

LD3345202

HOUSE BILL NO. 2516

Offered January 23, 1995

A BILL to amend and reenact §§ 2.1-1.6 and 9-6.25:3 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 3.1-1083, relating to the establishment of the Virginia Sheep Industry Board; penalties.

Patrons—Deeds, Armstrong, Barlow, Bennett, Bloxom, Cooper, Davies, Giesen, Griffith, Guest, Jackson, Johnson, Kilgore, Nelms, Orrock, Putney, Shuler and Wardrup; Senators: Goode, Hawkins, Holland, R.J., Marye, Nolen and Reasor

Referred to Committee on Agriculture

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6 and 9-6.25:3 of the Code of Virginia are 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 3.1-1083 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

Catocin 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

INTRODUCED

HB2516

60 Dentistry, Board of
61 Education, State Board of
62 Egg Board, Virginia
63 Emergency Medical Services Advisory Board
64 Employment Agency Advisory Board
65 Farmers Market Board, Virginia
66 Film Office Advisory Board
67 Fire Services Board, Virginia
68 Forensic Science Advisory Board
69 Forestry, Board of
70 Funeral Directors and Embalmers, Board of
71 Game and Inland Fisheries, Board of
72 Geology, Board for
73 Goose Creek Scenic River Advisory Board
74 Health Planning Board, Virginia
75 Health Professions, Board of
76 Health, State Board of
77 Hearing Aid Specialists, Board for
78 Hemophilia Advisory Board
79 Historic Resources, Board of
80 Housing and Community Development, Board of
81 Industrial Development Services Advisory Board
82 Insurance Advisory Board, State
83 Irish Potato Board, Virginia
84 Laboratory Services Advisory Board
85 Marine Products Board, Virginia
86 Medical Advisory Board, Department of Motor Vehicles
87 Medical Board of the Virginia Retirement System
88 Medicare and Medicaid, Advisory Board on
89 Medicine, Board of
90 Mental Health, Mental Retardation and Substance Abuse Services Board, State
91 Migrant and Seasonal Farmworkers Board
92 Military Affairs, Board of
93 Mineral Mining Examiners, Board of
94 Minority Business Enterprise, Interdepartmental Board of the Department of
95 Motor Vehicle Dealers' Advisory Board
96 Networking Users Advisory Board, State
97 Nottoway State Scenic River Advisory Board
98 Nursing, Board of
99 Nursing Home Administrators, Board of
100 Occupational Therapy, Advisory Board on
101 Oil and Gas Conservation Board, Virginia
102 Opticians, Board for
103 Optometry, Board of
104 Peanut Board, Virginia
105 Personnel Advisory Board
106 Pesticide Control Board
107 Pharmacy, Board of
108 Physical Therapy to the Board of Medicine, Advisory Board on
109 Plant Pollination Advisory Board
110 Polygraph Examiners Advisory Board
111 Pork Industry Board, Virginia
112 Poultry Products Board, Virginia
113 Private College Advisory Board
114 Private Security Services Advisory Board
115 Professional and Occupational Regulation, Board for
116 Professional Counselors, Board of
117 Professional Soil Scientists, Board for
118 Psychiatric Advisory Board
119 Psychology, Board of
120 Public Buildings Board, Virginia
121 Public Telecommunications Board, Virginia

- 122 Radiation Advisory Board
- 123 Real Estate Appraiser Board
- 124 Real Estate Board
- 125 Reciprocity Board, Department of Motor Vehicles
- 126 Recreational Fishing Advisory Board, Virginia
- 127 Recreation Specialists, Board of
- 128 Reforestation Board
- 129 Rehabilitation Providers, Advisory Board on
- 130 Rehabilitative Services, Board of
- 131 Respiratory Therapy, Advisory Board on
- 132 Retirement System Review Board
- 133 Rockfish State Scenic River Advisory Board
- 134 Safety and Health Codes Board
- 135 Seed Potato Board
- 136 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 137 Shenandoah State Scenic River Advisory Board
- 138 Small Business Advisory Board
- 139 Small Business Environmental Compliance Advisory Board
- 140 Small Grains Board, Virginia
- 141 Social Services, Board of
- 142 Social Work, Board of
- 143 Soil and Water Conservation Board, Virginia
- 144 Soybean Board, Virginia
- 145 State Air Pollution Control Board
- 146 Substance Abuse Certification Board
- 147 Surface Mining Review, Board of
- 148 Sweet Potato Board, Virginia
- 149 Teacher Education and Licensure, Advisory Board on
- 150 Tourism and Travel Services Advisory Board
- 151 Toxic Substances Advisory Board
- 152 Transportation Board, Commonwealth
- 153 Transportation Safety, Board of
- 154 Treasury Board, The, Department of the Treasury
- 155 Veterans' Affairs, Board on
- 156 Veterinary Medicine, Board of
- 157 Virginia Board for Asbestos Licensing
- 158 Virginia Coal Mine Safety Board
- 159 Virginia Correctional Enterprises Advisory Board
- 160 Virginia Employment Commission, State Advisory Board for the
- 161 (Effective July 1, 1996) Virginia Higher Education Tuition Trust Fund, Board of the
- 162 Virginia Horse Industry Board
- 163 Virginia Manufactured Housing Board
- 164 Virginia Retirement System, Board of Trustees
- 165 *Virginia Sheep Industry Board*
- 166 Virginia Waste Management Board
- 167 Visually Handicapped, Virginia Board for the
- 168 Voluntary Formulary Board, Virginia
- 169 War Memorial Foundation, Virginia, Board of Trustees
- 170 Waste Management Facility Operators, Board for
- 171 Water Resources Research Center Statewide Advisory Board, Virginia
- 172 Waterworks and Wastewater Works Operators, Board for
- 173 Well Review Board, Virginia
- 174 Youth and Family Services, State Board of.
- 175 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 176 referred to as boards:
- 177 Compensation Board
- 178 State Board of Elections
- 179 State Water Control Board
- 180 Virginia Parole Board
- 181 Virginia Veterans Care Center Board of Trustees.
- 182

