

## **BILL ANALYSIS**

Senate Research Center

H.B. 2543  
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Government Organization  
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Engrossed

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

The Texas Animal Health Commission (commission) is subject to the Sunset Act and will be abolished on September 1, 2007, unless continued by the legislature. The commission's mission is to prevent, control, and eradicate disease in Texas livestock, exotic livestock, domestic fowl, or exotic fowl. The commission protects said animals from domestic, foreign, and emerging animal diseases; increases the marketability of Texas livestock commodities worldwide; promotes and ensures animal health and productivity; protects human health from animal diseases and conditions that are transmissible to people; and prepares for and responds to emergencies involving animals. The Sunset review found that the state has a continuing need for the commission, but that the commission needs better tools, flexibility, and clear authority to adapt to a changing animal health environment.

H.B. 2543 enacts the recommendations of the Sunset Advisory Commission regarding the Texas Animal Health Commission.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Animal Health Commission in SECTION 1 (Section 161.004, Agriculture Code), SECTION 9 (Section 161.039, Agriculture Code), SECTION 11 (Section 161.0412, Agriculture Code), SECTION 12 (Section 161.054, Agriculture Code), and SECTION 14 (Section 161.0615, Agriculture Code) of this bill.

Rulemaking authority previously granted to the Texas Animal Health Commission is rescinded in SECTION 8 (Section 161.033, Agriculture Code) of this bill.

Rulemaking authority previously granted to the Texas Animal Health Commission is modified in SECTION 10 (Section 161.041, Agriculture Code) and SECTION 12 (Section 161.054, Agriculture Code) of this bill.

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is modified in SECTION 17 (Section 26.303, Water Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 161.004, Agriculture Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Requires a person who is the owner or caretaker of livestock, exotic livestock, domestic fowl, or exotic fowl that die from a disease listed in Section 161.041, or who owns or controls the land on which the livestock, exotic livestock, domestic fowl, or exotic fowl die or on which the carcasses are found, to dispose of the carcass in the manner required by the Texas Animal Health Commission (commission) under this section. Deletes existing text requiring the person to perform certain actions within 24 hours after the carcasses are found.

(c) Requires the commission to determine the most effective methods of disposing of diseased livestock carcasses and by rule prescribe the certain methods a person is authorized to use to dispose of a carcass as required by Subsection (a).

(d) Authorizes the commission by rule to delegate its authority under this section to the executive director.

SECTION 2. Amends Section 161.021(d), Agriculture Code, to provide that a person is not eligible for appointment as a public member of the commission if the person or the person's spouse is registered, certified, or licensed by the commission or employed by or participates in the management of a business entity regulated by or receiving money, rather than funds, from the commission. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Section 161.023, Agriculture Code, by adding Subsection (c) to entitle a person appointed to the commission to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program, regardless of whether attendance at the program occurs before or after the person qualifies for the office.

SECTION 4. Amends Section 161.027, Agriculture Code, to provide that the commission is abolished September 1, 2019, rather than 2007, unless continued in existence as provided by Chapter 325 (Texas Sunset Act), Government Code.

SECTION 5. Amends Subchapter B, Chapter 161, Agriculture Code, by adding Section 161.0275, as follows:

Sec. 161.0275. COMPLIANCE WITH SUNSET RECOMMENDATIONS. (a) Requires the commission, within a certain time frame, to comply with and implement recommendations made by the Sunset Advisory Commission (SAC) and to report certain requested information to SAC.

(b) Provides that this section expires June 1, 2009.

SECTION 6. Amends Section 161.028, Agriculture Code, as follows:

Sec. 161.028. RESTRICTIONS ON COMMISSION APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) Defines "Texas trade association." Deletes existing text prohibiting an employee or paid consultant of the Texas Poultry Federation or a statewide Texas trade association in the field of livestock production from being a member of the commission, a commission employee who is exempt from the state's position classification plan or is compensated at or above the certain amount prescribed by the General Appropriations Act.

(b) Prohibits a person from being a member of the commission or a commission employee in a "bona fide executive, administrative, or professional capacity," if the person or the person's spouse is an officer, employee, or paid consultant of a Texas trade association in the field of the production of livestock, exotic livestock, domestic fowl, or exotic fowl. Defines "bona fide executive, administrative, or professional capacity." Deletes existing text relating to certain restrictions relating to the Texas Poultry Federation.

(c) Deletes existing text describing the duties of the Texas trade association. Prohibits a person from serving as a member of the commission or acting as the general counsel to the commission or the agency if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

SECTION 7. Amends Sections 161.029(a) and (c), Agriculture Code, as follows:

(a) Provides that it is a ground for removal from the commission if a member is ineligible for membership under, rather than violates a prohibition established by, Section 161.028. Makes nonsubstantive changes.

