

## **BILL ANALYSIS**

H.B. 2049  
By: Swinford  
Agriculture & Livestock  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, the national beef check-off program (established by Congress as part of the 1985 Farm Bill) assesses \$1 per head on the sale of live domestic and imported cattle and a comparable assessment on imported beef and beef products. States retain up to 50 cents of each dollar collected and forward the remainder to the Cattlemen's Beef Promotion and Research Board, which oversees the national program with oversight from the United States Department of Agriculture ("USDA"). Revenues are used to increase beef demand through promotion programs, research and education.

In 2001, a federal lawsuit was filed in South Dakota asking the court to invalidate the program because it allegedly violates producers' First Amendment rights to freedom of speech and association. In 2002, the federal judge in South Dakota issued an injunction to halt further collection of assessments under the check-off program. The case has now made its way to the U.S. Supreme Court where a decision is expected sometime in the Spring of 2005.

In response to the lawsuit, the Texas Legislature in 2003 passed legislation authorizing the Texas Beef Council to conduct its own check-off program in case the federal program was held unconstitutional by the U.S. Supreme Court.

Should the Court rule that a mandatory assessment on all producers violates First Amendment free speech provisions, this bill ensures that the Texas Department of Agriculture has the authority and flexibility to establish a program that comports with the standards set forth by the Court.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

This bill amends Section 41.160 of the Agriculture Code, requiring the commissioner not only to propose the maximum assessment in a referendum, but also the manner in which it is collected. Removes language concerning the applicability of other law to assessments.

### **EFFECTIVE DATE**

This Act takes effect immediately upon passage or September 1, 2005.