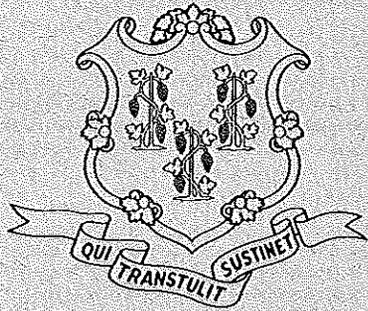


Milk Regulation Board

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

SUNSET 1983

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CONNECTICUT GENERAL ASSEMBLY

LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 as the Legislative Program Review Committee to evaluate the efficiency and effectiveness of selected state programs and to recommend improvements where indicated. In 1975 the General Assembly expanded the Committee's function to include investigations and changed its name to the Legislative Program Review and Investigations Committee. During the 1977 session, the Committee's mandate was again expanded by the Executive Reorganization Act to include "Sunset" performance reviews of nearly 100 agencies, boards, and commissions, commencing on January 1, 1979.

The Committee is composed of twelve members, three each appointed by the Senate President Pro Tempore and Minority Leader, and the Speaker of the House and Minority Leader.

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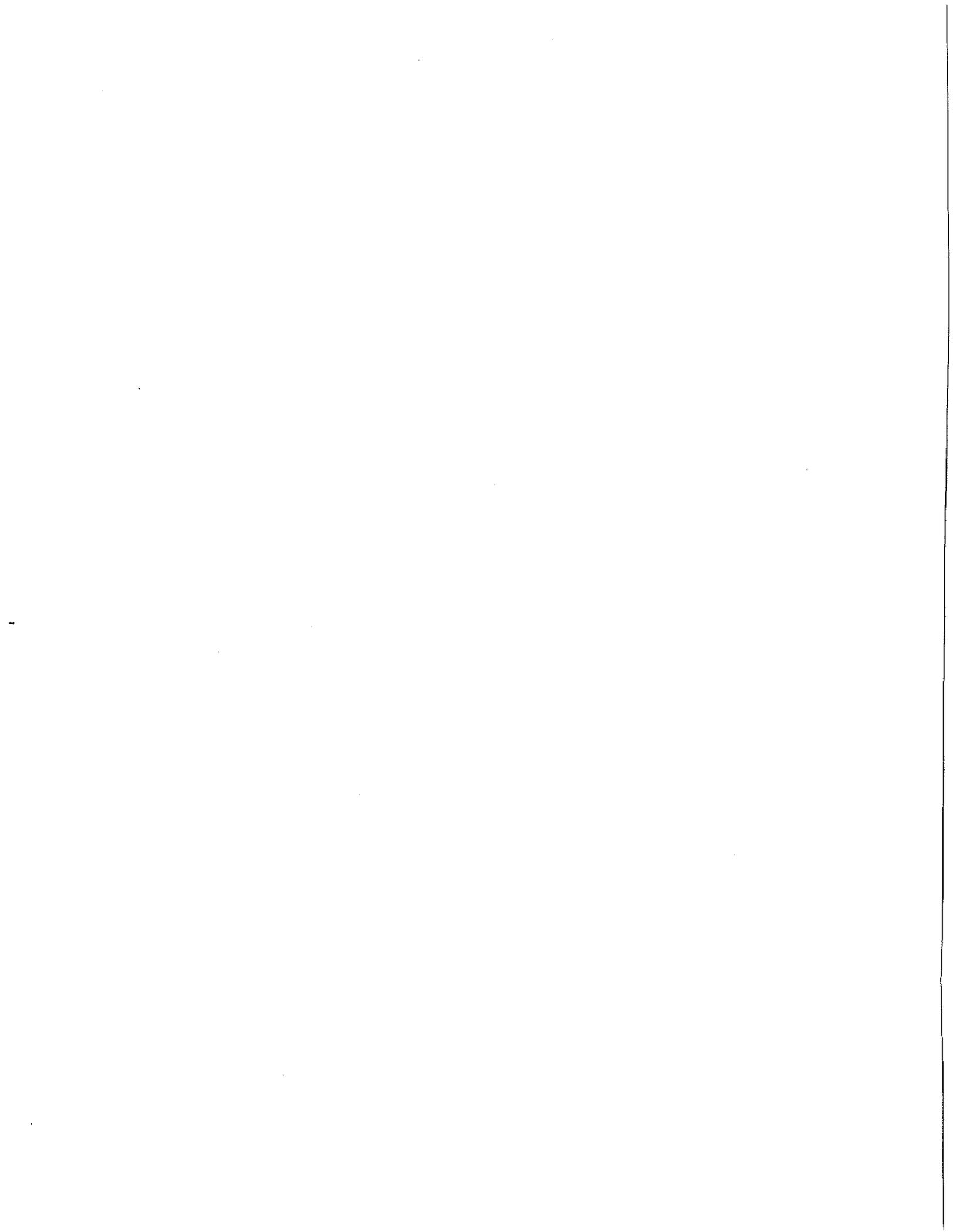
MILK REGULATION BOARD

