

SUBJECT: Continuing the Texas Animal Health Commission

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 8 ayes — Burns, Anderson, Bailes, Cole, Cyrier, Herrero, Rosenthal, Toth
0 nays
1 absent — Guillen

SENATE VOTE: On final passage, March 25 — 30-0

WITNESSES: For — (*Registered, but did not testify:* David Sinclair, Game Warden Peace Officers Association; J Pete Laney, Texas Association of Dairymen and Texas Quarter Horse Association; Joy Davis, Texas Farm Bureau; JC Essler, Texas Poultry Federation; Joey Park, Texas Wildlife Association)
Against — None
On — Judith McGeary, Farm and Ranch Freedom Alliance; Andy Schwartz, Texas Animal Health Commission; (*Registered, but did not testify:* Darren McDivitt, Sunset Advisory Commission; Bruce Akey and Vic Siedel, Texas A&M Veterinary Medical Diagnostic Laboratory)

BACKGROUND: The Legislature created the Texas Livestock Sanitary Commission in 1893 and in 1959 renamed the agency the Texas Animal Health Commission (TAHC). The commission works to protect the health of all native and exotic livestock and fowl in the state and to protect the animal agriculture industry from diseases, mitigate the effects of such disease, increase the marketability of Texas livestock commodities, and protect human health from transmissible animal diseases, among other duties.

Functions. TAHC seeks to accomplish its mission and duties by regulating the movement of certain animals into and within the state and monitoring animals for diseases and pests. The commission may respond to animal disease outbreaks by issuing quarantines and conducting

investigations, and the commission is charged with preparing for and responding to emergencies that affect animals in the state. TAHC is also authorized to enforce compliance with animal health regulations and investigates complaints of violations of such regulations.

Governance. TAHC is governed by a 13-member commission, and members serve staggered six-year terms. Commission members are appointed by the governor with the advice and consent of the Senate. Statute requires commission membership to include three public members and a member from each of 10 specific industries related to agriculture and animal health. The governor names the commission chair and must make appointments to TAHC in proportionate representation to geographic regions of the state.

Funding. The agency receives a combination of state and federal funds, and it collects revenue from appropriated receipts. For fiscal 2019, the agency's operating budget was about \$16 million, of which almost \$14.5 million came from the state's general revenue.

Staffing. In fiscal year 2019, TAHC employed over 200 employees, mostly inspectors working in one of the agency's six regional offices. About 77 staff are based at TAHC's central office and lab in Austin.

TAHC will be discontinued on September 1, 2021, if not continued in statute.

DIGEST:

CSSB 705 would continue the Texas Animal Health Commission (TAHC) until September 1, 2033, and adopt certain Sunset Advisory Commission recommendations for the commission. The bill would replace the TAHC lab and name the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) as the state's regulatory animal health lab, require certain rule-making and the regular trend analysis of compliance data, and authorize the establishment of advisory committees.

Laboratory. The bill would establish TVMDL as the state's regulatory animal health laboratory. TAHC and the laboratory would be required to

enter into a memorandum of understanding to:

- establish the laboratory services to be performed by TVMDL;
- provide reporting requirements for TVMDL on all test requests received from the commission; and
- set fees associated with laboratory services.

The memorandum would have to be adopted by January 1, 2022, and would be annually reviewed by TAHC and TVMDL. TAHC would not be prevented from using a laboratory other than TVMDL for a test as needed or from collecting specimens and performing field tests to diagnose animal diseases.

Compliance data analysis. TAHC would be required to periodically analyze violations under its regulatory jurisdiction and would have to consider violation types and disposition, persons who were repeat offenders, and person who committed the most serious offenses. The commission would have to use such analysis to compare enforcement practices across regions and determine training needs, gaps in enforcement authority, and effective enforcement activities. TAHC would have to share compliance and enforcement information on a statewide and regional basis and in a timely manner.

Disease lists and rules. The bill would eliminate statutory lists specifying the animal diseases from which TAHC is required to protect livestock and fowl and which must be reported to the commission as specified under current law. Instead, the commission would be required to determine the animal diseases that required control or eradication or reporting, as applicable, and to adopt and update rules listing those diseases. The bill also would repeal the automatic expiration of rules regarding the duty to report certain animal diseases.

Quarantine authority. The bill would allow TAHC to establish a quarantine against or in an area affected by a disease listed in its rules, rather than requiring the establishment of a quarantine for areas affected by a disease listed in statute. The commission could delegate its authority

to establish a quarantine to its executive director, who would be required to promptly notify commission members when a quarantine was established.

TAHC also would be authorized, rather than required, to establish a quarantine against all or the portion of a state, territory, or country in which it was determined that the scabies disease existed.

Treatment methods. TAHC would be required to adopt rules for the testing, treatment, or vaccination of animals under its authority. The bill would revise statutory provisions prescribing the specific method for treating scabies. The commission also would be required to prescribe methods of treatment for scabies by rule.

The term "dipping" would be replaced by the generic term "treatment," and the bill would make related conforming changes. The bill also would repeal provisions related to specific dip treatment formulas, hog cholera treatment, and fever tick treatment intervals.

Other rules and provisions. The bill would authorize TAHC to adopt rules more stringent than the rules related to federal minimum standards for eradicating swine diseases if approved by a two-thirds vote of the commission.

The bill would eliminate the requirement that a certificate of each animal tuberculosis test or hog vaccination be sent to TAHC within 48 hours of completion. Instead TAHC would establish the deadline by rule.

