

## CHAPTER 306

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**AGRICULTURE**

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**SENATE BILL 93-240**

BY SENATORS Bishop, Rizzuto, Bird, Traylor, Ament, Cassidy, Mutzebaugh, L. Powers, and Roberts;  
also REPRESENTATIVES Owen, Grampsas, Romero, and Taylor.

**AN ACT**

**CONCERNING THE PROMOTION OF SHEEP AND WOOL, AND, IN CONNECTION THEREWITH, ENACTING  
THE "COLORADO SHEEP AND WOOL AUTHORITY ACT".**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 57.5 of title 35, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended, WITH THE RELOCATION OF PROVISIONS, to read:

**35-57.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO SHEEP AND WOOL AUTHORITY ACT".

**35-57.5-102. [Formerly 35-57.5-101] Legislative declaration.** (1) It is hereby declared to be in the interest of the public welfare that owners of sheep be authorized and encouraged to act jointly and in cooperation in promoting and stimulating, by research, education, advertising, and other methods, the increased and efficient production, distribution, use, and sale of sheep and sheep products. It is the intent and purpose of this article to authorize and provide a method and procedure for effectively correlating and encouraging the advancement of the sheep industry and the financing thereof pursuant to the powers of the general assembly as authorized by law. It is further declared that the sheep industry of this state is affected with a public interest in that the stabilization, maintenance, and expansion of the sheep industry of Colorado and of the state, nationwide, and foreign markets for its products are necessary to assure the consuming public an adequate supply of foods which are indispensable in a proper human diet and an adequate supply of animal fiber; to protect, for the state and its political subdivisions, a necessary source of tax revenue; to provide and maintain an adequate standard of living for a great segment of the population of this state; to maintain proper wage scales for those engaged in the sheep industry; and to maintain existing employment.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(2) The purpose of this article is to enable the sheep industry ~~with the aid of the state~~, to effectively correlate and encourage the advancement and improvement of its commodities.

**35-57.5-103. [Formerly 35-57.5-102] Definitions.** As used in this article, unless the context otherwise requires:

(1) ~~"Board" means the Colorado sheep and wool board~~ "AUTHORITY" MEANS THE COLORADO SHEEP AND WOOL AUTHORITY CREATED BY SECTION 35-57.5-104 (1).

(1.5) "BOARD" OR "SHEEP AND WOOL BOARD" MEANS THE COLORADO SHEEP AND WOOL BOARD.

(2) "Commissioner" means the commissioner of agriculture.

**35-57.5-104. Colorado sheep and wool authority - creation.** (1) THERE IS HEREBY CREATED THE COLORADO SHEEP AND WOOL AUTHORITY, WHICH SHALL BE A BODY CORPORATE AND A POLITICAL SUBDIVISION OF THE STATE. THE AUTHORITY SHALL NOT BE AN AGENCY OF STATE GOVERNMENT, NOR SHALL IT BE SUBJECT TO ADMINISTRATIVE DIRECTION BY ANY STATE AGENCY EXCEPT:

(a) AS PROVIDED IN THIS ARTICLE;

(b) FOR PURPOSES OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S.;

(c) FOR PURPOSES OF INCLUSION IN THE RISK MANAGEMENT FUND AND THE SELF-INSURED PROPERTY FUND AND BY THE DIVISION OF RISK MANAGEMENT PURSUANT TO PART 15 OF ARTICLE 30 OF TITLE 24, C.R.S.

**35-57.5-105. [Formerly 35-57.5-103] Colorado sheep and wool board.**

(1) ~~There is hereby created~~ THE POWERS OF THE AUTHORITY SHALL BE VESTED IN the Colorado sheep and wool board, which IS HEREBY CREATED, WHICH shall be composed of nine members and nine alternates who raise, breed, and grow sheep and wool or lambs for sheep production.