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 weighed or traded and its value determined.

"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 one cent per pound of each sheep or lamb sold within the Commonwealth shall be imposed.

§ 3.1-1067. Commissioner to manage referendum; notice to be posted.

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 notice shall contain the date, hours, polling place and method of voting in the referendum, the amount of assessment to be collected, means by which the assessment will be collected, the general purposes for which the assessments will be used; and the rules and regulations adopted by the State Board pursuant to § 3.1-1069. The clerk of the circuit court shall post the notice and rules and regulations on the front door or public bulletin board of the courthouse and certify the posting to the Commissioner.

§ 3.1-1068. Persons eligible to vote.

Each member of the sheep industry who has sold one or more sheep 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(s). A person eligible to vote may be a natural person, partnership, or corporation. 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.

§ 3.1-1069. 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.

§ 3.1-1070. Date of referendum; area hours, voting places, etc.; publication of notice.

The State Board shall fix the date, areas, hours, voting places, rules and regulations with respect to the holding of the referendum and the State Board may provide for voting by mail if it deems advisable. The Commissioner shall 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 notice 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 and regulations adopted by the State Board pursuant to § 3.1-1069.

§ 3.1-1071. 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 and regulations adopted and promulgated by the 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.

§ 3.1-1072. Action of Governor if a simple majority of voters favor assessment.

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 establish a Virginia Sheep Industry Board within the Virginia Department of Agriculture and Consumer Services.

§ 3.1-1073. Action of Governor if referendum out of order or less than a simple majority of voters favor assessment.

If the Governor finds the referendum out of order, or that at least a simple majority of those voting are not in favor of the assessment for the purpose of conducting programs of market development, predator control, education, research and promotion of the sheep industry, he shall not establish a Virginia Sheep Industry Board within the Virginia Department of Agriculture and Consumer Services under this chapter.

§ 3.1-1074. Subsequent referenda.

A. If the Governor issues a proclamation under § 3.1-1072, 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 or the last referendum was held.

B. If the Governor determines that a simple majority is not in favor of the assessment, the State Board shall hold no new referendum for at least one year after the Governor's determination. After the expiration of such year and upon petition by ten percent of the members of the Commonwealth's sheep industry which voted in the most recent referendum, the State Board may provide for a new referendum.

C. The cost of conducting any referendum under this section shall be from funds paid into the Virginia Sheep Industry Promotion and Development Fund as defined in § 3.1-1078. Any referendum held under this section shall be conducted in the manner provided in §§ 3.1-1067 through 3.1-1071.

§ 3.1-1075. 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 §3.1-1074 A, 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 one cent per pound for all sheep and lambs sold within the Commonwealth of Virginia, except for those animals sold for less than twenty dollars per head, 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 §3.1-1074 A 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 one cent per pound for all sheep and lambs sold within the Commonwealth of Virginia, except for those animals sold for less than twenty dollars per head?"

☐ Yes

☐ No."

§ 3.1-1076. 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, hereinafter referred to as the 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; and

9. Enter into contracts and agreements to accomplish the purposes of this chapter.

§ 3.1-1077. Board membership; quorum.

A. The Board shall consist of twelve members appointed by the Governor to represent the sheep industry, industry support services, education, predator control and sheep health regulation. The Governor may appoint individuals nominated by the Virginia Sheep Federation or other Virginia sheep organizations. Nine members shall represent each of the wool pools in the following areas: Augusta, Christiansburg/New River Valley, Southside Virginia, Rockingham, Clarke, Orange, Wythe/Bland, Highland, Russell/Tazewell/Scott. One member shall represent the packing/processing/retailing segment of the industry. One member shall represent of the Virginia Stockyard Association. One member shall represent the purebred segment of the industry. Terms of membership shall be for three years. Vacancies

306 may be filled by the Governor in the same manner as the vacant member was selected. No member shall
307 serve more than two consecutive terms.