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MILK REGULATION BOARD

SUMMARY

The Milk Regulation Board was established in 1919 by Senate Bill 193, "An Act Concerning the Production and Marketing of Milk." Since its creation, major legislative changes have primarily affected the board's composition with only a few changes being made to its powers and duties.

The Milk Regulation Board is composed of eight members--two actively engaged in the sale and distribution of milk, two actively engaged in milk production, two public members, the commissioner of agriculture and the commissioner of health services.

The purpose of the Milk Regulation Board is to assure consumers that milk and milk products meet minimum health and quality standards and to ensure an adequate and regular supply of milk at all times.

The board's principal duty is to issue regulations in the following areas:

- standards for the production, transportation, processing, handling, sampling, examination, grading, labeling, regrading and sale of milk and milk products;
- inspection standards for pasteurizing plants and milk-producing farms;
- examination and licensing standards for persons engaged in the weighing, gaging or testing of milk or cream; and
- establishment of a uniform method of displaying the "last date of sale" requirement for milk.

In addition to the promulgation of regulations for these areas, the board approves caps and labels for all milk and milk product containers.

The Legislative Program Review and Investigations Committee noted that the board provides a vital service by being available for consultation on matters relating to milk consumers and producers. Due to the complexity of the regulatory process and

its significant impact upon public health, safety and welfare, continuation of the board was considered to be necessary.

Therefore, the Legislative Program Review and Investigations Committee recommends that the Milk Regulation Board be continued and that its operation be brought into conformance with previous sunset legislation.

The Legislative Program Review and Investigations Committee considered one other area affecting the board; its organizational location. Under Public Act 77-614, the Government Reorganization Act, the commissioner of consumer protection was required to recommend to the General Assembly "such amendments to the general statutes as may be necessary to transfer the milk regulation board...to the department of consumer protection." (C.G.S. Sec. 22-131a.) The commissioner was required to report not later than March 1, 1978.

The Department of Consumer Protection reported that in order to move the milk board to the department, the Dairy Division within the Department of Agriculture would also have to be moved. The legislature did not act on the Department of Consumer Protection's recommendation.

Therefore, the Legislative Program Review and Investigations Committee recommends that the Milk Regulation Board remain within the Department of Agriculture and that Section 22-131a of the Connecticut General Statutes be repealed.

INTRODUCTION

Purpose and Authority

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This law was enacted in response to a legislative finding that a proliferation of governmental entities and programs had occurred without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. The committee is charged, under the provisions of Section 2c-3 of Chapter 28, with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in Section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity, or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations or policies, including budgetary and personnel policies.

In addition to the criteria contained in Section 2c-7, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

Methodology

The Legislative Program Review and Investigations Committee's sunset review process is divided into three phases. The initial phase focuses on collecting quantitative and qualitative data related to each entity's background, purpose, powers, duties, costs and accomplishments. Several methods are used by committee members and staff to obtain this information. These include: (1) a review of statutes, transcripts of legislative hearings, entity records (e.g., minutes, complaint files, administrative reports, etc.), and data and statutes of other states; (2) staff observation of meetings held by each entity during the review period; (3) surveys of selected persons and groups associated with each entity; (4) formal and informal interviews of selected individuals serving on, staffing, affected by or knowledgeable about each entity; and (5) testimony received at public hearings.

