

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Animal Health Commission works to ensure the health and marketability of the state's animal agriculture industry by protecting livestock and fowl from foreign and domestic diseases, and controlling the spread of outbreaks that occur.

After the state was declared free of cattle brucellosis, the workload of the commission's testing facility decreased. The Sunset Advisory Commission's focus was on transferring the lab responsibilities to the Texas A&M Veterinary Medical Diagnostic Laboratory as the state's regulatory animal health lab. In addition, the Sunset Advisory Commission also recognized the need to bring the agency's statute and operations in line with current best practices for disease and pest management and found the commission needs to strengthen and improve the consistency of its investigation and enforcement activities across its six regions to better mitigate the risk of disease outbreak in Texas.

As proposed, S.B. 705 amends current law relating to the continuation and functions of the Texas Animal Health Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Animal Health Commission in SECTION 6 (Section 161.035, Agriculture Code), SECTION 8 (Section 161.041, Agriculture Code), SECTION 12 (Section 161.101, Agriculture Code), SECTION 14 (Section 161.113, Agriculture Code), SECTION 16 (Section 162.004, Agriculture Code), and SECTION 23 (Section 164.023, Agriculture Code) of this bill.

Rulemaking authority previously granted to the Texas Animal Health Commission is modified in SECTION 29 (Section 164.064, Agriculture Code) and SECTION 34 (Section 165.022, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 161.004(a), Agriculture Code, 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 by the Texas Animal Health Commission (TAHC) in rules adopted under Section 161.041 (Disease Control), rather than 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 carcasses in the manner required by TAHC under Section 161.004 (Disposal of Diseased Livestock Carcass).

SECTION 2. Amends Section 161.023, Agriculture Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Prohibits a person who is appointed to and qualifies for office as a member of TAHC from voting, deliberating, or being counted as a member in attendance at a meeting of TAHC until the person completes a training program that complies with Section 161.023

(Mandatory Training Program for Commissioners). Deletes existing text requiring a TAHC member, before the member may assume the member's duties and before the member may be confirmed by the Texas Senate, to complete at least one course of the training program established under Section 161.023.

(b) Requires that the training program provide the person with information regarding:

(1) the law governing TAHC operations, rather than the enabling legislation that created TAHC;

(2) the programs, functions, rules, and budget of TAHC, rather than the programs operated by TAHC;

(3) the scope of and limitations on the rulemaking authority of TAHC, rather than the role and functions of TAHC;

(4) creates this subdivision from existing text;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, rather than the open meetings law, Chapter 551 (Open Meetings), Government Code; and

(B) other laws applicable to members of a state policy-making body in performing their duties, rather than the open records law, Chapter 552 (Public Information), Government Code; and

(6) creates this subdivision from existing text.

Deletes existing text requiring that a training program established under Section 161.023 provide information to the member regarding the rules of TAHC with an emphasis on the rules that relate to disciplinary and investigatory authority; the current budget for TAHC; the requirements of the administrative procedure law, Chapter 2001 (Administrative Procedure), Government Code; and the requirements of the conflict of interest laws and other laws relating to public officials. Makes nonsubstantive changes.

(d) Requires the executive director of TAHC (executive director) to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each member of TAHC. Requires each member of TAHC to sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 3. Amends Section 161.027, Agriculture Code, as follows:

Sec. 161.027. SUNSET PROVISION. Provides that TAHC is subject to Chapter 325, Government Code (Texas Sunset Act). Provides that TAHC, unless continued in existence as provided by that chapter, is abolished September 1, 2033, rather than 2021.

SECTION 4. Amends Section 161.029(a), Agriculture Code, as follows:

(a) Provides that it is a ground for removal from TAHC if a member:

(1) does not have at the time of taking office, rather than at the time of appointment, the qualifications required by Section 161.021 (Composition);

(2) makes no changes to this subdivision;

(3) is ineligible for membership under Section 161.021(d) (relating to ineligibility as a result of certain conflicts of interest by one's spouse) or 161.028 (Restrictions

on Commission Appointment, Membership, and Employment), rather than is ineligible for membership only under Section 161.028; or

(4) and (5) makes nonsubstantive changes to these subdivisions.

SECTION 5. Amends Section 161.033(c), Agriculture Code, to require TAHC to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation. Makes a nonsubstantive change.