The bill also would authorize TAHC to require the reporting within 24 hours of diagnosis of a disease recognized by the U.S. Department of Agriculture as a reportable disease. The commission also could require the slaughter or sale for slaughter of an animal infected with or exposed to such a disease.

Advisory committees. TAHC could by rule establish advisory committees to make recommendations to the commission on programs,

rules, and policies. In establishing such a committee, TAHC would have to adopt rules regarding:

- the purpose, role, responsibility, goals, and duration of the committee;
- the size of and quorum requirement for the committee;
- qualifications, appointment procedures, terms of service, and training requirements for committee 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 did not violate any applicable provision of the Open Meetings Act.

The bill also would add standard Sunset across-the-board provisions related to commission member training, grounds for member removal, and complaint notification procedures to statute governing TAHC. The bill would provide for the transition to the new training requirements for commission members appointed before the bill's effective date.

No later than March 1, 2022, TAHC would have to adopt rules necessary to implement the bill's provisions and complete the initial analysis of violations required by the bill.

The bill would take effect September 1, 2021, and its provisions related to an offense or violation would apply only to an offense or violation committed on or after that date.

**SUPPORTERS
SAY:**

CSSB 705 would continue the Texas Animal Health Commission (TAHC) for another 12 years as the state still needs an independent agency dedicated to protecting the economically vital animal agriculture industry against animal diseases and pests. Animal diseases can disrupt food supply, interrupt trade, cost millions of dollars, and in some cases affect human health, and no other state agency currently has the staff or expertise needed to perform the regulatory functions of TAHC. The bill would adopt Sunset recommendations to address ways in which the

commission's regulatory authority has not kept up with changes in the state's disease environment as well as other areas in which improvement is needed.

Laboratory. CSSB 705 appropriately would make the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) the designated regulatory animal health laboratory in the state. The laboratory is better qualified and has more resources, including satellite labs in various locations, to perform regulatory animal disease tests than the current TAHC lab. In addition, TAHC lab's workload drastically decreased when federal funding for cattle brucellosis testing stopped, while the lab's average operating expenses per test specimen have tripled over the past few years. Closing TAHC's lab and moving its functions to TVMDL would save the state significant costs and would not slow down the processing time industry tests. The bill also would allow TAHC to contract with other labs if it was more efficient and cost-effective to do so.

Compliance data analysis. The Sunset Advisory Commission found TAHC's enforcement efforts have been too limited and inconsistent, which could result in less effective disease prevention. Gaps in TAHC's compliance database and the lack of compliance information access for many commission employees made it difficult for staff to ensure compliance, check for repeat offenders, or understand how other regions have handled similar violations. The bill would address these concerns by requiring TAHC to conduct regular trend analysis of compliance data and share such analysis throughout the commission to inform rulemaking, enhance stakeholder education, and strengthen enforcement.

Outdated statutory provisions. CSSB 705 would eliminate multiple statutory provisions governing TAHC that are overly prescriptive, restrictive, outdated, or confusing, and would grant TAHC more flexibility to address the state's current animal health needs, including the ability to adopt rules as needed and use modernized practices.

Advisory committees. TAHC's ability to appoint advisory committees is currently limited, so it relies on informal working groups to help develop

and alter rules. Such groups lack the transparency and public input of advisory committees, and TAHC's working groups have tended to lack a sufficient diversity of perspectives and over-represent certain interests at the expense of others. CSSB 705 would give TAHC the ability to form advisory committees, which would benefit the commission's rulemaking and policy development and lead to greater transparency, more balanced representation, more public input, and fresh perspectives.

Powers and jurisdiction. While some have suggested that TAHC should assume sole regulatory authority over captive deer and other cervids, the current coordinated regulation between TAHC and the Texas Parks and Wildlife Department, particularly in the management of chronic wasting disease, works well, so there is no need to alter that arrangement at this time.

Likewise, proper communication and coordination between TAHC and the Texas Department of Agriculture should ensure sufficient oversight of livestock animals that are rejected at animal export facilities. The Sunset commission's non-statutory recommendation that TAHC and TDA enter a memorandum of understanding on this issue would address this concern.

CRITICS
SAY:

CSSB 705 could negatively impact the processing time of livestock and poultry industry tests by transferring TAHC's regulatory testing function from its own lab to TVMDL. These industries are too important to be jeopardized by delayed results due to consolidation and diminished testing capacity.

The bill also should grant sole regulatory authority over captive deer and other cervids to TAHC, which is a more suitable entity than the Texas Parks and Wildlife Department to manage deer in a captive breeding facility and respond to relevant diseases, including chronic wasting disease. Consolidation would result in significant financial savings for the state and eliminate duplicative efforts between the two agencies.

Both TAHC and the Texas Department of Agriculture need clear direction, oversight, and rulemaking authority to determine what happens

to livestock animals rejected at state animal export facilities, and the bill should address this need.

OTHER
CRITICS
SAY:

CSSB 705 would not go far enough to ensure that the agency adequately represented all stakeholders, especially with the makeup of the commission itself. While it currently must include three members that represent the public interest, the specific statutory language would allow anyone who is not regulated or sponsored by the commission to qualify as a member of the public. Since TAHC technically regulates animals, not individuals or businesses, these public interest members may actually be closely tied to agriculture industry interests. The commission also does not reserve any seats for small-scale, organic, or sustainable producers, who are affected by TAHC regulations. Statute governing TAHC should tighten and clarify the "public interest" member requirements and provide representation for small-scale producers and other interest groups typically excluded from the agency's decision-making.

NOTES:

According to the Legislative Budget Board, CSSB 705 would have an estimated positive impact to general revenue related funds of \$261,022 through fiscal 2023.