During the second phase, the staff organizes the information into descriptive packages and presents it to the committee. The presentations take place in public sessions designed to prepare committee members for the hearings, identify options for exploration and alert entity officials to the issues the committee will pursue at the hearings.

The final step of the review involves committee members and staff following up on and clarifying issues raised at briefings and public hearings. During this period, the staff prepares decision papers and presents recommendations to the committee. The committee, in public sessions, then debates and votes upon recommendations for the continuation, termination or modification of each entity.

BACKGROUND

Legislative History

The Milk Regulation Board was established in 1919 by Senate Bill 193, "An Act Concerning the Production and Marketing of Milk." Since its creation, major legislative changes have primarily affected the board's composition with only a few changes being made to its powers and duties. The original board was composed of five members: the dairy and food commissioner; the secretary of the State Board of Health; the attorney general; the secretary of the State Board of Agriculture; and the secretary of the Connecticut Dairymen's Association. The board's statutory mandate was to protect the public from the use of milk or cream that would be detrimental to public health and safety.

The legislation granted the five-member board the power to promulgate regulations concerning the inspection of dairy farms and the production, handling and marketing of milk and cream. The board was also directed to serve as an appeals body for decisions made by state and local regulatory authorities. The act gave the right of appeal to any person aggrieved by an order of any official authorized to prohibit the sale of milk.

On the local level, state statutes allowed town officials to appoint milk inspectors and make ordinances regulating the sale of milk within their municipality. On the state level, the legislature had created the position of dairy commissioner, who had the authority to enforce all the statutory provisions relating to milk and the milk industry.

Prior to the board's creation, the dairy commissioner (whose title was changed to dairy and food commissioner in 1909) was given the power to promulgate regulations. With the passage of the legislation creating the board, regulation-making authority was transferred to it, along with the new responsibility of acting as an appeals body. The dairy and food commissioner continued to enforce the law as it related to production and distribution of milk. The commissioner also had authority to prohibit the sale of milk found to be unsanitary. The 1919 act left unchanged the right of local officials to set higher sanitary standards than those of the state for milk sold within their towns.

In the past 63 years board membership has been altered six times. First in 1923 the designated positions for attorney

general and the Connecticut Dairymen's Association were eliminated. Added to the board at that time were two milk producers and the commissioner of domestic animals. The next change in composition came in 1941 with the addition of two new positions for persons actively engaged in the sale and distribution of milk, bringing the board's membership to eight.

A major change in board composition occurred in 1947. Legislation creating a Department of Agriculture included a provision repealing the board and replacing it with another board. The newly constituted board was formed by two milk producers, two milk distributors, the commissioner of health, the milk administrator (a position created by the legislation), and the new commissioner of farms and markets. The commissioner of farms and markets headed the Department of Agriculture.

In 1955, the seven-member board was expanded to nine members with the addition of two individuals having no financial interest in the production, distribution or sale of milk. The legislation making this change also required that one of the two new members be a woman. (This requirement was repealed in 1974). Finally, the board was statutorily reduced to its present eight members in 1978 with the elimination of the milk administrator as a representative. The position had actually been repealed from the statutes in 1965.

Apart from the changes in composition, the only other significant legislative changes affected the board's powers and duties. In 1935, the board's authority was expanded when the legislature granted it the power to issue and revoke permits for milk distributors and producers. Licensing standards for distributors and producers were outlined in the statute. The board maintained this power until 1951 when it was transferred to the commissioner of agriculture by legislation reorganizing the department. The board's responsibilities were further increased in 1949 when it was required to issue standards for the licensing of milk weighers, gagers, and samplers. The board was granted the authority to approve caps and labels for milk containers and milk products in 1955. In 1963, the board was allowed to establish standards for the inspection of pasteurizing plants and farms shipping milk into Connecticut as well as for those operating within the state.

With few exceptions, the board's mission has remained the same since its inception in 1919. The board has been primarily concerned with establishing regulatory standards insuring that the quality of milk produced for and sold to Connecticut's consumers remains high.

