

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 691

An Act to amend and reenact § 2.1-1.6 of the Code of Virginia and to amend the Code of Virginia by adding in Title 3.1 a chapter numbered 43, consisting of sections numbered 3.1-1065 through 3.1-1080, relating to the establishment of the Virginia Sheep Industry Board; penalties.

[H 2516]

Approved March 26, 1995

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-1.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 43, consisting of sections numbered 3.1-1065 through 3.1-1080, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for
Aging, Advisory Board on the
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
Art and Architectural Review Board
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catoclin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Certified Seed Board, State
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Mining Examiners, Board of
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of
Cosmetology, Board for
Criminal Justice Services Board
Dark-Fired Tobacco Board, Virginia
Deaf and Hard-of-Hearing, Advisory Board for the Department for the
Dentistry, Board of
Education, State Board of
Egg Board, Virginia
Emergency Medical Services Advisory Board
Employment Agency Advisory Board

Farmers Market Board, Virginia
 Film Office Advisory Board
 Fire Services Board, Virginia
 Forensic Science Advisory Board
 Forestry, Board of
 Funeral Directors and Embalmers, Board of
 Game and Inland Fisheries, Board of
 Geology, Board for
 Goose Creek Scenic River Advisory Board
 Health Planning Board, Virginia
 Health Professions, Board of
 Health, State Board of
 Hearing Aid Specialists, Board for
 Hemophilia Advisory Board
 Historic Resources, Board of
 Housing and Community Development, Board of
 Industrial Development Services Advisory Board
 Insurance Advisory Board, State
 Irish Potato Board, Virginia
 Laboratory Services Advisory Board
 Marine Products Board, Virginia
 Medical Advisory Board, Department of Motor Vehicles
 Medical Board of the Virginia Retirement System
 Medicare and Medicaid, Advisory Board on
 Medicine, Board of
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Migrant and Seasonal Farmworkers Board
 Military Affairs, Board of
 Mineral Mining Examiners, Board of
 Minority Business Enterprise, Interdepartmental Board of the Department of
 Motor Vehicle Dealers' Advisory Board
 Networking Users Advisory Board, State
 Nottoway State Scenic River Advisory Board
 Nursing, Board of
 Nursing Home Administrators, Board of
 Occupational Therapy, Advisory Board on
 Oil and Gas Conservation Board, Virginia
 Opticians, Board for
 Optometry, Board of
 Peanut Board, Virginia
 Personnel Advisory Board
 Pesticide Control Board
 Pharmacy, Board of
 Physical Therapy to the Board of Medicine, Advisory Board on
 Plant Pollination Advisory Board
 Polygraph Examiners Advisory Board
 Pork Industry Board, Virginia
 Poultry Products Board, Virginia
 Private College Advisory Board
 Private Security Services Advisory Board
 Professional and Occupational Regulation, Board for
 Professional Counselors, Board of
 Professional Soil Scientists, Board for
 Psychiatric Advisory Board
 Psychology, Board of
 Public Buildings Board, Virginia
 Public Telecommunications Board, Virginia
 Radiation Advisory Board
 Real Estate Appraiser Board
 Real Estate Board
 Reciprocity Board, Department of Motor Vehicles
 Recreational Fishing Advisory Board, Virginia
 Recreation Specialists, Board of
 Reforestation Board

Rehabilitation Providers, Advisory Board on
 Rehabilitative Services, Board of
 Respiratory Therapy, Advisory Board on
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Safety and Health Codes Board
 Seed Potato Board
 Sewage Handling and Disposal Appeal Review Board, State Health Department
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 Small Grains Board, Virginia
 Social Services, Board of
 Social Work, Board of
 Soil and Water Conservation Board, Virginia
 Soybean Board, Virginia
 State Air Pollution Control Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Sweet Potato Board, Virginia
 Teacher Education and Licensure, Advisory Board on
 Tourism and Travel Services Advisory Board
 Toxic Substances Advisory Board
 Transportation Board, Commonwealth
 Transportation Safety, Board of
 Treasury Board, The, Department of the Treasury
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Board for Asbestos Licensing
 Virginia Coal Mine Safety Board
 Virginia Correctional Enterprises Advisory Board
 Virginia Employment Commission, State Advisory Board for the
 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
 Virginia Horse Industry Board
 Virginia Manufactured Housing Board
 Virginia Retirement System, Board of Trustees
Virginia Sheep Industry Board
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Voluntary Formulary Board, Virginia
 War Memorial Foundation, Virginia, Board of Trustees
 Waste Management Facility Operators, Board for
 Water Resources Research Center Statewide Advisory Board, Virginia
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, Virginia
 Youth and Family Services, State Board of.

