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## **ARTICLE 2A**

### **Beef Council**

Sec.

77-2A-1. Short title.

77-2A-2. Definitions.

77-2A-3. Beef council created;  
terms; vacancies.

77-2A-4. Members' qualifications.

77-2A-5. Officers; meetings;  
expenses.

77-2A-6. Duties; powers.

Sec.

77-2A-7. Funding.

77-2A-7.1. Assessments.

77-2A-7.2. Termination of council assessment.

77-2A-7.3. Refunds.

77-2A-8. Disposition of funds.

77-2A-9. Procurement Code; Personnel Act;  
exemption; Tort Claims Act.

#### **77-2A-1. Short title.**

This act [77-2A-1 to 77-2A-7, 77-2A-8, 77-2A-9 NMSA 1978] may be cited as the "New Mexico Beef Council Act".

History: Laws 1979, chapter 197, section 1.

#### **77-2A-2. Definitions.**

As used in the New Mexico Beef Council Act [77-2A-1 to 77-2A-7, 77-2A-8, 77-2A-9]:

- A. "board" means the New Mexico livestock board;
- B. "council" means the New Mexico beef council;
- C. "director" means the director of the New Mexico department of agriculture;
- D. "department" means the New Mexico department of agriculture; and
- E. "producer" means any person engaged in the business of raising, breeding, feeding or growing cattle or calves for beef production or for dairy production.

History: Laws 1979, chapter 197, section 2; 1983, chapter 228, section 1. The 1983 amendment inserted present Subsection A and designated former Subsections A to D as present Subsections B to E. Effective dates. Laws 1983, chapter 228, section 6, makes the act effective on July 1, 1983.

**77-2A-3. Beef council created; terms; vacancies.**

There is created the "New Mexico beef council", consisting of nine members appointed by the director with the approval of the governor for terms of three years or less so that the terms of three members expire on June 30 of each year. Vacancies shall be filled by the director for the unexpired term. The director shall serve as an ex-officio, nonvoting member of the council.

History: Laws 1979, chapter 197, section 3; 1991, chapter 128, section 1. The 1991 amendment, effective April 3, 1991, inserted "nonvoting" in the final sentence.

**77-2A-4. Members' qualifications.**

All members of the council shall be citizens of the United States, bona-fide residents of New Mexico and in some branch of the bovine cattle business. Each member shall at the time of his appointment and during his entire term receive a substantial portion of his income from the branch of the business he represents on the council. In making his appointments, the director shall appoint one member to represent fluid milk producers, five to represent beef producers, one to represent breeders of registered purebreds and two to represent commercial cattle feeders. Appointments of council members are to be made from lists of individuals recommended by farm organizations, producer associations and individual producers.

History: Laws 1979, chapter 197, section 4; 1991, chapter 128, section 2. The 1991 amendment, effective April 3, 1991, substituted "individual producers" for "individuals representing or engaged in the same branch of the industry as the individual recommended" at the end of the section.

**77-2A-5. Officers; meetings; expenses.**

The council shall elect annually a chairman, vice chairman and such other officers as it deems necessary from among its members. The council shall meet at least once each six months, and at such other times as it may be called by the chairman. The council may provide rules for reimbursement of members' expenses while on official business of the council, but such reimbursement shall in no case exceed the provisions of the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978]. Council members shall receive no other compensation, perquisite or allowance.

History: Laws 1979, chapter 197, section 5.