Structure

The Milk Regulation Board is composed of eight members--two actively engaged in the sale and distribution of milk, two actively engaged in milk production, two public members, the commissioner of agriculture and the commissioner of health services. Terms of the board members are coterminous with the governor. Board members receive a \$20 per diem and are reimbursed for necessary expenses. The board has no full-time staff but is assisted by staff from the Department of Agriculture's Dairy Division.

Purpose, Powers and Duties

The purpose of the Milk Regulation Board is to assure consumers that milk and milk products meet minimum health and quality standards and to ensure an adequate and regular supply of milk at all times.

The board's principal duty is to issue regulations in the following areas:

- standards for the production, transportation, processing, handling, sampling, examination, grading, labeling, regrading and sale of milk and milk products;
- inspection standards for pasteurizing plants and milk-producing farms;
- examination and licensing standards for persons engaged in the weighing, gaging or testing of milk or cream; and
- establishment of a uniform method of displaying the "last date of sale" requirement for milk.

In addition to the promulgation of regulations for these areas, the board approves caps and labels for all milk and milk product containers.

Related Milk Regulatory Functions

The commissioner of agriculture has a number of responsibilities in connection with the regulation of milk. In addition to enforcing the regulations issued by the milk board, the commissioner has the power to:

- sample milk, cream or milk products from any producer, dealer, processor or manufacturer for sanitary purposes;
- register and issue permits to milk producers, milk dealers and dairy plants engaged in receiving, handling, distributing, processing or selling milk or cream which is intended for use in Connecticut;
- inspect dairy farms and milk plants and approve sanitary conditions;
- alleviate milk shortages;
- regulate the supply of milk, if necessary;
- issue permits for pasteurization; and
- approve the cleaning of pasteurizing equipment.

The Dairy Division, within the Department of Agriculture, is responsible for administering the laws and regulations pertaining to milk, milk products and the industry. The division employed 22 individuals and had a budget of \$529,199 for FY 1981-82.

In 1980, the department approved 2,512 farms in Connecticut, New York, Massachusetts, Vermont and New Hampshire as milk producers for the state. Milk consumption for that year was approximately 250 million gallons. Table II-1 outlines statistics pertaining to the milk industry in Connecticut.

Table II-1. Connecticut Milk Industry Statistics: 1980.

