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BILL ANALYSIS

NOV 23 1987

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Senate Bill 534 (Substitute S-2 as reported)

Sponsor: Senator Nick Smith

Committee: Agriculture and Forestry

Date Completed: 11-12-87

RATIONALE

The agriculture industry is changing from small, family-owned operations to large intensive agribusiness corporations. A farming activity that has developed as a result of modern agriculture practices is intensive livestock operations. Commonly known as beef or cattle feedlots, egg stations, hog hotels, and chicken condos, these operations are characterized by large concentrations of livestock raised in a relatively small area. Just as the agriculture industry is undergoing a transition, so is the rural landscape. Today, many urban and suburban dwellers are moving to the country. As a result, the intensive livestock operations that are the latest addition to the growing class of land uses, such as sanitary landfills, prisons, airports, and nuclear waste dumps, are sparking controversy between the farm and nonfarm communities. Some people believe that the handling of livestock and poultry in intensive operations has emerged as one of the most critical policy issues in the State, and that a solution is needed to allow the agricultural and residential interests to co-exist.

CONTENT

The bill would amend the Michigan Right to Farm Act to require the State Agriculture Commission, instead of the Director of the Department of Agriculture, to develop the policy of generally accepted agricultural and management practices. Those practices would have to be reviewed annually by the Commission and revised as necessary. (Under the Act, a farm or farm operation cannot be found to be a public or private nuisance if it conforms to that policy.) The bill also would establish a procedure for the resolution of disputes between a person and a farm owner, tenant, or operator.

"Generally accepted agricultural and management practices" would mean those practices defined by the Commission pursuant to written recommendations from the Michigan State University College of Agriculture and Natural Resources Cooperative Extension Service and the Agricultural Experiment Station in cooperation with the U.S. Department of Agriculture Soil and Conservation Service and the Agricultural Stabilization and Conservation Service, and the Department of Natural Resources.

A person who alleged that a farm or farm operation was a public or private nuisance, or the owner, tenant, or operator of a farm or farm operation alleged to be a public or private nuisance, could make a request in writing to the township supervisor or chief elected officer of the local governing body to provide an informal conference on the issue in dispute. "Person" would mean an individual, corporation, partnership, association, or other legal entity.

The township supervisor or chief elected officer of the local governing body, or his or her authorized representative, would be required to invite the person and the owner,

tenant, or operator of the farm or farm operation to attend the informal conference and to explain orally or in writing the issue in dispute. The township supervisor or chief elected officer, or his or her authorized representative, would be required to take measures as he or she considered expedient to effect a voluntary, amicable, and expeditious adjustment and settlement of the parties' differences, and would be required to assist in negotiating and drafting any agreement for the adjustment and settlement of their differences.

All costs that pertained to the informal conference would have to be borne equally by the person and the owner, tenant, or operator of the farm or farm operation.

The State Agriculture Commission would be required to compile and maintain a list of persons who had expertise in generally accepted agricultural and management practices and dispute resolution. This list would have to be made available to the township supervisor or chief elected officer of the local governing board, or his or her authorized representative, and to other persons who were involved under the bill.

MCL 286.472 et al.

FISCAL IMPACT

The bill would have no impact on State or local government.

BACKGROUNDState/Federal Laws

There are several State and Federal statutes that affect farming in the State. The Michigan Right to Farm Act (Public Act 93 of 1981) provides that farming operations may not be restricted to a certain time or day of the week, and that operations must be conducted according to generally accepted agricultural management practices. The policy of the Director of the Department of Agriculture reportedly is that a farm operation, as defined in the Act, must be conducted with consideration to noise, dust, odors, and fumes normally associated with such operations. The Air Pollution Act (Public Act 348 of 1985) exempts usual and ordinary animal odors associated with farming located in an agriculturally zoned area, if the operation is in keeping with traditional animal husbandry practices for the area. The Michigan water resources Act (Public Act 245 of 1924) allows the Department of Natural Resources to require permits for certain agricultural activities. Direct or indirect discharge of wastes into the State's waters is unlawful. The Environmental Protection Act (Public Act 127 of 1970) authorizes any person to initiate a lawsuit to protect the environment from pollution, impairment, or destruction.

