

## **BILL ANALYSIS**

Senate Research Center  
79R12305 SLO-D

H.B. 2370  
By: McReynolds (Staples)  
Natural Resources  
5/4/2005  
Engrossed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The 77th Legislature, Regular Session, 2001, required all dry litter poultry producers to obtain a water quality management plan certified by the Texas State Soil and Water Conservation Board (board). At the time, the United States Environmental Protection Agency (EPA) did not require litter operations to obtain water quality permits because they were considered non-point source facilities.

Recently, EPA amended its concentrated feeding operations (CAFO) regulations, changing the classification of dry litter poultry facilities and making them subject to CAFO rules. As CAFOs, dry litter operations will be required to obtain water permits in accordance with the Clean Water Act. The Texas Commission on Environmental Quality (TCEQ) and the board have worked together to develop rules dealing with CAFOs and dry litter poultry facilities. These rules will go into effect April, 2006. The proposed rules recognize the water quality management plans as a method of meeting the technical requirements for the water quality permit.

H.B. 2370 clarifies that the board has the authority to provide technical conservation planning assistance to dry litter facilities that are required to have water quality permit coverage under the Clean Water Act. The bill also clarifies that dry litter operations are not subject to regulation under Chapter 26 (Water Quality Control), Water Code.

These changes do not exempt an entity from obtaining permit coverage from TCEQ. The changes only clarify that the board may continue to provide assistance to a certain sector of the regulated community.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 26.0286(a), Water Code, by adding Subdivision (3) to define "liquid waste handling system."

SECTION 2. Amends Section 26.0286, Water Code, by adding Subsection (d), to provide that this section (Procedures Applicable to Permits for Certain Concentrated Animal Feeding Operations) does not apply to a poultry operation that does not use a liquid waste handling system.

SECTION 3. Amends Section 26.301, Water Code, by adding Subdivision (5) to define "liquid waste handling system."

SECTION 4. Amends Section 26.302, Water Code, by adding Subsections (b-1) and (d), as follows:

(b-1) Authorizes the State Soil and Water Conservation Board to certify a water quality management plan for a poultry facility that meets certain criteria.

(d) Provides that this section does not affect the authority of the Texas Commission on Environmental Quality to investigate or take enforcement action against an unauthorized discharge under Section 26.121.

SECTION 5. Amends Section 201.026(e), Agriculture Code, as added by Section 1, Chapter 1189, Acts of the 77th Legislature, Regular Session, 2001, to provide that Section 26.302(b-1), Water Code, applies to a water quality management plan developed or certified for use by a poultry facility under this section.

SECTION 6. Effective date: September 1, 2005.