SECTION 6. Amends Sections 161.035(a) and (b), Agriculture Code, as follows:

(a) Authorizes TAHC by rule to establish advisory committees to make recommendations to TAHC on programs, rules, and policies administered by TAHC. Deletes existing text authorizing TAHC to establish advisory committees as it considers necessary to assist it in developing proposed rules for the regulation of exotic livestock and exotic fowl.

(b) Requires TAHC, in establishing an advisory committee under Section 161.035 (Advisory Committees), to adopt rules, including rules regarding the purpose, role, responsibility, goals, and duration of the committee; the size of and quorum requirement for the committee; qualifications for committee membership; appointment procedures for members; terms of service for members; training requirements for members; policies to avoid conflicts of interest by members; a periodic review process to evaluate the continuing need for the committee; and policies to ensure the committee does not violate any provision of Chapter 551, Government Code, applicable to TAHC or the committee. Deletes existing text providing that a member of an advisory committee established under Section 161.035 serves at the pleasure of TAHC.

SECTION 7. Amends Subchapter B, Chapter 161, Agriculture Code, by adding Section 161.0375, as follows:

Sec. 161.0375. PERIODIC REVIEW OF COMPLIANCE INFORMATION. (a) Requires TAHC to analyze, on a statewide and regional basis, violations of Subtitle C (Control of Animal Diseases and Pests). Requires TAHC to consider violation types and disposition, persons who are repeat offenders, and persons who commit the most serious offenses.

(b) Requires TAHC to use the analysis under Subsection (a) to compare enforcement practices across each region and determine training needs, gaps in enforcement authority, and effective enforcement activities.

(c) Requires TAHC to conduct the analysis under Subsection (a) on a periodic basis to ensure that the information reflects current enforcement practices.

(d) Requires TAHC to timely enter and share compliance and enforcement information on a statewide and regional basis.

SECTION 8. Amends Sections 161.041(a), (c), and (d), Agriculture Code, as follows:

(a) Requires TAHC to protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases TAHC determines require control or eradication. Requires TAHC to adopt and periodically update rules listing the diseases that require control or eradication by TAHC. Deletes existing text requiring TAHC to protect all livestock, exotic livestock, domestic fowl, and exotic fowl from certain listed diseases.

(c) and (d) Makes conforming changes to these subsections.

SECTION 9. Amends Subchapter C, Chapter 161, Agriculture Code, by adding Section 161.0603, as follows:

Sec. 161.0603. LABORATORY TESTING. (a) Provides that the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) is the state's regulatory animal health laboratory.

(b) Provides that this section does not prevent TAHC from using a laboratory other than TVMDL for a test as needed or from collecting specimens and performing field tests to diagnose animal diseases.

(c) Requires TAHC and TVMDL to enter into a memorandum of understanding to establish the laboratory services to be performed by TVMDL, to provide reporting requirements for TVMDL on all test requests received from TAHC, and to set fees associated with laboratory services performed for TAHC in amounts sufficient to recover the costs of those services.

(d) Requires TAHC and TVMDL to annually review the memorandum of understanding under Subsection (c).

SECTION 10. Amends Section 161.061, Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 11. Amends Section 161.065(c), Agriculture Code, to require TAHC, if TAHC finds animals that have been moved in violation of a quarantine established under Chapter 161 (General Disease and Pest Control) or in violation of any other livestock sanitary law, to quarantine the animals until they have been properly treated, vaccinated, tested, or disposed of, rather than properly treated, vaccinated, tested, dipped, or disposed of, in accordance with the rules of TAHC.

SECTION 12. Amends Section 161.101(a), Agriculture Code, as follows:

(a) Requires a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report to TAHC the existence of diseases listed in rules adopted by TAHC among livestock, exotic livestock, bison, domestic fowl, or exotic fowl within 24 hours after diagnosis of the disease. Requires TAHC to adopt and periodically update rules listing the diseases that TAHC determines require reporting under Section 161.101 (Duty to Report). Deletes existing text requiring a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report the existence of only certain listed diseases among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to TAHC within 24 hours after diagnosis of the diseases and providing for a list of certain diseases that require reporting to TAHC. Makes conforming and nonsubstantive changes.

SECTION 13. Amends Section 161.112(a), Agriculture Code, to require TAHC, following notice and public hearing, to adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets and to require tests, immunization, or treatment, rather than tests, immunization, and dipping of those livestock, as necessary to protect against the spread of communicable diseases.

