

**STATE OF CALIFORNIA**  
**DEPARTMENT OF FOOD & AGRICULTURE**



**California Dairy Council Law**

**Chapter 1 of Part 2, Division 22**  
**Of the California Food and Agricultural Code**  
**(Section 64001 et seq)**

*With Amendments Effective January 1, 2022*

# California Dairy Council Law

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## **Article 1. Short Title and Definitions**

**64001.** This chapter shall be known as the Dairy Council of California Law.

**64002.** Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

**64003.** "Council" means the Dairy Council of California.

**64005.** "Dairy products" includes milk and any derivative of milk that is in natural, processed, or manufactured form, or that constitutes a part of another article, commodity, or product.

**64005.5.** "Ex officio member" means a nonvoting member of the council.

**64006.** "Fiscal year" means the period from July 1 in any one year to and including June 30th of the following year.

**64007.** "Handler" means any person that, as owner, agent, or broker, purchases, or otherwise acquires from a producer or another handler, possession or control of milk, skim milk, or cream, in the form of unprocessed milk, skim milk, or cream, or in any other unprocessed form, for the purpose of processing it and includes any person who secures custom processing services on an ongoing basis.

**64010.** "Milk" means the lacteal secretion that is obtained from the udders of cows.

**64010.1.** "Class I milk" has the meaning of that term as defined in Section 1051.40 of Title 7 of the Code of Federal Regulations, and includes both pooled and nonpooled milk.

**64010.2.** "All other usages" means usages other than class I for milk, including grade B milk received by handlers.

**64012.** "Or" and "and," may be construed as interchangeable, as the context may require.

**64013.** "Person" means an individual, corporation, partnership, limited liability company, trust, association, cooperative association, and any other business unit or organization.

**64014.** “Processing” means separating, standardizing, pasteurizing, sterilizing, evaporating, condensing, canning, bottling, packaging, or otherwise preparing milk to manufacture or produce any dairy product. “Processing” does not, however, include separating by a producer, on the dairy where the milk is produced, and milk separated by a producer on the dairy shall not be deemed to have been processed.

**64015.** “Producer” means any person that produces milk and sells it, or delivers possession or control of it, to a handler, in the form of unprocessed milk or cream, or in any other unprocessed form.

**64017.** “Solids-not-fat” means any milk solids that are not fat, measured using the standard milk testing methods in a Federal Milk Marketing Order, established by the final rule, effective October 17, 2018, published by the United States Department of Agriculture in Volume 83 of the Federal Register, beginning on page 26547, on Friday, June 8, 2018.

## Article 2. General Provisions

**64041.** It is hereby declared, as a matter of legislative determination, that the provisions of this chapter are enacted in the exercise of the police power of this state for the purposes of protecting and furthering the public health and welfare. It is further declared that the dairy industry of this state is affected with a public interest, in that, among other things:

(a) The production, processing, manufacture, and distribution of milk and other dairy products constitute a paramount industry of this state which not only provides substantial and required revenues for the state and its political subdivisions, and employment and a means of livelihood for many thousands of its population, but also furnishes essential foods that are vital to the public health and welfare.

(b) The stabilization, maintenance, and expansion of the dairy industry of California, 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, 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 dairy industry, and to maintain existing employment.

(c) Due to the significant role of milk and other dairy products in balanced human nutrition and the maintenance of public health, it is appropriate to provide for the dissemination of accurate and scientific information relative to the healthful qualities of dairy products, and to make the public thoroughly aware of that information.

**64042.** The purposes of this chapter are as follows:

(a) To enable the dairy industry, with the aid of the state, to develop, maintain, and expand the state, national, and international markets for dairy products that are produced, processed, or manufactured in the state, and the use and consumption of those dairy products in the state.

(b) In aid, but not in limitation, of this purpose, to authorize and enable the secretary to formulate and effectuate, directly or in cooperation with other agencies and instrumentalities specified in this chapter, consumer, or other, educational programs designed to encourage the use and consumption of milk and other dairy products as part of balanced human nutrition.

**(c)** To provide funds for the administration and enforcement of this chapter by assessments to be paid by producers and handlers in the manner prescribed in this chapter.

**64043.** This chapter shall be liberally construed. If any section, sentence, clause, or part of this chapter is, for any reason, held to be unconstitutional or invalid, that decision does not affect the remaining portion of this chapter but the unconstitutional or invalid provision is separable from the valid parts of this chapter.