(c) Makes a nonsubstantive change.

SECTION 8. Amends Section 161.033, Agriculture Code, as follows:

Sec. 161.033. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) Requires the commission to maintain a system to promptly and efficiently act on complaints filed with the commission. Requires the commission to maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition. Deletes existing text requiring the commission prepare certain information and make it available to the public and state agencies.

(b) Requires the commission to make information available describing its procedures for complaint investigation and resolution. Deletes existing text requiring the commission to establish certain methods for the public to contact the commission.

(c) Requires the commission to periodically notify the parties to a complaint of the status of the complaint until its final disposition. Deletes existing text requiring the commission to handle complaints in a certain manner.

SECTION 9. (a) Amends Section 161.034, Agriculture Code, by adding Subsections (c) and (d), as follows:

(c) Each meeting of the commission must be held in a location that provides adequate access to members of the public.

(d) The commission shall post audio archives of its meetings on the commission's Internet website.

(b) Makes application of Section 161.034(d), Agriculture Code, as added by Subsection (a) of this section, prospective.

SECTION 10. Amends Subchapter B, Chapter 161, Agriculture Code, by adding Sections 161.0335, 161.0336, 161.039, and 161.040, as follows:

Sec. 161.0335. TECHNOLOGY POLICY. Requires the commission to implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. Requires the policy to ensure that the public is able to interact with the commission on the Internet.

Sec. 161.0336. INFORMATION RELATING TO COMPLAINT PROCEDURES. Requires the commission to take certain actions regarding filed complaints.

Sec. 161.039. COMPLIANCE POLICY AND INTERNAL OPERATING PROCEDURES. (a) Requires the commission by rule to adopt agencywide compliance policies and internal operating procedures and convey those policies and procedures to all officers and employees of the commission.

(b) Requires the commission by rule to adopt clearly defined and uniform procedures compliance with this chapter and commission rules. Requires the compliance procedures to include the commission's process for certain functions.

Sec. 161.040. RULEMAKING AND DISPUTE RESOLUTION PROCEDURES. (a) Requires the commission to develop and implement a policy to encourage the use of certain procedures.

(b) Requires the commission's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) Requires the commission to designate a trained person to perform certain functions.

SECTION 11. Amends Section 161.041, Agriculture Code, by amending Subsections (a), (b), (c), and (d) and adding Subsections (f) and (g), as follows:

(a) Requires the commission to protect all livestock, exotic livestock, domestic fowl, and exotic fowl, rather than all livestock and domestic animals and domestic fowl, from certain communicable diseases.

(b) Authorizes the commission to act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl regardless of whether the disease is communicable, even if the agent of transmission is an animal species that is not subject to the jurisdiction of the commission. Deletes existing text authorizing the commission act upon disease transmission that affects domestic animals or canines.

(c) and (d) Makes conforming changes.

(f) Prohibits the commission, in complying with this section, from infringing on or superseding the authority of any other agency of this state, including the authority of the Texas Parks and Wildlife Department (TPWD) relating to wildlife. Requires the commission to assume responsibility for disease control efforts, but work collaboratively with the other agency to enable each agency to effectively carry out its responsibilities if a conflict of authority occurs.

(g) Provides that the commission's authority to control or eradicate an agent of transmission that is an animal species that is not subject to the jurisdiction of the commission is limited to instances when a disease that threatens livestock, exotic livestock, domestic fowl, or exotic fowl has been confirmed or is suspected to exist in that species and the commission determines that a serious threat exists.

SECTION 12. Amends Subchapter C, Chapter 161, Agriculture Code, by adding Sections 161.0412 and 161.0416, as follows:

Sec. 161.0412. REGULATION AND REGISTRATION OF FERAL SWINE HOLDING FACILITIES. (a) Authorizes the commission, for disease control purposes, to require the registration of feral swine holding facilities.

(b) Authorizes the commission, to prevent the spread of disease, to require a person to register if the person confines feral swine in a holding facility for slaughter, sale, exhibition, hunting, or any other purpose specified by commission rule.

(c) Requires rules adopted under this section to include certain provisions relating to registration and the treatment of swine in and movement of swine to or from a feral swine holding facility.

(d) Authorizes rules authorized by this section to be adopted only for disease-control purposes.

Sec. 161.0416. EMERGENCY MANAGEMENT. (a) Authorizes the commission to prepare and plan for, respond to, and aid in the recovery from certain disaster events that may affect certain livestock and fowl.

(b) Authorizes the commission to assist with local emergency management planning. Prohibits this subsection from being construed to affect the commission's responsibility under any other law, including Chapter 418 (Emergency Management), Government Code, or any responsibility delegated to the commission by an emergency management authority of this state.

