

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1411

By: Easley

AS INTRODUCED

An Act relating to agriculture; creating the Oklahoma Poultry Education and Waste Management Act; providing short title; defining terms; creating the Oklahoma Poultry Education and Waste Management Board; stating purpose; stating membership; stating requirements; providing terms; providing for meetings; prohibiting salary and authorizing travel expenses; authorizing members to serve on other boards; stating powers, duties and responsibilities; requiring certain annual meeting to approve budget; providing for meetings; authorizing Board to appoint executive director; authorizing executive director to employ certain employees; stating employees shall be unclassified; providing for legal counsel; creating the Oklahoma Poultry Education and Waste Management Revolving Fund; stating requirements for expenditure of monies for certain purposes; prohibiting travel expenses for certain persons; authorizing Board to assess certain annual fees on certain poultry growers and poultry integrators; providing for remittance of fees; providing for Board to collect certain unpaid fees; providing for refund of certain fees for certain purposes; authorizing Board to promulgate rules relating to refunds; requiring certain notices for refund applications; prohibiting persons requesting refunds from serving on Board; authorizing Board to invest funds; prohibiting Board from utilizing funds to influence governmental actions or policies; stating construction; authorizing Board to join certain national program if established; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-51 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Poultry Education and Waste Management Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-52 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Board" means the Oklahoma Poultry Education and Waste Management Board;
2. "Person" means any individual, group of individuals, or any partnership, corporation, association, cooperative, or employee thereof, or any other entity;
3. "Poultry integrator" means any person who provides:
 - a. another person with "poultry chicks" to be raised for commercial sale, or
 - b. feed and transportation to another person within this state for the purpose of raising poultry and transporting and marketing poultry anywhere;
4. "Poultry grower" means any person who receives poultry chicks from a poultry integrator and provides shelter and services for a period of time for the purpose of raising such poultry chicks to a marketable maturity;
5. "Water user representative" means a person who is employed by a city or municipality, county, state or other governmental entity who is primarily responsible for the water needs of such entity or a person who is a member of the governing body of any political subdivision of this state and who is primarily responsible for the water needs of such entity;
6. "Poultry waste" means poultry excrement, poultry carcasses, feed wastes or any other waste associated with the confinement of poultry whether or not such waste is attributable to a registered poultry feeding operation pursuant to the provisions of the Oklahoma Registered Poultry Feeding Operations Act or any other poultry production operation located within this state; and

7. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Process wastewaters shall not be considered as waters of the state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-53 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created until July 1, 2012, the Oklahoma Poultry Education and Waste Management Board, which shall be subject to the provisions of the Oklahoma Sunset Law. The purpose of the Board is to coordinate a program designed to demonstrate the importance of the poultry industry to the state, to encourage wise and efficient use of poultry litter, to promote environmentally sound production methods and technologies, to protect the waters of the state, to support research and educational activities relating to the poultry production industry and to fund and support remediation projects to protect Oklahoma's streams, rivers and lakes from negative environmental effects attributable to poultry production.

B. The Oklahoma Poultry Education and Waste Management Board shall consist of nine (9) members as follows: three members shall represent poultry integrators; three members shall represent poultry growers and three members shall be water user representatives as defined in Section 2 of this act. Three members, one representing each of the above-mentioned groups, shall be appointed by the Governor, three by the President Pro Tempore of the Oklahoma State

Senate and three by the Speaker of the Oklahoma House of Representatives.

C. The members of the Board shall:

1. Be at least twenty-five (25) years of age and be a legal resident of this state; and

2. Have at least five (5) years of active experience in the poultry industry or five (5) years of active experience related to water quality protection.

D. The term of office for each Board member shall be three years and members may be eligible to serve additional terms. The initial appointments to the Board shall be made no later than September 1, 2006, and the appointing authority shall stagger the terms of each appointed member so that not more than three members' terms shall expire in any year. Vacancies shall be filled for the unexpired term of office in the same manner as the original appointment. Members may be removed from office by their appointing authority or as otherwise provided by law.