### **Article 3. Administration**

**64071.** The secretary shall administer and enforce this chapter, and may exercise any or all of the administrative powers that are conferred by Sections 11180 to 11191, inclusive, of the Government Code upon a head of a department. In order to effectuate the declared purposes of this chapter, the secretary may contract to carry out the declared intent and purposes of this chapter.

**64072.** The secretary shall, from records of the department or any other reliable source, maintain a list of producers and handlers.

**64073.** The secretary may purchase general liability insurance for the council in an amount the secretary determines as necessary. The cost of the insurance shall be paid by the council. The insurance policy shall name the secretary, in the secretary's official capacity, and the council as insured parties for claims made against the council in its advisory capacity to the secretary or against the secretary regarding the activities of the council. The secretary, after consultation with the Attorney General, may refer claims to the insurance carrier for appropriate action. In the alternative, the secretary may require that claims be handled in the manner otherwise specified in this chapter.

## **Article 4. Dairy Council of California**

**64101.** There is in the state government the Dairy Council of California, which shall consist of no less than 24, nor more than 26, members. All members of the council shall be appointed by the secretary and may hold office at the pleasure of the secretary. The membership of the council shall be as follows:

**(a)** There shall be 12 members that are actually engaged in the production of milk. These 12 members are the producer members of the council.

**(b)** There shall be 12 members that are handlers. These 12 members are the handler members of the council.

**(c)** Upon the recommendation of the council, the secretary may appoint one person as a voting member who is not a producer or handler, and who shall represent the public.

**(d)** Upon the recommendation of the council, the secretary may appoint up to two people as nonvoting ex officio members of the council who have expertise that is beneficial to the council.

**64103.** Officials or members, otherwise qualified, of corporations, associations, and other business units, that are actually engaged in business as producers or handlers are eligible to be members of the council.

**64104.** The term of office of a member of the council shall be three years.

**64105.** Any vacancy occurring on the council during an unexpired term of office may be filled by the secretary for the unexpired term. In filling a vacancy, the secretary may consider recommendations from the remaining members of the council. The secretary may remove any member of the council for cause deemed sufficient by the secretary and the vacancy caused by removal shall be filled in the manner as provided in this section for the unexpired term.

**64106.** Members of the council shall be nominated and appointed pursuant to procedures recommended by the council and approved by the secretary. Such procedures may include, but not be limited to nominations, preference voting, and district representation.



**64110.** A majority of the members of the council shall constitute a quorum for the transaction of all business, including the election of officers.

**64111.** The council shall select from its members, to serve at its pleasure, a chair and vice chair who, together with at least three, and no more than five, other members selected by the council, shall constitute the executive committee of the council. The executive committee shall have and exercise those powers of the council as the council may delegate to it.

**64112.** The council shall have two regular meetings in each year at times and places fixed by the council. The times for regular meetings shall be fixed so that there is an interval of at least four calendar months between all regular meetings. The council may meet in special meetings at any time and place at the call of the chair. The executive committee shall have four regular meetings each year at times and places fixed by it, and may meet in special meetings at any time and place at the call of the chair.

**64114.** The appointed members of the council shall receive one hundred dollars (\$100) per day for each day spent in actual attendance at the meetings or on the business of the council and shall be reimbursed for necessary traveling and other expenses that are incurred in the performance of their official duties.

**64115.** No member of the council, except for a member of the executive committee, shall receive compensation for more than 10 days' service per year. No member of the executive committee shall receive compensation for more than three days' service per month.

**64116.** The members of the council who are duly appointed by the secretary, and employees of the council, shall not be held responsible individually in any way, to any person, for liability on any contract or agreement of the council. All salaries, expenses, costs, obligations, and liabilities that arise out of the administration and enforcement of this chapter are payable only from funds that are collected pursuant to the provisions of this chapter.

**64117.** The secretary may require any employee or agent of the council to give a fidelity bond that is executed by a surety company that is authorized to do business in this state in favor of the secretary, in a sum, and containing terms and conditions, that the secretary may prescribe. The cost of a fidelity bond required pursuant to this section shall be paid from the funds that are collected pursuant to this chapter.

**64118.** It is hereby declared, as a matter of legislative determination, that producers and handlers appointed to the council pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to the council, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

## **Article 5. Powers and Duties**

**64151.** The duties of the council are advisory, except for those duties that may be delegated to it by the secretary. The council may, subject to the approval of the secretary, exercise any of the following powers:

**(a)** To recommend to the secretary administrative regulations that relate to the administration and enforcement of this chapter.

