

BILL ANALYSIS

Senate Research Center

H.B. 2000
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Agriculture
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Engrossed

DIGEST

Currently, the volatile cheese markets in California and Wisconsin dictate the fluid milk price in Texas. However, these markets are not correlated to the supply of fluid milk in Texas, and Texas dairy farmers have been unsuccessful in decoupling fluid milk prices and cheese markets in the federal milk pricing formula. In the past four years, Texas has lost over 34 percent of its dairy farms and 10 percent of its milk production. H.B. 2000 creates and sets forth regulations for the Southern Dairy Compact Commission, to effectively stabilize the dairy marketplace and provide local milk at less cost than imported milk.

PURPOSE

As proposed, H.B. 2000 creates and sets forth regulations for the Southern Dairy Compact.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Southern Dairy Compact Commission in SECTION 1 (Sections 182.005(6)(b), (7), (15)(a) and (b), and (17)(b), Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6D, Agriculture Code, by adding Chapter 182, as follows:

CHAPTER 182. SOUTHERN DIARY COMPACT

Sec. 182.001. DEFINITIONS. Defines “compact,” “compact commission,” and “delegate.”

Sec. 182.002. DELEGATES; QUALIFICATIONS. Sets forth provisions for the required appointment by the commissioner of agriculture of a delegate to Texas’ compact commission delegation. Requires the delegate to serve as the delegation chair. Sets forth requirements for the governor’s required appointment of four delegates. Requires each delegate to be a resident and registered voter of Texas. Clarifies that a delegate is not an officer of Texas by virtue of being a delegate.

Sec. 182.003. TERMS; REMOVAL; VACANCY. Provides that each delegate serves a four-year term, and requires each delegate to serve until the successor is appointed and qualified. Prohibits a delegate from serving three consecutive terms. Authorizes the removal of a delegate.

Sec. 182.004. EFFECTIVE DATE OF COMPACT; SUNSET PROVISION. Sets forth the effective date of the Southern Dairy Compact (compact). Requires the governor to take necessary actions in the process of ratifying the compact. Provides that Texas’ delegation is subject to Chapter 325, Government Code. Provides that this chapter expires and the delegation is abolished September 1, 2003.

Sec. 182.005. COMPACT TO BE ENTERED; TEXT. Sets forth the language of the Southern Dairy Compact, as follows:

ARTICLE I. STATEMENT OF PURPOSE, FINDINGS AND DECLARATION OF POLICY

Sec. 1. STATEMENT OF PURPOSE. Recognizes the prerogative of the states to form an interstate commission for the southern region. Provides that the commission’s mission is to assure the continued viability of dairy farming in the South, and to assure consumers of an adequate, local

supply of pure and wholesome milk. Describes the production of milk, and the necessity of dairy farms to be a matter of great importance to the overall welfare of the region. Establishes the essential nature of the ability to regulate milk prices, and provides that participating states invoke their authority to do this under the compact clause of the United States Constitution. Sets forth provisions and contingencies of the compact.

ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

Sec. 2. DEFINITIONS. Defines “class I milk,” “commission,” “commission marketing order,” “compact,” “compact over-order price,” “milk,” “partially regulated plant,” “participating state,” “pool plant,” “region,” “regulated area,” and “state dairy regulation.”

Sec. 3. RULES OF CONSTRUCTION. Provides that this compact supplants, rather than displaces, existing state and federal milk laws, and sets forth provisions in the case of discontinued federal orders. Requires this compact to be construed liberally. Sets forth the structural goals of the compact. Authorizes the commission to administer definitions.

ARTICLE III. COMMISSION ESTABLISHED

Sec. 4. COMMISSION ESTABLISHED. Creates the commission and names it the Southern Dairy Compact Commission. Sets forth delegation population limitations. Requires each delegation to include at least one active dairy farmer, and one consumer representative, and provides further specific delegation requirements. Sets forth term guidelines for the delegates. Requires delegate compensation to be determined and paid by each state, and delegate expenses to be paid by the commission.

Sec. 5. VOTING REQUIREMENTS. Requires majority vote of all delegations present on all actions taken by the commission, with exceptions. Entitles each state delegation to one vote in the conduct of the commission’s affairs. Requires a two-thirds vote for issues regarding pricing. Requires the affirmative vote of a certain state for a vote regarding the establishment of a regulated area. Provides that a majority of delegations constitutes a quorum.

Sec. 6. ADMINISTRATION AND MANAGEMENT. Requires the commission to elect certain individuals. Requires the commission to appoint an executive director and fix his or her duties and compensation. Requires the executive director to serve at the commission’s pleasure, and together with the treasurer, be bonded in a commission-determined amount. Authorizes the commission to establish an executive committee. Requires the commission to adopt bylaws, and sets forth provisions regarding the bylaws. Requires the commission to file an annual report with certain entities. Sets forth powers of the commission.

Sec. 7. RULEMAKING POWER. Empowers the commission to make and enforce additional rules and regulations.

ARTICLE IV. POWERS OF THE COMMISSION

Sec. 8. POWERS TO PROMOTE REGULATORY UNIFORMITY, SIMPLICITY, AND INTERSTATE COOPERATION. Sets forth commission powers regarding the authority to investigate, study, encourage, prepare, review, and examine certain issues.

