

SB 876 -4 STAFF MEASURE SUMMARY

Senate Committee On Environment and Natural Resources

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/21, 4/9

WHAT THE MEASURE DOES:

Stipulates that any permit issued under ORS 468B.050 (surface water quality permit) by the Departments of Environmental Quality and Agriculture (agencies) to a large confined/concentrated animal feeding operation (CAFO) that is located in a groundwater management area and applies animal waste to land to be issued as an individual permit. Requires permit issued by agencies for a large CAFO to require that person applying receives preliminary approval prior to constructing or installing feeding operation; and prohibits operation until final approval is received from agencies for the construction or installation. Requires prior to granting final approval, agencies consult with Water Resources Department to ensure there are adequate water resources available to supply CAFO water needs on a sustained basis; and consult with federal, state, and local agencies to confirm all required permits and license have been obtained. Prohibits fee charged by agencies from totaling more than the maximum annual permit fee allowed for a large CAFO. Authorizes agencies to adopt rules making insurance policy or alternative security prerequisite to permit for operating or conducting large CAFO. Authorizes, for any CAFO that an operator vacates before, on, or after Act takes effect, agencies to clean or repurpose the feeding operation or decommission the waste treatment system and recover any expenses incurred. Allows Department of Justice to bring action to recover costs that agencies incur due to reckless, malicious, bad faith, or illegal conduct encountered during investigation or proceeding concerning large CAFO. Declares that portion of Act requiring an individual permit for large CAFO in groundwater management area and portion establishing requirement for preliminary construction and operation final approval applies to permits issued after Act takes effect and to applications originally filed on or after January 1, 2019.

Subsequent referral to JWMS

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-4 Specifies sizes and types of large confined/concentrated animal feeding operation (CAFO) Act applies to. Stipulates that any permit issued under ORS 468B.050 (surface water quality permit) by the Departments of Environmental Quality and Agriculture (agencies) to a large CAFO that is located in a groundwater management area and applies animal waste to land must be issued as an individual permit. Requires permit issued by agencies for a large CAFO to require that person applying receives preliminary approval for the construction or installation of the feeding operation; and receives final approval prior to operating or conducting feeding operation. Requires prior to agencies granting final approval, the Department of Agriculture must consult with Water Resources Department to ensure the use of water for supplying the needs of the feeding operation at the level legally authorized by the permit and that the authorized water use does not include temporary authorization or supply. Prohibits fee charged by agencies from totaling more than the maximum annual permit fee allowed for a large CAFO. Authorizes, Agencies to clean, repurpose or decommission the feeding operation waste treatment works through certain processes and recover reasonable expenses if operation is vacated or abandoned; operator does not clean or decommission waste treatment works; no entity is responsible for financial or operational management; and agencies believe that there is a potential or imminent threat to waters of the state. Declares that portion of Act requiring an individual permit for large CAFO in groundwater management area, portion

establishing requirement for preliminary and final permit approval applies to permits issued after Act takes effect and to applications originally filed on or after January 1, 2019.

BACKGROUND:

The legislature first established a regulatory program for confined/concentrated animal feeding operations (CAFOs) in 1989. The legislation required the Oregon Department of Environmental Quality (DEQ) to issue CAFO permits and directed the Oregon Department of Agriculture (ODA) to inspect CAFO facilities. In 1993, the CAFO statutes were amended to direct the Environmental Quality Commission (EQC) and ODA to enter into a formal memorandum of understanding (MOU). The MOU authorizes ODA to perform the CAFO-related functions of DEQ and the EQC. Most CAFO permits are for dairy operations, but other types of operations with concentrated, confined holding or feeding of animals also require a permit. At the end of 2017, there were 509 permitted CAFO facilities in Oregon.

Senate Bill 876 makes several changes to permitting requirements for large CAFOs, including requiring that an applicant receive a preliminary approval prior to construction and a final approval prior to operation, and addresses coordination with other regulating entities. The measure also addresses the authority of DEQ and ODA when a CAFO has been abandoned or vacated.