**(b)** To investigate all matters that affect the administration of this chapter, and to report violations of it to the secretary.

**(c)** To employ and, at its pleasure, discharge a manager and any clerical help and other employees that it deems necessary, and to prescribe their powers and duties and fix their compensation.

**(d)** To contract with, or employ, and, at its pleasure, discharge any consultants and agencies that it deems necessary, and to outline their powers and duties and fix their compensation.

**(e)** To establish offices and incur expenses incidental to those offices.

**(f)** To recommend to the secretary the making of contracts and other agreements that may be necessary to conduct nutrition research, communication, and education activities of the council.

**(g)** To cooperate with any other local, state, or national commission, organization, or agency, whether voluntary or created by state or national law, that is engaged in work or activities similar to the work and activities of the council, and recommend to the secretary the making of contracts and agreements with these organizations or agencies for carrying on joint campaigns of research, education, and advertising. In matters of research, the council shall, however, cooperate with organizations of recognized professional standing that are adequately equipped with facilities for the research that is contemplated.

**(h)** To recommend to the secretary the institution and promotion of scientific research to develop or discover, or both to develop and discover, the health, food, therapeutic, dietetic, and industrial uses of milk and its products and derivatives.

**(i)** To cooperate with other public and private agencies that are engaged in similar work or activities in order to avoid or minimize any overlapping or duplication of work or conflict.

**(j)** To receive, invest, and disburse funds, pursuant to Article 11 (commencing with Section 64300).

**64153.** Annually, before July 1 of each year, the council shall formulate and transmit to the secretary statements of its recommended activities and proposed budget for the coming fiscal year. The statements shall:

(a) Be based on and made after an investigation by the council of the necessities of the dairy industry and the extent of the public interest, necessity, and convenience to be served by those recommended activities.

(b) Describe the council's recommended programs of research, education, and communication.

(c) Set forth in a proposed budget the amounts that are deemed necessary to be allocated by the secretary both to effectuate these programs and to perform the secretary's administrative duties pursuant to this chapter. The proposed budget shall include reasonable amounts for contingencies.

(d) Be in a form, and contain detail, that the secretary, in the reasonable exercise of the secretary's judgment, deems necessary to adequately show whether or not the activities are warranted by the facts contained in the statements and are authorized by this chapter.

**64154.** (a) If the activities and budgeted amounts that are recommended by the council and described in the statements provided for in Section 64153 are warranted by the facts contained in the statements and are authorized by this chapter, the secretary shall approve the activities for the council programs, in writing, within 20 days after each of the statements has been submitted to the secretary. The secretary shall also approve, in writing, the budget provided for in subdivision (c) of Section 64153 within 20 days after the budget has been submitted. If the secretary refuses or fails to give any approvals pursuant to this section within the required periods, the secretary shall notify the council promptly of the secretary's refusal or failure to approve the activities or budget and give the secretary's reasons, specifically, for the refusal or failure.

(b) Expenditures for political contributions or for lobbying are not authorized.

**64155.** The council shall keep accurate books, records, and accounts of all of its transactions, dealings, contracts, agreements, funds, and expenditure. These books, records, and accounts shall at all times be open to inspection and audit by the department.

**64157.** The council shall request the secretary to submit to it an annual budget that sets forth in reasonable detail the proposed expenditures that the secretary deems necessary for the performance by the secretary and by the department of

the duties that are imposed upon them by this chapter. The council shall also request the secretary to submit to it an annual statement, in reasonable detail, of the secretary's expenditures pursuant to this chapter.

**64158.** The council shall, annually, report to the members of the dairy industry on its activities and programs, including, but not limited to, its income and expenses, fund balance, and a report of progress in achieving program goals, as prescribed by the secretary.

## **Article 6. Research, Advertising, Publicity, and Education Campaigns**

**64181.** The council shall conduct one or more campaigns of research, communication, and education designed to accomplish the following purposes, among others:

**(a)** To gather, publicize, and disseminate accurate and scientific information that shows the importance of the use and consumption of dairy products in relation to public health, balanced diet, and balanced nutrition of children and adults.

**(b)** To provide education programs on the value and health benefits of milk and dairy products to empower stakeholders, including educators, health professionals, and communities, to elevate the health of children and families in accordance with consensus science.

