

LEGISLATIVE BILL 70

Approved by the Governor March 20, 2013

Introduced by Schilz, 47.

FOR AN ACT relating to agriculture; to amend sections 2-3951, 2-3951.01, 2-3951.02, 2-3951.03, and 2-3951.04, Reissue Revised Statutes of Nebraska; to change provisions relating to membership of the Nebraska Dairy Industry Development Board; to repeal the original sections; and to declare an emergency.

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

Section 1. 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. Board members shall be nominated and appointed as provided in sections 2-3951.01 to 2-3951.04.

Sec. 2. Section 2-3951.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-3951.01 (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 2-3951.02 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 first term 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 each year. The number of years for the first term of new and additional members shall be 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.~~ shall be an ex officio member of the board but shall have no vote in board matters.

(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. 3. Section 2-3951.02, Reissue Revised Statutes of Nebraska, is amended to read:

2-3951.02 (1) Members ~~New members~~ of the board shall be nominated and appointed as follows:

~~(1)~~ (a) 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, except that if milk production units certified by the Department of Agriculture have decreased so that each board member appointed pursuant to this subdivision represents less than a major portion of forty production units, the Governor shall maintain representation of one member for each forty production units, or major portion thereof, by not filling a vacancy caused by a member's term expiring; and

~~(2)~~ (b) 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)~~ (1)(a) 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~~ members from nominees submitted pursuant to this subdivision.

(2) Whenever the number of members of the board as determined by subsection (1) of this section results in less than seven members, the Governor shall appoint a member or members from the state at large to maintain membership of the board at seven members. Whenever such appointment is required, the board shall call for and submit a list of two or more nominees for each additional member needed to the Governor, and the Governor shall appoint a member or members from the nominees submitted pursuant to this subsection.

(3) Nominations in the case of term expiration or new or at-large membership and for all other vacancies shall be provided according to the process prescribed in section 2-3951.04. 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 until the appointment is filled.

Sec. 4. Section 2-3951.03, Reissue Revised Statutes of Nebraska, is amended to read:

2-3951.03 (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 ~~2-3951.01, 2-3951.02,~~ 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.~~ vacating member's nominator under section 2-3951.02. In the event of a vacancy, the board shall certify to the ~~first purchasers of milk or group represented by the vacating member~~ vacating member's nominator 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. 5. Section 2-3951.04, Reissue Revised Statutes of Nebraska, is amended to read:

2-3951.04 (1) When nominations for board members are required, written notification shall be given to each producer represented or to be represented by such member, including an at-large 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 or if the member is an at-large member, the individual producer-processors shall receive notification from the Department of Agriculture.

(2) Nominations shall be in writing and shall contain an acknowledgment 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 or within thirty days after the board calls for an at-large member or members as provided in section 2-3951.02.

(3) The first purchasers of milk, and the department, or the board shall submit nominations to the Governor by September 30, in the case of term expiration or new or at-large 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. 6. Original sections 2-3951, 2-3951.01, 2-3951.02, 2-3951.03, and 2-3951.04, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.