



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 229 of the 129th G.A.

Date: June 16, 2011

Status: As Passed by the House

Sponsor: Rep. Buchy

Local Impact Statement Procedure Required: No

Contents: Makes revisions to the laws governing agriculture

State Fiscal Highlights

- **Livestock Environmental Permitting Program.** The bill establishes the Division of Livestock Environmental Permitting within the Department of Agriculture (AGR) to assume all the responsibilities currently held by the Livestock Environmental Permitting Program. These activities are funded primarily through the GRF, but are also supported by permit fees and other revenue deposited into the Livestock Management Program Fund (Fund 5L80). Presumably, this funding arrangement will remain unchanged under the new division.
- **Alternate procedure for permit approval.** The bill allows applicants for permits to install (PTI) to document that they have met the local notification requirements under current law by submitting a notarized affidavit to that effect with the PTI application submitted to AGR. This alternative procedure applies if local authorities do not give written, dated confirmation within 75 days of receiving the notice from the applicant. This could accelerate the permit approval process for some concentrated animal feeding facilities (CAFFs).
- **Appeal of commercial feed withdrawal orders.** The bill permits a manufacturer or distributor of commercial feed to file an appeal to a departmental order preventing the distribution of commercial feed. Allowing a formal administrative appeal process could lead to increased costs for the Department. Any such costs would be paid from the Commercial Feed and Seed Fund (Fund 4C90).
- **Grape Industries Committee – grower and producer assistance.** In addition to supporting and promoting the grape industries, the bill permits the Committee to provide grape producers and growers with equipment, vines, and materials to assist in the production of grapes and grape products. The Grape Industries Committee is supported by receipts from an additional 5 cent per gallon tax on wine sales. These proceeds are deposited into the Ohio Grape Industries Fund (Fund 4960).

- **Grape Industries Committee – research and market survey spending.** Currently, the Committee is required to spend a minimum of 30% and up to a maximum of 70% of the above tax proceeds on grape research and market surveys. The bill removes the 30% minimum spending requirement on these activities, allowing for Fund 4960 money to be reallocated for other permissible uses.
- **Amusement rides.** The bill adds "inflatable devices" as well as vessels regulated by the Department of Natural Resources, various sport vehicles, and animals ridden in competitive events as items that must be inspected by the Amusement Ride Safety Division of AGR. Although this will increase inspection costs, these expenses will be recouped through additional license fee revenues. Licensing receipts are deposited into the Amusement Ride Inspection Fund (Fund 5780).

Local Fiscal Highlights

- **Ohio Fairs Fund grants to county and independent agricultural societies.** The bill requires that an agricultural society return the share of Ohio Fairs Fund (Fund 7083) grant money put toward the purse for a race that was not held to the Department of Agriculture for redeposit in Fund 7083. Under current law, agricultural societies that hold horse races in conjunction with their annual fairs receive \$4,000 each to supplement purses for horse races and \$1,000 each for related track maintenance expenses, although these amounts are adjusted according to available funding.

Detailed Fiscal Analysis

Overview

The bill makes changes to numerous statutes governing the Department of Agriculture (AGR) and the agricultural industry. These changes affect the following areas: (1) livestock environmental permitting and concentrated animal feeding facility (CAFF) regulation, (2) commercial feed distribution, (3) livestock dealer and broker oversight, (4) grape industries promotion, (5) amusement ride safety inspection, and (6) Ohio Fairs Fund grants to county and independent fairs to supplement purses for horse races. In addition to these changes, the bill renames the Division of Animal Industry as the Division of Animal Health, the Division of Plant Industry as the Division of Plant Health, and the Consumer Analytical Laboratory as the Consumer Protection Laboratory. The fiscal effects related to these provisions are elaborated upon below.

Livestock environmental permitting

New Division of Livestock Environmental Permitting

The bill creates the Division of Livestock Environmental Permitting to oversee various aspects of CAFF regulation. Currently, all of these regulatory responsibilities are handled by the Livestock Environmental Permitting Program (LEPP), which was first established in 2002 to oversee permits to install (PTI) and permits to operate (PTO) for CAFFs. In FY 2010, the program issued 57 permits to large scale livestock and poultry farms in the state. Fifty of these were PTOs and seven were PTIs. Thirty-two of the PTOs were renewals. The program employs 12 people. For all intents and purposes, LEPP is currently funded and administered as a separate division within the Department. As such, codifying this new division will not impose any new costs on AGR.

Funding for livestock environmental permitting under the new division established in the bill will presumably be the same as it is now. Currently, the program is funded through two line items in the AGR budget. The first is GRF line item 700418, Livestock Regulation Program, with estimated FY 2011 spending of \$1.3 million. H.B. 153, the main operating budget for the FY 2012-FY 2013 biennium pending in the General Assembly, appropriates \$1.1 million in each fiscal year to this line item, a decrease of approximately \$230,000 from FY 2011 estimated expenditures. The other source of operating income for livestock environmental permitting is PTI and PTO fees and fines deposited into the Livestock Management Program Fund (Fund 5L80). Estimated FY 2011 spending for Fund 5L80 line item 700604, Livestock Management, is \$256,000. H.B. 153 increases spending for this line item considerably, to \$584,000 in each year of the FY 2012-FY 2013 biennium, largely offsetting the reduction in the corresponding GRF appropriation item listed above.

