

Sunset Public Hearing Questions for
Tennessee Dairy Promotion Committee
Created by Section 44-19-114, *Tennessee Code Annotated*
(Sunset termination June 2014)

1. Provide a brief introduction to the committee, including information about its purpose, statutory duties, staff, and administrative attachment.

The Dairy Industry Promotion Act was passed by the Tennessee Legislature and signed into law on June 5, 1984. It's only purpose and duty is to permit dairy farmers in Tennessee to act jointly and in cooperation with other producers, handlers and processors of milk products in promoting and stimulating, by advertising, research, nutrition and other methods, the increased consumption, use and sale of all domestic milk and milk products without identification by brand or trade name. Presently the Tennessee Dairy Promotion Committee represents some 400 dairy farmers.

The Tennessee Dairy Promotion Committee has a total of 11 members that are appointed by the Tennessee Commissioner of Agriculture. The Tennessee Commissioner of Agriculture or a designated appointee serves on the board as an ex-officio member with non-voting status. The Tennessee Dairy Promotion Committee is headquartered at 60 Henry Bayless Road, Ardmore, Tennessee 38449. The Tennessee Dairy Promotion Committee receives no funding or staffing through the Tennessee Department of Agriculture or any other state agency. All of the Committee's expenses are paid with funds collected by the Committee.

2. Provide a list of current members of the committee and describe how membership complies with Section 44-19-114, *Tennessee Code Annotated*. Who appoints members? Are there any vacancies on the committee? If so, what steps have been taken to fill the vacancies?

The members of the Tennessee Dairy Promotion Committee are appointed by the Tennessee Commissioner of Agriculture. There is currently one vacancy on the Committee due to one member's recent departure from the industry. The Committee has asked the Commissioner to fill the vacancy. The Commissioner is in the process of making such appointment. (see attached list)

3. Does the committee's membership include public/citizen members? Female members? Members of a racial minority? Members who are 60 years of age or older?

There are no public/citizen members on the Committee. The funds generated under the Tennessee Dairy Promotion Act are collected from dairy farmers only, for the purpose stated in the Act. Section 14 of the Act is specific that only dairy producers that are residents of Tennessee shall serve on the Committee. The Commissioner of Agriculture or his designate are ex-officio members of the Committee. There are presently two female

members on the Committee. There are no members of a racial minority and there are members of the Committee sixty years of age or older.

- How many times did the committee meet in fiscal years 2011 and 2012, and how many members were present at each meeting?

The Tennessee Dairy Promotion Committee meets a minimum of two times per year. For calendar years 2011 and 2012, the Committee has met a total of seven times with the following number of members present at each meeting:

2011: November 3 – nine; July 7 – seven; April 20 – eight; March 15 - seven

2012: April 3 – eight; March 6 – six; November 7 - seven

- What per diem or travel reimbursement do members receive? How much was paid to committee members during fiscal years 2011 and 2012?

The members of the Committee are eligible for \$50 per day per diem and auto mileage at the prevailing IRS rate. They are also eligible for meals, lodging, and transportation expenses. The amounts paid annually vary depending on how many members attend and whether those in attendance actually claim expenses, which some do not. In 2011 committee members were paid a total of \$2,798 and in 2012 they were paid \$2,415. All expenses are paid from the assessments collected from Tennessee dairy farmers.

- What were the committee’s revenues (by source) and expenditures (by object) for fiscal years 2011 and 2012?

	<u>Revenue</u>			<u>Expenses</u>			
	<u>Assessments</u>	<u>SUDIA Reimbursement</u>	<u>Other</u>	<u>Directors’</u>	<u>Audit</u>	<u>Admin.</u>	<u>Meetings</u>
2011 –	\$799,326	\$3,898	\$25	\$2,798	\$725	\$143	\$257
2012 -	\$797,670	\$3,641	\$25	\$2,415	\$725	\$319	\$208

- Is the committee subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the committee have for informing the public of its meetings and making its minutes available to the public?

A public notice of all meetings is placed on the Southeastern United Dairy Industry Association’s website. Minutes may be obtained from the Association as well.

