

- SUBJECT:** Permitting of dry litter poultry producers
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 5 ayes — Bonnen, Howard, T. King, Kuempel, W. Smith  
0 nays  
2 absent — Driver, Homer
- WITNESSES:** For — James C. Grimm, Texas Poultry Federation  
Against — None
- BACKGROUND:** Water Code, sec. 28.0286, requires the Texas Commission on Environmental Quality (TCEQ) to process applications to construct or operate a concentrated animal feeding operations (CAFOs) as specific permits if any part of a pen, lot, pond, or other type of control or retention facility or structure of the CAFO is located or proposed to be located within the protection zone of a sole-source surface drinking water supply.
- A sole-source surface drinking water supply is a body of surface water that is the sole source of supply of a public water supply system, exclusive of emergency water connections. A protection zone is any area within the watershed of a sole-source surface drinking water supply within two miles of the body of surface water or its tributaries.
- DIGEST:** CSHB 2370 would amend Water Code, sec. 28.0286, to define a liquid waste handling system as a system in which fresh water or wastewater was used for transporting and land applying waste. It would specify that TCEQ permitting requirements for CAFOs located within the protection zone of a sole surface drinking water supply did not apply to poultry operations that did not use a liquid waste handling system.
- The bill also would specify that the Texas State Soil and Water Conservation Board (TSSWCB) could certify a water quality management plan for a poultry facility that did not use a liquid waste handling system and has obtained a permit or other authorization from TCEQ. This would

not affect the authority of TCEQ to investigate or take enforcement action against an unauthorized discharge of agricultural or industrial waste.

The bill would take effect September 1, 2005

**SUPPORTERS  
SAY:**

CSHB 2370 would make nonsubstantive clarifications and revisions to the section of the Water Code governing CAFOs to clarify that dry litter poultry operations were not subject to TCEQ permitting requirements for CAFOs located in a protection zone because they produce no liquid waste and thus no potential for discharge within these protection zones. The bill would not limit TCEQ's authority to investigate and prosecute any discharge violations by a dry litter poultry operation.

Until recently, the U.S. Environmental Protection Agency (EPA) did not require water quality permits for dry litter facilities because they were considered non-point source facilities. In 2002, however, the EPA changed the classification of dry litter poultry producers of a certain size to point source facilities. The facilities affected by this change are now governed by federal CAFO regulations requiring facilities to have water permits issued by the TCEQ.

The Texas Legislature in 2001 required all dry litter poultry producers to obtain water quality management plans certified by TSSWCB. Under TCEQ rules scheduled to go into effect in April, 2006, these water quality management plans are recognized as meeting the technical requirements for the water quality permit required by the EPA. The bill would make it clear in statute, and to the EPA, that TSSWCB had the continued authority to certify water quality management plans that met the EPA permitting requirements.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The committee substitute added provisions specifying that permitting requirements for CAFOs located within the protection zone of a sole-surface drinking water supply did not apply to poultry operations that did not use a liquid waste handling system. The committee substitute also specified that the bill would not affect the authority of TCEQ to investigate or take enforcement action against an unauthorized discharge, rather than a point source discharge, of agricultural or industrial waste.

The companion bill, SB 1707 by Staples, passed the Senate on April 21 on the Local and Uncontested Calendar.