

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 553
Committee Substitute Favorable 4/16/91

Short Title: Tobacco Check-Off.

(Public)

Sponsors:

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO CREATE THE TOBACCO RESEARCH COMMISSION, AUTHORIZE
A REFERENDUM OF TOBACCO GROWERS REGARDING ESTABLISHMENT
OF A TOBACCO CHECKOFF FOR TOBACCO RESEARCH, AND TO MAKE
CONFORMING CHANGES IN THE LAWS CONCERNING AGRICULTURAL
RESEARCH.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-568.2 reads as rewritten:

"§ 106-568.2. Policy as to referendum and assessment.

It is ~~further~~ declared to be in the public interest and highly advantageous to the economic development of the State that farmers, producers, and growers of agricultural commodities using commercial feed and/or fertilizers or their ingredients be permitted by referendum held among themselves to levy upon themselves an assessment of ten cents (10¢) per ton on mixed fertilizers, commercial feed, and their ingredients (except lime and land plaster) to provide funds through the Agricultural Foundation to supplement the established program of agricultural research and dissemination of research facts.

It is further declared to be in the public interest and highly advantageous to the economic development of the State that tobacco producers be permitted by referendum to levy upon themselves an assessment not to exceed ten cents (10¢) per hundred pounds of tobacco marketed to provide funds through the North Carolina Tobacco Research Commission for research and dissemination of research facts concerning tobacco."

1 Sec. 2. G.S. 106-568.3 reads as rewritten:

2 "**§ 106-568.3. Action of Board of Agriculture on petition for referendum-**
3 **referendum; creation of the Tobacco Research Commission.**

4 (a) The State Board of Agriculture, upon a petition being filed with it so
5 requesting and signed by the governing boards of the North Carolina Farm Bureau
6 Federation, the North Carolina State Grange, and the North Carolina Agricultural
7 Foundation, Inc., shall examine such petition and upon finding that it complies with the
8 provisions of this Article shall authorize the holding of a referendum as hereinafter set
9 out and the governing boards of the North Carolina Farm Bureau Federation, the North
10 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall
11 thereupon be fully authorized and empowered to hold and conduct on the part of the
12 producers and growers of the commodities herein mentioned a referendum on the
13 question of whether or not such growers and producers shall levy upon themselves an
14 assessment under and subject to and for the purposes stated in this Article. Provided,
15 that the petition for a tobacco referendum shall be signed by and, once approved, shall
16 authorize the holding of a referendum by the governing boards of the North Carolina
17 Farm Bureau Federation, Inc., the North Carolina State Grange, the North Carolina
18 Tobacco Foundation, Inc., and the Tobacco Growers Association of North Carolina,
19 Incorporated.

20 (b) There is hereby created a North Carolina Tobacco Research Commission
21 within the Department of Agriculture. The Commission shall consist of the
22 Commissioner of Agriculture, or his designee; the President of the North Carolina Farm
23 Bureau Federation, Inc., or his designee; the President of the Tobacco Growers
24 Association of North Carolina, Incorporated, or his designee; the Master of the North
25 Carolina State Grange, or his designee; and, the President of the North Carolina
26 Tobacco Foundation, Inc., or his designee."

27 Sec. 3. G.S. 106-568.4 reads as rewritten:

28 "**§ 106-568.4. By whom referendum to be managed; announcement.**

29 The governing boards of the North Carolina Farm Bureau Federation, the North
30 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall
31 arrange for and manage any referendum conducted under the provisions of this Article
32 but shall, 60 days before the date upon which it is to be held, fix, determine, and
33 publicly announce in each county the date, hours, and polling places in that county for
34 voting in such referendum, the amount and basis proposed to be collected, the means by
35 which such assessment shall be collected as authorized by the growers and producers,
36 and the general purposes for which said funds so collected shall be applied. Provided,
37 that the governing boards of the North Carolina Farm Bureau Federation, Inc., the North
38 Carolina State Grange, the North Carolina Tobacco Foundation, Inc., and the Tobacco
39 Growers Association of North Carolina, Incorporated, shall arrange for and manage any
40 referendum for tobacco poundage assessments under the provisions of this Article."