- Does the committee have policies in place to address potential conflicts of interest by committee members?

The Act states that members of the Committee must be active dairy farmers in Tennessee. It further states the duties and responsibilities of each member of the Committee. The Tennessee Commissioner of Agriculture can either appoint or re-appoint dairy farmers to the Committee that meet these criteria. "Conflict of Interest Policy" is signed by each committee member.

9. Has the commissioner promulgated rules and regulations as authorized at Section 44-19-120, *Tennessee Code Annotated*? If so, please cite the reference.

Rule 0080-3-7 was filed September 20, 1984 and effective October 20, 1984. The rule specifies the qualifications of members, the nomination procedure, terms of office, and the representation and number of members to serve on the committee.

10. Describe the nature and extent of the committee's activities and any major accomplishments of the past two years.

In 2011 and 2012, the Committee chartered new waters by allocating 2 cents of every 10 cents of assessments to be directed to in-state promotions. The Committee considered several proposals from the media and promotion companies on various programs each would implement with the funds available. The Committee voted on the programs they thought were best for Tennessee producers and made arrangements with their contractor, Southeast United Dairy Industry Association, Inc., to remit payment to the specified vendors when projects were completed. The Committee continues to review proposals for the year with directives on how the 2 cents should be directed in order to have local dairy promotions.

11. Please describe the promotional activities in which the committee is involved. What happens if dairy producers are not satisfied with certain aspects of the committee's promotional activities? What can they do to make their complaints heard and what does the committee do to handle such complaints?

The Committee invests the assessments collected from Tennessee dairy farmers in marketing and promotional activities in an effort to increase the demand for dairy products. Dairy producers unsatisfied with the activities of the Committee should notify a member of the committee and encourage the committee to modify their investments. Committee members bring options to Committee meetings for the Committee to consider. Various proposals may be presented to the Committee for consideration.

12. Please describe the process for levying assessments for promotion of dairy products by the committee. In what year was the last petition for assessment received by the commissioner? When did the last change in the amount of the assessment occur? How does the committee determine the amount to assess each producer?

The Tennessee Dairy Promotion Committee collects 10¢ per cwt. (hundred weight) for milk that is produced for commercial sales in Tennessee. The last petition for assessment was received by the Commissioner of Agriculture in 1984. There have been no changes in the assessment since the program began in 1984. The assessment is done on a volume basis not an individual member assessment. For each unit (cwt.) of milk that is produced the dairy farmer in Tennessee is assessed 10¢. The 10¢ per cwt. was established in 1983 by the Dairy and Tobacco Adjustment Act of 1983 passed by the U. S. Congress. A total assessment of 15¢ cwt. is paid by every dairy farmer in the U.S.; however, if a qualified program is in place, then 10¢ of the 15¢ can remain in a regional or state program. The Tennessee Dairy Promotion Committee has been certified by USDA (United States Department of Agriculture) as a qualified program that can collect 10¢ of the total 15¢ per cwt. assessment.

13. Have all producers paid the assessments? What actions are taken when a producer does not pay the assessment?

Yes. Each producer pays on an equal basis according to their total production. If a producer fails to pay assessments to the Tennessee Dairy Promotion Committee then the Commissioner of Agriculture must take appropriate action under Section 21 of the "Act". USDA may also become involved in the collection of assessments that have not been filed.

14. How much money was assessed and collected in the past year? What is the current balance of the Dairy Promotion Fund? Have the financial statements been audited annually as required by Section 44-19-119, *Tennessee Code Annotated*?

In 2012, the Dairy Promotion Committee collected \$797,671 in revenue from assessments. December 31, 2012, the Committee had \$1,259.16 balance in the fund. The financial statements are audited annually by a Certified Public Accountant in accordance with TCA 44-19-119.

15. Under what circumstances would a producer receive a refund of assessments under Section 44-19-115, *Tennessee Code Annotated*?

Under no circumstances would a producer receive a refund of assessments unless the national law (Dairy and Tobacco Adjustment Act of 1983) was abolished. If the national law were abolished, then the Tennessee Dairy Promotion Act would be null and void (Section 22).

