



Legislative Background Brief

for the
Economic Affairs Interim Committee

August 2011

Board of Milk Control

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Administrative Appointments: By Governor

Statutorily Established - 2-15-3105, MCA. Created in 1935 under Title 27, chapter 4 of the Revised Codes of Montana, initially as a stand-alone board regulating the producer, wholesale, and retail minimum prices of milk as well as transportation, processing, storage, and distribution of milk intended for consumption in the state. As part of executive reorganization in 1971, the Board of Milk Control was attached to the Department of Business Regulation. In 1995 the Department of Livestock became the administrative agency to which the Board of Milk Control was attached. Retail controls on milk were eliminated in 1995.

Purposes:

- fix minimum producer prices for different classes of milk, based on utilization;
- develop flexible and fair formulas to establish prices justified on the basis of changes in production, supply, processing, distribution, and retailing costs, balanced between producers and consumers and prices in nearby areas; and
- hold hearings and, if necessary a referendum vote, upon petition by licensed producers or distributors or both for a statewide pooling arrangement as a way of payment of producer prices, as provided in 81-23-302, MCA. The state currently is under a statewide pooling system and quota plan.

Board: 5 members. No member may be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products. Nor may a member hold a public office or have held an elective or appointive public office for 2 years immediately preceding appointment. Not more than 3 members may be of the same political party.

Members/Address	Term Expires
Gary Parker, Fort Shaw	1/1/2013
Wade Weber, Stevensville	1/1/2013
Larry Van Dyke, Bozeman	1/1/2013
Jerrold Weissman, Great Falls	1/1/2015
W. Scott Mitchell, Billings	1/1/2015

Topics of Interest

- Differences between two producer groups (the group represented by Meadow Gold and the group represented by Country Classics) regarding "sell by" and "use by" dating.
- Efforts have risen in past years to try to determine jurisdictional authority of the Department of Livestock, the Board of Livestock, and the Board of Milk Control, which has included at least one lawsuit questioning the authority of the Board of Milk Control. A move to eliminate the Board of Milk Control (LC 1633 by Rep. Mark Blasdel in 2009)

was never introduced, but SB 286 by Sen. Taylor Brown to clarify the Board of Milk Control's duties by transferring certain responsibilities from the Department of Livestock to the Board of Milk Control did pass. A sunset provision was attached to the bill, but that was repealed by SB 5, also introduced by Sen. Brown, in 2011. As such, the Department of Livestock is to assist the Board of Milk Control in investigations and enforce the orders of the board under 81-23-103, MCA. Under 81-23-104, the board may adopt and enforce its rules and orders. The Milk Control Bureau operates under the Department of Livestock and by rule, 32.24.301, ARM, uses the federal order fat and skim prices to calculate producer prices. The Milk Control Bureau announces the monthly pricing. Testimony on SB 286 indicated that the Board of Milk Control does not meet regularly but meets in response to issues. Further complicating the administrative attachment and authority of department vis-a-vis the Board of Milk Control is the fact that the Board of Livestock, which oversees the department, is required to have a dairy producer while the Board of Milk Control may not.

- HB 664, introduced in 2009 by Rep. Mike Jopek, would have required the Economic Affairs Committee to conduct a study of milk regulation and the milk industry in Montana. The bill passed the house 75-22 but failed on the floor of the Senate. The bill called for a review of the quota system, the existing milk pooling system and an evaluation of the relationship between the Board of Milk Control and the Milk Control Bureau, among other issues.

2011 Legislation Enacted Regarding Board of Milk Control

- SB 5, sponsored by Sen. Brown, repealed the termination date in SB 286, which means that the functions transferred from the Department of Livestock remain with the Board of Milk Control.

Audits

none

Budget, FY 2013-FY2014

	FY 2013 FTE	General Fund	State Other*	Total
Board of Milk Control	3.5	\$0	\$426,712	\$426,712

*Milk producers are assessed a fee based on hundredweight of total volume of milk subject to Title 81, chapter 23.

Source: Legislative Fiscal Division