Sec. 9. EQUITABLE FARM PRICES. Sets forth a limitation regarding the establishment of a compact over-order price. Sets forth a circumstance authorizing the commission to establish marketing orders (order). Limits the application of a compact over-order price (price) to Class I milk. Prohibits a price from exceeding \$1.50 per gallon at Atlanta, Georgia, but authorizes price adjustments at other locations. Requires and sets forth certain calculations for prices. Requires an order to apply to all classes and uses of milk. Empowers the commission to establish prices, and sets forth the legal obligation to pay the prices. Prohibits the subjection of produce-handlers to a price. Sets forth required considerations for the commission regarding the establishment of the price. Requires the commission to assure that there is an adequate supply of milk for fluid purposes. Requires the commission to enter into certain agreements. Authorizes the commission to reimburse other agencies for providing certain services.

Sec. 10. OPTIONAL PROVISIONS FOR PRICING ORDER. Sets forth guidelines for the establishment of a price or an order.

ARTICLE V. RULEMAKING PROCEDURE

Sec. 11. RULEMAKING PROCEDURE. Requires the commission to conduct an informal rulemaking proceeding to provide an opportunity to present data and views, prior to the establishment of a price or an order. Requires this rulemaking proceeding to be governed by the Administrative Procedure Act (5 U.S.C. Section 553). Requires the commission to publish notice of rulemaking proceedings in the official register of each participating state. Requires the commission to hold a public hearing prior to actions on regulations regarding prices or assessments. Sets forth entities which can initiate a rulemaking proceeding.

Sec. 12. FINDINGS AND REFERENDUM. Requires the commission to make findings of fact regarding certain issues.

Sec. 13. PRODUCER REFERENDUM. Sets forth justification for a requirement that the commission conduct a referendum among producers. Sets forth required provisions of the referendum and ballot. Sets forth approval requirements for a referendum. Sets forth provisions for the commission to consider the approval or disapproval by certain entities, with exceptions.

Sec. 14. TERMINATION OF OVER-ORDER PRICE OR MARKETING ORDER. Sets forth justifications which require the commission to terminate regulations establishing over-order prices and commission marketing orders. Sets forth procedures for terminating or suspending certain orders and provisions.

ARTICLE VI. ENFORCEMENT

Sec. 15. RECORDS, REPORTS, ACCESS TO PREMISES. Authorizes the commission, by rule, to prescribe recordkeeping and reporting requirements for all regulated individuals. Authorizes the commission to examine certain property regarding milk business, and requires full access for certain commission authorities. Establishes the confidentiality of certain information, and authorizes the commission to create rules regarding this subject. Sets forth matters which this section does not prohibit. Prohibits certain individuals from intentionally disclosing certain information. Subjects violators of this section to certain penalties regarding fees, imprisonment, and removal from office. Requires the commission to refer violation allegations to certain entities.

Sec. 16. SUBPOENA, HEARINGS, AND JUDICIAL REVIEW. Authorizes the commission to take certain actions to compel the attendance of witnesses, the giving of testimony, and the production of evidence. Authorizes any handler subject to an order to file a certain written petition with the commission. Requires that handler to be given an opportunity for a hearing. Requires the commission to make a final ruling upon the prayer of such petition. Sets forth provisions for the jurisdiction to review a ruling. Authorizes service of process to be had upon the commission by delivering to it a copy of the complaint. Sets forth proceedings for the circumstance of a ruling which is not in accordance with law. Sets forth prohibitions against the pendency of proceedings. Sets forth provisions for the abatement of proceedings, relating to the rendering of a final decree.

Sec. 17. ENFORCEMENT WITH RESPECT TO HANDLERS. Sets forth provisions for violations by a handler of the provisions of regulations which establish a price or an order. Requires the commission to enforce certain regulations which it adopts by taking certain actions. Authorizes the commission to bring an action for injunction without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. FINANCE

Sec. 18. FINANCE OF START-UP AND REGULAR COSTS. Authorizes the commission to borrow money. Empowers the commission to collect an assessment from handlers who purchase milk for regional producers. Sets forth requirements for the assessment. Authorizes the initial assessment to apply to certain projected purchases, and sets forth provisions for assessments resulting from the adoption of a price or an order. Prohibits the commission from pledging the credit of any state in the union. Provides that commission-issued notes and all other financial

obligations are its responsibility and no other entity shall be held liable therefor.

Sec. 19. **AUDIT AND ACCOUNTS.** Requires the commission to keep accurate accounts. Requires the annual audit to be included in an annual report, of all receipts and disbursements of funds handled by the commission. Sets forth open records provisions regarding commission accounts. Sets forth prohibitions regarding the construction of this article to prevent compliance with certain laws.

ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL MEMBERS AND WITHDRAWAL

Sec. 20. **ENTRY INTO FORCE; ADDITIONAL MEMBERS.** Provides that when the United States Congress consents, and when any three of a list of certain southern states enact it into law, the compact shall enter into force.

Sec. 21. **WITHDRAWAL FROM COMPACT.** Sets forth provisions for withdrawal from the compact. Prohibits a withdrawal from affecting liability incurred by a participating state prior to the time of withdrawal.

Sec. 22. **SEVERABILITY.** Severability clause. Sets forth provisions to protect the compact in the case of the United States Congress subjecting the compact to conditions. Authorizes a compacting state to accept the United States Congress' conditions by implementing this compact.

SECTION 2. Amends Section 12.020(c), Agriculture Code, to provide that Chapter 182, Agriculture Code, is assigned a maximum \$500 applicable penalty amount.

SECTION 3. Emergency clause.
Effective date: upon passage.