

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 700
Agriculture Committee Substitute Adopted 4/27/89

Short Title: Tobacco Check-Off.

(Public)

Sponsors:

Referred to:

March 30, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND AND CLARIFY THE LAWS CONCERNING THE
PROMOTION OF USE AND SALE OF AGRICULTURAL PRODUCTS TO
INCLUDE TOBACCO AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-550 reads as rewritten:

**"§ 106-550. Policy as to promotion of use of, and markets for, farm products;
tobacco excluded.**

It is declared to be in the interest of the public welfare that the North Carolina farmers who are producers of livestock, poultry, field crops and other agricultural products, including cattle, swine, sheep, broilers, turkeys, commercial eggs, peanuts, cotton, tobacco, potatoes, peaches, apples, berries, vegetables and other fruits of all kinds, as well as bulbs and flowers and other agricultural products having a domestic or foreign market, shall be permitted and encouraged to act jointly and in cooperation with growers, handlers, dealers and processors of such products in promoting and stimulating, by advertising and other methods, the increased production, use and sale, domestic and foreign, of any and all of such agricultural commodities. ~~The provisions of this Article, however, shall not include the agricultural product of tobacco, with respect to which a separate provision and enactment has heretofore been made.~~"

Sec. 2. G.S. 106-555 reads as rewritten:

"§ 106-555. Action by Board on application.

Upon the filing with the Board of Agriculture of such application on the part of any commission, council, board or other agency, the said Board of Agriculture shall within

1 30 days thereafter meet and consider such application; and if upon such consideration
2 the said Board of Agriculture shall find that the commission, council, board or other
3 agency making such application is fairly representative of and has been duly chosen and
4 delegated as representative of the growers producing such commodity, and shall
5 otherwise find and determine that such application is in conformity with the provisions
6 of this Article and the purposes herein stated, then and in such an event it shall be the
7 duty of the Board of Agriculture to certify such commission, council, board or other
8 agency as the duly delegated and authorized group or agency representative of the
9 commercial growers and producers of such agricultural commodity, and shall likewise
10 certify that such agency is duly authorized to conduct among the growers and producers
11 of such commodity a referendum for the purposes herein stated. Provided, however,
12 the Tobacco Foundation at North Carolina State University and the Tobacco Growers
13 Association of North Carolina, Incorporated, are certified as the organizations
14 authorized to represent tobacco under this Article and to conduct a referendum for the
15 three-year period of 1989, 1990, and 1991 as provided by this Article."

16 Sec. 3. G.S. 106-556 reads as rewritten:

17 "**§ 106-556. Conduct of referendum among growers and producers on question of**
18 **assessments.**

19 Upon being so certified by the said Board of Agriculture in the manner hereinbefore
20 set forth, such commission, council, board or other agency shall thereupon be fully
21 authorized and empowered to hold and conduct on the part of the producers and growers
22 of such particular agricultural commodity a referendum on the question of whether or
23 not such growers and producers shall levy upon themselves an assessment under and
24 subject to and for the purposes stated in this Article. Such referendum may be
25 conducted either on a statewide or area basis. On or before October 2, 1989, the above
26 two organizations certified to represent tobacco farmers shall conduct a referendum in
27 every county in North Carolina in which flue-cured tobacco is produced to be
28 participated in by all farmers engaged in the production of flue-cured tobacco who shall
29 vote the question of whether or not there shall be levied an annual assessment for a
30 period of three years 1989, 1990, and 1991 at a level as determined in G.S. 106-557.
31 Those farmers entitled to share in the crop of flue-cured tobacco or in the proceeds of
32 the crop because of sharing in the risk of production shall be deemed to be engaged in
33 the production of such tobacco. Provided, further, that the referendum to be held for the
34 1989-91 period shall be held jointly with and at the same time as the referendum by
35 Tobacco Associates, Incorporated, as provided for in Article 50C of this Chapter, and
36 subject to the provisions of G.S. 106-558."

37 Sec. 4. G.S. 106-557 reads as rewritten:

38 "**§ 106-557. Notice of referendum; statement of amount, basis and purpose of**
39 **assessment; maximum assessment.**

40 With respect to any referendum conducted under the provisions of this Article, the
41 duly certified commission, council, board or other agency shall, before calling and
42 announcing such referendum, fix, determine and publicly announce at least 30 days
43 before the date determined upon for such referendum, the date, hours and polling places
44 for voting in such referendum, the amount and basis of the assessment proposed to be