(2) The board members and alternates shall be appointed from the following districts:

(a) Three members and their alternates from an area ~~comprised of~~ COMPRISING the counties of Eagle, Garfield, Grand, Jackson, Moffat, Pitkin, Rio Blanco, and Routt, which shall be known as district 1;

(b) Three members and their alternates from an area ~~comprised of~~ COMPRISING the counties of Delta, Gunnison, Mesa, Montrose, Ouray, and San Miguel, which shall be known as district 2;

(c) One member and an alternate from an area ~~comprised of~~ COMPRISING the counties of Archuleta, Dolores, Hinsdale, La Plata, Montezuma, and San Juan, which shall be known as district 3;

(d) One member and an alternate from an area ~~comprised of~~ COMPRISING the counties of Alamosa, Conejos, Costilla, Mineral, Rio Grande, and Saguache, which shall be known as district 4;

(e) One member and an alternate from an area ~~comprised of~~ COMPRISING those counties not in districts 1 to 4, which shall be known as district 5.

(3) Each member and alternate of the board shall be appointed by the commissioner from nominations received from producers or producers' organizations in the district in which the member or alternate ~~has his residence~~ RESIDES OR HAS A principal place of business.

(4) ~~The board shall exercise its powers and perform its duties and functions specified by this article under the department of agriculture as a part of the division of brand inspection as if the same were transferred to the department by a type 1 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.~~

**35-57.5-106. [Formerly 35-57.5-104] Qualifications of members and alternates.** (1) Each member and alternate of the board shall have the following qualifications, which shall continue during ~~his~~ SUCH PERSON'S term of office:

(a) ~~He~~ THE PERSON shall be a citizen of the United States.

(b) ~~He~~ THE PERSON shall be a bona fide resident of the state of Colorado and reside or ~~have his~~ MAINTAIN A principal place of business in the district from which ~~he~~ THE PERSON is appointed.

(c) ~~He~~ THE PERSON shall have demonstrated, through membership in a sheep producers' organization or an organization representing this type of production or business or through public or other service, an active interest in the development of the sheep industry of Colorado.

(d) ~~He~~ THE PERSON shall have been actively engaged in the raising, breeding, or growing of sheep for a period of at least three years and shall derive a substantial proportion of his OR HER income from that type of production or business.

**35-57.5-107. [Formerly 35-57.5-105] Terms of members and alternates.** (1) ~~The commissioner shall appoint members and alternates of the board as follows:~~ THE MEMBERS AND ALTERNATES OF THE COLORADO SHEEP AND WOOL BOARD WHO ARE IN OFFICE ON JULY 1, 1993, SHALL CONSTITUTE THE ORIGINAL BOARD OF THE SHEEP AND WOOL AUTHORITY, AND THEIR INITIAL TERMS ON THE SHEEP AND WOOL BOARD SHALL END AT THE SAME TIME AS THE TERMS TO WHICH THEY WERE APPOINTED ON THE COLORADO SHEEP AND WOOL BOARD PRIOR TO JULY 1, 1993.

(a) ~~District 1: One member and one alternate for a term ending June 30, 1976; one member and one alternate for a term ending June 30, 1977; and one member and one alternate for a term ending June 30, 1978;~~

(b) ~~District 2: One member and one alternate for a term ending June 30, 1976; one member and one alternate for a term ending June 30, 1977; and one member and one~~

~~alternate for a term ending June 30, 1978;~~

~~(c) District 3: One member and one alternate for a term ending June 30, 1978;~~

~~(d) District 4: One member and one alternate for a term ending June 30, 1977;~~

~~(e) District 5: One member and one alternate for a term ending June 30, 1976.~~

(2) Upon the expiration of the term of a member and ~~his~~ SUCH MEMBER'S alternate as provided in subsection (1) of this section, their reappointment or successors shall be appointed by the commissioner ~~as provided in section 35-57.5-103 (3)~~ for a term of three years; except that, in the case of a vacancy of a member, ~~his~~ SUCH MEMBER'S appointed alternate shall serve the balance of the member's unexpired term, and, in the case of a vacancy of an alternate, the commissioner shall appoint a person as provided in section ~~35-57.5-103 (3)~~ 35-57.5-105 (3) who shall serve for the unexpired term.

**35-57.5-108. [Formerly 35-57.5-106] Declaring office of member or alternate vacant.** The commissioner shall immediately declare the office of any member or alternate of the board vacant whenever ~~he~~ THE COMMISSIONER finds that: The member or alternate no longer is actively engaged in the production of sheep; the member or alternate has become a resident of another state; or the member or alternate is unable to perform the duties of ~~his~~ THE office.