SECTION 14. Amends Section 161.113, Agriculture Code, as follows:

Sec. 161.113. New heading: TESTING, TREATMENT, OR VACCINATION OF LIVESTOCK. (a) Requires TAHC to adopt rules for testing, treatment, or vaccination under Subchapter G (Regulation of Livestock Markets). Prohibits the state from being required to pay the cost of fees charged for the testing, treatment, or vaccination. Deletes existing text requiring that the testing or vaccination be performed by an accredited veterinarian or qualified person authorized by TAHC, if TAHC requires testing or vaccination under Subchapter G.

(b) Requires that livestock, if TAHC requires the dipping of livestock under Subchapter G, be treated in a manner prescribed by rule of TAHC, rather than be

submerged in a vat, sprayed, or treated in another sanitary manner prescribed by rule of TAHC.

(c) Authorizes TAHC to require the owner or operator of a livestock market to furnish adequate equipment or facilities or have access to essential equipment or facilities within the immediate vicinity of the livestock market. Deletes existing text authorizing TAHC to require the owner or operator of a livestock market to furnish adequate chutes or holding pens or to furnish or have access to other essential testing and dipping facilities within the immediate vicinity of the livestock market.

SECTION 15. Amends Section 161.134, Agriculture Code, to prohibit a person, in the trial of any case involving the compliance of an owner or caretaker with a provision of Chapter 161 requiring the treatment or vaccination, rather than the treatment, vaccination, dipping, or disinfecting, of livestock, from attempting to prove that the action was taken by a person other than an authorized representative of TAHC.

SECTION 16. Amends Section 162.004(c), Agriculture Code, to require that a certificate under Section 162.004 (Certificate of Test or Vaccination of Cattle or Other Animals) be in a form prescribed by TAHC, and sent to TAHC within the time prescribed by TAHC by rule, rather than within 48 hours after completion of the test or vaccination. Makes nonsubstantive changes.

SECTION 17. Amends Section 164.002(c), Agriculture Code, to provide that Subsection (c) (relating to when cattle or sheep are not exposed to scabies) does not exempt the cattle or sheep from treatment, rather than dipping, required by Chapter 164 (Scabies Control).

SECTION 18. Amends Section 164.004, Agriculture Code, as follows:

Sec. 164.004. DUTIES OF INSPECTORS. (a) Requires that all treatments inspections, and certifications for scabies eradication and the disinfection of all equipment or facilities, rather than of all cars, sheds, boats, chutes, alleys, platforms, pens, or yards, required by Chapter 164 be performed by or under the supervision of an inspector. Makes a conforming change.

(b) Makes conforming and nonsubstantive changes.

SECTION 19. Amends Section 164.005(a), Agriculture Code, to make a conforming change.

SECTION 20. Amends the heading to Subchapter B, Chapter 164, Agriculture Code, to read as follows:

SUBCHAPTER B. TREATMENT

SECTION 21. Amends Section 164.021, Agriculture Code, as follows:

Sec. 164.021. New heading: TREATMENT REQUIRED ON ORDER OF COMMISSION. (a) Makes a conforming change to this subsection.

(b) Requires that an order of TAHC under this section be signed by TAHC or the presiding officer of TAHC and contain certain information, including an order directing the person to treat the animals, under the supervision of an inspector and in the manner prescribed by TAHC, rather than an order directing the person to dip the animals, under the supervision of an inspector and in the manner prescribed by TAHC, in a dipping solution provided by Chapter 164 or in a designated solution approved for that purpose by rule of TAHC. Makes a conforming change.

(c) Makes a conforming change to this subsection.

SECTION 22. Amends Sections 164.022(a), (d), and (e), Agriculture Code, to make conforming changes.

SECTION 23. Amends Section 164.023, Agriculture Code, as follows:

Sec. 164.023. New heading: METHOD OF TREATMENT. Requires TAHC by rule to prescribe the methods of treatment available for the treatment of scabies under Chapter 164. Deletes existing text requiring that the animals, if TAHC requires the dipping of animals, be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by TAHC.

SECTION 24. Amends Section 164.028, Agriculture Code, as follows:

Sec. 164.028. New heading: TREATMENT AT EXPENSE OF COUNTY. Requires the county commissioners court, if a person ordered to treat cattle or sheep under Chapter 164 fails or refuses to treat the animals, to take certain actions, including providing the necessary equipment and facilities, rather than the necessary vats, pens, other facilities, and materials, for the treatment of the animals. Makes conforming and nonsubstantive changes.

