

ASSEMBLY AGRICULTURE COMMITTEE MINUTES  
APRIL 5, 1977  
5:00 p.m.

MEMBERS PRESENT: Chairman Hickey  
Mr. Price  
Mr. Polish  
Mr. Serpa  
Mr. Jacobsen  
Mr. Rhoads

MEMBERS ABSENT: Mr. Jeffrey

GUESTS: Assemblyman Dini  
Mr. and Mrs. Getto

A quorum being present, Chairman Hickey called the meeting to order. The purpose of the meeting was a work session to develop Dairy Commission legislation.

AB 152, Changes various provisions relating to State Dairy Commission.

Mr. Jacobsen began by stating that he had contacted representatives of the various associations which would be most closely associated with the people that would be appointed to this Commission. He stated that they all felt that there would be no problems with recommending names for these positions. He also stated that he had talked to the Governor and the Governor had suggested that perhaps a home economist would be better than an agricultural economist. It was determined that this would be harder to find.

Mr. Jacobsen stated that he had also talked with member of the Board of Accountants regarding the three month meeting period as reflected in this bill. He felt that once a month would be more in order to help educate the members.

Mr. Hickey stated that the Governor had some concern over how difficult it may be to fill these positions because of the controversy surrounding the Commission.

Mr. Hickey then inquired what the committee's feelings were regarding making the Executive Secretary directly responsible to the Governor. Mr. Jacobsen stated that he felt the Governor did not really want this responsibility and that the Executive Secretary should be responsible to the Commission. The Governor does not have the power to remove the Executive Secretary but he does have the power to remove the Commissioners.

Mr. Hickey stated that in the past the Governor has had to move in and make strong sanctions on this Commission. This bill does not have this same flexibility. Mr. Jacobsen stated that the Governor could remove the members of the Commission.

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Mr. Rhoads stated that he was against having a home economist instead of an agricultural economist. He felt that there were people available that would do a good job on this.

Mr. Price stated that he would be willing to have the home economist in lieu of the banker.

Mr. Rhoads stated that he felt the agricultural economist would be necessary to have because of his relationship in the areas of research and he would be much closer to a data bank of information.

Mr. Jacobsen stated that he had also talked to Attorney General about the counsel for this Commission. He stated that the A.G. would prefer that this counsel be from his office but that with present staff this would be difficult. He felt he would need additional staff. This would give the counsel the ability to be independent. The A.G. pointed out that presently if the Commission hires their own legal counsel, he gets to be part of them and he is not going to do anything that might jeopardize his job. Also, he stated that if there are any violations such as there have been in the past, the Deputy A.G. is responsible directly to the Attorney General. Commission needs somebody to keep them on the right track.

Mr. Serpa stated that he would agree with Mr. Jacobsen in this in that private counsel could get "wired in there too tight". He also felt that the Attorney General's office would be more answerable to the general public.

Mr. Jacobsen added that he also felt that there may be savings of funds which this would provide. The funding would come out of the Commission's budget.

Mr. Price stated that he had previously been inclined to feel this way but that some of the testimony had made him wonder about it. He stated that he questioned the way the Attorney General's office had previously handled the investigation. He stated that perhaps this had caused some unnecessary heat on the industry that wasn't really necessary.

Mr. Hickey cited the situation in the south with the City Attorney being elected and almost separate from the local government. He stated that he felt that it was necessary to take a chance on the three people selected. If this Commission is going to manage and set policy, they should be able to select their own legal counsel. Flexibility should be given to either use the Attorney General's office or outside counsel.

Mr. Hickey stated that the previous problem that was brought out about the legal counsel with the Commission was a different time frame and was during the time of the previous counsel.

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Mr. Price stated that on the side of this, if the Attorney General's was required to be used, the A.G. could not blame the Commission itself for not doing the job.

Mr. Hickey stated that he would hate to see the Commission at odds with their attorney.

Mr. Jacobsen stated that if they Attorney General's office was used at least the general public has got a place to go and complain. Mr. Hickey stated that they should come to the Commission itself.

Mr. Hickey suggested that perhaps they could require the Commission to use the Attorney General at first and then give them some flexibility after things get going.

Mr. Polish stated that he felt there was also a time element to consider. He felt that the Attorney General's office would be more available than private legal counsel.

Mr. Getto stated that the dairymen were really concerned with this. He stated that they have really been strapped with adverse conditions. In the past it has always been after the fact. They get price increase after they have suffered for six months. He would like to see something worked in that would require the Commission by rules and regulations to set up a cost factor.