SECTION 13. Amends Section 161.054, Agriculture Code, as follows:

Sec. 161.054. REGULATION OF MOVEMENT OF ANIMALS; EXCEPTION. (a) Authorizes the commission by rule to regulate the movement of animals, including feral swine, as a control measure. Makes a conforming change.

(b)-(d) Makes conforming changes.

(e) Authorizes the commission by rule to require disease testing before movement of a feral swine from one location to another, and establish the conditions under which feral swine may be transported.

(f) Prohibits the commission's authority to regulate the movement of feral swine from interfering with the authority of TPWD to regulate the hunting or trapping of feral swine.

SECTION 14. Amends Section 161.062(a), Agriculture Code, to provide an exception for this subsection provided by Section 161.0615.

SECTION 15. Amends Subchapter D, Chapter 161, Agriculture Code, by adding Section 161.0615, as follows:

Sec. 161.0615. STATEWIDE OR WIDESPREAD QUARANTINE. (a) Authorizes the commission to quarantine livestock, exotic livestock, domestic fowl, or exotic fowl in all or any part of this state as a means of immediately restricting the movement of animals potentially infected with disease and requires the commission to clearly describe the territory included in a quarantine area.

(b) Authorizes the commission by rule to delegate its authority to quarantine livestock or fowl under this section to the executive director, who is required to promptly notify the members of the commission of the quarantine.

(c) Requires the commission by rule to prescribe the manner in which notice of a statewide or widespread quarantine under this section is to be published.

SECTION 16. Amends Subchapter H, Chapter 161, Agriculture Code, by adding Sections 161.1375 and 161.150, as follows:

Sec. 161.1375. MOVEMENT OF FERAL SWINE. (a) Sets forth certain actions which if recklessly committed by a person constitute an offense.

(b) Provides that an offense under this section is a Class C misdemeanor for each feral hog that is moved or permitted to be removed unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.

Sec. 161.150. FAILURE TO REGISTER FERAL SWINE HOLDING FACILITIES; HOLDING OF FERAL SWINE. (a) Sets forth certain actions which if recklessly committed by a person constitute an offense.

(b) Provides that each feral swine held or permitted to be held in violation of Subsection (a)(2) constitutes a separate offense.

(c) Provides that an offense under this section is a Class C misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.

SECTION 17. Amends Section 26.303, Water Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Makes a conforming change.

(a-1) Prohibits a rule adopted under Subsection (a) by the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] from applying to the disposal of carcasses of poultry that died as a result of a disease, which is governed by Section 161.004, Agriculture Code.

SECTION 18. (a) Defines "commission."

(b) Requires the commission and the Texas Veterinary Medical Diagnostic Laboratory, in consultation with the United States Department of Agriculture to conduct a joint study regarding this state's current and future capacity to perform disease testing for livestock, exotic livestock, domestic fowl, and exotic fowl during an animal disease outbreak or emergency. Requires the designated entities, in conducting the study, to perform certain duties.

(c) Requires the commission, as part of the joint study, to evaluate the research and information contained in the four proposals submitted by groups in this state in 2006 to the United States Department of Homeland Security for the National Bio and Agro-Defense Facility to ensure that the study does not duplicate the efforts of those entities.

(d) Authorizes the commission, if, in reviewing the four proposals described by Subsection (c) of this section, the commission determines that one or more of the proposals are consistent with the results of the commission's evaluation, to support one or more of the proposals as they relate to the regulatory efforts of the commission and this state.

(e) Requires the commission, if the United States Department of Homeland Security selects one of the proposals described by Subsection (c) of this section to house the national facility, to integrate the research conducted as part of the joint study with the research conducted as part of the selected proposal. Requires the commission to also share its research and coordinate with the group that submitted the selected proposal in relation to the commission's and this state's regulatory efforts.

(f) Requires the commission to submit a report of the findings of the joint study to the governor, the lieutenant governor, and the speaker of the house of representatives as soon as practicable after the decision-making process at the federal level is completed, but not later than December 31, 2008.

(g) Provides that this section expires February 1, 2009.

SECTION 19. Provides that the changes in law made by this Act to Sections 161.021 and 161.028, Agriculture Code, do not affect the selection or term of a member or public member of the commission appointed before September 1, 2007.

SECTION 20. (a) Effective date, Section 161.004, Agriculture Code, except as provided by Subsection (b): January 1, 2008.

(b) Requires the commission to adopt the rules required by Section 161.004, Agriculture Code, as amended by this Act, as soon as practicable after the effective date of this Act, but not later than January 1, 2008.

SECTION 21. (a) Effective date: September 1, 2007, except as provided by Subsection (b) of this section.

(b) Effective date, Section 18 of this Act: upon passage or September 1, 2007.