



# Ohio Legislative Service Commission

## Bill Analysis

Jeff Grim

### H.B. 414

128th General Assembly  
(As Introduced)

Reps. Sayre and Bolon

---

## BILL SUMMARY

- Pursuant to the Ohio Constitution, creates the Ohio Livestock Care Standards Board consisting of specified members, and establishes the terms of office for the members of the Board.
- Requires the Board to adopt rules governing the care and well-being of livestock in this state, including best management practices for the care and well-being of livestock and the prevention of disease, and establishing the amount of civil penalties to be assessed against persons who violate the rules, and defines "livestock" for those purposes.
- Requires the Director of Agriculture to assist the Board in the administration and enforcement of the bill, including hiring employees of the Board, entering into contracts, enforcing the rules adopted by the Board, and taking other specified actions regarding those rules.
- Authorizes the Director or the Director's authorized representative to enter at reasonable times on public or private property to inspect or investigate, obtain samples, and examine or copy records to determine compliance with the bill and rules adopted under it.
- Prohibits a person from falsifying any plans, specifications, data, reports, records, or other information required by the bill or rules adopted under it to be kept or submitted to the Director or the Board or violating any provision of the bill or any order, rule, or determination of the Director or Board issued, adopted, or made under the bill or rules adopted under it.

- Increases the existing 25¢ per-ton semiannual commercial feed inspection fee as follows: beginning 30 days after the bill's effective date, 30¢ per ton; from July 1, 2010 through June 30, 2011, 35¢ per ton; and beginning on July 1, 2011, 40¢ per ton.
- Increases the minimum penalty for the late filing of a semiannual commercial feed tonnage report or payment of an inspection fee from \$50 to \$100.
- Creates the Ohio Livestock Care Standards Fund consisting of all money appropriated by the General Assembly for use by the Board, all money collected from civil penalties under the bill, any money transferred from the existing Commercial Feed and Seed Fund, and all money donated to the Department of Agriculture or the Board for the purposes of advancing livestock care.
- Requires the Director to use money credited to the Fund to carry out the purposes of the bill, including the administration and enforcement costs of the Department of Agriculture and the compensation of the Board's employees.
- Provides for the annual transfer of not less than \$500,000 from the Commercial Feed and Seed Fund to the Ohio Livestock Care Standards Fund.
- States that the authority granted to the Board and the Director by the bill does not detract from or expand the authority or obligations of county humane societies or county officials under the Humane Societies Law.
- States that the authority granted to the Board and the Director by the bill does not apply to food processing production activity that is regulated by the Department of Agriculture under the agricultural laws in Title IX of the Revised Code.

---

## **CONTENT AND OPERATION**

### **Introduction**

The Ohio Livestock Care Standards Board was created when the electors of the state voted to amend the Ohio Constitution in November 2009. The amendment authorizes the General Assembly to enact laws that it deems necessary to carry out the purposes of the amendment, to facilitate the execution of the duties of the Board and the Department of Agriculture under the amendment, and to set the terms of office of the Board members and conditions for the Board members' service on the Board. (Ohio Constitution, Article XIV, Section 1.)

## **Appointment of the members of the Ohio Livestock Care Standards Board; operation of the Board**

The bill creates the Ohio Livestock Care Standards Board consisting of the following members:

- (1) The Director of Agriculture, who must be the chairperson of the Board;
- (2) Ten members appointed by the Governor with the advice and consent of the Senate. The ten members must be Ohio residents and must include the following:
  - (a) One member representing family farms;
  - (b) One member who is knowledgeable about food safety in this state;
  - (c) Two members representing statewide organizations that represent farmers;
  - (d) One member who is a veterinarian licensed under the Veterinarians Law;
  - (e) The State Veterinarian in the Department of Agriculture;
  - (f) The dean of the agriculture department of a college or university located in this state;
  - (g) Two members of the public representing Ohio consumers;
  - (h) One member representing a county humane society organized under the Humane Societies Law.
- (3) One member appointed by the Speaker of the House of Representatives who must be a family farmer;
- (4) One member appointed by the President of the Senate who must be a family farmer.

Not more than seven members appointed to the Board at any given time can be of the same political party. (R.C. 904.02(A).)

The bill requires the Governor, the Speaker of the House of Representatives, and the President of the Senate to make appointments to the Board not later than 45 days after the bill's effective date. It generally provides for staggered three-year terms for the appointed members of the Board. However, the terms for the Director and the State Veterinarian must coincide with the length of time that the person holds the position of Director or State Veterinarian, as applicable. If the Director or the State Veterinarian resigns or that person's employment is terminated, the Director or State Veterinarian, as

applicable, must cease to serve on the Board, and the successor of the Director or State Veterinarian must then serve on the Board in accordance with the bill. Every other member must hold office from the date of the member's appointment until the end of the term for which the member was appointed.