Mr. Hickey stated that they would have to take into the consideration the problems from Southern Nevada. He stated that he felt that prices would begin to climb to meet the producers costs very soon.

Mr. Dini stated that he felt that with the three people who are impartial it will clean the "present mess up" and the inclusion of the Attorney General will strengthen it. If after this gets going they feel that private attorney would be better at least it won't have the stigma of the industry promoting itself.

Mr. Rhoads stated that during the meeting with the Governor, he suggested the Chairman of the Commission be appointed by the Governor. This found on page 2, line 32. This would preclude any fighting within the three man Commission.

Mr. Jacobsen suggested that line 41 page 2, be amended to require the Commission to meet at least once each month or more often if they so desire.

Mr. Hickey then suggested they amend page 2, line 25, so that one of the members would be a certified public accountant or a public accountant.

At this point, Mr. Jacobsen moved for a "do pass as amended", and that when the bill comes out it be sponsored by the Agriculture Committee. Mr. Serpa seconded the motion. The following amendments were included:

Page 2, line 25, "(a) One member shall be a certified public accountant or a public accountant."

Page 2, line 32, "3. The Governor shall select a chairman from among the members."

Page 2, line 41, "at least once every month and may meet at the call of the chairman or at the request of a majority of the members of the commission."

Mr. Hickey stated that he would get the proper language drafted regarding the use of the Attorney General's office during the transition period and have the bill further amended with this on the floor.

The motion passed unanimously with Mr. Jeffrey absent.

Mr. Serpa then asked that the bill also be amended to make it effective upon passage and approval. This would help in the transition period before the present Executive Secretary retires.

Mr. Price also pointed out that he felt that section 16, page 8, line 3, shall be effective on July 1, 1981.

It was also pointed that the committee had some suggested amendments from the legal counsel of the present Dairy Commission which would strengthen the existing statutes. These are attached to these minutes as Exhibit A and herewith made a part of this record.

Mr. Price moved for adoption of these amendments and that they be included with the "do pass as amended" recommendation for AB 152. Mr. Jacobsen seconded the motion. The motion carried unanimously with Mr. Jeffrey absent. The following amendments were adopted:

Page 8, line 3, "2. Section 16 of this act shall become effective July 1, 1981."

Page 8, line 3, "3. The remaining sections of this act shall become effective upon passage and approval.

The suggested amendments found in Exhibit A

Mr. Getto inquired whether the committee was interested in having some type of power given the Commission to allow pass through costs. It was determined that the committee would not really want to get into this. It was also determined that much of

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this was already covered under the language found on page 5, lines 7-15. It was pointed out that "cost of production" covered a lot of ground.

AB 61, Abolishes State Dairy Commission.

Mr. Jacobsen moved for "indefinite postponement" and Mr. Polish seconded the motion. The motion carried unanimously with Mr. Jeffrey absent.

As there was no further business to discuss, the meeting was adjourned.

Respectfully submitted,

*Sandra Gagnier*  
Sandra Gagnier  
Assembly Attache

Also attached to these minutes as Exhibit B and herewith made a part of this record is a memorandum from Mary Love Cooper regarding the impact of federal orders on milk prices to producers.

Adopted <input type="checkbox"/>	Adopted <input type="checkbox"/>
Lost <input type="checkbox"/>	Lost <input type="checkbox"/>
Date:	Date:
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Date:	Date:
Initial:	Initial:

Amendments to Assembly ~~XXXXXX~~

Bill / ~~XXXX Resolution~~ No. 152 (BDR 51-101)

Proposed by Committee on Agriculture

1977 Amendment No. 44

Conflicts with Amendment No. 124A.  
Resolves conflict with S.B. 63.

Amend section 2, page 1, between lines 10 and 11, insert:

"5. Classifying fluid milk products into 3 separate classes."

Amend sec. 4, page 1, line 16, after "Sec. 4." insert:

"NRS 584.380 is hereby amended to read as follows:

584.380 "Retail store" means any person owning or operating a retail grocery store, restaurant, confectionery, or other similar business, where fluid milk or fluid cream is sold to the general public [for consumption off the premises.]

Sec. 5."

Amend the bill as a whole by renumbering sections 5 through 12, inclusive, as sections 6 through 13, inclusive.

Amend sec. 13, page 5, line 38, delete "Sec. 13." and insert:

"Sec. 14. NRS 584.570 is hereby amended to read as follows:

584.570 1. No distributor may engage in any of the practices set forth in paragraphs (a) to (d), inclusive, of subsection 2 of this section, whether or not a stabilization and marketing plan is in effect in the area in which he carries on his business.