**35-57.5-109. [Formerly 35-57.5-107] Removal of member or alternate.** (1) The commissioner may remove any member or alternate of the board for inefficiency, neglect of duty, or misconduct in office. Such member or alternate shall be entitled to a public hearing, before the board with the commissioner presiding, after service upon ~~him~~ THE MEMBER OR ALTERNATE ten days before the hearing, of a copy of the charges against ~~him~~ THE MEMBER OR ALTERNATE together with a notice of the time and place of the hearing. At the hearing, the member or alternate shall be given an opportunity to be heard in person or by counsel and shall be permitted to present evidence to answer the charges and explain the facts alleged. ~~against him.~~

(2) In every case of removal, the commissioner shall file in the office of the secretary of state a complete statement of all charges against the member or alternate and ~~his~~ THE COMMISSIONER'S findings thereon, together with a record of the entire proceedings had in connection therewith.

**35-57.5-110. [Formerly 35-57.5-108] Expenses of members, alternates, and employees.** Members, alternates, officers, and employees of the board may receive compensation for actual and necessary travel and other actual expenses incurred in the performance of their official duties. The board shall adopt uniform and reasonable regulations governing the incurring and paying of such expenses.

**35-57.5-111. [Formerly 35-57.5-109] Meeting place.** The board shall establish a meeting place anywhere within this state, but the selection of the location shall be guided by consideration for the convenience of a majority of those most likely to have business with the board or to be affected by its acts.

**35-57.5-112. [Formerly 35-57.5-110] Meetings.** The first board appointed shall

meet as soon as practicable for the purpose of organizing. It shall elect a chairman from among its members and a secretary-treasurer who may or may not be from among its members. It shall adopt a general statement of policy for guidance and shall transact such other business as is necessary to start the work of the board. Thereafter, the board shall meet regularly once each three months or at such other times as called by the chairman. The chairman may call special meetings at any time and shall call a special meeting when requested by three or more members of the board.

**35-57.5-113. [Formerly 35-57.5-111] Duties and powers of the board.** (1) The board may:

(a) Conduct or contract for scientific research to discover and develop the commercial value of sheep and sheep products;

(b) Disseminate reliable information founded upon the research undertaken under this article, showing the uses or probable uses of sheep and sheep products;

(c) Study state and federal legislation with respect to tariffs, duties, reciprocal trade agreements, import quotas, and other matters of trade concerning the sheep industry;

(d) Sue and be sued as a board, without individual liability, for acts of the board within the scope of the powers conferred upon it by this article;

(e) Enter into contracts which it deems appropriate to the carrying out of the purposes of the board as authorized by this article;

(f) Make grants to research agencies for the financing of special or emergency studies or for the purchase or acquisition of facilities necessary to carry out the purposes of the board as authorized by this article;

(g) Appoint subordinate officers and employees of the board and prescribe their duties and fix their compensation;

(h) Cooperate with and enter into contracts with any local, state, or nationwide organization or agency engaged in work or activities similar to those of the board and enter into contracts with such organizations or agencies for carrying on joint programs;

(i) Act jointly and in cooperation with the federal government or any agency thereof in the administration of any program of the government or of a governmental agency deemed by the board to be beneficial to the sheep industry of this state and expend funds in connection therewith if such program is compatible with the powers conferred by this article;

(j) Adopt, rescind, modify, or amend all proper regulations, orders, and resolutions for the exercise of its powers and duties; and

(k) Enter into contracts for the promotion of sheep and for the development of new markets through such promotion.

(2) The board shall establish a license fee for the purpose of funding the services provided to the sheep industry by the board and for funding the activities of the board performed pursuant to the provisions of this article.

**35-57.5-114. [Formerly 35-57.5-112] Acceptance of grants and gifts.** The board may accept grants, donations, contributions, or gifts from any source for expenditures in connection with any purpose consistent with the powers conferred on the board.

**35-57.5-115. Rules and regulations.** THE BOARD IS AUTHORIZED TO PROMULGATE REGULATIONS NECESSARY TO CARRY OUT THE INTENT AND PURPOSES OF THIS ARTICLE.