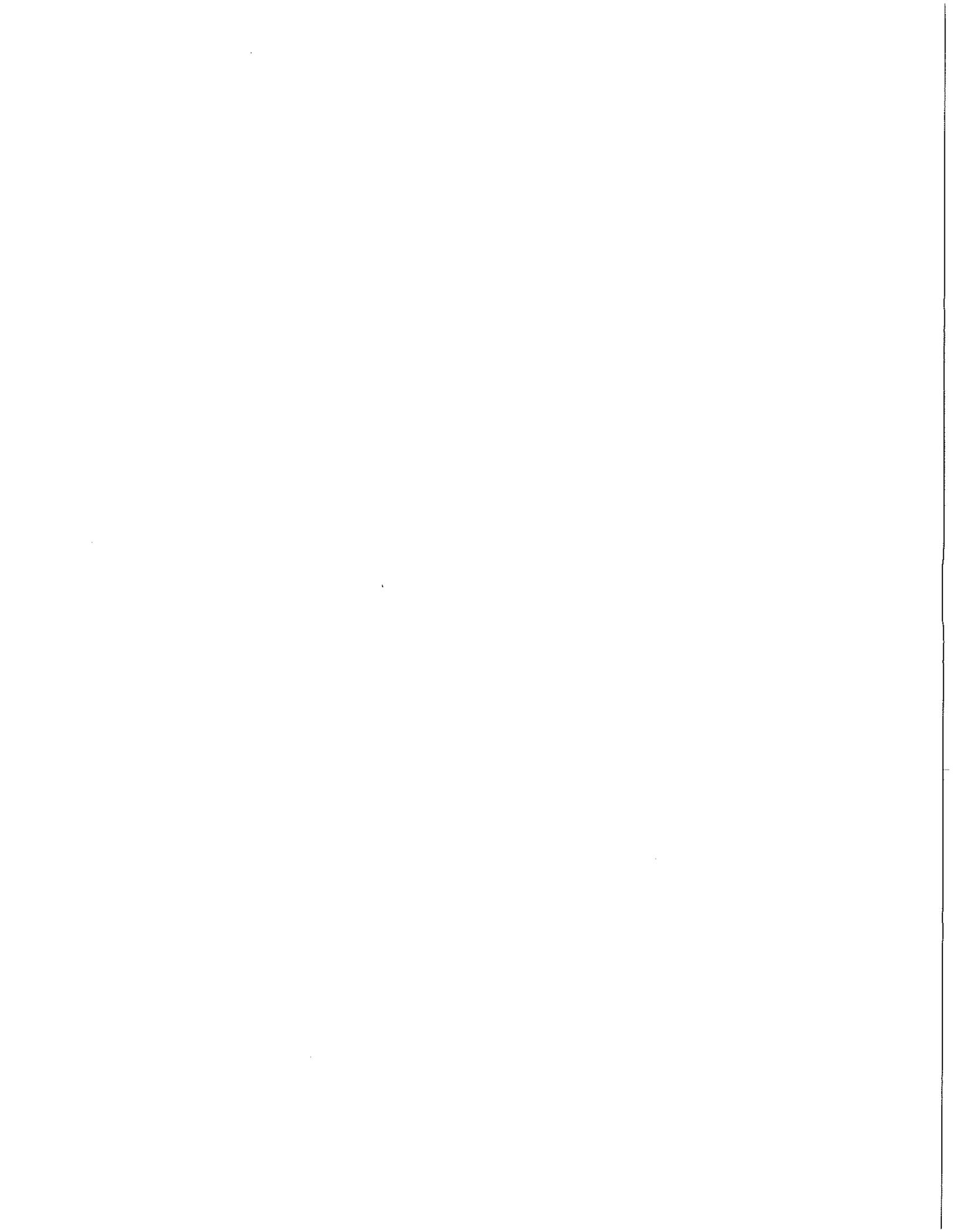
	<u>Dairy farms</u> <u>(approved)</u>	<u>Milk Cows</u> <u>(Thousands)</u>	<u>Milk Production</u> <u>(Million lbs.)</u>	<u>Dairy Farm Income</u>
Conn.	663	49	617	\$ 84,352,000
N.Y.	1,102	911	10,956	1,401,172,000
Mass.	200	46	565	79,279,000
Vermont	518	188	2,245	302,016,000
N.H.	<u>29</u>	<u>30</u>	<u>349</u>	<u>47,087,000</u>
Total	2,512	1,224	14,732	\$1,913,906,000

Source: Connecticut Department of Agriculture.

The federal government is also involved in the regulation of milk and milk products in Connecticut. The state is within the federal milk marketing order covering southern New England. The federal milk marketing order is a program administered by the U.S. Department of Agriculture to set minimum prices for milk. A milk marketing order is a legal instrument issued by the U.S. Department of Agriculture to regulate the terms under which milk dealers (handlers and processers) selling milk within a specific geographic area purchase milk from farmers.

Federal orders require the milk dealers to pay farmers specified minimum prices that vary according to the use of the milk. These prices are established by the U.S. Secretary of Agriculture after a public hearing where evidence is received on the supply and demand conditions for milk in a particular market area. A milk pricing order becomes effective only after approval by dairy farmers and requires that payments for milk by dealers be pooled and paid to individual farmers or cooperative associations of farmers on the basis of a uniform or average price. The price paid to farmers cannot be below the minimum price set by the milk marketing order. In 1980, 99 percent of all milk shipped in Connecticut came under the jurisdiction of the milk marketing order for the region.