The bill establishes standard procedures for filling vacancies. Under the bill, a member must continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of 180 days has elapsed, whichever occurs first. A member may be reappointed upon the expiration of the member's term. (R.C. 904.02(B) and(C).)

The bill requires the Board to hold at least three regular meetings each year and authorizes it to hold additional meetings at times that the chairperson or a majority of the Board members considers appropriate. At the three regular meetings, the Board must conduct a review of the rules governing the care and well-being of livestock that have been or are proposed to be adopted under the bill. At the first meeting of the Board in each calendar year, the Director must designate one member of the Board to serve as its vice-chairperson. A majority of the Board constitutes a quorum. The Board may act only if a quorum is present and only by majority vote of that quorum. A vacancy on the Board does not impair the right of the other members to exercise all of the Board's powers. (R.C. 904.02(D).)

Serving as an appointed member of the Board does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. Appointed members of the Board must receive no compensation for their services. Members must be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members. The expenses must be paid from the Ohio Livestock Care Standards Fund created by the bill (see "**Funds**," below). The expenses must be paid in accordance with the rules and requirements adopted by the Department of Administrative Services that are applicable to state employees. (R.C. 904.02(E) and (F).)

The bill requires the members of the Board to file financial disclosure statements with the Ohio Ethics Commission in the same manner as members of other state boards and commissions and public officials file those statements. A member of the Board must include with the statement a \$25 filing fee. (R.C. 102.02.)

The Board may create subcommittees that it deems appropriate to make recommendations to the Board. Subcommittees may include non-Board members. (R.C. 904.02.)

## **Duties of the Board**

The bill requires the Board to adopt rules in accordance with the Administrative Procedure Act governing the care and well-being of livestock in this state. Under the bill, "livestock" means equine animals regardless of the purpose for which they are raised and any of the following animals that are raised for human food products or fiber: (1) porcine animals, (2) bovine animals, (3) caprine animals, (4) ovine animals, (5) poultry, (6) alpacas, (7) llamas, and (8) any other animal designated in rules adopted under the bill (R.C. 904.01).

In adopting the rules, the Board must consider the following factors:

- (1) Best management practices for the care and well-being of livestock;
- (2) Biosecurity, but the rules cannot create a statewide animal identification system;
- (3) The prevention of disease;
- (4) Animal morbidity and mortality data;
- (5) Food safety practices;
- (6) The protection of local, affordable food supplies for consumers;
- (7) Generally accepted veterinary medical practices, livestock practice standards, and ethical standards established by the American Veterinary Medical Association; and
- (8) Any other factors that the Board considers necessary for the proper care and well-being of livestock in this state. (R.C. 904.03(A).)

Additionally, the Board must adopt rules in accordance with the Administrative Procedure Act that establish the amount of civil penalties to be assessed against persons who violate the rules governing the care and well-being of livestock. All of the rules adopted under the bill do not apply to animals that are confined in research and medical facilities that operate in accordance with "The Guide for the Care and Use of Agricultural Animals in Research and Teaching" published by the Federation of Animal Science Societies. (R.C. 904.03(B) and (C).)

## **Duties and powers of the Director of Agriculture**

The bill requires the Director of Agriculture to do all of the following in order to assist the Board in the administration and enforcement of the bill:

(1) Hire all employees of the Board, including an executive director. Employees of the Board must be in the unclassified civil service, serve at the pleasure of the Director, and be compensated with money from the Ohio Livestock Care Standards Fund created by the bill (see "**Funds**," below).

(2) Enter into contracts on behalf of the Board;

(3) Do all of the following with regard to rules governing the care and well-being of livestock adopted by the Board: process and submit the rules to the Joint Committee on Agency Rule Review pursuant to the Administrative Procedure Act, contract for surveys and analyses, and perform any other activities that assist the Board in adopting the rules;

(4) Publish and distribute information related to livestock care, including educational materials, to livestock producers and members of the public;

(5) Investigate complaints regarding violations of the rules adopted by the Board in accordance with the authority granted by the bill, the provisions governing the enforcement and investigation authority of the Director in the Department of Agriculture Law, and rules adopted under the bill and that Law;

(6) Enforce the rules adopted by the Board and levy the civil penalties provided for under those rules. The Director may apply to a court of competent jurisdiction for a temporary or permanent injunction or other appropriate relief for violations of the bill. The court of competent jurisdiction must be either the Licking County Court of Common Pleas or the court of common pleas of the county where the violation is occurring.