B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be referred to as boards:

Compensation Board
 State Board of Elections
 State Water Control Board
 Virginia Parole Board
 Virginia Veterans Care Center Board of Trustees.

CHAPTER 43.

VIRGINIA SHEEP INDUSTRY BOARD ACT.

§ 3.1-1065. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Board" means the Virginia Sheep Industry Board.

"Commissioner" means the Commissioner of Agriculture and Consumer Services.

"Fund" means the Virginia Sheep Industry Promotion and Development Fund.

"Handler" means the operator of a stockyard, livestock dealership, slaughterhouse, packing plant or livestock auction market, or any other person or business entity making a purchase from a sheep producer, at the point at which the sheep or lamb is sold or traded.

"State Board" means the State Board of Agriculture and Consumer Services.

§ 3.1-1066. *Petition for referendum on question of assessment for market development, predator control, education, research, promotion; action of State Board and Commissioner; amount of assessment.*

The State Board, upon a petition being filed with it by the Virginia Sheep Federation requesting a referendum, and upon finding that sufficient interest exists among the members of the sheep industry in the Commonwealth to justify a referendum, shall authorize the holding of a referendum as provided in this chapter. The Commissioner or his designee shall then be empowered and directed to conduct a referendum on the question of whether or not the members of Virginia's sheep industry are of the opinion that additional market development, predator control, education, research and promotion of the sheep industry are required. If approved in a referendum authorized by this chapter, an assessment of fifty cents for each sheep or lamb sold within the Commonwealth shall be imposed, and the Board shall have the authority to increase the assessment no more than ten cents per year, up to a maximum assessment of one dollar per head.

§ 3.1-1067. *Persons eligible to vote.*

Each member of the Virginia sheep industry who has sold one or more sheep or 50 or more pounds of wool within the Commonwealth during fiscal year 1993-1994 shall be eligible to vote in the referendum, provided that he certifies that he has conducted such sale. A person eligible to vote may be a natural person, partnership, or corporation, provided that such person is a resident or qualified to do business in the Commonwealth. The vote of a partnership shall be cast by one of the general partners. A corporation shall vote by its president, general manager or such other person as may be authorized by the corporation to cast its vote.

§ 3.1-1068. *Rules governing ballots, conduct of referendum, canvassing, etc.*

The State Board shall adopt rules governing the ballots to be used in the referendum, the conduct of the referendum, the canvassing of the results thereof, and the declaration of the results of the referendum. The State Board shall fix the date, areas, hours, and voting places with respect to the holding of the referendum and may provide for voting by mail if it deems advisable.

§ 3.1-1069. *Management of referendum; notice.*

The Commissioner shall manage any referendum conducted under this chapter. The Commissioner shall, sixty days before the date upon which a referendum is to be held, mail notice to the clerk of the circuit court in each county where those eligible to vote in the referendum reside. The clerk of the circuit court shall post the notice and rules on the front door or public bulletin board of the courthouse and certify the posting to the Commissioner. The Commissioner shall also give general notice of the referendum in a newspaper of general circulation in Richmond, Virginia, and shall send a notice of the referendum to a newspaper of general circulation in each area in which members of the sheep industry reside, at least sixty days prior to the holding of any referendum under this chapter.

Such posted and published notices shall contain the date, hours, and methods of voting in the referendum; the amount of assessment to be collected, means by which such assessment will be collected, and general purposes for which the assessments will be used; and the rules adopted by the State Board pursuant to § 3.1-1068.

§ 3.1-1070. *Distribution of ballots; canvass; declaration and certification of results.*

The Commissioner shall prepare and distribute in advance of the referendum all necessary ballots, certificates and supplies required for the referendum and shall, under rules adopted and promulgated by the State Board, arrange for the use of polling places, if necessary. He shall, within ten days after the referendum, canvass and publicly declare the results thereof and certify the same to the Governor and the State Board.

§ 3.1-1071. *Action of Governor; referendum results.*

If the Governor finds the referendum in order and that at least a simple majority of those voting are in favor of the assessment for the purpose of conducting programs in market development, predator control, education, research and promotion of the sheep industry, he shall so proclaim and the Virginia Sheep Industry Board within the Virginia Department of Agriculture and Consumer Services shall be established. If he does not so find, the Board shall not be established.