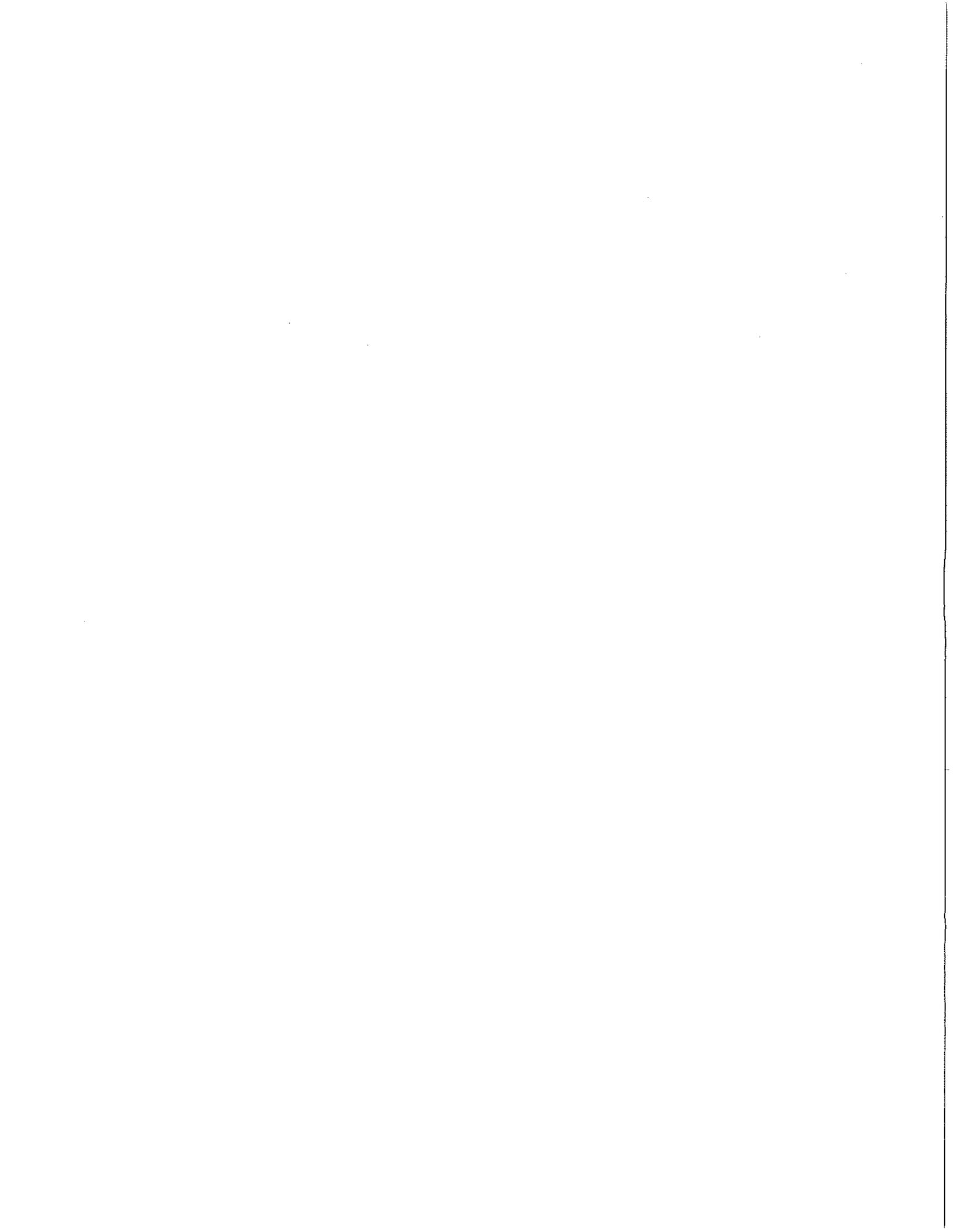
In addition to the U.S. Department of Agriculture, the U.S. Public Health Service regulates sanitary conditions by setting standards for the interstate shipment of milk. Connecticut participates in this program by maintaining standards at levels equal to those set by the U.S. Public Health Service. The state, along with the federal government, conducts inspections of dairy farms and pasteurizing plants to insure compliance with health and sanitary standards.



ACTIVITIES

The Milk Regulation Board meets four times a year. A review of minutes indicates that the board is involved in three major areas: approving labels; promulgating regulations; and reviewing legislation. The board's principal function, both statutorily and in practice, is to propose new and revise current regulations.

