

SENATE BILL REPORT

ESSB 5889

As Passed Senate, March 19, 2003

Title: An act relating to animal feeding operations.

Brief Description: Concerning a livestock nutrient management program.

Sponsors: Senate Committee on Agriculture (originally sponsored by Senators Swecker and Rasmussen).

Brief History:

Committee Activity: Agriculture: 2/27/03, 3/4/03 [DPS].

Passed Senate: 3/19/03, 37-11.

SENATE COMMITTEE ON AGRICULTURE

Majority Report: That Substitute Senate Bill No. 5889 be substituted therefor, and the substitute bill do pass.

Signed by Senators Swecker, Chair; Brandland, Vice Chair; Jacobsen, Rasmussen and Sheahan.

Staff: Bob Lee (786-7404)

Background: In early 2003, the Environmental Protection Agency adopted rules that affect how specified animal feeding operations are to be regulated for the purposes of federal water quality laws.

In 1998, the State of Washington enacted the Dairy Nutrient Management Act that required dairy farms to develop plans to protect water quality by July 1, 2002. These plans are required to be implemented by December 31, 2003. Larger feed lots currently hold National Pollution Discharge Elimination System (NPDES) permits. The current program in Washington State is administered by the Department of Ecology.

Summary of Bill: The Legislature intends that there be a fully functioning state program for confined animal feeding operations by 2006 and that a single program apply to all livestock sectors. The program should develop reasonable financial assistance, educational and technical assistance, and provide for periodic inspection and enforcement.

To achieve this, a committee is established to examine the recently adopted federal regulations and to develop a program to be administered by the Department of Agriculture that meets the time frames contained in the federal rules. The committee must provide a report to the Legislature by December 1, 2003 that contains the results of its evaluation and draft legislation to initiate the program.

Elements that must be evaluated by the committee include:

- a process for adopting standards and developing plans that meet these standards;
- a process to transition current NPDES permits into the new program; and
- a determination of what other institutional relationships are needed or desirable, including whether any functions are to be performed by conservation districts.

The draft legislation must include:

- the statutory changes including a time line to phase in the program that will comply with the minimum requirements of federal and state water quality laws;
- the statutory changes necessitated by the transfer of the Dairy Nutrient Management Act from the Department of Ecology to the Department of Agriculture;
- continued inspection of dairy operations at least once every two years;
- an outreach and education program; and
- annual reporting to the Legislature on the progress for implementing the program.

The Livestock Nutrient Management Program Development and Oversight Committee is created composed of the following representatives:

- the Director of Agriculture, who serves as chair;
- the Director of Ecology;
- the federal Environmental Protection Agency;
- a commercial shellfish grower;
- an environmental organization;
- a tribal government;
- Washington State University;
- three dairy producers;
- two beef cattle producers;
- a poultry producer;
- a feed lot; and
- any other segment determined by the director to be subject to the federal rules.

The committee is staffed by the Department of Agriculture. The department may request staff assistance be assigned by the United States Environmental Protection Agency. The committee must establish a work plan that includes a list of tasks and projected completion date for each task. The committee may establish a subcommittee for each of the major industry segments that is covered by the recently adopted federal rules. Subcommittees must report back to the full committee. The committee takes effect on July 1, 2003, and expires on June 30, 2006.

The Dairy Nutrient Management Program is transferred to the Department of Agriculture effective on July 1, 2003. The transfer includes all powers and duties, records and files, funds and assets, appropriations, and existing contracts and obligations. If apportionment of budgeted funds is required, the Director of Financial Management shall certify the apportionments. The transfer takes effect on July 1, 2003.

Appropriation: None.

Fiscal Note: Requested on February 20, 2003.

Effective Date: The bill contains an emergency clause for a portion of the bill. The sections that create the livestock nutrient management program development and oversight committee and transfer the dairy nutrient management program from the Department of Ecology to the Department of Agriculture take effect on July 1, 2003.

Testimony For: The time frame provided in the federal rules is short and will be a challenge to meet. Similar programs in many other states are administered by that state's Department of Agriculture. The Department of Agriculture already administers a number of regulatory programs. The Department of Ecology needs to be on the committee to formulate the legislation so that the program will comply with state water quality laws.

Testimony Against: Concern exists with delegation of EPA water quality authorities to the Department of Agriculture.

Testified: Jim Jesernig, Wade Troutman, WA Assn. of Conservation Districts (pro); Carolyn Kelly, Skagit CD (pro); George Boggs, Whatcom CD (pro); Chris Cheney, WA Daily Federation, WA Cattlemen Assn., WA Fryer Comm. (pro); Jay Gordon, WA Dairy Federation (pro); Bruce Wishart, People for Puget Sound (con).

House Amendment(s): Technical corrections are made to remove references to personnel transfers. Actions are to be taken before the effective date on which the development and oversight committee is created to make the appointments to the committee on that date. A representative of the Washington Association of Conservation Districts is added to the Livestock Nutrient Management Program Development and Oversight Committee.

The authority of the Department of Ecology (DOE) to issue water quality permits and take action regarding water quality issues for animal feeding operations (AFOs) and concentrated animal feeding operations (CAFOs) after transfer of the dairy nutrient management program to the Department of Agriculture (WSDA) is preserved: (a) unless DOE delegates its federal Clean Water Act authority to the WSDA; and (b) until the delegation receives federal approval.

DOE is authorized to delegate its water quality authority (including permits) regarding AFOs and CAFOs to the WSDA. The WSDA is required to reach agreement with the DOE Director on AFO/CAFO program rules, permits, programs, and directives until delegated authority receives federal approval. It is specified that adoption or issuance of program rules, permits, programs, and directives must be accomplished so that compliance with these program requirements achieve compliance with federal and state water quality laws.