

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

TO: Honorable Craig Estes, Chair, Senate Committee on Agriculture & Rural Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1693 by Ogden (Relating to the regulation of poultry facilities and poultry litter.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code and the Water Code relating to the regulation of poultry facilities and poultry litter. The bill would require the Texas Commission on Environmental Quality (TCEQ) to notify the Texas Department of Agriculture (TDA) within 5 days of receipt of an odor complaint concerning a poultry facility if the TCEQ has received another odor complaint concerning a different poultry facility within the previous 30 days, and if both facilities are located within 100 miles of the same poultry processing facility. The bill would require the TDA to notify both poultry facilities which were the subjects of the complaints, and the associated poultry processing facility, and coordinate with the facilities and relevant agencies to identify the cause of the odor and develop and implement an odor abatement plan.

The bill would also require TCEQ to investigate any odor complaint concerning a poultry facility or application of poultry litter within 3 hours of receipt if: 1) the facility or application site is not more than 100 miles from a poultry processing facility that commenced or expanded its operations in the previous 12 months; or 2) if TCEQ has received at least 3 complaints in a 60 day period about a poultry facility or litter application site from 3 different businesses or households within 2 miles of each other. The bill would also require that, if a violation is observed during the complaint investigation, TCEQ will issue a notice of violation and enter into a comprehensive compliance agreement with the facility. The bill would require recordkeeping by any poultry facility which sells or transfers litter for remote application and by any person that purchases or obtains the litter.

TCEQ indicates it currently has a formal Letter of Agreement with the Texas State Soil and Water Conservation Board (TSSWCB) for their staff to be the first responder to poultry odor complaints for sites with Water Quality Management Plans (most poultry facilities). This agreement would need to be revisited given the new inspection requirements included in the bill. Assuming the intent of the bill is to require TCEQ to conduct all complaint investigations at poultry facilities (rather than continuing the agreement with TSSWCB for this activity); this would result in an increase in the number of complaint investigations conducted by approximately 125, statewide. Assuming TSSWCB continues to conduct all odor complaint investigations at these types of facilities except the investigation which is to be conducted within 3 hours; TCEQ indicates there would be an increase of approximately 42 complaint investigations (1/3 of all investigations).

In any event, the TCEQ indicates the bill would not significantly modify the agency's existing provisions relating to regulation of poultry facilities, and any costs related to implementing provisions of the bill could be absorbed within the agency's existing resources. TDA indicates the bill may have the effect of creating a workload for up to one additional FTE. However, for purposes of this analysis, the assumption is that TDA can reasonably absorb this new workload within existing resources. The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 551 Department of Agriculture, 582 Commission on Environmental Quality, 802 Parks and Wildlife Department

LBB Staff: JOB, ZS, TB, SD