41 Sec. 4. G.S. 106-568.6 reads as rewritten:

42 "**§ 106-568.6. Determination and notice of date, area, hours, voting places, etc.**

43 The three organizations herein designated to hold such referendum shall fix the date,
44 area, hours, voting places, rules and regulations with respect to the holding of such

1 referendum and cause the same to be published in the press of the State at least 60 days
2 before holding such referendum and shall certify such information to the State
3 Commissioner of Agriculture and to each of the farm organizations of the State. Such
4 notice, so published and furnished to the several agencies, shall contain, in addition to
5 the other information herein required, a statement of the amount of annual assessment
6 proposed to be levied, and the purposes for which such assessment shall be applied.
7 Provided, that the four organizations designated to hold the referendum for tobacco
8 poundage assessments shall perform the functions set forth in this section."

9 Sec. 5. G.S. 106-568.7 reads as rewritten:

10 **"§ 106-568.7. Preparation and distribution of ballots; poll holders; canvass and**
11 **announcement of results.**

12 The governing boards of the North Carolina Farm Bureau Federation, the North
13 Carolina State Grange, and the North Carolina Agricultural Foundation, Inc., shall
14 prepare and distribute in advance of such referendum all necessary ballots and shall
15 under rules and regulations, adopted and promulgated by the organizations holding such
16 referendum, arrange for the necessary poll holders and shall, within 10 days after the
17 date of such referendum, canvass and publicly declare the results thereof. Provided, that
18 for the tobacco poundage assessment referendum, the North Carolina Farm Bureau
19 Federation, Inc., the North Carolina State Grange, the North Carolina Tobacco
20 Foundation, Inc., and the Tobacco Growers Association of North Carolina,
21 Incorporated, shall perform the functions set forth in this section."

22 Sec. 6. G.S. 106-568.8 reads as rewritten:

23 **"§ 106-568.8. Collection and disposition of assessment; report of receipts and**
24 **disbursements; audit.**

25 (a) Fertilizer and feed assessments. In the event two thirds or more of the eligible
26 farmers and producers participating in said referendum vote in favor of such
27 assessment, then said assessment shall be collected for a period of six years under rules,
28 regulations, and methods as provided for in this Article. The assessments shall be added
29 to the wholesale purchase price of each ton of fertilizer, commercial feed, and/or their
30 ingredients (except lime and land plaster) by the manufacturer of said fertilizer and feed.
31 The assessment so collected shall be paid by the manufacturer into the hands of the
32 North Carolina Commissioner of Agriculture on the same tonnage and at the same time
33 and in the same manner as prescribed for the reporting of the inspection tax on
34 commercial feeds and fertilizers as prescribed by G.S. 106-284.40 and 106-671. The
35 Commissioner shall then remit said ten cents (10¢) per ton for the total tonnage as
36 reported by all manufacturers of commercial feeds, fertilizers, and their ingredients to
37 the treasurer of the North Carolina Agricultural Foundation, Inc., who shall disburse
38 such funds for the purposes herein enumerated and not inconsistent with provisions
39 contained in the charter and bylaws of the North Carolina Agricultural Foundation, Inc.
40 Signed copies of the receipts for such remittances made by the Commissioner to the
41 treasurer of the North Carolina Agricultural Foundation, Inc., shall be furnished the
42 Commissioner of Agriculture, the North Carolina Farm Bureau Federation, and the
43 North Carolina State Grange. The treasurer of the North Carolina Agricultural
44 Foundation, Inc., shall make an annual report at each annual meeting of the Foundation

1 directors of total receipts and disbursements for the year and shall file a copy of said
2 report with the Commissioner of Agriculture and shall make available a copy of said
3 report for publication.