**35-57.5-116. [Formerly 35-57.5-113] License fee - expenditure of funds.**  
 (1) The board shall ~~submit to the commissioner~~ DETERMINE the amount of assessment per head of sheep upon which the annual license fee provided for in section ~~35-57.5-111~~ (2) 35-57.5-113 (2) shall be computed. The amount of such assessment shall not exceed twenty-five cents per head of sheep and shall be ~~submitted to the commissioner~~ SET BY THE BOARD by November 1 of the year prior to the CALENDAR year the license fee is to be charged.

(2) The board shall ~~provide the commissioner~~ OBTAIN, by November 1 of each year, a certified true copy of the federal government's agricultural stabilization and conservation service list containing the names and addresses of sheep owners in the state and the number of sheep which were shorn and for which such federal payments were received during the year prior to the year the amount of such assessment is submitted to the ~~commissioner~~ AUTHORITY.

(3) The ~~commissioner~~ SHEEP AND WOOL BOARD shall require each owner of sheep who received such federal payments to pay said license fee. The license fee shall be computed by multiplying the assessment per head of sheep by the number of sheep shorn as reflected in such list.

(4) When collected, such license fees shall be ~~paid to the state treasurer, who shall credit the same to the Colorado sheep and wool board fund, which fund shall be~~ PAID TO THE AUTHORITY AND administered by the board for the purposes set forth in this article. ~~except that no expenditure of moneys for a fiscal year may be made or incurred by or under authority of the board pursuant to this article unless the provisions of the office of state planning and budgeting are complied with.~~

(5) The license fee to defray the costs of this program pursuant to the provisions of this article shall remain in full force and effect from year to year without change unless there is filed with the board a petition signed by at least fifty-one percent of the growers of sheep in the state upon whom the most recent license fee was imposed requesting the repeal of said license fee in total discontinuance of the program or a petition requesting an increase or decrease of said license fee, in which latter case, the board shall fix a new assessment and provide for continuation of the program.

**35-57.5-117. [Formerly 35-57.5-113.5] Acts constituting violation.** It is a violation of this article for any person to fail to pay an assessment pursuant to section ~~35-57.5-113~~ 35-57.5-116.

**35-57.5-118. [Formerly 35-57.5-114] Enforcement.** (1) The ~~commissioner~~ BOARD shall be responsible for the enforcement of this article.

(2) Any assessment levied in such specified amount as may be determined by the ~~commissioner~~ BOARD pursuant to the provisions of section ~~35-57.5-113~~ 35-57.5-116 shall constitute a personal debt of every person so assessed and shall be due and payable to the ~~commissioner~~ AUTHORITY when payment is called for by the ~~commissioner~~ BOARD.

(3) Upon the failure of such person to pay any such assessment upon the date determined by the ~~commissioner~~ BOARD, the ~~commissioner~~ BOARD may recover such amount plus costs and attorney fees by action in any court of competent jurisdiction.

(4) Whenever it appears to the ~~commissioner~~ BOARD, upon sufficient evidence satisfactory to the ~~commissioner~~ BOARD, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this article or of any rule or of any order promulgated under this article, ~~he~~ THE BOARD may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with this article or any rule or order under this article. In any such action, the ~~commissioner~~ BOARD shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the ~~commissioner~~ BOARD to post a bond.

(5) (a) Any person who violates any provision of this article or any regulation made pursuant to this article is subject to a civil penalty, as determined by the ~~commissioner~~ BOARD. The maximum penalty shall not exceed one thousand dollars per violation.

(b) No civil penalty may be imposed unless the person charged was given notice and opportunity for a hearing pursuant to article 4 of title 24, C.R.S.

(c) If the ~~commissioner~~ BOARD is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the ~~commissioner~~ BOARD, the ~~commissioner~~ BOARD may recover such amount plus costs and attorney fees by action in any court of competent jurisdiction.

(d) Whenever the ~~commissioner~~ BOARD is found to have lacked substantial justification to impose a civil penalty, the person charged may recover ~~his~~ SUCH PERSON'S costs and attorney fees from the ~~department~~ AUTHORITY.

(e) Moneys collected from any civil penalties under the provisions of this section shall be paid to the ~~state treasurer~~ AUTHORITY, who shall ~~credit the same to the wool board fund~~ USE SUCH FUNDS TO DEFRAY THE COSTS OF THE ADMINISTRATION OF THIS ARTICLE.