**77-2A-6. Duties; powers.**

- A. The council shall:
1. conduct public relations programs promoting cattle and beef products;
  2. submit to the director a detailed annual budget for the council on a fiscal-year basis and provide a copy of the budget upon request to any person who has paid an assessment or made a contribution under the New Mexico Beef Council Act [77-2A-1 to 77-2A-7, 77-2A-8, 77- 2A-9 NMSA 1978];
  3. bond officers and employees of the council who receive and disburse council funds;
  4. keep detailed and accurate records of all receipts and disbursements, have those records audited annually and keep the audit available for inspection in the council office;
  5. establish procedures for the adoption of regulations that will provide for input from producers;
  6. determine and publish each year the assessment rates to be collected by the board; and
  7. employ staff not to exceed four persons.
- B. The council may:
1. contract for scientific research to discover and improve the commercial value of beef and products thereof;
  2. disseminate reliable information showing the value of beef and its products for any purpose for which they may be found useful and profitable;
  3. make grants to research agencies for financing studies or for the purchase or acquisition of facilities necessary to carry out the purposes of the council as authorized by the New Mexico Beef Council Act;
  4. cooperate with any local, state or national organizations or agencies, whether created by law or voluntary, engaged in work or activities similar to that of the council, and enter into contracts with those organizations or agencies and expend funds in connection therewith for carrying on joint programs;
  5. study legislation, state and federal, with respect to tariffs, duties, reciprocal trade agreements, import quotas and other matters concerning the effect on the beef industry and represent and protect the interests of the beef industry with respect to any legislation or proposed legislation or executive action that may affect that industry;
  6. enter into contracts that it deems appropriate to the carrying out of the purposes of the council as authorized by the New Mexico Beef Council Act;
  7. sue and be sued as a council without individual liability for acts of the council within the scope of the powers conferred upon it by that act;
  8. appoint subordinate officers and employees of the council, prescribe their duties and fix their compensation;
  9. adopt regulations for the exercise of its powers and duties. A copy of all council regulations shall be filed with the department; and
  10. cooperate with other state beef councils or agencies in the collection of assessments.

History: Laws 1979, chapter 197, section 6; 1983, chapter 228, section 2; 1991, chapter 128, section 3. The 1983 amendment, in Subsection A deleted "bovine" preceding "cattle and beef products" in Paragraph (1) and added Paragraphs (6) and (7). The 1991 amendment, effective April 3, 1991, in Subsection A, deleted "for approval" following "director" in Paragraph (2) and substituted "four amendment). persons" for "three persons" in Paragraph (7); and made minor stylistic changes throughout the section. Effective dates. --- Laws 1983, chapter 228, section 6, makes the act effective on July 1, 1983. Budget process. --- Although it requires budget approval by the director of the department of agriculture, the beef council remains a separate entity, and, after approval by the director, the council should submit its budget to the state budget division as the law requires all state agencies to do. 1987 Op. Att'y Gen. No. 87-44 (rendered prior to 1991)

### **77-2A-7. Funding.**

In order to accomplish the purposes of the New Mexico Beef Council Act [77-2A-1 to 77-2A-7, 77-2A-8, 77-2A-9 NMSA 1978], the council is empowered to:

- A. receive any funds which may be returned to the New Mexico cattle industry as its share of assessments collected by a national beef industry research council or any similar entity;
- B. accept grants, donations, contributions or gifts from any source for expenditure for any purpose consistent with the powers and duties conferred on the council; and
- C. receive any other funds that may be authorized by law.

History: Laws 1979, chapter 197, section 7. Council to submit budget to budget division. --- The legislature has approved a special source for the council's funds, separate and apart from the state's general funds, and has established the council's method of disbursal. The council nevertheless must submit its budget to the budget division for approval. This provision insures that the legislature is apprised accurately of council expenditures even though eparate action on the council budget is not required at each session. 1987 Op. Att'y Gen. No. 87-44.

#### **77-2A-7.1. Assessments.**

There is levied and imposed upon all cattle inspected in this state by the [New Mexico livestock] board an additional assessment to be called the "council assessment". The council assessment is to be fixed by the council at a rate not more than twenty-five cents (\$.25) per head on only those cattle involved in a transfer of ownership. The board shall collect this council assessment or the federal domestic assessment imposed pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. 1601, at the same time and in the same manner as the fee charged for the state brand inspection required upon the movement of those cattle. The board shall not deliver the certificate of inspection or permit the cattle to move until all fees have been paid. The proceeds of the council assessment shall be remitted by the board to the council at the end of each month along

with information that will allow the council to make necessary refunds. The council shall reimburse the board for the responsible and necessary expenses incurred for such collections and information and not less than four cents (\$.04) per head on only those cattle involved in a transfer of ownership.

History: Laws 1983, chapter 228, section 3; 1991, chapter 128, section 4. The 1991 amendment, effective April 3, 1991, inserted "or the federal domestic assessment imposed pursuant to the Beef Promotion and Research Act of 1985, 7 U.S.C. 1601" in the third sentence; added "and not less than four cents (\$.04) per head on only those cattle involved in a transfer of ownership" at the end of the section; and made a minor stylistic change. Effective dates. --- Laws 1983, chapter 228, section 6, makes the act effective on July 1, 1983. Meaning of "board". --- The reference to "board" throughout this section apparently means the New Mexico livestock board. See 77-2-2 NMSA 1978. Council to submit budget to budget division. The legislature has approved a special source for the council's funds, separate and apart from the state's general funds, and has established the council's method of disbursement. The council nevertheless must submit its budget to the budget division for approval. This provision insures that the legislature is apprised accurately of council expenditures even though separate action on the council budget is not required at each session. 1987 Op. Att'y Gen. No. 87-44.