4 It shall be the duty of the Commissioner of Agriculture to audit and check the
5 remittances of ten cents (10¢) per ton by the manufacturer to the Commissioner in the
6 same manner and at the same time as audits and checks are made of remittances of the
7 inspection tax on commercial feeds and fertilizers.

8 Any commercial feed excluded from the payment of the inspection fee required by
9 G.S. 106-284.40 shall nevertheless be subject to the assessment provided for by this
10 Article and to quarterly tonnage reports to the Department of Agriculture as provided
11 for in G.S. 106-284.40(c).

12 (b) Tobacco Poundage Assessments. In the event two-thirds or more of the
13 eligible farmers and producers participating in the tobacco referendum vote in favor of
14 the tobacco poundage assessment authorized under this Article, then said assessment
15 shall be collected for a period of six years under rules, regulations, and methods adopted
16 by the North Carolina Tobacco Research Commission. The North Carolina Tobacco
17 Research Commission is exempt from the provisions of Chapter 150B of the General
18 Statutes.

19 The assessments collected shall be remitted to the Department of Agriculture to be
20 expended under the direction of the Tobacco Research Commission for research and
21 dissemination of research facts concerning tobacco. Any person that receives
22 assessment funds from the Tobacco Research Commission shall file quarterly written
23 reports with the Tobacco Research Commission on the receipt and expenditure of
24 assessment funds."

25 Sec. 7. G.S. 106-568.9 reads as rewritten:

26 **"§ 106-568.9. Refunds to farmers.**

27 In the event such a referendum is carried in the affirmative and the assessment is
28 levied and collected as herein provided and under the regulations to be promulgated by
29 the duly certified agencies conducting the same, any farmer upon whom and against
30 whom any such assessment shall have been added and collected under the provisions of
31 this Article, if dissatisfied with the said assessment, shall have the right to demand of
32 and receive from the treasurer of said North Carolina Agricultural Foundation, Inc., a
33 refund of such amount so collected from such farmer or producer provided such demand
34 for refund is made in writing within 30 days from the date of which said assessment is
35 collected from such farmer or producer. Provided, that the Department of Agriculture
36 shall make tobacco poundage assessment refunds to tobacco farmers when such demand
37 for refund is made in writing by the tobacco farmer within 30 days of the close of the
38 marketing season."

39 Sec. 8. G.S. 106-568.10 reads as rewritten:

40 **"§ 106-568.10. Subsequent referenda; continuation of assessment.**

41 If the assessment is defeated in the referendum, the governing boards of the North
42 Carolina Farm Bureau Federation, the North Carolina State Grange, and the North
43 Carolina Agricultural Foundation, Inc., shall have full power and authority to call
44 another referendum for the purposes herein set out in the next succeeding year on the

1 question of the annual assessment for six years. In the event the assessment carried in a
2 referendum by two thirds or more of the eligible farmers participating therein, such
3 assessment shall be levied annually for the six years set forth in the call for such
4 referendum and a new referendum may be called and conducted during the sixth year of
5 such period on the question of whether or not such assessment shall be continued for the
6 next ensuing six years. Provided, that if the tobacco poundage assessment is defeated in
7 the referendum, the governing boards of the North Carolina Farm Bureau Federation,
8 Inc., the North Carolina State Grange, the North Carolina Tobacco Foundation, Inc., and
9 Tobacco Growers Association of North Carolina, Incorporated, may call another
10 referendum in the next succeeding year on the question of the annual assessment for six
11 years. If the tobacco assessment carried in a referendum by two-thirds or more of the
12 eligible farmers participating therein, the assessment shall be levied annually for the six
13 years set forth in the call for the referendum and a new referendum may be called and
14 conducted during the sixth year of the period on the question of whether or not the
15 assessment shall be continued for the next ensuing six years."

16 Sec. 9. This act is effective upon ratification.