(f) Before imposing any civil penalty, the ~~commissioner~~ BOARD may consider the effect of such penalty on the ability of the person charged to stay in business.

(6) ~~The commissioner shall have full authority to administer oaths and take statements, to issue subpoenas requiring the attendance of witnesses before him and~~

~~the production of all books, memoranda, papers, and other documents, articles, or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.~~

**35-57.5-119. [Formerly 35-57.5-115] Refunds.** (1) Unless otherwise specified in this article, there shall be no refunds of assessments.

(2) Any lamb feeder who has paid an assessment as required by section ~~35-57.5-113~~ 35-57.5-116 shall be entitled to a prompt refund of seventy-five percent of such assessment from the board. Claim for refund shall be made to the board within ten days after the date of payment of the assessment or ten days after the due date of the assessment, whichever is earlier, on a form furnished by the board. ~~No such refund shall be made until the state general fund has been reimbursed for all expenses incurred by the establishment of this article.~~

(3) Notwithstanding any other laws to the contrary and to carry out the intent of this section to insure prompt refund, the board, except as provided by subsection (4) of this section, is authorized to expeditiously process claims for refund. The refund shall be based on the signed statement of the refund claim and any other information that is attached thereto unless other information or verification is required by subsection (4) of this section.

(4) The board, before processing and making a refund, may require any additional information or verification it deems necessary to determine the validity of the claim for refund. All persons who forward claims for refund shall keep pertinent records for a period of at least three years, which shall be available for audit by the board. The board may file an action to recover from any person a refund of assessment illegally obtained.

(5) The claim for refund shall be signed by the person who paid the assessment. Any person who files a fraudulent or false claim for refund, or who, by any false pretenses, obtains or attempts to obtain a refund not legally due him, or who signs a refund claim in the name of and for another person commits theft, as defined in section 18-4-401, C.R.S., and shall be punished accordingly.

**SECTION 2.** 24-1-123 (4) (g) (III), Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

**24-1-123. Department of agriculture - creation.** (4) The department of agriculture shall consist of the following divisions:

(g) (III) ~~The Colorado sheep and wool board, created by article 57.5 of title 35, C.R.S., shall exercise its powers and perform its duties and functions under the department of agriculture as a part of the division of brand inspection as if it were transferred by a type 1 transfer.~~

**SECTION 3.** 29-1-102 (13), Colorado Revised Statutes, 1986 Repl. Vol., as



amended, is amended to read:

**29-1-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(13) "Local government" means any authority, county, municipality, city and county, district, or other political subdivision of the state of Colorado; any institution, department, agency, or authority of any of the foregoing; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. The office of the county public trustee shall be deemed an agency of the county for the purposes of this part 1. "Local government" does not include the Colorado postsecondary educational facilities authority, the university of Colorado hospital authority, the Colorado student obligation bond authority, the Colorado health facilities authority, the Colorado housing and finance authority, the Colorado agricultural development authority, THE COLORADO SHEEP AND WOOL AUTHORITY, the fire and police pension association, any public entity insurance or investment pool formed pursuant to state law, any county or municipal housing authority, any association of political subdivisions formed pursuant to section 29-1-401, or any home rule city or town, home rule city and county, cities and towns operating under a territorial charter, school district, or junior college district.

**SECTION 4.** 29-1-602 (5) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**29-1-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(5) (b) Except for purposes of section 29-1-603 (4), "local government" does not include the fire and police pension association, any county or municipal housing authority, any public entity insurance pool formed pursuant to state law, THE COLORADO SHEEP AND WOOL AUTHORITY, or any association of political subdivisions formed pursuant to section 29-1-401.

**SECTION 5. Adjustments to 1993 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of agriculture for the fiscal year beginning July 1, 1993, shall be adjusted as follows:

(a) The line item "Sheep and Wool Board" is eliminated.

(b) The line item "Indirect Cost Assessment" is decreased by five thousand eight hundred two dollars (\$5,802).

(c) The total cash funds appropriation for special purposes is decreased by one hundred six thousand two hundred two dollars (\$106,202).

**SECTION 6. Effective date.** This act shall take effect July 1, 1993.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993