§ 3.1-1072. *Subsequent referendum.*

If the Governor issues a proclamation under § 3.1-1071 and the Board is established, then no other referendum shall be held on the creation of the Virginia Sheep Industry Board and assessment except that the State Board, upon petition by at least ten percent of the members of the sheep industry who voted in the preceding referendum, may provide for a referendum on the continuation of the Board and the assessment. The State Board shall not act on such a petition to conduct such a referendum until at least five years have passed since the Virginia Sheep Industry Board was established. The cost of conducting such referendum shall be from funds paid into the Virginia Sheep Industry Promotion and Development Fund as established in § 3.1-1076. Such referendum shall be conducted in the manner provided in §§ 3.1-1067 through 3.1-1070.

§ 3.1-1073. *Question to be printed on ballots.*

A. The question to be printed on the ballots used in any referendum held under this chapter, except the referendum authorized in § 3.1-1072, shall be as follows:

"Do you favor additional market development, predator control, education, research, and promotion of the Virginia sheep industry, the creation of a Virginia Sheep Industry Board, and the levy of an assessment of fifty cents per head, with the Board retaining the authority to increase the assessment no more than ten cents per year, up to a maximum assessment of one dollar per head, for all sheep and lambs sold within the Commonwealth of Virginia to be used by such Board in accordance with the provisions of the Virginia Sheep Industry Board Act?"

- ☐ Yes
☐ No."

B. The question to be printed on the ballots used in the referendum authorized in § 3.1-1072 on the continuation of the Board and assessment shall be as follows:

"Do you favor the continuation of the Virginia Sheep Industry Board and the continuation of the levy of an assessment of up to one dollar per head for all sheep and lambs sold within the Commonwealth of Virginia?"

- ☐ Yes
☐ No."

§ 3.1-1074. Virginia Sheep Industry Board established; purposes; duties and responsibilities.

A. There is hereby established within the Virginia Department of Agriculture and Consumer Services the Virginia Sheep Industry Board. The Board shall be responsible for the promotion and economic development of the sheep industry in Virginia. To accomplish this function the Board is authorized to:

- 1. Provide funding for predator control;*
- 2. Produce economic reports;*
- 3. Develop a sheep industry directory;*
- 4. Provide funding for educational programs;*
- 5. Provide funding for research;*
- 6. Engage in media liaison;*
- 7. Collect and analyze data on the sheep industry;*
- 8. Disseminate industry-related data;*
- 9. Enter into contracts and agreements to accomplish the purposes of this chapter; and*
- 10. Establish, administer, manage and make expenditures from the Virginia Sheep Industry Promotion and Development Fund as provided in § 3.1-1076.*

§ 3.1-1075. Board membership; quorum.

A. The Board shall consist of fourteen members representing the sheep industry and industry support services. The Governor shall appoint three individuals from nominations submitted by the Virginia Sheep Federation or other Virginia farm organizations representing sheep producers. Of the three members nominated by the Governor, one shall represent the packing/processing/retailing segment of the industry, one shall represent the Virginia Livestock Markets Association, and one shall represent the purebred segment of the industry. One member shall be elected by each of the nine wool pool organizations which represent the following areas: Augusta, Christiansburg/New River Valley, Southside Virginia, Rockingham, Clarke, Orange, Wythe/Bland, Highland, Russell/Tazewell/Scott. Terms of membership shall be for three years. Vacancies in appointed memberships may be filled in the same manner as the original appointment. Vacancies in elected memberships may be filled by an election in the organization that elected the vacant member. No member shall serve more than two consecutive terms.

The extension sheep specialist from Virginia Polytechnic Institute and State University and the Commissioner of Agriculture and Consumer Services or his designee shall serve as nonvoting members.

B. Board members not representing agencies of the Commonwealth shall be reimbursed from the Fund for all reasonable and necessary expenses incurred in the performance of their duties as members of the Board.

C. Seven members shall constitute a quorum for the transaction of business.

D. The Board shall elect from its membership a chairman, a vice chairman and such other officers as it deems appropriate.

§ 3.1-1076. Virginia Sheep Industry Promotion and Development Fund created; purpose.

A. The Board shall establish, administer, manage and make expenditures from a special, nonreverting fund in the state treasury to be known as the Virginia Sheep Industry Promotion and Development Fund. The Board shall establish and administer the Fund solely for the purpose of carrying out the provisions of this chapter. No provision of this chapter shall be construed to give the Board the authority to expend funds for legislative or political activity. The Fund shall consist of assessments paid pursuant to § 3.1-1077. The unexpended balance of the Fund at the end of the biennium shall not be transferred to the general fund of the state treasury.