16. Describe any items related to the committee that require legislative attention and your proposed legislative changes.

The Tennessee Dairy Promotion Committee has no recommendations at this time for any changes in the Tennessee Dairy Promotion Act.

17. Should the committee be continued? To what extent and in what ways would the absence of the committee affect the public health, safety, or welfare?

It is strongly recommended that the Tennessee Dairy Promotion Committee be continued. The Committee provides an essential service to dairy producers and to the public welfare by promoting the sale and consumption of milk and milk products and the dissemination of sound, scientifically-based nutrition information.

18. Please list all committee programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

The Committee does not conduct any programs or activities which receive federal financial assistance. All programs and activities are funded through the assessments on dairy producers described in Question 12.

If the committee does receive federal assistance, please answer questions 19 through 26. If the committee does not receive federal assistance, proceed directly to question 25.

19. Does your committee prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

20. Does your committee have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

21. To which state or federal agency (if any) does your committee report concerning Title VI? Please describe the information your committee submits to the state or federal government and/or provide a copy of the most recent report submitted.

22. Describe your committee's actions to ensure that committee staff and clients/program participants understand the requirements of Title VI.

23. Describe your committee's actions to ensure it is meeting Title VI requirements. Specifically, describe any committee monitoring or tracking activities related to Title VI, and how frequently these activities occur.

24. Please describe the committee's procedures for handling Title VI complaints. Has your committee received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

25. Please provide a breakdown of current committee staff by title, ethnicity, and gender.

The Committee has no staff. Employees of the Southeast United Dairy Industry Association, Inc. who serves as the contractor provides staff resources.

26. Please list all committee contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

The Committee has a contractual agreement with the American Dairy Association of Tennessee-Southeast United Dairy Industry Association, Inc. The Committee pays the contractor a total of 10 cents per cwt., with the Committee retaining discretionary control over 2 cents per cwt. For promotion of milk and milk products in the state of Tennessee, pursuant to the provisions of Chapter 948 of the Public Acts of 1984, less any expenses necessary to the operation of the Committee. Manager of the contractor is U. S. Citizen.

Dairy Promotion Board

TCA 44-19-114

<u>Name</u>	<u>Address</u>	<u>Phone</u>	<u>County</u>	<u>Term</u>	<u>Affiliation</u>
Bayless, Raybon	60 Henry Bayless Rd., Ardmore TN 38449	931/629-3404		Jul-14	Independent
Boyd, Deborah	3002 Long Creek Rd, Parrottsville TN 37843	423-623-8585		Jul-13	Co-op
Davis, Randy	2303 Davis Dairy Rd, Philadelphia TN 37846	865-458-5223		Jul-14	Independent
Dougherty, Kathy	Eastwood Farms, 125 Co Rd 401, Madisonville TN 37354	423-475-4228	Monroe	Jul-13	Independent
Franklin, Jared	400 DeLong Rd, Bradyville TN 37026	615-464-3191		Jul-13	Co-op
Moss, Paul	635 Banks Levee Rd, Cottage Grove TN 38224	731-782-3303		Jul-14	Co-op
Saylor, David	101 Payne Lane, Jonesborough TN 37659	423-753-6005		Jul-14	Independent
Sparkman, Johnny	1086 Eaton Rd, Sparta TN 38583	931-808-3730		Jul-13	Co-op
Vacant					Independent
White, Tony	1794 New Columbia Hwy, Lewisburg TN 37091	931-368-7626	Marshall	Jul-14	Co-op
Yates, Jim	3077 Owl Hole Gap Rd, Rutledge TN 37861	865-828-8146	Grainger	Jul-13	Co-op
Hopper, Jimmy	TN Dept of Agriculture, P O Box 40627, Nashville TN 37204	615-837-5152			
Johnson, Julius	TN Dept of Agriculture, P O Box 40627, Nashville TN 37204	615-837-5100			
Pearson, Joe	TN Farm Bureau, P O Box 313, Columbia TN 38401	931-388-7872			

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