(7) Perform any other duties necessary to assist the Board in the administration and enforcement of the bill. (R.C. 904.04(A).)

The bill authorizes the Director or the Director's authorized representative acting on behalf of the Board, upon proper identification and upon stating the purpose and necessity of an inspection, to enter at reasonable times on any public or private property, real or personal, to inspect or investigate, obtain samples, and examine or copy records to determine compliance with the bill and rules adopted under it. The Director or the Director's authorized representative may apply for, and any judge of a court of competent jurisdiction may issue, an appropriate search warrant necessary to achieve the purposes of the bill and rules adopted under it. (R.C. 904.04(B).)

## **Prohibitions**

The bill prohibits a person from doing either of the following:



(1) Falsifying any plans, specifications, data, reports, records, or other information required by the bill or rules adopted under it to be kept or submitted to the Director or the Board; or

(2) Violating any provision of the bill or any order, rule, or determination of the Director or Board issued, adopted, or made under the bill or rules adopted under it. (R.C. 904.05.)

## **Funding**

### **Fees**

Under current law, except as discussed below, the first distributor of a commercial feed must pay to the Director a semiannual inspection fee of 25¢ per ton, with a minimum payment of \$25, on all commercial feeds distributed by the first distributor in this state. The bill instead requires that the first distributor of a commercial feed, except as discussed below, pay to the Director the following semiannual inspection fee, with a minimum payment of \$50, on all commercial feeds distributed by the first distributor in this state:

(1) Beginning 30 days after the bill's effective date and ending on June 30, 2010, 30¢ per ton;

(2) Beginning on July 1, 2010 and ending on June 30, 2011, 35¢ per ton;

(3) Beginning on July 1, 2011, 40¢ per ton. (R.C. 923.44(A)(1).)

Under existing law, the semiannual inspection fee must not be paid by the first distributor of a commercial feed if the distribution is made to an exempt buyer who must be responsible for the fee. The Director must establish an exempt list consisting of those buyers who are responsible for the fee. In addition, the semiannual inspection fee must not be paid on a commercial feed if the fee has been paid by a previous distributor or on customer-formula feed if the fee has been paid on the commercial feeds that are used as components in that customer-formula feed. The bill retains those exceptions. (R.C. 923.44(A)(2) to (4).)

Under current law, each distributor or exempt buyer who is required to pay a semiannual inspection fee must file a semiannual statement with the Director that includes the number of net tons of commercial feed distributed by the distributor or exempt buyer in this state within 30 days after June 30 and within 30 days after December 31, respectively, of each calendar year. The inspection fee at the rate stated above must accompany the statement. For a tonnage report that is not filed or payment of inspection fees that is not made within 15 days after the due date, a penalty of 10% of

the amount due, with a minimum penalty of \$50, must be assessed against the distributor or exempt buyer. The bill increases the minimum penalty from \$50 to \$100. (R.C. 923.44(B).)

## **Funds**

The bill creates the Ohio Livestock Care Standards Fund in the state treasury consisting of all money appropriated by the General Assembly for use by the Board, all money collected from civil penalties under the bill, any money transferred from the existing Commercial Feed and Seed Fund (see below), and all money donated to the Department of Agriculture or the Board for the purposes of advancing livestock care. It then requires the Director to use money credited to the Fund to carry out the purposes of the bill, including the administration and enforcement costs of the Department and the compensation of employees of the Board. (R.C. 904.06.)

Current law creates the Commercial Feed and Seed Fund in the state treasury consisting of money credited to it under the Livestock Feeds Law and the Agricultural Seed Law. The bill authorizes the Director of Agriculture to request the Director of Budget and Management to, and the Director of Budget and Management then must, annually transfer, at times determined by the Director of Agriculture, an amount of not less than \$500,000 from the Commercial Feed and Seed Fund to the Ohio Livestock Care Standards Fund. (R.C. 923.46.)

## **Humane societies**

The bill states that the authority granted to the Board and the Director by the bill does not detract from or expand the authority or obligations of county humane societies or county officials under the Humane Societies Law (R.C. 904.07).

## **Food processing production activity**

The bill states that the authority granted to the Board and the Director by the bill does not apply to food processing production activity that is regulated by the Department of Agriculture under the agricultural laws in Title IX of the Revised Code (R.C. 904.08).

---

## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-19-10

H0414-I-128.docx/jc