E. At the first meeting of the Board, which shall be called by the Governor, the Board shall elect from its membership a chair and vice-chair who shall perform such duties as may be required by the Board. No member shall receive a salary for duties performed as a member of the Board; however, members are eligible to receive reimbursement for travel and expenses as provided in the State Travel Reimbursement Act.

F. Members serving on the Board shall be eligible to serve on any other state board or commission if such member is otherwise qualified to hold such appointive office, notwithstanding the provisions of Section 6 of Title 51 of the Oklahoma Statutes.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-54 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Poultry Education and Waste Management Board shall have the following powers, duties and responsibilities:

1. Administer and enforce the provisions of this act;
2. Establish an office for the Board within this state;
3. Elect a chair, vice-chair and any other officers as the Board deems necessary to comply with the provisions of this act;
4. Employ personnel, as authorized in Section 6 of this act, as the Board deems necessary to comply with the provisions of this act, including, but not limited to, an executive director and an attorney to provide legal assistance to the Board;
5. Establish and administer the Poultry Education and Waste Management Revolving Fund;
6. Approve the budget of the Board;
7. Promulgate rules as necessary to comply with the provisions of this act;
8. Enter into contracts or agreements for studies, research projects, experimental work, supplies or other services to comply with the provisions of this act and incur those expenses necessary to comply with the requirements. Any such contract or agreement shall provide that:
 - a. the person entering the contract or agreement on behalf of the Board shall develop and submit to the Board a plan or project together with a budget or budgets that show estimated costs to be incurred for the plan or project, and
 - b. the person entering the contract or agreement shall keep accurate records of all transactions, account for funds received and expended and make periodic reports as the Board, or other applicable state laws or rules, may require;
9. Keep accurate financial records of all financial transactions performed pursuant to this act. The Board shall cause

an independent audit to be performed annually, and an annual report shall be compiled and presented to the Governor, the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives;

10. Cooperate with any private, local, state or national commission, organization, agency or group and to make contracts and agreements for joint programs beneficial to the poultry industry;

11. Accept donations, grants, contributions and gifts from any public or private source and deposit such in the Poultry Education and Waste Management Revolving Fund;

12. Approve the investment of any monies in the Poultry Education and Waste Management Revolving Fund pursuant to the requirements otherwise provided by law; and

13. Keep an accurate record of all assessments collected pursuant to the provisions of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-55 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. There shall be an annual meeting of the Board at which the annual report and proposed budget will be presented and approved by the Board. At the call of the chair, the Board shall hold at least three other regular meetings each year. The Board shall establish the time, manner and place of all meetings and shall be subject to the provisions of the Oklahoma Open Meeting Act. A majority of the members shall constitute a quorum for the transaction of any business. The Board shall determine the circumstances under which additional meetings of the Board may be held.

B. The Board may appoint an executive director who shall be the chief executive officer of the agency. The Board shall appoint the executive director, fix the duties and compensation of the executive director and the method by which the executive director may be removed and delegate to the executive director such other powers and

duties as the Board deems appropriate. The executive director shall not be an appointed member of the Board and shall not be allowed a vote on any issue before the Board.

C. The executive director may employ such other officers, agents and employees, fix their compensation and the method by which they may be removed and delegate to them such power and duties as the executive director may deem proper. The executive director of the Board and all employees shall be unclassified employees of the State of Oklahoma.

D. In addition to any legal counsel employed or retained by the executive director, the Board is authorized to employ an attorney to perform any services on behalf of the Board as it deems necessary. The Board shall fix the compensation of such attorney which shall be paid by the agency.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-56 of Title 2, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Poultry Education and Waste Management Board to be designated the "Oklahoma Poultry Education and Waste Management Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Poultry Education and Waste Management Board from fees, gifts or donations authorized by this act and appropriated by the Legislature. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Poultry Education and Waste Management Board for the purpose of complying with the provisions of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-57 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. To fund the activities of the Oklahoma Poultry Education and Waste Management Board, the Board shall assess annual fees on the following:

1. Each poultry grower shall pay a fee for each poultry house as listed and approved by the Oklahoma Department of Agriculture, Food, and Forestry; and

2. Each poultry integrator shall pay a fee for each ton of poultry feed provided to any poultry grower subject to the fee assessed in paragraph 1 of this subsection.