**64182. (a)** In each fiscal year, of the money that is received under this chapter, an amount to be determined by the council shall be expended or allocated for research, with particular emphasis on the role of milk and dairy products in adult and child nutrition.

**(b)** The council shall select the research projects to be conducted. Those projects shall be carried out, as practicable, by the University of California, pursuant to a contract entered into between the Regents of the University of California and the council. If, however, the council determines that the college has no facilities for a particular project or that another recognized research agency has better facilities for it, the project may be carried out by the other research agency, pursuant to a contract with the council.

**64183.** An advertising or sales promotion program that is conducted or sponsored by the council shall not make any false or unwarranted claim, shall not disparage the quality, value, use, or sale of any commodity that is authorized by law to be marketed in this state, and shall not be conducted with reference to a brand or trade name.

## **Article 7. Records and Reports**

**64221.** Every handler shall keep complete and accurate records of all milk in unprocessed form that the handler purchases, or possession or control of which it acquires from any producer or other handler. Every handler that produces milk shall include its own production in these records. Every handler shall also keep complete and accurate records of all milk that it utilizes for processing.

**64222.** Records kept pursuant to Section 64221 shall be all of the following:

(a) In a form, and containing all information, relevant to the purposes of this chapter, that the secretary may, by order or regulation, prescribe.

(b) Preserved for a period of two years.

(c) Open to inspection at any time on the request of the secretary.

**64223.** The secretary may, by order or regulation, require every handler subject to the recordkeeping requirements in Section 64221 to file with the secretary the information, or any part of the information, in the records, that the first handlers are required to keep pursuant to this article. The information shall be on forms that are prescribed and furnished by the secretary.

## **Article 10. Violations and Penalties**

**64291.** A person shall not use the same name, or a name so similar as to mislead the public into believing it is the same name, as the Dairy Council of California.

**64292.** Any violation of any provision of this chapter is a misdemeanor.



## Article 11. Financing Plan

**64300.** This article provides for a comprehensive and continuing plan for financing the operations of the council.

**64301. (a)** Annually before the beginning of the fiscal year, the secretary shall, upon the recommendation of the council, establish and announce the assessments to be paid by producers and handlers for the coming fiscal year.

**(b)** These assessments shall be established at levels sufficient to finance the budget for the coming fiscal year as approved by the secretary pursuant to Sections 64153 and 64154.

**(c)** The rate structure of the assessments shall be as follows:

**(1)** The following assessments for handlers of milk:

**(A)** No more than 17.0 mills (\$0.0170) per hundredweight for Class I milk.

**(B)** No more than 8.5 mills (\$0.0085) per hundredweight for all other usages of milk.

**(C)** The relationship between the handler assessment rates per hundredweight established for Class I milk and for all other usages shall be at a ratio of 2 to 1.

**(2)** For producers of milk if a stand-alone quota program established pursuant to Section 62757 is operative, the assessments shall be as follows:

**(A)** No more than 2.0 mills (\$0.0020) per pound for quota solids-not-fat, within the meaning given that term for purposes of the Quota Implementation Plan established pursuant to Section 62757.

**(B)** No more than 1.0 mills (\$0.0010) per pound for all other solids-not-fat.

**(C)** The relationship between the producer assessment rates per pound quota solids-not-fat and per pound for all other solids-not-fat shall be at a ratio of 2 to 1.

**(3)** For producers of milk if a stand-alone quota program established pursuant to Section 62757 is not operative, the assessments shall be as follows:

**(A)** No more than 10.4 mills (\$0.0104) per hundredweight of milk produced and delivered to a handler.

**(B)** The producer assessment shall be without regard to the milk's usage and shall be at a level between the two handler rates.

**(d)** The handler and producer assessment rates established pursuant to this section shall be set at levels so that the total projected handler revenue for the year and the total projected producer revenue for the year to be generated from those assessments shall be as close to equal as reasonably possible.

**64301.5.** Maximum allowable assessments greater than those provided in Section 64301 shall not be established unless approved by producers and handlers with at least 40 percent of all producers and handlers on record with the department submitting valid ballots during the referendum period, and either of the following:

(a) A majority of producers and handlers voting in the referendum support the increase in the proposed higher maximum assessment allowed, and those producers and handlers voting in favor represent at least 65 percent of the total voted volume represented by each category.

(b) At least 65 percent of producers and handlers voting in the referendum support the increase in the proposed higher maximum assessment allowed, and those producers and handlers voting in favor represent a majority of the total voted volume represented by each category.