2. Each stabilization and marketing plan shall contain provisions for prohibiting distributors and retail stores from engaging in the unfair practices set forth in this subsection:

(a) The payment, allowance or acceptance of secret rebates, secret refunds or unearned discounts by any person, whether in the form of money or otherwise.

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To Engrossment 426

(more)

Drafted by LP/cj

Date 3/8/77

Amendment No. 44 to Assembly Bill No. 152 (BDR 51-101) Page 2

(b) The giving of any milk, cream, dairy products, services or articles of any kind, except to bona fide charities, for the purpose of securing or retaining the fluid milk or fluid cream business of any customer.

(c) The extension to certain customers of special prices or services not made available to all customers who purchase fluid milk or fluid cream of like quantity under like terms and conditions.

(d) The purchase of any fluid milk in excess of 200 gallons monthly from any producer or association of producers unless a written contract has been entered into with such producer or association of producers stating the amount of fluid milk to be purchased for any period, the quantity of such milk to be paid for as class 1 in pounds of milk or pounds of milk fat or gallons of milk, and the price to be paid for all milk received. The contract shall also state the date and method of payment for such fluid milk, which shall be that payment shall be made for approximately one-half of the milk delivered in any calendar month not later than the 1st day of the next following month and the remainder not later than the 15th day of the month, the charges for transportation if hauled by the distributor, and may contain [such] other provisions [as] which are not in conflict with NRS 584.325 to 584.690, inclusive [, and shall contain a proviso to the effect] The contract shall also provide that the producer [shall not be] is not obligated to deliver in any calendar month fluid milk to be paid for at the minimum price for fluid milk [that is used for class 3, as that class is defined in NRS 584.490.] which is classified as class 3. A signed copy of such contract shall be filed by the distributor with the commission within 5 days from

the date of its execution. The provisions of this subsection relating to dates of payment do not apply to contracts for the purchase of fluid milk from nonprofit cooperative associations of producers.

Sec. 15. NRS 584.584 is hereby amended to read as follows:

584.584 1. [Nothing in NRS 584.583 shall be construed as permitting or authorizing] The provisions of NRS 584.583 do not permit or authorize the development of conditions of monopoly in production or distribution of butter , [or] fresh dairy byproducts [,] or fluid milk products and a distributor who meets in good faith a lawful competitive price [shall not be] is not subject to any penalty provided in NRS 584.325 to 584.690, inclusive, if he files with the commission information detailing the circumstances surrounding the lawful competitive price within 5 days of such occurrence. Such information shall include the name and address of the distributor, the name and address of the customer involved, the competitive price met, the effective date of such price or condition, and the name and address of the competing distributor.

2. If such information is accompanied by a written statement, signed by the customer before a notary public or two competent witnesses, that such competitive price has been offered or made available to him, [such] the statement [shall constitute] is prima facie evidence that a distributor is meeting such competitive price or condition in good faith.

Sec. 16."

Amend sec. 14, page 6, line 3, delete "Sec. 14.", and insert: "Sec. 17."

Amend sec. 15, page 6, delete line 27 and insert:

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"Sec. 18. 1. NRS 584.430, 584.475 to 584.490, inclusive, and 584.530

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are hereby repealed.

2. NRS 584.685 is hereby repealed."

Amend sec. 16, page 6, line 28, delete "Sec. 16." and insert "Sec. 19."

Amend sec. 17, page 6, line 41, delete "Sec. 17." and insert "Sec. 20."

Amend sec. 18, page 6, line 48, delete "Sec. 18." and insert "Sec. 21."

Amend sec. 19, page 8, delete lines 1 through 3 and insert:

"Sec. 22. 1. This section and section 21 of this act shall become effective upon passage and approval.

2. Section 19 of this act shall become effective July 1, 1979.

3. Subsection 2 of section 18 shall become effective at 12:01 a.m. on July 1, 1977."

Amend sec. 19, page 8, line 4, delete "3." and insert "4."

STATE OF NEVADA  
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March 28, 1977

M E M O R A N D U M

TO: Chairman and Members of the Assembly Committee on  
Agriculture

FROM: Mary Love Cooper, Deputy Researcher

SUBJECT: Impact of Federal Orders on Milk Prices to Producers

You asked me to ascertain the impact on Class I, II and III milk prices in situations where states went from state to federal orders. The USDA indicates that this information is not readily available, but in the event the USDA comes up with data on this subject, I will forward it to you.

In the meantime, by combining federal market order records with records kept by the Nevada Dairy Commission, we can put together a picture of what happened both to milk prices to producers and usage in the Las Vegas area after the federal market order.

