

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7388**

**BILL NUMBER:** HB 1197

**NOTE PREPARED:** Feb 21, 2007

**BILL AMENDED:** Feb 20, 2007

**SUBJECT:** Regulation of Confined Feeding Operations.

**FIRST AUTHOR:** Rep. Pflum

**FIRST SPONSOR:**

**BILL STATUS:** As Passed House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State

**Summary of Legislation:** (Amended) *Prohibition:* The bill prohibits construction of a confined feeding operation (CFO) within one mile of a public school, a licensed health facility, or a municipality. The bill excepts new construction within one mile from those entities if they located within one mile of a CFO. The bill also excepts the expansion of an existing CFO. The bill provides that the exception applies only if the person proposing the construction or expansion has not committed an environmental violation. It allows a person that would be restricted by the one-mile limitation to appeal to the local zoning authority or county executive for an exemption.

*Department of Environmental Management (IDEM):* It requires IDEM to establish civil penalty matrices for various categories of violations relating to CFOs. It requires IDEM to inspect each CFO at least one time each year. It also requires IDEM to revoke the CFO approval or permit of a person on the third occurrence of an environmental conviction or the imposition of certain environmental civil penalties.

*Annual Inspection Fee on CFOs:* The bill applies an annual inspection fee on CFOs that is deposited in a confined feeding fund and used to fund IDEM CFO inspections.

*Court Action:* In certain court actions brought against a CFO owner or operator, the bill allows the prevailing party to recover costs and attorney fees.

*County Regulation of CFOs:* In a county that does not have an ordinance in effect regulating CFO location, construction, or operation, the bill allows the county legislative body before January 1, 2008, to retroactively regulate by adopting an ordinance within 90 days of the CFO approval date.

*State Chemist:* The bill requires the State Chemist to establish a training program for CFO manure applicators and haulers and to report to the General Assembly concerning the training program.

**Effective Date:** Upon passage; July 1, 2007.

**Explanation of State Expenditures:** (Revised) *Prohibition:* The bill provides that IDEM may not approve an application of a CFO under certain circumstances. This provision will have a minor impact on IDEM administrative expenses. IDEM would need to notify operators of the new prohibition.

*IDEM:* IDEM must establish civil penalty matrices. IDEM should be able to accomplish this task given its existing level of resources.

*IDEM Inspections:* IDEM must inspect each CFO and CAFO at least once a year. Currently, IDEM is required to inspect once every 5 years. In practice, inspections occur about once every 7 years.

The CFO Inspection Fund is to permit IDEM to inspect CFOs and CAFOs. IDEM must administer the fund. Money in the fund is annually appropriated to IDEM for inspections. Expenses of administering the fund must be paid from money in the fund. Money in the fund at the end of a fiscal year does not revert to the state General Fund.

*State Chemist:* Before November 1, 2007, the State Chemist must submit a report concerning the status of the Manure Handling Program to the General Assembly in an electronic format. The State Chemist should be able to accomplish this task given its existing level of resources.

**Explanation of State Revenues:** *Civil Penalty Matrices:* The range of the penalties for each category of the civil penalty matrix is as follows:

- (1) First time violations, \$100 to \$25,000 for each day of violation.
- (2) Repeat violations, \$500 to \$50,000 for each day of violation.
- (3) Intentional violators, \$10,000 to \$100,000 for each day of violation.

The amount of revenue that will be collected from civil penalties is indeterminable. Civil penalties are deposited in the state General Fund.

*Annual Inspection Fee:* Each of the 1,600 CFOs must pay an annual inspection fee of \$500, which would generate \$800,000 annually. Each of the 575 CAFOs must pay an annual inspection fee of \$750, which would generate \$431,250 annually. Total fee collections for annual inspections are estimated at \$1.2 M.

Fees collected must be deposited in the Confined Feeding Inspection Fund. The Treasurer of State must invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Money in the fund at the end of a fiscal year does not revert to the state General Fund.

**Explanation of Local Expenditures:** (Revised) *County Regulation of CFOs:* Before January 1, 2008, certain county legislative bodies may regulate retroactively CFOs by adopting an ordinance within 90 days of the CFO approval date. This provision could increase administrative expenses for certain counties; however, it is expected that the counties involved will be able to cover any additional administrative costs.

**Explanation of Local Revenues:**

**State Agencies Affected:** IDEM, Treasurer of State.

**Local Agencies Affected:** (Revised) Counties.

**Information Sources:** Sandra Flum, IDEM, 317-233-9479.

**Fiscal Analyst:** Bernadette Bartlett, 317-232-9586.