**64302.** (a) The producer assessments shall be collected by the first handler that purchases, or otherwise acquires possession or control of, the milk by deducting the assessment from any payment that is due to the producer for the milk. Each handler shall pay the assessment on the handler's own production. For the purposes of this article, a handler that sells unprocessed milk, of which the handler has the right to possession or control by contract or otherwise, to another handler, and delivers this milk in unprocessed form to the other handler or causes this milk to be delivered to the other handler directly from the producer, is the first handler of this milk.

(b) (1) When the stand-alone quota program, provided pursuant to Section 62757, is in effect, the assessment of each producer for all milk shall be determined on the total solids-not-fat of milk produced and delivered.

(2) When the stand-alone quota program, provided pursuant to Section 62757, is not in effect, the assessment of each producer for all milk shall be determined on the total hundredweight of milk produced and delivered.

(c) The collection of assessments to be paid by handlers pursuant to Section 64303 shall be used for the handler portion of council assessments only, and shall not affect payments of producers, nor in any way change the method of producer payment for milk.

**64303.** Each handler shall pay to the secretary the assessments established for all milk used in the plant of the handler in the processing and manufacture of milk and milk products.

**64304.** The assessments established and assessed as prescribed in this chapter shall be billed monthly to the handler and shall be paid to the secretary no later than the 15th day of the second month following the month during which the milk was received.

**64305.** Assessments established and assessed under this chapter may be enforced and collected by the secretary through direct payment or through accounting procedures established by the secretary under Chapter 3.5 (commencing with Section 62750).

**64306.** To the amount of assessments that are unpaid when due, the secretary may add a penalty of 10 percent. In addition, the secretary may assess interest at a rate of 1 percent of the unpaid balance for each 30 days the assessment is unpaid.

**64307.** The secretary, by action prosecuted by the secretary, may recover any unpaid assessments. In any action, a certificate of the secretary that shows the amount, including the penalty, determined by the secretary to be required to be paid by the person required to pay this amount is prima facie evidence of the delinquency. The presumption established by this section is a presumption affecting the burden of proof.

**64308.** If any handler does not provide the information necessary to determine the amount of assessments due, when required, the secretary shall estimate the amount due from the records of the department or from any other source of information that is available. In any action by the secretary to recover assessments pursuant to this chapter, a certificate of the secretary that shows the amount determined by the secretary to be required to be paid by the person that is required to pay the assessments is prima facie evidence of the delinquency of the amount that is shown. The presumption established by this section is a presumption affecting the burden of proof.

**64308.5.** (a) Assessments paid on milk pursuant to this chapter shall be refunded to a producer that meets the following criteria:

(1) The producer was not paid, or received only partial payment, for the milk shipped.

(2) The producer has agreed to repay the refunded assessments to the affected programs if, on a subsequent date, the producer is paid for the milk.

(b) The producer shall receive a full refund of the assessments paid on milk shipped for which no payment was received. If partial payment was received, the producer shall receive a refund of the assessments paid on milk for which payment was not received.

(c) If a producer subsequently receives full or partial payment for milk for which assessments have been refunded, the producer shall repay the assessments in

an amount proportionate to the portion of milk for which payment has been received.

**(d)** Refunds shall not be made pursuant to this section if the refund would cause a producer to incur an additional assessment obligation to the National Dairy Promotion and Research Program.

**(e)** The secretary shall adopt procedures for refunding assessments in accordance with this section. Those procedures shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

**64309. (a)** Any money that is collected by the secretary pursuant to this chapter shall be deposited in a bank or other depository that is approved by the Director of Finance. Those funds shall be deposited and disbursed in conformity with appropriate regulations prescribed by the secretary and may be allocated to pay for expenses generated by the auditing requirement imposed by subdivision (b). The expenditure of those funds shall be exempt from the provisions of Section 925.6 of the Government Code.

**(b)** All expenditures by the council shall be audited at least annually by one of the following means:

**(1)** By contract with a certified public accountant.

**(2)** By contract with a public accountant holding a valid permit issued by the California Board of Accountancy.

**(3)** By contract with a public accounting firm.

**(4)** By agreement with the Department of Finance.

**(c)** A copy of the audit shall be delivered within 30 days after its completion to the Governor, the secretary, and the Controller.

