

No. 1991-48

AN ACT

HB 872

Amending the act of April 28, 1937 (P.L.417, No.105), entitled, as amended, "An act relating to milk and the products thereof; creating a Milk Marketing Board; establishing its jurisdiction, powers and duties; regulating the production, transportation, manufacturing, processing, storage, distribution, delivery and sale of milk and certain products thereof; providing for the licensing of milk dealers and the payment of fees therefor; requiring milk dealers to file bonds to secure payment for milk to producers and certain milk dealers; authorizing the holding of hearings and the issuance of subpoenas by the board; conferring jurisdiction upon courts to punish contempts and to prohibit violations of this act and of rules, regulations and orders of the board; authorizing the board to adopt rules, regulations and orders, and to enter into interstate and Federal compacts; requiring persons who weigh, measure, sample or test milk to procure permits or certificates, to take examinations, to pay fees therefor, to furnish certain notices, records and statements, and to use certain methods of weighing, measuring, sampling and testing; authorizing the board to examine the business, papers and premises of milk dealers and producers, requiring the keeping of records and the filing of reports by milk dealers, and permitting, with limitations, the use of information obtained thereby; authorizing the board to fix prices for milk and certain milk products subject to the approval of the Governor, and conferring certain powers upon the Governor with respect thereto; providing for appeals to the courts from decisions of the board, and for the burden of proof upon such appeals; prescribing penalties, fines and imprisonment for violations of this act and rules, regulations and orders of the board; defining perjury; defining remedies; repealing legislation supplied and superseded by this act, and saving rights, duties and proceedings thereunder; and making appropriations," further providing for expenses of the Milk Marketing Board; further providing for certain payments; making an appropriation; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 1102 and 1104 of the act of April 28, 1937 (P.L.417, No.105), known as the Milk Marketing Law, amended July 31, 1968 (P.L.963, No.294), are amended to read:

Section 1102. Expenses.—(a) As much of the money[, from time to time,] in the Milk Marketing Fund as may be necessary [is hereby specifically] *shall be annually* appropriated to the Milk Marketing Board to be used to pay its expenses, including the following:

(1) Salaries of the board[, of its employees, and of any deputy attorney general, special deputy attorney general, assistant deputy attorney general, or other counsel as may be assigned by the Department of Justice to the board for the handling of any legal work, pertaining to its business.] *and of its employees.*

(2) Rental and other expenses for offices, rooms, garage space and other accommodations outside of the Capitol Buildings, either in or outside of the capital city, occupied by the board.

(3) Premiums for workmen's compensation insurance covering the officers and employes of the board.

(4) Premiums for surety bonds for such officers or employes of the board as may be required by law to furnish such bonds.

(5) Purchase and operating costs of motor vehicles required by the board for full-time use, including premiums for liability insurance covering such motor vehicles and the members of the board and employes operating them; also the amount payable to the Department of **[Property and Supplies] General Services** for the use of automobiles supplied by it for temporary use by the board.

(6) Furniture, stationery, materials, supplies and all other overhead expenses of the board.

(7) All other expenses of every kind and description necessary for the performance by the board of its work.

(b) All such purchases and leases shall be made, and all such contracts of insurance and surety bonds shall be placed, through the Department of **[Property and Supplies] General Services** as agent.

(c) *Before November 1 of each year, the Milk Marketing Board shall estimate its total expenses for the fiscal year beginning July 1 of the following year. This estimate shall be submitted to the Governor in accordance with section 610 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." At the same time the board submits its estimate to the Governor, the board shall also submit that estimate to the General Assembly through the President pro tempore of the Senate and the Speaker of the House of Representatives. The board, or its designated representatives, shall be afforded an opportunity to appear before the Governor regarding its estimate.*

Section 1104. **[Approval of Governor.—Estimates of the amounts to be expended under this act by the Milk Marketing Board, either itself, or through the Department of Property and Supplies as purchasing agent, or by the Board of Finance and Revenue in the payment of claims for refund, shall be submitted to the Governor from time to time for his approval or disapproval, as in the case of other appropriations made to administrative departments, boards and commissions, and it shall be unlawful for the Auditor General to honor any requisition for the expenditure of any moneys out of this appropriation by the Milk Marketing Board, or by the Department of Property and Supplies as its agent, or by the Board of Finance and Revenue, in excess of the estimates approved by the Governor. Subject to this provision, the Auditor General shall, from time to time, draw warrants upon the State Treasury for the amounts specified in such requisitions, not exceeding, however, the amount in the Milk Marketing Fund at the time of the making of any such requisition.] Payment.—Moneys in the Milk Marketing Fund appropriated to the Milk Marketing Board shall be paid out upon warrant of the State Treasurer drawn after requisition by the secretary of the Milk Marketing Board.**

Section 2. Section 1 of the act of August 22, 1961 (P.L.1049, No.479), entitled "An act authorizing the State Treasurer under certain conditions to

transfer sums of money between the General Fund and certain funds and subsequent transfers of equal sums between such funds, and making appropriations necessary to effect such transfers," is repealed insofar as it is applicable to the Milk Marketing Board.

Section 3. Except for section 1102(c), added by this amendatory act, this act shall apply to appropriations beginning with the 1991-1992 fiscal year. The estimate by the Milk Marketing Board for the fiscal year beginning July 1, 1992, shall be submitted within 30 days of enactment of this amendatory act.

Section 4. In addition to the appropriations for the 1991-1992 fiscal year in the amount of \$950,000 appropriated to the Milk Marketing Board by the act of August 4, 1991 (P.L.484, No.7A), known as the General Appropriation Act of 1991, the sum of \$1,067,000 arising from license fees, penalties or permits collected or received by the board and deposited in the Milk Marketing Fund is hereby appropriated to the Milk Marketing Board for the fiscal year commencing July 1, 1991, to June 30, 1992.

Section 5. This act shall take effect immediately.

APPROVED—The 20th day of December, A. D. 1991, except as to the following:

Section 4. In addition to the appropriations for the 1991-1992 fiscal year in the amount of \$950,000 appropriated to the Milk Marketing Board by the act of August 4, 1991 (P.L.484, No.7A), known as the General Appropriation Act of 1991, the sum of \$1,067,000 arising from license fees, penalties or permits collected or received by the board and deposited in the Milk Marketing Fund is hereby appropriated to the Milk Marketing Board for the fiscal year commencing July 1, 1991, to June 30, 1992.

This item is approved in the sum of \$628,000.

House Bill 872 amends the Milk Marketing Law to provide for the appropriation of the moneys in the Milk Marketing Fund instead of the executive authorization process for funding of the Milk Marketing Board. It also requires the board to submit its budget request to the General Assembly through the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

While I have no objection to the changes in the budget procedures for future years, implementing these changes during the current fiscal year causes some difficulties. It is because of these problems that I have reduced the appropriation from the Milk Marketing Fund contained in Section 4.

The Milk Marketing Fund is reserved exclusively for the use of the Milk Marketing Board for its operations. Fees charged by the board for licenses are set by the board through regulation. Under the provisions of law in effect prior to House Bill 872, an executive authorization was issued on June 26, 1991, to provide the funding necessary for the operations of the board for fiscal year 1991-1992. To date approximately \$715,000 has been spent from

the fund under provisions of the executive authorization which leaves approximately \$628,000 available for appropriation at this time.

ROBERT P. CASEY