In 1981, the board considered regulations related to the dating of milk containers, grade A labeling, milk testing, compliance with federal regulations issued by the U.S. Public Health Service and milk sold in plastic containers. Impetus for regulatory changes generally comes from either the Connecticut Department of Agriculture or the dairy industry. The Dairy Division of the department is responsible for enforcing the board's regulations.



ANALYSIS AND RECOMMENDATION

The Legislative Program Review and Investigations Committee considered three options pertaining to board existence: 1) sunset the board and transfer its functions to the commissioner of agriculture; 2) continue the board and bring its operation into conformance with prior sunset legislation; and 3) modify the board's functions by expanding its decision-making authority to the granting of permits and licenses.

Testimony received by the Legislative Program Review and Investigations Committee at a public hearing indicated that it was necessary to have the views of the consumers, producers and dealers represented in the regulation-making process. Testimony also indicated that the advice and expertise provided by the board is needed by the Department of Agriculture to promulgate regulations affecting the milk industry.

The program review committee noted that the board provides a vital service by being available for consultation on matters relating to milk consumers and producers. Due to the complexity of the regulatory process and its significant impact upon public health, safety and welfare, continuation of the board was considered to be necessary.

Therefore, the Legislative Program Review and Investigations Committee recommends that the Milk Regulation Board be continued and that its operation be brought into conformance with previous sunset legislation.

Conformance with previous sunset legislation relating to board composition and procedures will principally affect attendance at board meetings. Prior sunset legislation required the automatic resignation of board members who have missed three successive meetings. The legislation also limited terms of office to two consecutive appointments. These provisions would apply to the milk board.

The Legislative Program Review and Investigations Committee considered one other area affecting the board; its organizational location. Under Public Act 77-614, the Government Reorganization Act, the commissioner of consumer protection was required to recommend to the General Assembly "such amendments to the general statutes as may be necessary to transfer the milk regulation board...to the department of consumer protection."¹ The commissioner was required to report not later than March 1, 1978.

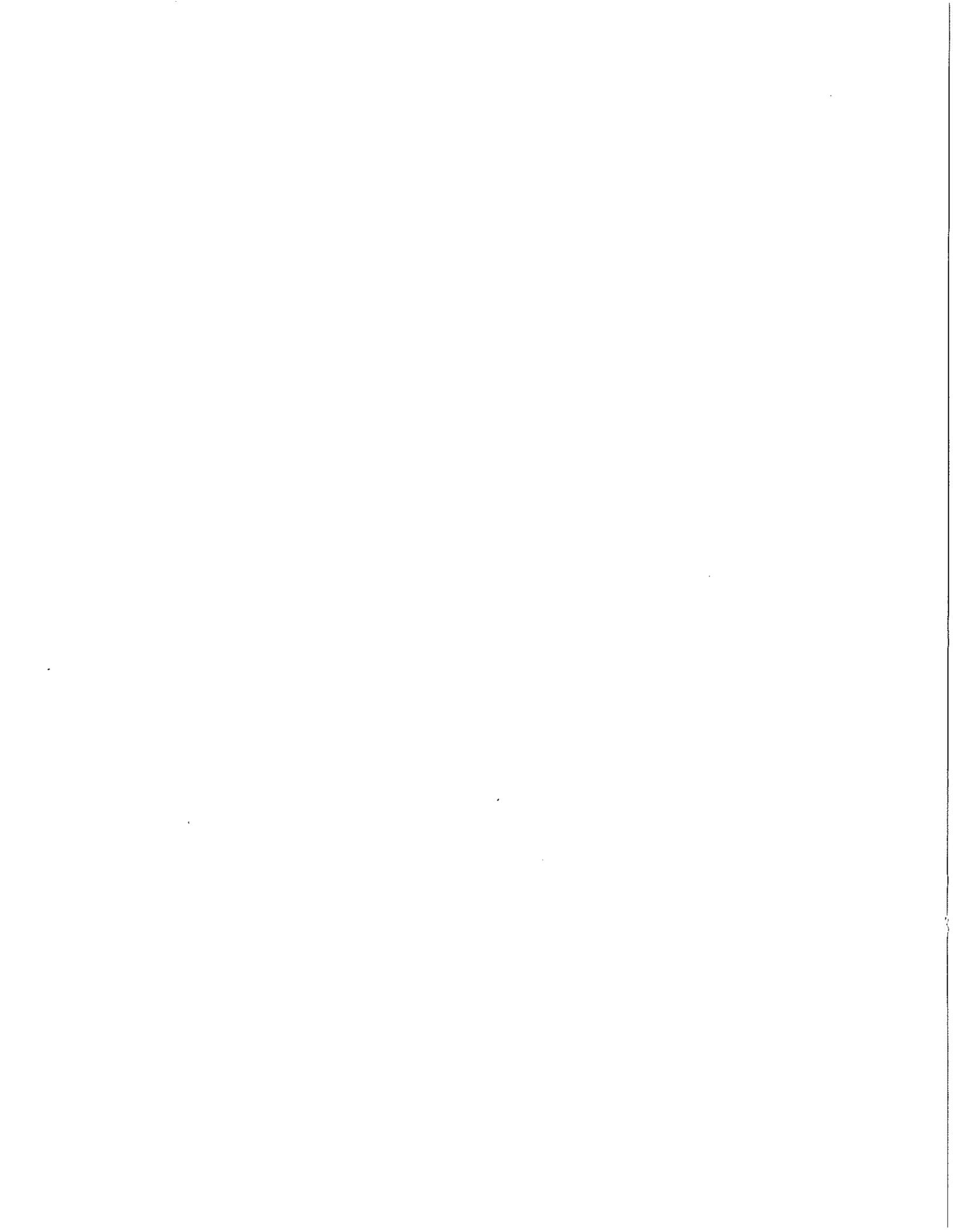
¹ Connecticut General Statutes, Sec. 22-131a.