SECTION 25. Amends Section 164.041(a), Agriculture Code, as follows:

(a) Authorizes TAHC to establish a quarantine against all or the portion of a state, territory, or country in which TAHC determines scabies exists. Provides that a quarantine established under Section 164.041 (Establishment) is governed by Chapter 161, except that only a scabies inspector recognized by TAHC for that purpose in the quarantine notice may issue certificates or permits for the movement of cattle subject to the quarantine. Provides that a person who violates the quarantine is subject to the penalties provided by Chapter 161. Deletes existing text requiring TAHC, if TAHC determines or is informed that scabies exists among cattle in another state, territory, or country, to establish a quarantine against all or the portion of the state, territory, or country in which the disease exists. Makes nonsubstantive changes.

SECTION 26. Amends Section 164.044(b), Agriculture Code, to make a conforming change.

SECTION 27. Amends Section 164.062(a), Agriculture Code, to prohibit a person from importing sheep into Texas unless the shipment is accompanied by a certificate certifying that the sheep are free from scabies infection and exposure, or that the sheep have been treated by a method, rather than dipped in a solution, recognized by the Animal and Plant Health Inspection Service, United States Department of Agriculture, for eradication of sheep scabies and in a manner designed to have eradicated infection or exposure within 10 days prior to the date of importation.

SECTION 28. Amends Section 164.063, Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 29. Amends Section 164.064, Agriculture Code, as follows:

Sec. 164.064. New heading: DESIGNATION OF INFECTED OR FREE AREAS; TREATMENT REQUIREMENTS. Makes a conforming change.

SECTION 30. Amends Section 164.065, Agriculture Code, as follows:

Sec. 164.065. EXHIBITIONS. Requires the importer of show sheep to keep the sheep separate from all sheep other than show sheep and to treat, rather than dip, the sheep as required by TAHC, rather than at least once, before they are distributed to the range.

SECTION 31. Amends the heading to Section 164.083, Agriculture Code, to read as follows:

Sec. 164.083. FAILURE TO TREAT FOR SCABIES.

SECTION 32. Amends Section 164.083(a), Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 33. Amends Section 164.085(a), Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 34. Amends Section 165.022, Agriculture Code, to authorize TAHC by a two-thirds vote to adopt rules more stringent than the rules relating to minimum standards for cooperative programs adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture. Deletes existing text prohibiting the rules from exceeding the rules relating to minimum standards for cooperative programs adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

SECTION 35. Amends Section 28.03(i), Penal Code, to make a conforming change.

SECTION 36. Repealer: Section 161.035(c) (relating to providing that a member of an advisory committee established to assist TAHC is not entitled to compensation), Agriculture Code.

Repealer: Section 164.024 (Dipping Intervals), Agriculture Code.

Repealer: Section 164.025 (Dip Solutions for Sheep), Agriculture Code.

Repealer: Section 164.026 (Dip Solutions for Cattle), Agriculture Code.

Repealer: Section 164.027 (Dipping of Goats), Agriculture Code.

Repealer: Section 165.002 (Owner Treatment), Agriculture Code.

Repealer: Section 167.058 (Treatment Intervals), Agriculture Code.

SECTION 37. Makes application of Sections 161.041(c) and (d), 164.083(a), and 164.085(a), Agriculture Code, and Section 28.03(i), Penal Code, as amended by this Act, prospective.

SECTION 38. (a) Provides that, except as provided by Subsection (b) of this section, Section 161.023, Agriculture Code, as amended by this Act, applies to a member of TAHC who is appointed before, on, or after the effective date of this Act.

(b) Provides that a member of TAHC who, before the effective date of this Act, completed the training program required by Section 161.023, Agriculture Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 161.023, Agriculture Code. Prohibits a TAHC member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of TAHC held on or after December 1, 2021, until the member completes the additional training.

SECTION 39. Requires TAHC, not later than March 1, 2022, to:

(1) adopt rules necessary to implement Sections 161.041, 161.101, 161.113, and 164.023, Agriculture Code, as amended by this Act; and

(2) complete the initial analysis of violations required by Section 161.0375, Agriculture Code, as added by this Act.

SECTION 40. Requires TAHC and TVMDL, not later than January 1, 2022, to adopt the memorandum of understanding required by Section 161.0603, Agriculture Code, as added by this Act.

SECTION 41. Effective date: September 1, 2021.