Alternate permit procedure – PTIs

Current law requires CAFF owners or operators to notify county commissioners and township trustees when a PTI application has been submitted to AGR. These local authorities have the right to review these plans and suggest changes to infrastructure that may be necessary to accommodate an applicant's plans. The law also specifies certain timeframes that local authorities must meet in confirming to the PTI applicant that the required notification has been received and that final recommendations were selected regarding improvements. The bill alters this procedure by specifying that if the county commissioners or township trustees fail to prepare a written, dated statement within 75 days of receiving written notification from the permit applicant, then the applicant may file a notarized affidavit with AGR declaring that the applicant has met the notification requirement and has agreed to the alterations to infrastructure. Although there is no apparent fiscal effect as a result of this alternate procedure, this change could accelerate the permitting process for some PTI applicants.

Commercial feed

The bill also makes changes in the area of commercial feed operations which are regulated by the Division of Plant Industries, renamed the Division of Plant Health under the bill. One change that may increase costs by some amount is a provision that allows a manufacturer of commercial feed to appeal an AGR withdrawal from distribution order in accordance with Chapter 119. of the Revised Code. This could increase the number of administrative hearings related to these cases. These costs will be paid from the Commercial Feed and Seed Fund (Fund 4C90), which consists of inspection fees charged to feed dealers. Estimated FY 2011 spending for Fund 4C90 line item 700605, Commercial Feed and Seed, is \$1.8 million. The House-passed version of H.B. 153 appropriates \$1.8 million in both fiscal years for this line item, which also provides funding for fertilizer sampling and testing feed for medications. As of FY 2010, there were 1,844 commercial feed registrants in Ohio. The Division of Plant Industry collected 1,200 feed samples for testing during this period.

Livestock and poultry dealers

The bill also contains provisions affecting the regulation of livestock and poultry dealers by the Division of Animal Industry, renamed the Division of Animal Health under the bill. The bill specifies that no livestock dealer or broker is permitted to employ a person whose dealer's or broker's license was revoked or is currently suspended. Additionally, the bill states that poultry dealers are not required to provide proof of financial responsibility when filing an application for a dealer or broker's license. The bill also specifies that AGR may refuse to grant or to suspend a small dealer's or broker's license if the applicant has had a previous license revoked or suspended two or more times in the previous five years. None of these provisions have any apparent fiscal effect. As of FY 2010, there were 247 licensed livestock and poultry dealers in Ohio.

Grape Industries Committee

The bill expands the authority of the Grape Industries Committee by allowing the Committee to provide grape growers and grape product producers with equipment, grape vines, and other materials to assist in the production of grapes and grape products. Currently, the Grape Industries Committee is responsible for promoting the grape industry, providing information on new growing techniques, and identifying grape varieties suitable for cultivation in Ohio. These activities are supported by a five cent per gallon tax on wine sold, the proceeds of which are deposited into the Grape Industries Fund (Fund 4960). AGR spends approximately \$850,000 each fiscal year on these activities.

The bill also removes the requirement that the Grape Industries Committee spend at least 30% of the revenues it receives from the wine tax on research and analysis concerning the marketing and distribution, production and product development of grapes and grape products. This provision could possibly free up additional funding for the Committee to spend on other initiatives.

Amusement ride inspections

Finally, the bill expands the responsibilities of the Division of Amusement Ride Safety by adding new types of equipment that must be inspected by the Division. The bill adds "inflatable devices" as well as vessels regulated by the Department of Natural Resources, tractors, trucks, automobiles, motorcycles or similar competition vehicles, and animals ridden in competitive events to the list of rides and devices that are currently inspected. These provisions of the bill will increase the number of inspections that must be conducted, thereby increasing costs. It is unclear how many additional inspections would be required as a result of this change. However, in FY 2010, the Division inspected approximately 3,000 amusement rides and licensed approximately 700 games and sideshows. The Division consists of 13 employees and is entirely funded through the Amusement Ride Inspection Fund (Fund 5780), which consists of the proceeds from permit fees and fines. Estimated FY 2011 expenditures for amusement ride safety inspection are expected to be approximately \$1.0 million.

County agricultural societies

The bill applies a new condition to state grants that the Director of Agriculture makes from the Ohio Fairs Fund (Fund 7083) to supplement purses at horse races (running or harness) conducted by county or independent agricultural societies in conjunction with their annual fairs. Specifically, the bill requires any agricultural society that received a purse grant but which cannot hold a race to return a proportional share to the Director of Agriculture for redeposit in Fund 7083. Under current law, each eligible agricultural society among the 94 such organizations statewide is entitled to a grant of \$4,000 for purse money and \$1,000 for track maintenance and related expenses. These amounts may be adjusted higher or lower depending on the availability of money in Fund 7083. Grant applications are due in November; funding is awarded the

following March. As a result of this change, there could be some small amount of foregone grant money returned to Fund 7083 that could be recirculated for other allowable purposes.

In addition to supplementing purses at annual fairs, 12% of the balance in Fund 7083 is distributed annually to support general operations for county and independent agricultural societies that hold annual fairs, and \$120,000 is distributed to the Ohio Expositions Commission for purse money. These uses are not affected by the bill. Over the five previous fiscal years, distributions from Fund 7083 have ranged from a high of \$2.1 million in FY 2006 to a low of \$1.4 million in FY 2010.

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