

Implementing Legislation for the Livestock Care Standards Board Frequently Asked Questions

What is the status of the implementing legislation for State Issue 2?

To date, there has been legislation introduced in the House, HB 414. Ohio Farm Bureau anticipates that the Senate may be introducing similar legislation in the near future. At this time, it is important to remember that prior to enactment there will be a number of hearings in both committees that will give various interested parties an opportunity to weigh in on the legislation, suggest changes, and bring forth new ideas. The “As-Introduced” version of the bill should be considered a starting point for debate.

Where can I read the bill?

A copy of the bill can be read online at (please hyperlink for web use)

http://www.legislature.state.oh.us/BillText128/128_HB_414_I_Y.pdf. If you would prefer to read an analysis of the bill, you can also do so online at:

<http://www.lsc.state.oh.us/analyses128/h0414-i-128.pdf>.

What are the standards being implemented?

This legislation is not implementing the standards. Instead, it provides structure and instructions for the Board. It answers questions like term length, specifies that Board members will serve without pay, provides funding for the Board to conduct its business. The current version of the legislation also specifies that enforcement of standards will be done on a complaint-driven process (as opposed to regular inspections, etc).

How much will it cost and how will it be funded?

The ultimate cost of the Board is going to depend on a number of factors. These factors include use of existing resources and staff, how quickly the program is operational and what new costs might be. Current drafts of the bill propose funding the Board up to an annual amount of \$500,000 dollars. The funds are proposed to be derived from an increase in the commercial feed inspection fee. The feed inspection fee exists today as a 25 cent per ton fee at the first distributor of commercial feed. The As-Introduced version of HB 414 proposes that the fee be raised by 15 cents in three increments of 5 cents. However, there are ongoing discussions about reducing the overall cost of the program and/or about looking to other sources for funding.

What is OFBF's perspective on funding?

Farm Bureau’s philosophy on any matter addressing state budgeting and funding state programs is that programs related to food safety benefit every citizen of our state and, consequently, should be funded out of the general revenue fund (GRF).

However, OFBF understands that there are two additional considerations on this issue. The first is that Ohio is currently in extraordinary budget times and GRF dollars are in exceptionally short supply. In order for the Livestock Care Standards Board and ODA to do their jobs, the program needs a source of funding that is reasonable, transparent and sufficient. This is the only way that we will show Ohioans sincerity with respect to the Livestock Care Standards Board.

The OFBF Board of Trustees has reviewed current resources at ODA which includes eight field inspectors, the nature of any compliance program and the time necessary before funds are needed and has resolved the OFBF will work toward adequate funding for the program - including efficient use of current staff and general revenue funding, if possible. An increase in the commercial feed fee is acceptable if all other strategies fail.

I've heard different figures for the cost of implementing legislation than I heard during the campaign. Why?

During the campaign, the Ohio Office of Budget and Management (OBM) was required to do a fiscal analysis of Issue 2. That analysis estimated that a minimum cost of \$176,000 would be required. This figure included the cost associated with hiring an executive director and support staff to run the day-to-day activities of the Board, pay for the costs associated with meetings for the Board and some startup costs. A copy of that analysis is available online at:

<http://www.sos.state.oh.us/sos/upload/ballotboard/2009/2-analysis.pdf>. The OBM document, as well as OFBF staff discussing that document were very clear that, "It is possible that additional costs could be borne by the Department of Agriculture when implementing the standards of the Board. An estimate of these potential costs was not developed by the Office of Budget and Management because the number and stringency of these future standards is unclear. The Department of Agriculture could require additional staff if implementing the Board's standards cannot be done concurrently with existing regulatory activities" (citing OBM document).

Why are horses included in the definition of livestock?

One of the things that needed to be defined in the enabling legislation is the definition of livestock. Typically, when agriculture refers to livestock it mentions animals used for food and fiber and equines. Although there are different definitions of livestock throughout the revised code, Ohio's livestock dealer law (943.01) includes equines. A copy of this definition can be found online at: <http://codes.ohio.gov/orc/943.01>.

In addition, interested parties have pointed out that a US ban on horse slaughter and the general state of the economy has resulted in an increased number of abandoned horses and horses not receiving adequate care. As a result, it seems rational to include horses under the purview of the Livestock Care Standards Board.

Does the legislation ensure due process and an appeals process?

Yes. The language of the enabling legislation specifically states that rules adopted by the Board and ODA are pursuant to Chapter 119 of the Revised Code. This is the chapter of the revised code that sets out agency rule promulgation, agency enforcement policies, and the appeals process. Chapter 119 can be reviewed online at: <http://codes.ohio.gov/orc/119>.

Why does this legislation contain a "right of entry" proposal? Doesn't that violate our constitutional rights?

Current versions of the Issue 2 enabling language do include a right of entry provision, and some people have expressed a concern with that language. There is "right of entry" language in the bill, which would allow ODA to investigate suspected cases of non-compliance. This is common throughout the Ohio Revised Code. Similar language has been used throughout the code in state agencies farmers commonly deal with, including ODA, the Environmental Protection Agency,

and the Department of Natural Resources since as early as 1973. Other instances where this is common include meat, dairy, seed and egg inspections.

Specific sections of the Ag law that currently include a right of entry include:

<http://codes.ohio.gov/orc/901.73> (901.73 - livestock exhibitions)

<http://codes.ohio.gov/orc/917.19> (917.19 - Milk/Dairy issues)

<http://codes.ohio.gov/orc/923.47> (923.47 - seed inspection)

<http://codes.ohio.gov/orc/925.07> (925.07 - Eggs)

<http://codes.ohio.gov/orc/943.12> (943.12 - Auction houses, etc)

Is there a process to reduce frivolous complaints?

This would likely be handled by the rulemaking process. However, it is likely that most complaints will be fully reviewed and truly frivolous complaints handled just as they are in current law.

How will the Board work with existing resources and county humane agents?

It is important to note that the duties of the Board are not intended to infringe upon the role that County Humane Agents and local prosecutors play in addressing instances of animal cruelty or abuse. That is existing law, and the current versions of enabling legislation make it clear that the Livestock Care Standards Board neither adds to nor infringes upon the duties of a county humane agent. The language of Issue 2 clearly indicates that ODA, not local humane societies, will enforce standards created by the Board, and this is reflected by the enabling language. Moreover, the current versions of enabling legislation further clarify this by making enforcement of Board standards a civil matter. County humane agents (and county prosecutors) will continue to have jurisdiction over animal cruelty matters, which are generally criminal charges.

Are there any protections for small producers, organic, or niche farming?

Any action taken would treat all farmers – regardless of production size or method, fairly. Thus, they will have the same access to testify regarding proposed standards and would have equal access to the appeals process. Moreover, Farm Bureau will continue to be engaged in the process and will continue to be an advocate for all of Ohio agriculture.

How do I apply for an appointment?

Senate President Bill Harris has already made an appointment to the Board. Others interested in applying should work with the appointing entity. That includes one seat appointed by the Speaker of the House of Representatives and 10 seats appointed by the Governor. Application for those seats can be made online at: <http://www.governor.ohio.gov/Default.aspx?tabid=61>

Where can I go for more information?

<http://ofbf.org/news-and-events/livestockcareboard>