**64310. (a)** Notwithstanding Section 13340 of the Government Code, money that is collected by the secretary pursuant to this chapter is continuously appropriated to the department to carry out the duties that are imposed upon the secretary and the council pursuant to this chapter. The appropriation that is made in this section is exempt from the operation of Section 16304 of the Government Code.

**(b)** The money that is collected by the secretary pursuant to this chapter shall be disbursed by the council only for the necessary expenses incurred by the council and the secretary to carry out the purposes of this chapter, including the payment of refunds that are authorized pursuant to this chapter. The council may disburse these funds in authorized activities related to particular dairy products without

reference to the branches of the dairy industry from which these funds are derived.

**64311.** Any money that is deposited pursuant to Section 64309 that the secretary determines is available for investment may be invested or reinvested by the Treasurer or the council in any of the securities described in Article 1 (commencing with Section 16430) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, or placed in a depository as provided in Chapter 4 (commencing with Section 16500) of Part 2 of Division 4 of Title 2 of the Government Code, and handled in the same manner as money in the State Treasury. For these purposes, these moneys may also be combined with funds determined by the secretary to be available for investment pursuant to Section 58939 of Chapter 1 of Part 2 of Division 21 of the Food and Agricultural Code.

**64312.** Any increment that is received from investment, reinvestment, or deposit of money pursuant to Section 64311 shall be deposited to the credit of the council. The Treasurer may deduct from this remittance an amount equal to the reasonable costs incurred in carrying out the provisions of this article or may bill the secretary for the costs and the secretary shall pay the costs from moneys collected pursuant to this chapter.

## Article 12. Referendum

**64320. (a)** Between July 1 and December 31 of each year ending in the number three or eight, the secretary shall, by the public hearing procedure, and if appropriate, the referendum procedure, provided for in this article, determine whether the council program provided for in this chapter shall continue in effect.

**(b)** If the secretary finds from evidence received at the hearing that a substantial question exists as to whether the council program is contrary to or does not effectuate the declared purposes or provisions of this chapter, the council program shall be submitted to referendum as provided in subdivision (c).

**(c)** If the secretary determines that a referendum procedure is appropriate, the secretary shall establish a referendum period of not to exceed 30 days during which period ballots shall be submitted to all producers and handlers on a statewide basis. If the secretary determines that the referendum period does not provide sufficient time for the balloting, the secretary may extend the referendum for an additional period not to exceed 30 days. The ballots shall provide a “yes” or “no” voting alternative to the question:

“Shall the Dairy Council of California be continued for the next five fiscal years beginning July 1 following this referendum?”

**64321.** If the council program is submitted to a referendum, the secretary shall find that producers and handlers statewide have assented to the council program if the secretary finds both of the following:

**(a)** Sixty-five percent or more of the total number of handlers voting approve the council program.

**(b)** (1) No less than 51 percent of the total number of eligible producers in the state voted in the referendum.

**(2)** Sixty-five percent or more of the total number of eligible producers who voted in the referendum and who produced 51 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the beginning of the referendum period by all producers who voted in the referendum approve the council program, or 51 percent or more of the total number of eligible producers who voted in the referendum and who produced 65 percent or more of the total amount of fluid milk produced during the second calendar month preceding the month of the beginning of the referendum period by all producers who voted in the referendum, approve the council program.

**64321.5.** If the secretary finds that producers and handlers have not assented to the council program pursuant to Section 64321, the council program may be resubmitted to a referendum as prescribed in this article within a period of no less than 60 days and no more than 180 days after the secretary announces the plan was not approved.

**64322. (a)** If the secretary finds that producers and handlers have not assented to the council program pursuant to Section 64321 or, if the council program is resubmitted, Section 64321.5, operation of the provisions of this chapter and of the council shall be suspended beginning on July 1 following the referendum or, in the case of resubmission, referendums.

**(b)** After the effective date of suspension of the operation of the provisions of this chapter and of the council, the operations of the council shall be wound up, and any real and personal property held in the name of the council shall be liquidated and the proceeds, along with any and all remaining money held by the council, collected by assessment and not required to defray the expenses of winding up and terminating operations of the council, shall be returned upon a pro rata basis to all persons from whom assessments were collected in the immediately preceding three months. However, if the secretary finds that the amounts returnable pursuant to this subdivision are so small as to make impractical the computation and remitting of the pro rata refund to these persons, any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

**64323.** A ballot filed with the secretary pursuant to this chapter is confidential and shall not be divulged unless necessary for the proper determination of a court proceeding or hearing before the secretary.