B. The amount of the assessments, levied pursuant to subsection A of this section, shall be determined by the Board.

C. Such assessment shall be remitted to the Oklahoma Tax Commission at the same time and in the same manner as is provided by law for payment of other taxes due by poultry integrators. To defray the costs of receiving and depositing assessments levied by this section, the Tax Commission shall retain one percent (1%) of the assessments received for deposit in the Oklahoma Tax Commission Revolving Fund. The remaining monies received pursuant to this section shall be deposited in the Oklahoma Poultry Education and Waste Management Revolving Fund.

D. The Board shall be responsible for taking appropriate legal action to collect any assessment which is not paid, or is not properly paid. The Tax Commission shall not be responsible for collecting any assessment not remitted to the Tax Commission for deposit in the Oklahoma Poultry Education and Waste Management Revolving Fund. The Tax Commission shall report to the Board any information it obtains regarding failure of any person to properly pay the assessment due, including any documentation it may have of such failure.

E. Of the monies collected pursuant to subsection A of this section, a minimum of fifty percent (50%) of such monies shall be expended on environmental cleanup and remediation projects related to poultry waste pollution which have been approved by the Board from a priority list of projects submitted by the Oklahoma Department of Agriculture, Food, and Forestry, the Department of Environmental Quality, the Oklahoma Water Resources Board, the Oklahoma Conservation Commission and other appropriate federal, state, local or regional environmental agencies or entities.

F. Monies collected pursuant to this act shall not be used for travel expenses for any member of the Oklahoma Legislature.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-58 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person subject to the assessments levied by subsection A of Section 7 of this act may request a refund of all or any portion of the assessment paid for the preceding year. Upon compliance with the provisions of this section and rules promulgated by the Oklahoma Poultry Education and Waste Management Board to implement this section, the Board shall refund to each person requesting a refund of the amount of the assessment or portion thereof paid by or on behalf of such person during the preceding calendar year. Refunds will include interest earned at the rate equal to the average United States Treasury bill rate of the preceding calendar year as certified by the State Treasurer.

B. In promulgating rules to implement the provisions of this section, the Board shall require any refund requests to be based only on extreme financial hardship of the person requesting such refund, as determined by the Board. Each refund request must be approved by the Board.

C. The Board shall give notice of the availability of the refund through press releases, paid advertisements placed in the

newspaper with the largest general circulation within each county in the state as the Board may determine necessary and such other means as it deems appropriate.

D. Each person requesting a refund shall execute an affidavit, provided by the Board, showing the amount of refund requested, and the affiant was the owner of the poultry houses for which the refund is requested. The Board may verify, principally through the use of audits, the accuracy of the request for refund. In verifying the accuracy of a request for refund, the Board shall exercise its authority in a manner that will reduce, to the extent practicable and appropriate, the burden on persons providing the information to the Board.

E. No person who requests a refund under this section shall be eligible to serve or have a representative serve as a member of the Board.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-59 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Poultry Education and Waste Management Board may invest, pending disbursement, funds collected through assessments only in obligations of the United States or any agency thereof, in general obligations of any state, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

B. The Board shall be prohibited from utilizing any funds collected pursuant to this act for the purpose of influencing governmental action or policy, with the exception of recommending amendments to this act.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-60 of Title 2, unless there is created a duplication in numbering, reads as follows:

Nothing in this act may be construed to preempt or supersede any other program relating to poultry production education, marketing, environmental research and remediation under the laws of this state or the United States or any order of any court of law of this state or the United States. The provisions of this act applicable to the promulgation of rules shall be applicable to amendments to such rules. In the event of the establishment of a national program for an assessment on poultry production, the Oklahoma Poultry Education and Waste Management Board may, by majority vote, elect to designate up to a maximum of fifty percent (50%) of the funds collected pursuant to this act to such national program in lieu of an additional assessment as may be required by such national program.

SECTION 11. This act shall become effective July 1, 2006.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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