

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 183

By: Muegge

AS INTRODUCED

An Act relating to agriculture; defining terms; making it unlawful for certain contractors to refuse to bargain; stating parameters of petition for accreditation; providing for the accreditation of associations to bargain for certain producers; providing powers and duties; providing for notice; requiring the Department of Agriculture to promulgate rules; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-1 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1 through 5 of this act:

1. "Accredited association" means an association accredited in accordance with Section 3 of this act;

2. "Association" means a cooperative marketing association formed pursuant to the Cooperative Marketing Association Act;

3. "Bargaining" means to meet at reasonable times for the purpose of negotiation in good faith;

4. "Contractor" means a person who in the ordinary course of business, purchases cattle or swine through marketing contracts or contracts with producers to raise or care for cattle or swine in this state for purposes of slaughter and processing of meats or meat food products for sale or shipment in commerce;

5. "Commissioner" means the Commissioner of Agriculture;

6. "Marketing contract" means a written or oral agreement for the purchase of swine or cattle except a negotiated purchase as

defined by Section 212(8) of the Federal Livestock Mandatory Reporting Act of 1999; and

7. "Producer" means a person who in the ordinary course of business raises or cares for cattle or swine in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-2 of Title 2, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for a contractor designated as a contractor for an accredited association pursuant to Section 3 of this act to refuse to bargain in good faith with such accredited association.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-3 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. An association seeking accreditation to bargain for producers shall submit to the Commissioner of Agriculture a petition for accreditation. The petition shall:

1. Specify the agricultural products or services of the producers for which the association seeks accreditation to bargain;

2. Designate the contractors, individually or by producer or marketing area or by some other appropriate classification, with whom the association shall be accredited to bargain; and

3. Contain such other information and documents as may be required by the Commissioner.

B. Upon receiving the petition and any supporting material, the Commissioner shall serve a copy upon all designated contractors as follows:

1. Contractors who have been designated individually shall receive personal notice; and

2. Contractors who have been designated by production or marketing area or by some other general classification shall be given notice through publication in a legal newspaper or newspapers that have general circulation within that area.

C. The Commissioner shall accredit such association if, based upon the evidence submitted, the Commissioner finds that:

1. The association has been legally established pursuant to the Cooperative Marketing Association Act;

2. The association has submitted a copy of its bylaws which provide:

a. that each member of the association shall have one vote in all votes of the membership of the association,

b. that officers and directors shall be elected by a majority of the members voting or by delegates representing a majority of the membership, and

c. that all elections shall be by secret ballot;

3. The association has contracts that are binding under Oklahoma law with its members empowering the association to sell or negotiate terms of sale of the products or services of its members;

4. The association represents a sufficient number of producers who are willing to enter into marketing contracts or that its members produce a sufficient quantity of agricultural products or services to enable it to function as an effective agent for producers in bargaining with the designated contractors; and

5. That the association has as one of its functions acting as principal or agent for its members in negotiations for prices and other terms of trade with respect to the production, sale, and marketing of their products or services.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-4 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of Agriculture shall give notice within sixty (60) days after the filing date of the petition for accreditation by an association whether the association will be accredited. If the Commissioner determines that insufficient

evidence was filed by the association, the Commissioner may permit the association to file an amended request. The Commissioner shall then determine, within thirty (30) days after filing the amended petition, whether the association will be accredited.

B. An association which is denied accreditation after the filing of an amended request may not file another request for accreditation for a period of one (1) year.

C. Within thirty (30) days after a decision by the Commissioner denying accreditation to an association, the association may request a hearing before the Commissioner. The Commissioner shall then conduct a hearing to determine whether the association should be accredited. The hearing and any appeal from the determination of the Commissioner after the hearing shall be governed by the Administrative Procedures Act.

D. If the Commissioner believes that an accredited association has ceased to meet the standards for accreditation in Section 3 of this act, the Commissioner shall notify the association of the respects in which the Commissioner believes it has ceased to maintain such standards and allow it a reasonable time to answer or to correct the deficiencies noted. Thereafter, if the Commissioner is not satisfied that the association is then in compliance with Section 3 of this act, the Commissioner shall notify the association and hold a hearing to consider the revocation of accreditation. If, based upon the evidence submitted at the hearing, the Commissioner finds that the association has ceased to maintain the standards for accreditation, the Commissioner shall revoke the accreditation of such association.

E. The Commissioner may amend the order of accreditation only with respect to the products or services specified in such order. The Commissioner shall give notice of any proposed amendment and the reasons for the amendment to all accredited associations and contractors that would be directly affected thereby and shall

provide an opportunity for a public hearing. Thereafter, the Commissioner may amend the order if the Commissioner finds such amendment will be conducive to more effective bargaining and orderly marketing by the accredited association of the products or services of its members.

SECTION 5. NEW LAW A new section of law to be codified in Oklahoma Statutes as Section 20-5 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Department of Agriculture shall promulgate rules to implement the provisions of this act.

SECTION 6. This act shall become effective July 1, 2001.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

48-1-218

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