and instruction to do investigations in order to find out if the retailer is selling milk according to this practice.

Also, require that all milk and milk products on the shelf in retail stores be properly marked.