

SENATE BILL REPORT

ESHB 2278

As of April 3, 2009

Title: An act relating to the sales and use tax exemption for livestock nutrient management equipment and facilities.

Brief Description: Concerning the sales and use tax exemption for livestock nutrient management equipment and facilities.

Sponsors: House Committee on Finance (originally sponsored by Representatives Pettigrew, Chandler, Blake, Johnson, Bailey and Schmick).

Brief History: Passed House: 3/09/09, 92-2.

Committee Activity: Agriculture & Rural Economic Development: 3/19/09, 3/24/09 [DP-WM].

Ways & Means: 4/02/09.

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Hatfield, Chair; Ranker, Vice Chair; Schoesler, Ranking Minority Member; Becker, Haugen, Morton and Shin.

Staff: Bob Lee (786-7404)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: In 1998 the Dairy Nutrient Management Act was updated and required all dairies to develop and implement nutrient management plans. The act required that the plans must meet certain specifications and be approved by a conservation district. After the approved plan was fully implemented, including the construction of required facilities, then the plan could be certified. The deadline for certification was set for December 31, 2003.

In 2001 the Legislature provided an exemption from sales and use taxes for dairy nutrient management equipment and facilities, and related services. To be eligible, the person had to have a certified dairy nutrient management plan.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2006 the sales and use tax exemption was broadened to beyond dairy to other sectors of the livestock industry that had approved nutrient management plans.

Since that time, issues have arisen regarding what qualifies for the sales and use tax exemption.

Summary of Bill: The nutrient management sales and use tax exemption is limited to a fixed list of equipment and facilities. Labor and services related to the construction of a new livestock nutrient management facility or the replacing of such a facility are explicitly excluded from the sales and use tax exemption. A statutory definition of "handling and treatment of livestock manure" is provided.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Agriculture & Rural Economic Development):
PRO: The industry has been cooperating with the Department of Revenue (DOR) on the approach of developing a list of equipment and facilities to create greater clarity on what qualifies for the exemption. There have been significant costs of litigation to both the state and the industry over what qualifies for the exemption. Because Washington State has most stringent requirements for nutrient management for protecting water quality, this tax exemption was established to help the industry with the increased costs. The estimated number of livestock operations and the amount to be expended by each operation are too high leading to an overly high fiscal impact. The bill was written to reduce the fiscal note by excluding hobby-sized farms that have a gross income of less than \$10,000 per year. To qualify for the tax exemption, the livestock operation has to have an approved livestock nutrient plan. The estimated fiscal impact of this tax exemption in the 2008 DOR booklet was listed as \$520,000 per year but now the estimate is several fold that amount.

OTHER: The DOR supports resolving this issue. A recent court case has narrowed the application of the exemption by DOR. The approach taken in the bill is to list specific equipment that qualifies for the exemption similar to what was done to resolve a similar issue relating to incentives to reduce agricultural burning.

Persons Testifying (Agriculture & Rural Economic Development): PRO: Chris Cheney, Washington Dairy Federation, Washington Fryer Commission; Stuart Turner, Turner and Co.; Jack Field, Washington Cattlemen's Association.

OTHER: Drew Shirk, DOR.

Staff Summary of Public Testimony (Ways & Means): PRO: DOR has no position on the bill, but support the mechanism that is used as it provides clarity to the exemption. This is a

good compromise. This is to try to get clarification and to undo a silly ruling by a judge. We think the fiscal note is way too high as the livestock industry would not spend that much on nutrient management over the next few years.

Persons Testifying (Ways & Means): PRO: Drew Shirk, DOR; Chris Cheney, Washington Dairy Federation, Washington Fryer Commission.