

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6159

BILL NUMBER: HB 1074

NOTE PREPARED: Feb 24, 2009

BILL AMENDED: Feb 17, 2009

SUBJECT: Confined Feeding Operations.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR: Sen. Gard

BILL STATUS: As Passed House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill establishes good character disclosure requirements for confined feeding operations (CFOs) and concentrated animal feeding operations (CAFOs). It requires operators to maintain liability insurance. It allows the Department of Environmental Management (IDEM) to review and act on disclosed good character information. The bill also provides that: (1) IDEM approval of operations applies to both original construction and modifications; (2) the requirement for notice to owners and occupants of neighboring land applies to all operations; and (3) notice be published after an application or notice of intent is filed.

Effective Date: January 1, 2010.

Explanation of State Expenditures: *Disclosure Requirements and Other Administrative Duties.* A responsible party must submit to IDEM a disclosure statement and certain additional information. IDEM may investigate and verify the information. Based on findings, the commissioner may deny the application. The bill provides that the Solid Waste Management Board must adopt rules to administer the provisions of the bill. It is expected that IDEM's current level of resources should be sufficient to implement these changes.

For FY 2008, IDEM reverted over \$5.9 M in state General Fund revenues. Total reversions for all funds equaled \$14.4 M.

Penalty: The bill provides that disclosure statements are subject to the penalty for perjury, a Class D felony. A Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is

approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately 10 months. However, any additional expenditures are likely to be small.

Explanation of State Revenues: *Penalty:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. The bill also provides that a person who hauls manure in violation of the provisions of the bill commits a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenues would likely be small.

Explanation of Local Expenditures: Applicants who apply for approval to construct a CAFO or to modify a CFO or CAFO on land that is undeveloped or for which a valid existing approval has not been issued must notify the county executive. This provision should have minimal impact on the county.

Penalty: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Penalty:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

State Agencies Affected: IDEM, DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies, and counties.

Information Sources: State Budget Agency.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586; Jessica Harmon, 317-232-9854.