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

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

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

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

316 § 3.1-1078. Virginia Sheep Industry Promotion and Development Fund created; purpose.

317 A. The Board shall establish, administer, manage and make expenditures and allocations from a
318 special, nonreverting fund in the state treasury to be known as the Virginia Sheep Industry Promotion
319 and Development Fund. The Board shall establish and administer the Fund solely for the purpose of
320 carrying out the provisions of this chapter. The Fund shall consist of assessments paid pursuant to
321 § 3.1-1080. The unexpended balance of the Fund at the end of the biennium shall not be transferred
322 to the general fund of the state treasury.

323 B. The Auditor for Public Accounts shall audit all the accounts of the Board as provided in
324 § 2.1-155.

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

327 § 3.1-1079. Rules and regulations; expenditures for legislative and political activity not authorized.

328 The Board is authorized to promulgate rules and regulations necessary to carry out the intent and
329 purpose of this chapter. No provision of this chapter shall be construed to give the Board the authority
330 to expend funds for legislative or political activity.

331 § 3.1-1080. Tax Commissioner authorized to collect assessment on sheep sold.

332 In order for the Board to carry out the provisions of this chapter, the Tax Commissioner shall
333 collect from the handler an assessment in the amount of one cent per pound for all sheep and lambs
334 sold in Virginia except those animals sold for less than twenty dollars per head.

335 § 3.1-1081. Reports to Tax Commissioner; collection and disposition of assessment; records to be
336 kept by handlers.

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

343 (b) Handlers shall deduct from the proceeds of sale owed by them to the respective owners of sheep
344 the contribution as authorized by § 3.1-1080 of this chapter.

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

347 (d) The handler shall keep a complete record of the number and weight of sheep subject to payment
348 bought by him for a period of not less than three years. Such records shall be open for inspection by
349 the Tax Commissioner or his duly authorized agents, and shall be established and maintained as
350 required by the Tax Commissioner.

351 § 3.1-1082. Collection of delinquent assessments; misdemeanors; prosecutions.

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

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

366 (c) It shall be a Class 1 misdemeanor for any handler knowingly to report falsely to the Tax
367 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 or otherwise, in any city or county within the Commonwealth.

§ 3.1-1083. 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 one cent per pound shall be assessed on any sheep or lamb sold within the Commonwealth of Virginia. Such fees shall be collected by the Tax Collector 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 one cent per pound 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.

§ 9-6.25:3. Supervisory boards.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following supervisory boards:

- Alcoholic Beverage Control Board
- Board for Branch Pilots
- Board of Commissioners, Virginia Port Authority
- Board of Game and Inland Fisheries
- Board of Regents, Gunston Hall Plantation
- Board of Regents, James Monroe Memorial Law Office and Library
- Board of Trustees, Chippokes Plantation Farm Foundation
- Board of Trustees, Frontier Culture Museum of Virginia
- Board of Trustees, Jamestown-Yorktown Foundation
- Board of Trustees, the Science Museum of Virginia
- Board of Trustees, Virginia Museum of Fine Arts
- Board of Trustees, Virginia Retirement System
- Board of Trustees, Virginia Veterans Care Center
- Board of Trustees, Virginia War Memorial Foundation
- (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund
- Board of Visitors, Christopher Newport University
- Board of Visitors, George Mason University
- Board of Visitors, James Madison University
- Board of Visitors, Longwood College
- Board of Visitors, Mary Washington College
- Board of Visitors, Norfolk State University
- Board of Visitors, Old Dominion University
- Board of Visitors, Radford University
- Board of Visitors, The College of William and Mary in Virginia
- Board of Visitors, University of Virginia
- Board of Visitors, Virginia Commonwealth University
- Board of Visitors, Virginia Military Institute
- Board of Visitors, Virginia Polytechnic Institute and State University
- Board of Visitors, Virginia State University
- Commonwealth's Attorneys' Services Council
- Compensation Board
- Governing Board, Virginia College Building Authority
- Governing Board, Virginia Public School Authority
- State Board for Community Colleges, Virginia Community College System
- State Board of Education
- State Certified Seed Board
- State Council of Higher Education for Virginia
- Virginia Agricultural Council
- Virginia Bright Flue-Cured Tobacco Board
- Virginia Board for People with Disabilities
- Virginia Cattle Industry Board
- Virginia Corn Board
- Virginia Dark-Fired Tobacco Board

429 Virginia Egg Board
430 Virginia Horse Industry Board
431 Virginia Marine Products Board
432 Virginia Peanut Board
433 Virginia Pork Industry Board
434 *Virginia Sheep Industry Board*
435 Virginia Soybean Board
436 Virginia State Apple Board
437 Virginia Sweet Potato Board.

438 **2. That the provisions of this act which assess one cent per pound on sheep and lambs sold within**
439 **the Commonwealth shall become effective only after a referendum as provided for in Chapter 43**
440 **(§3.1-1065 et seq.) of Title 3.1 has passed, except that the provisions of 3.1-1083 shall become**
441 **effective on July 1, 1995.**