

CS for EHB 2646

1 THE STATE SENATE
2 Thursday, April 6, 2006

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 2646

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2646 - By: DeWITT,
7 ARMES, DENNEY, BLACKWELL, GLENN, ELLIS, HICKMAN, PRUETT, WALKER,
8 ROGGOW and BILLY of the House and GARRISON of the Senate.

9 [agriculture - CAFO Rural Economic Development Initiative
10 Act - effective date]

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. NEW LAW A new section of law not to be
13 codified in the Oklahoma Statutes reads as follows:

14 This act shall be known and may be cited as the "CAFO Rural
15 Economic Development Initiative Act".

16 SECTION 2. AMENDATORY 2 O.S. 2001, Section 9-205.1, as
17 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
18 2005, Section 20-8), is amended to read as follows:

19 Section 20-8. A. 1. Any person applying for a license for ~~an~~
20 a new or expanding animal feeding operation shall comply with the
21 notice and hearing requirements as specified by this section and
22 rules promulgated ~~pursuant thereto~~ by the State Board of
23 Agriculture.

24 2. Notice requirements shall include notice to affected
25 property owners by certified mail, return receipt requested pursuant

1 to subsection C of this section and public notice pursuant to
2 subsection D of this section.

3 B. After submission of a completed application as provided by
4 the Oklahoma Concentrated Animal Feeding Operations Act and rules
5 promulgated thereto, the ~~State~~ Oklahoma Department of Agriculture,
6 Food, and Forestry shall have sixty (60) working days to review the
7 application for a new or expanding operation for physical and
8 technical suitability.

9 C. 1. After ~~such~~ review and after the applicant has submitted
10 any additional required information to the Department, the
11 Department shall require the applicant to notify all affected
12 property owners of the proposed facility or expanding ~~operations~~
13 operation. ~~Such notice~~ Notice shall be sent by certified mail,
14 return receipt requested. The notice shall identify that an
15 application for ~~an~~ a new or expanding animal feeding operation has
16 been submitted to the Department, the location where the facility is
17 to be located, that a hearing may be requested pursuant to this
18 subsection, and the date the application will be available for
19 public review, ~~which shall begin~~ beginning no earlier than the day
20 following the certified mailing of all the required notices, and
21 ~~such~~ any other information required by the Department.

22 2. Each affected property owner requesting a hearing shall
23 submit, in writing, the following information:

- 1 a. the name and address of the interested party and proof
2 of standing by showing that the interested party is an
3 affected property owner,
4 b. a statement of specific allegations showing that the
5 proposed facility or expanding operation may have a
6 direct, substantial and immediate effect upon a
7 legally protected interest of the interested party,
8 and
9 c. the relief sought by the interested party.

10 3. If any of the affected property owners request an
11 administrative hearing and all information listed in paragraph 2 of
12 this subsection is found to be complete and adequate in the request
13 for hearing, such the scheduling conference for the hearing shall be
14 held by the Department at a reasonable time within ~~not less than~~
15 ~~thirty (30) days nor more than~~ sixty (60) calendar days after the
16 close of the public review period ~~pursuant to subsection D of this~~
17 ~~section.~~ Should the interested party have failed to provide any of
18 the information listed in paragraph 2 of this subsection, the
19 interested party shall have thirty (30) calendar days with which to
20 cure any deficiencies. All interested parties may be joined as
21 parties to the hearing ~~pursuant to rules promulgated by the State~~
22 ~~Board of Agriculture.~~

1 and the applicant shall be afforded a reasonable
2 opportunity to present evidence and argument to
3 controvert those allegations.

4 b. For new applications submitted on and after ~~the~~
5 ~~effective date of this act~~ August 1, 1998, the
6 Department shall deny the issuance of a license to an
7 applicant for a licensed managed feeding operation if
8 an interested party within:

9 (1) one (1) mile of the designated perimeter of the
10 proposed licensed managed feeding operation or
11 expansion thereof, or

12 (2) the setback distance of an occupied residence ~~as~~
13 ~~provided in subsection A of Section 16 of this~~
14 ~~act~~ if ~~such~~ setback distances are greater than
15 one (1) mile,

16 proves that the granting of the license will cause
17 significant harm to the property value of the
18 interested party.

19 5. Any administrative hearing held pursuant to the provisions
20 of this subsection shall comply with ~~Article II of the~~
21 Administrative Procedures Act and rules promulgated ~~pursuant thereto~~
22 by the ~~Department~~ Board.

1 6. Establishment of property usage ~~which~~ is the date the animal
2 feeding operation application was made available, ~~pursuant to this~~
3 ~~section,~~ for public review versus date of initial construction or
4 placement of occupied residence and shall be given consideration
5 when determining a contested matter between an applicant and an
6 interested party on issues other than pollution of the waters of the
7 state.

8 D. 1. In addition to the individual notice ~~required by~~
9 ~~subsection C of this section,~~ the Department shall require the
10 applicant to give public notice of the opportunity to comment on the
11 granting of the license.

12 2. The public notice for a new or expanding operation shall be
13 published as a legal notice prior to the date the application is
14 available for public viewing, in at least one newspaper of general
15 circulation in the county where the proposed facility or expanding
16 operation is to be located.

17 3. The notice shall identify locations where the application
18 shall be available for viewing. ~~Such~~ The locations shall include
19 the office of the Department and a specific public location in the
20 county where the proposed facility or expanding operation is to be
21 located.

22 4. The application shall be available for public review during
23 normal business hours. The copies of the application posted for

1 public viewing shall be complete except for proprietary provisions
2 otherwise protected by law and ~~must~~ shall remain posted during
3 normal business hours for at least twenty (20) working days after
4 notice is published.

5 5. The Department, as necessary, may hold public meetings at a
6 location convenient to the population center nearest the proposed
7 facility or expanding operation to address public comments on the
8 proposed facility or expanding operation.

9 E. Prior to the issuance of any license for an animal feeding
10 operation, or expanding operation, the Department shall require the
11 applicant to submit:

12 1. Documentation certifying notice has been issued to all
13 affected property owners. A map of all affected property owners and
14 the corresponding mailing list shall be submitted with each
15 application; and

16 2. Proof of publication notice of a new or expanding
17 application for an animal feeding operation license ~~required by this~~
18 ~~section.~~

19 ~~F. Applicants for licenses for licensed managed feeding~~
20 ~~operations with a capacity of more than two thousand (2,000) animal~~
21 ~~units which have given the notice required by this section to all~~
22 ~~surface property owners within one (1) mile of the designated~~
23 ~~perimeter of the operation prior to March 9, 1998, shall not be~~

1 ~~required to provide notice by mail to owners of surface property~~
2 ~~more than one (1) mile but within two (2) miles of the designated~~
3 ~~perimeter of the operation.~~

4 SECTION 3. This act shall become effective November 1, 2006.

5 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
6 dated 4-4-06 - DO PASS, As Amended.