#### **77-2A-7.2. Termination of council assessment.**

Notwithstanding other provisions of law, the council assessment shall terminate July 1, 1997.

History: Laws 1983, chapter 228, section 4; 1986, chapter 8, section 1; 1991, chapter 128, section 5 The 1986 amendment substituted "July 1, 1991" for "July 1, 1986". The 1991 amendment, effective April 3, 1991, substituted "1997" for "1991". Effective dates. --- Laws 1983, chapter 228, section 6, makes the act effective on July 1, 1983. Laws 1986, chapter 8 contains no effective date provision, but, pursuant to N.M. Const., art. IV, section 23, is effective on May 21, 1986.

#### **77-2A-7.3. Refunds.**

Any person who has paid a council assessment is entitled to a refund of the amount paid by making written application therefor to the council. The application form shall be returned within thirty days after the inspection was made giving rise to the council assessment and shall contain enough detail to enable the council to find the record of payment. Refunds shall be made within thirty days of the date of the application unless the proceeds and the necessary information have not been received by the council, in which case the refund shall be made within fifteen days after receipt of the proceeds and necessary information. The form shall be provided by the [New Mexico livestock] board at the time of inspection.

History: Laws 1983, chapter 228, section 5. Effective dates. --- Laws 1983, chapter 228, section 6, makes the act effective on July 1, 1983. Meaning of "board". --- The reference to "board" in the last sentence apparently means the New Mexico livestock board. See 77-2-2 NMSA 1978.

#### **77-2A-8. Disposition of funds.**

- A. All funds received by the council shall be received and disbursed directly by the council. Such funds shall be audited in accordance with the provisions of the Audit Act [12-6-1 to 12-6-14 NMSA 1978]. The council is not required to submit vouchers, purchase orders or contracts to the department of finance and administration as otherwise required by Section 6-5-3 NMSA 1978.
- B. The council shall issue warrants against funds of the council in payment of its lawful obligations. The council shall provide its own warrants, purchase orders and contract forms as well as other supplies and equipment. All warrants shall be signed by a council member and one other person designated by the council.
- C. The council shall designate banks where its funds are to be deposited, provided such banks have been qualified as depository banks for state funds.

History: Laws 1979, chapter 197, section 8, 1991, chapter 128, section 6. The 1991 amendment, effective April 3, 1991, deleted "according to procedures approved by the director and subject to audit by the director in his discretion" at the end of the first sentence and inserted the second sentence in Subsection A and substituted "a council member and one other person" for "two officers or employees" in the third sentence in Subsection B. Council to submit budget to budget division. --- The legislature has approved a special source for the council's funds, separate and apart from the state's general funds, and had established the council's method of disbursal. The council nevertheless must submit its budget to the budget division for approval. This provision insures that the legislature is apprised accurately of council expenditures even though separate action on the council budget is not required at each session. 1987 Op. Att'y Gen. No. 87-44.

#### **77-2A-9. Procurement Code; Personnel Act; exemption; Tort Claims Act.**

The council is exempt from the operation of the Procurement Code and the Personnel Act. The council members and employees shall be subject to the Tort Claims Act [41-4-1 to 41-4-27 NMSA 1978] and shall be provided all insurance and self-insurance coverage provided by the risk management division, general services department, state of New Mexico.

History: Laws 1979, chapter 197, section 9, 1991, chapter 128, section 7. The 1991 amendment, effective April 3, 1991, substituted "Procurement Code" for "Public Purchases Act" in the first sentence and rewrote the second sentence, which read "The council members and their employees are public employees for the purposes of the Tort Claims Act". Effective dates. --- Laws 1979, chapter 197, section 10, makes the act

effective on July 1, 1979. Personnel Act. --- See 10-9-1 NMSA 1978 and notes thereto.  
Procurement Code. --- See 13-1-28 NMSA 1978 and notes thereto.