

BILL ANALYSIS

Senate Research Center

S.B. 938
By: Armbrister
Natural Resources
3/14/2001
Committee Report (Amended)

DIGEST AND PURPOSE

Currently, some sections of the Agriculture Code relating to the Texas Department of Agriculture (department) are outdated and inconsistent with current practice. Among these sections are provisions relating to the department's organic, seed, and weights and measures regulatory programs; the department's general authority; and the department's octane testing program. As proposed, S.B. 938 amends and repeals sections of the Agriculture Code to make the code consistent with daily practice, clarify the department's authority, and delete unnecessary language and sections.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 12, Agriculture Code, by adding Section 12.0011, as follows:

Sec. 12.0011. **AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS.**
Authorizes the Department of Agriculture (department) to enter into cooperative agreements with certain entities to carry out its duties under this code.

SECTION 2. Amends Section 12.011, Agriculture Code, as follows:

Sec. 12.011. **AGRICULTURAL RESOURCE STATISTICS.** Deletes text requiring the department to annually collect agricultural statistics. Deletes text requiring agency or institution heads and manufacturing establishments authorized to do business in this state to furnish information for the purpose of this section.

SECTION 3. Amends Section 12.0201, Agriculture Code, as follows:

Sec. 12.0201. **LICENSE SANCTIONS.** Authorizes the department, in addition to other sanctions provided by law, to revoke, modify, suspend, or refuse to issue or renew a license, assess an administrative penalty, place on probation a person whose license has been suspended, or reprimand a license holder if the department finds that the practitioner committed certain violations. Authorizes the department, in addition to any other actions permitted under this code, to require the practitioner's records if a license suspension is probated. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 12.021, Agriculture Code, as follows:

Sec. 12.021. **New heading: FEE FOR PHYTOSANITATION INSPECTION; ISSUANCE OF CERTIFICATE.** Requires the department to collect an inspection fee, as provided by department rule, for a phytosanitation inspection required by foreign countries or other states for agricultural products, processed products, or equipment exported from this state.

Authorizes the department to issue a phytosanitary certificate on completion of the inspection.

SECTION 5. Amends Section 18.001(2), Agriculture Code, to redefine “logo.”

SECTION 6. Amends Section 18.010(a), Agriculture Code, to prohibit a person named in the order from selling the item labeled, marketed, advertised, or otherwise represented as “organic” until certain conditions are determined.

SECTION 7. Amends Section 41.052, Agriculture Code, to provide that each commodity producers board (board) is a state agency for purposes of indemnification and is exempt from taxation in the same manner and to the same extent as are other agencies of the state. Provides that each board is a governmental unit for purposes of Section 101.001 (Definitions), Civil Practices and Remedies Code, and is a governmental body for purposes of Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

SECTION 8. Amends Section 45.006(c), Agriculture Code, to require the board to meet at least annually, rather than at least twice annually.

SECTION 9. Amends Section 62.008, Agriculture Code by amending Subsections (a)-(c), to require the department, rather than the board, to prescribe the format of the label. Deletes text regarding persons nominated as inspectors by the board. Deletes text regarding certificate of registration. Deletes text regarding registrant of a cotton variety. Makes a conforming change.

SECTION 10. Amends Section 71.041(4), Agriculture Code, to redefine “nursery grower.”

SECTION 11. Amends Section 71.044, Agriculture Code, by adding Subsection (d) to provide that this section does not apply to a physical location maintained by a registrant under Section 71.043 who does not maintain an inventory of nursery products or florist items at the location.

SECTION 12. Amends Section 4, Chapter 1033, Acts of the 71st Legislature, Regular Session, 1989 (Article 8614, V.T.C.S.), to delete Subsection (d).

SECTION 13. Amends, Section 9, Article 8614, V.T.C.S., to authorize the commissioner of agriculture (commissioner), rather than comptroller, by rule to impose a fee to impose a fee for testing, inspection, or the performance of other services provided as determined necessary by the commissioner in the administration of this Act, to be collected on a periodic basis determined by the commissioner, rather than comptroller, from each dealer as that term is defined in Section 1 of this Act without regard to whether the motor fuel is subject to regulation under this Act, as determined necessary by the commissioner. Authorizes the fees collected under this section to be used only by the commissioner to defray the cost of collecting fees imposed by the commissioner under this Act and for the administration and enforcement of this Act. Deletes text regarding fees and penalties to be imposed by the comptroller under this section. Makes conforming and nonsubstantive changes.

SECTION 14. Repealer: Sections 12.012 (Irrigation Statistics), 62.007 (Protection of Foundation, Registered, and Certified Cotton Varieties), 71.052 (Importation of Camellias), and 71.058(d) (Providing that a person commits an offense for each camellia plant or flower imported), Agriculture Code, and Section 825.023 (Duties of Commissioner of Agriculture), Health & Safety Code.

SECTION 15. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

SECTION 12. Amends as Filed S.B. 938, Section 4, Chapter 1033, Acts of the 71st Legislature,

Regular Session, 1989 (Article 8614, V.T.C.S.), by deleting Subsection (a) in its entirety rather than amending that subsection.

SECTION 14. Deletes previously proposed repeal of Section 71.058 and instead repeals Section 71.058(d).