B. The Auditor for Public Accounts shall audit all the accounts of the Board as provided in § 2.1-155.

C. All money collected under this chapter shall be expended by the Board by warrants of the State Comptroller on vouchers signed by a duly authorized officer of the Board.

§ 3.1-1077. Tax Commissioner authorized to collect assessment on sheep sold.

In order for the Board to carry out the provisions of this chapter, the Tax Commissioner shall

collect from the handler the assessment authorized by this chapter for all sheep and lambs sold in Virginia. Any handler purchasing sheep or lambs in Virginia for resale within ten days shall be exempt from the assessment on the subsequent sale.

§ 3.1-1078. Reports to Tax Commissioner; collection and disposition of assessment; records to be kept by handlers.

A. Handlers shall make reports to the Tax Commissioner on forms furnished and prescribed by the Tax Commissioner. Each form shall include a statement of the number of sheep and lambs which have been handled; the amount of money which has been collected; and any other information deemed necessary by the Tax Commissioner to carry out his duties under this chapter. Notwithstanding the provisions of § 58.1-3, upon request, the Tax Commissioner is authorized to provide the Board with a list of assessment payers and amounts paid.

B. Handlers shall deduct from the proceeds of sale owed by them to the respective owners of sheep the assessment as authorized by this chapter.

C. The funds collected by the handler from proceeds of sales are due to the Tax Commissioner on or before the last day of the month following the end of each calendar quarter.

D. The handler shall keep a complete record of the number of sheep subject to payment bought by him for a period of not less than three years. Such records shall be open for inspection by the Tax Commissioner or his agents, and shall be established and maintained as required by the Tax Commissioner.

§ 3.1-1079. Collection of delinquent assessments; misdemeanors; prosecutions.

A. If assessment money due pursuant to this chapter is not paid when due, the Tax Commissioner shall immediately notify the violator of such deficiency and shall add thereto a penalty of five percent of the amount due. If such deficiency is not paid within thirty days from the date of such notice, it shall bear interest, in accordance with § 58.1-15, from the date it was due, which shall be collected as part of the delinquent amount. The Tax Commissioner may waive or remit the penalty of five percent, or portion thereof, in his discretion for good cause shown. If any person is delinquent in any payment of the money owed or interest thereon, the amount shall be collected by civil action in the name of the Commonwealth at the direction of the Tax Commissioner, and the person adjudged to be in default shall pay the cost of such action. The Attorney General, at the request of the Tax Commissioner, shall without delay institute action in the proper court for the collection of the amount of any money past due under this chapter, including interest thereon.

B. It shall be a Class 1 misdemeanor for any handler to fail to submit to the Tax Commissioner any statement or report required in this chapter within sixty days from the time such statement or report is required to be submitted under this chapter.

C. It shall be a Class 1 misdemeanor for any handler knowingly to report falsely to the Tax Commissioner the number of taxable sheep handled by him during any period or to falsify the records.

D. Prosecution shall be initiated by the attorney for the Commonwealth in any city or county within the Commonwealth.

§ 3.1-1080. Fees for initial referendum to be paid to the Department of Agriculture and Consumer Services; expiration.

A. Beginning on July 1, 1995, and until sufficient moneys are collected to pay the cost of conducting the initial referendum, a fee of fifty cents per head shall be assessed on any sheep or lamb sold within the Commonwealth of Virginia. Such fees shall be collected by the Tax Commissioner to be paid to the Department of Agriculture and Consumer Services for the purpose of conducting an initial referendum on the question of establishing the Virginia Sheep Industry Board and the levy of an assessment of fifty cents per head, with the Board retaining the authority to increase the assessment no more than ten cents per year, up to a maximum assessment of one dollar per head of sheep or lamb sold within the Commonwealth of Virginia.

B. If the initial referendum fails, any fees collected in excess of the amount necessary to conduct such referendum shall be paid to the USDA Predator Control Department. If such referendum is approved, such fees shall be collected and administered in accordance with this chapter.

C. The provisions of this section shall expire on the date the Governor proclaims that the referendum has been approved.

2. That the provisions of this act which assess fifty cents per head, with the Board retaining the authority to increase the assessment no more than ten cents per year, up to a maximum assessment of one dollar per head, on sheep and lambs sold within the Commonwealth shall become effective only after a referendum as provided for in Chapter 43 (§ 3.1-1065 et seq.) of Title 3.1 has passed, except that the provisions of § 3.1-1080 shall become effective on July 1, 1995.