Federal Market Order No. 139 covers portions of southern Nevada and Utah and went into effect in August of 1973. The attached chart traces Class I, II and III prices and usage from 1972 to 1975. For the 1972 year and the first 7 months of 1973, all producer prices in southern Nevada were determined by the State Dairy Commission. The last 3 months of 1973 and continuing to the present, federal order prices generally prevailed in the southern Nevada area.

At first glance, the charts show you that at the same time the Lake Mead Order went into effect, producer prices for milk in

Impact on Milk Prices  
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all classes jumped enormously. It would be easy to attribute the price increase to the federal order except that milk prices across the country apparently experienced increases at the same time.

Blend prices or prices based on the various class usages of farmers' milk increased from 1972 to 1975. This increasing blend price occurred even in the face of declining usage of southern Nevada farmers' milk for Class I purposes. At first glance, it would seem that as long as the blend price increases, declining Class I usage is inconsequential. This fact may or may not be true. Increasing blend prices have to be weighed against increasing costs. Secondly, if you are a member of the Lake Mead cooperative, the blend price on the chart represents only the blend price due the cooperative. If the cooperative is federated with other cooperatives, the Nevada blend price may be reblended with blend prices in other states. The member of the cooperative may, in fact, receive less per cwt than the Lake Mead blend prices.

Another factor to consider in attempting to ascertain the impact of federal orders on prices received by farmers is the position of independent dairymen in southern Nevada. Before the advent of the federal order, both Utah and Nevada farmers supplied the Las Vegas area with milk. Usage and, consequently, actual blend price to farmers was determined on the basis of contracts between dairymen and milk processors. Nevada dairymen in general were able to negotiate better contracts. Thus, most of their milk was used as Class I and they, therefore, got a higher price per cwt. Utah dairymen, however, got the short end of the deal from processors serving Las Vegas. Consequently, much of their milk was used for manufacturing grades and their price per cwt was much lower than for Nevada farmers. For example,

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prior to the federal order some Nevada producers might have received an 85 percent Class I usage while Utah farmers serving the same market might have received a 60 percent Class I usage. The overall Las Vegas market usage of milk might have been 70 percent Class I. The effect of the federal order was to spread Class I prices more evenly among all producers supplying the same market. Farmers who formerly had most of their milk used as Class I are naturally disgruntled, while farmers who formerly had much of their milk used for lower classes appear happy with the even spread situation.

It should be remembered that it took a certain number of Nevada producers to go along with Utah farmers to get the federal order established. These Nevada farmers have not complained about the federal order.

Finally, the third chart compares actual Class I average prices under state milk orders for 1972 and the first 7 months of 1973 with theoretical Class I prices if the federal order had been in effect in southern Nevada. In 1972 the difference was fairly small. The first half of 1973, however, shows a 50 cent higher Class I price to producers if a federal order had existed. Keep in mind that farmers do not receive Class I prices for milk, but obtain a blend price based on usage.

SOUTHERN NEVADA  
PRODUCER MILK PRICES AND USAGE\*  
1972-1975

Before and After Lake Mead Federal Marketing Order

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>	<u>Blend</u>	<u>Percent Used as Class I</u>
1972	\$6.48 <sup>S</sup>	\$4.54 <sup>S</sup>	\$4.34 <sup>S</sup>	\$5.98	85
1973 (first 7 months)	6.59 <sup>S</sup>	5.20 <sup>S</sup>	5.00 <sup>S</sup>	6.33	85
1973 (last 5 months)	8.15 <sup>F</sup>	7.42 <sup>F</sup>	7.27 <sup>F</sup>	7.97	78
1974	8.86 <sup>F</sup>	7.21 <sup>F</sup>	7.06 <sup>F</sup>	8.42	63
1975	8.86 <sup>F</sup>	7.77 <sup>F</sup>	7.62 <sup>F</sup>	8.79	64

S = State prices; F = Federal prices

Pounds and Percentages of Nevada Produced Milk

	<u>Class I - Pounds</u>	<u>Total Pounds</u>	<u>Percent Used as Class I</u>
1972	46,092,281	54,151,563	85
1973	43,373,575	57,979,743	83
1974	46,025,745	72,910,269	63
1975	48,006,816	75,190,309	64

Actual State Class I Prices and Theoretical Federal Order Prices

	<u>State Order</u>	<u>Federal Order</u>	<u>Difference</u>
1972	\$6.48	\$6.60	\$ .12
1973 (first 7 months)	6.59	7.09	.50

\*Prices are per cwt and class prices represent average prices throughout the year as set by orders.