The Federal Water Pollution Control Act establishes a planning function for area-wide and statewide waste

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treatment management. The planning must include a process to identify and control pollution from surface runoff and the disposal of pollutants on the land. Under the Federal Solid Waste Disposal Act of 1965, and subsequent amendments, guidelines were developed to provide for groundwater protection resulting from pollution activities and surface drainage and also for site development to minimize the impact on groundwater. While the guidelines are mandatory for Federal agencies, they serve as recommended practices for non-Federal agencies. The National Environmental Policy Act of 1969 requires all Federal agencies to prepare environmental impact statements on major Federal or Federally regulated action that significantly affects the quality of the environment. The Federal Safe Drinking Water Act of 1974 regulates underground injections which may endanger underground drinking water sources.

Task Forces

A Right-to-Farm Task Force, composed of individuals from public and private agencies and organizations, was established in 1985 by the Director of the Department of Agriculture to address concerns relative to intensive livestock operations. In 1986, this task force issued a report and subsequently was disbanded.

The Department of Agriculture also established an Animal Waste Task Force, composed of more than 100 participants and three study groups dealing with management practices, information and education, and legislation.

The Michigan Agriculture Credit Task Force, a 12-member Senate agricultural task force, was charged with developing long-term legislative recommendations to create a favorable climate for a viable and prosperous Michigan agriculture.

ARGUMENTS

Supporting Argument

A program needs to be developed whereby intensive livestock operations can safely co-exist with nonfarm neighbors. Farmers who are practicing acceptable agricultural techniques need protection against frivolous and costly lawsuits, while consideration also must be given to eradicating unsound environmental practices. The bill would provide a method under which these disputes could be resolved without the agriculture industry continually being pulled into court to answer challenges to animal agriculture operations.

Supporting Argument

The bill would establish a mechanism for defining "generally accepted agricultural and management practices" that would involve agriculture experts and would have to be reviewed annually. Research currently is under way to develop new farm management technologies for the future. According to the Michigan Farm Bureau, Michigan is among the leading states addressing the animal agriculture issue through research. The Farm Bureau notes that a project is under way at Michigan State University's Kellogg Biological Station near Battle Creek that involves a dairy farm with a nearby lake. The Farm Bureau reports that by using a system of liquid-solid separation and composting, this dairy is managing manure with little or no odor, and that lake monitoring verifies that the farm is not adversely affecting water quality. This is just one example of work being done to address concern over the handling of livestock and poultry by-products. By requiring input from various agriculture agencies in determining accepted agriculture practices, the bill would

ensure that up-to-date information on agriculture and management practices was available when these disputes were resolved.

Supporting Argument

Agriculture is Michigan's second leading industry, generating approximately \$16 billion annually, according to Michigan State University. Michigan also is a major contributor to America's bread basket, ranking among the top 10 states in production of nearly 50 agricultural commodities. The future of Michigan agriculture depends on expansion in the area of animal agriculture. With current migrations of urban dwellers to rural areas and controversies surrounding intensive agricultural operations, methods are needed to resolve disputes while not injuring the economic interest of the agriculture industry and at the same time addressing environmental concerns.

Opposing Argument

Farmers are independent, large in number, diverse in type of operation, and subject to natural forces and widely fluctuating markets and prices. All of these factors make it difficult to develop a system of equitable regulation intended to protect farm neighbors and the environment without unfairly limiting the farmer.

Response: While farmers face many uncertainties, it is in their best interest to make sure that the environment is protected not only for their neighbors but for the health and safety of their own families. In the long run, agriculture may be called upon to give an accounting of its stewardship of land and water resources.

Opposing Argument

The environmental impact of intensive livestock operations is relatively unknown. It appears that the bill would give more protection to farmers, without adequately addressing concerns about the effect that intense agriculture operations have on the environment and public health.

Response: The Agriculture Credit Task Force, a 12-member Senate agricultural task force, has recommended investing State funds in developing clean environmental policies that do not inhibit agricultural development. The task force's proposed environmental policies call for agriculture representation on commissions that rule on agriculture pollution matters and flexibility to administer environmental laws based on specific geographical location, weather, soil type and conditions, and management system. State policies, the task force noted, must be based on an understanding that normal and accepted agricultural practices produce a certain degree of noise, dust, and odors. "Well intended but over zealous environmental protection, based on emotion rather than fact, has the potential to cripple the profitability of agriculture. A clean and safe environment must be maintained. Yet, environmental safety paranoia in the form of unduly restrictive or prohibitive regulations must not be allowed to destroy an entire industry with the importance and potential agriculture has in Michigan", the task force said.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.