

- SUBJECT:** Cost-recovery fee authority for Texas Animal Health Commission
- COMMITTEE:** Agriculture and Livestock — favorable, without amendment
- VOTE:** 5 ayes — Hardcastle, Isaac, Kleinschmidt, Lozano, Miles
2 nays — C. Anderson, C. Howard
2 absent — Hughes, Landtroop
- WITNESSES:** For — (*Registered, but did not testify:* Elizabeth Choate, Texas Veterinary Medical Association; James Grimm, Texas Poultry Federation; Ken Horton, Texas Pork Producers Association; Jason Skaggs, Texas and Southwestern Cattle Raisers Association; Bob Turner, Texas Poultry Federation and Texas Sheep and Goat Raisers Association)
Against — None
On — Dee Ellis, Texas Animal Health Commission
- BACKGROUND:** Agriculture Code, ch. 161 establishes the Texas Animal Health Commission (TAHC) and charges it with protecting livestock and fowl from various diseases. To fulfill this charge, the TAHC may perform inspections and other activities to control the spread of disease. Sec. 161.060 allows the commission to charge a fee for an inspection.
- DIGEST:** HB 1992 would allow TAHC to set and collect a fee for any service provided, including:
- inspecting animals or facilities;
 - testing animals for disease;
 - obtaining samples from animals for disease testing;
 - disease prevention, control or eradication, and treatment efforts;
 - services related to the transport of livestock;
 - control and eradication of ticks and other pests; and
 - any other service for which the commission incurred a cost.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 1992 would allow TAHC to recover the costs of activities and programs it provided to ensure the health of livestock and fowl. The bill is necessary due to a rider in the House-enacted version of HB 1 that would make about half of TAHC funding contingent upon its being able to collect sufficient fees to cover the costs of providing its services.

Current law allows the commission to collect fees only for inspections, poultry registration, and health certificates. Revenue currently generated through fees does not make up for the cost of supporting animal health and regulation. TAHC rider #9 in the House-enacted version of HB 1 appropriates to the commission about \$5.2 million per year for animal health management field operations for fiscal 2012-13, contingent upon assessing sufficient fee revenue to cover the additional appropriation.

Without the option to assess fees to cover costs, TAHC would have to significantly reduce staff. The agency likely would have to cut 20 to 25 full-time employees, in addition to many positions that already have been suspended. With a reduction of this size, the commission would be forced to relax inspections at livestock markets, feedyards, and slaughter plants; cut enforcement for feral swine disease mitigation; cancel most partnerships with other government agencies; and lose its ability to respond to herds and flocks infected with communicable diseases.

Cost recovery for government services is a long-recognized ideal of effective governance and by no means constitutes a tax. The U.S. Department of Agriculture (USDA) does not have the resources to adequately respond to animal-borne diseases. If the USDA was to respond to an outbreak of disease, it likely would do so by imposing a more sweeping quarantine of animal products, whereas the TAHC would be more selective in targeting affected products. If HB 1992 failed to pass, the inadequate enforcement of animal health laws would threaten Texas consumers and business alike.

**OPPONENTS
SAY:**

HB 1992 would in effect raise taxes on many Texas businesses that raise, keep, and process animals. The bill would allow TAHC to significantly raise fees for a wide variety of services. While these costs technically may be fees, they would, in effect, be taxes for the people who would have to pay them. The voters of the state sent a strong message that government should cut spending and function within its means, and the Legislature should wholly embrace that principle even if it means making painful cuts to services.

Many of the functions the additional fees would support, such as responding to outbreaks of animal-borne diseases, could and should be assumed by the USDA. The state of Texas should not impose on businesses a burden that should rightfully be assumed by the U.S. government with tax dollars that Texans already have paid.

**OTHER
OPPONENTS
SAY:**

The cost recovery measures in HB 1992 may be necessary as a short-term remedy to current budgetary shortfalls, but the expanded authority to impose fees should include a Sunset clause or other provision to force a reassessment and readjustment if budgetary conditions improved. The bill should be amended to require the Legislature to revisit the authority to impose fees and the fees themselves to ensure they were fair and commensurate with the services provided.

NOTES:

The Legislative Budget Board (LBB) estimates that HB 1992 would have a positive fiscal impact of \$1.4 million for fiscal 2012-13. According to the LBB, TAHC is in the process of developing a fee structure that would raise \$12.1 million for fiscal 2012-13. This revenue was not included in the fiscal note since TAHC had not identified a specific proposal for the fees.