1 collected, the means by which such assessment shall be collected if authorized by the
2 growers, and the general purposes to which said amount so collected shall be applied;
3 no annual assessment levied under the provisions of this Article shall exceed one half of
4 one percent (1/2 of 1%) of the value of the year's production of such agricultural
5 commodity grown by any farmer, producer or grower included in the group to which
6 such referendum is submitted. Provided, that the assessment for the research and
7 promotion programs of the American Dairy Association of North Carolina may be fixed
8 on the volume of milk sold not to exceed one percent (1%) of the statewide blend price
9 paid to all North Carolina producers during the previous calendar year for three and
10 one-half percent (3.5%) milk as computed by the North Carolina Milk Commission.
11 Provided further, that the assessment authorized by this Article and collected by the
12 Commissioner of Agriculture to be paid to the North Carolina Yam Commission, Inc.,
13 or other duly certified agencies entitled thereto for research, marketing and promotional
14 programs related to yams or sweet potatoes may be levied at a rate not to exceed two
15 percent (2%) of the value of the year's production of that agricultural commodity grown
16 by any farmer, producer or grower included in the group to which the referendum is
17 submitted, and when authorized by two-thirds or more of the farmers, producers or
18 growers in the area in which the referendum is conducted, the rate of the assessment
19 may remain in effect for the length of time provided in the referendum. Provided
20 further, that the assessment authorized by this Article for tobacco shall not exceed a
21 total of ten cents (10¢) per 100 pounds on all flue-cured tobacco marketed by each
22 farmer. Of this total, the Boards of Directors of the Tobacco Foundation at North
23 Carolina State University and the Tobacco Growers Association of North Carolina,
24 Incorporated may each levy an assessment of no more than five cents (5¢) per 100
25 pounds."

26 Sec. 5. G.S. 106-558 reads as rewritten:

27 "**§ 106-558. Management of referendum; expenses.**

28 The arrangements for and management of any referendum conducted under the
29 provisions of this Article shall be under the direction of the commission, council, board
30 or other agency duly certified and authorized to conduct the same, and any and all
31 expenses in connection therewith shall be borne by such commission, council, board or
32 agency. For the two tobacco referendums for the 1989-91 period and in subsequent
33 years, when the two referendums are held jointly, expenses for conducting the
34 referendum shall be shared between Tobacco Associates, Incorporated, the Tobacco
35 Foundation at North Carolina State University and the Tobacco Growers Association of
36 North Carolina, Incorporated in accordance with the percentage of total revenues each
37 will receive from the assessment.

38 The Board of Agriculture shall resolve any disagreements between the Boards of
39 Directors of the Tobacco Foundation at North Carolina State University, the Tobacco
40 Growers Association of North Carolina, Incorporated, and Tobacco Associates,
41 Incorporated, regarding the time and place of, the management of, and the other
42 arrangements for any referendum or joint referendum conducted pursuant to the
43 provisions of this Article or Article 50C of this Chapter."

44 Sec. 6. G.S. 106-567 reads as rewritten:

1 **"§ 106-567. Rights of farmers dissatisfied with assessments; time for demanding**
2 **refund.**

3 In the event such referendum is carried in the affirmative and the assessment is
4 levied and collected as provided herein and under the regulations to be promulgated by
5 the duly certified agency conducting the same, any farmer or producer upon and against
6 whom such assessments shall have been levied and collected under the provisions of
7 this Article, if dissatisfied with said assessment and the result thereof, shall have the
8 right to demand of and receive from the treasurer of said agency a refund of such
9 assessment so collected from such farmer or producer, provided such demand for refund
10 is made in writing within 30 days from the date on which said assessment is collected or
11 due to be collected, whichever is earlier from such farmer or producer under the rules
12 and regulations of the duly certified commission, council, board or other agency.
13 Provided, however, that as to growers or producers of potatoes, apples or peaches the
14 right of refund of assessments as provided herein shall be contingent upon such growers
15 or producers having paid said assessment on or before the end of the assessment year in
16 which the assessment was levied. The assessment year shall be determined by the duly
17 certified commission, council, board or agency representing the respective commodity:
18 Provided further, that any farmer or producer of potatoes, apples or peaches who fails to
19 make any protest against the assessment and levy in writing, addressed to the duly
20 certified commission, council, board or agency representing the commodity concerned,
21 within 30 days from the date such assessment shall become due and payable, then, and
22 in such event, suit may be brought by the duly certified commission, council, board or
23 agency concerned in a court of competent jurisdiction to enforce the collection of the
24 assessment. Provided further that on and after July 1, 1972, as to growers or producers
25 of apples there shall be no right of refund of assessments levied pursuant to the
26 referendum provided for by Article 50, Chapter 106 of the General Statutes of North
27 Carolina. Provided further, that a producer of tobacco shall have the right to demand
28 and receive from the Treasurers of the Tobacco Foundation at North Carolina State
29 University and the Tobacco Growers Association of North Carolina, Incorporated a
30 refund of the annual assessment collected from that farmer or producer of tobacco,
31 provided a demand for refund is made in writing within 30 days from the last date the
32 assessment was collected from that farmer or producer or deducted from the proceeds of
33 the sale of tobacco of that farmer or producer."

34 Sec. 7. G.S. 106-568 reads as rewritten:

35 **"§ 106-568. Publication of financial statement by treasurer of agency; bond**
36 **required.**

37 In the event of the levying and collection of assessments as herein provided, the
38 treasurer of the agency conducting same shall within 30 days after the end of any
39 calendar year in which such assessments are collected, publish through the medium of
40 the press of the State a statement of the amount or amounts so received and collected by
41 him under the provisions of this Article. Before collecting and receiving such
42 assessments, such treasurer shall give a bond in the amount of at least the estimated total
43 of such assessments as will be collected, such bond to have as surety thereon a surety
44 company licensed to do business in the State of North Carolina, and to be in the form

1 and amount approved by the agency conducting such referendum and to be filed with
2 the chairman or executive head of such agency. Provided that, for tobacco the
3 treasurer's reports must be filed within 60 days after the end of the calendar year in
4 which such assessments were collected."

5 Sec. 8. This act is effective upon ratification.