The Department of Consumer Protection reported that in order to move the milk board to the department, the Dairy Division within the Department of Agriculture would also have to be moved. The legislature did not act on the Department of Consumer Protection's recommendation. The program review committee noted that the board issues regulations concerning products not regulated by consumer protection. Also, transferring the board without transferring the Dairy Division would weaken the link between the board and the Department of Agriculture. The Dairy Division is primarily responsible for the day-to-day operations of the milk regulatory program.

Therefore, the Legislative Program Review and Investigations Committee recommends that the Milk Regulation Board remain within the Department of Agriculture and that Section 22-131a of the Connecticut General Statutes be repealed.

Repealing this section would eliminate the statutory mandate for transferring the board.

APPENDICES



APPENDIX A

MILK REGULATION BOARD

STATUTORY AUTHORITY: Chapter 430 "Milk and Milk Products"

ESTABLISHED: 1919

PURPOSE: To assure the consumers that milk products meet minimum quality standards and to assure an adequate and regular supply of milk at all times.

MAJOR POWERS AND DUTIES:

- Issue regulations regarding the production, transportation, processing, handling, sampling, examination, grading, labeling, regrading and sale of milk and milk products;
- Establish standards for the inspection of pasteurizing plants and milk-producing farms;
- Approve caps and labels for milk and milk products;
- Issue regulations for the examination and licensing of persons engaging in the weighing, gaging, or testing of milk or cream. (The commissioner of agriculture administers the exams, determines the passing score, hears disciplinary actions and imposes sanctions.)
- Promulgate regulations establishing a uniform method of displaying the "last date of sale" requirement for milk.

COMPOSITION: Eight members; two actively engaged in the sale and distribution of milk, two actively engaged in milk production and two public members, the commissioner of agriculture and the commissioner of health services.

TERMS: Coterminous with the governor

STAFF: No full-time staff

BUDGET: Board members receive necessary expenses and a \$20 per diem (not to exceed \$350 annually).

APPENDIX B

Legislative Changes Needed to Implement the
Legislative Program Review and Investigations Committee's
Recommendations

- Repeal section 22-131a of the Connecticut General Statutes to delete the requirement that the board be transferred to the Department of Consumer Protection.

