

Senator Scott D. Sandall proposes the following substitute bill:

REGULATION OF CONCENTRATED ANIMAL FEEDING

OPERATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill enacts provisions related to large concentrated animal feeding operations.

Highlighted Provisions:

This bill:

▶ enacts the Large Concentrated Animal Feeding Operations Act, including:

- defining terms;
- requiring adoption of county large concentrated animal feeding operation land use ordinances under certain circumstances;
- addressing scope of a county large concentrated animal feeding operation land use ordinance; and
- addressing determining the geographic area where large concentrated animal feeding operations may be located.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 ENACTS:

27 [17-27a-1101](#), Utah Code Annotated 1953

28 [17-27a-1102](#), Utah Code Annotated 1953

29 [17-27a-1103](#), Utah Code Annotated 1953

30 [17-27a-1104](#), Utah Code Annotated 1953

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section [17-27a-1101](#) is enacted to read:

34 **Part 11. Large Concentrated Animal Feeding Operations Act**

35 **17-27a-1101. Title.**

36 This part is known as the "Large Concentrated Animal Feeding Operations Act."

37 Section 2. Section [17-27a-1102](#) is enacted to read:

38 **17-27a-1102. Definitions.**

39 (1) "Animal feeding operation" means a lot or facility where the following conditions
40 are met:

41 (a) animals have been, are, or will be stabled or confined and fed or maintained for a
42 total of 45 days or more in any 12-month period; and

43 (b) crops, vegetation, forage growth, or post-harvest residues are not sustained in the
44 normal growing season over any portion of the lot or facility.

45 (2) (a) "Commercial enterprise" means a building:

46 (i) used as a part of a business that manufactures goods, delivers services, or sells
47 goods or services;

48 (ii) customarily and regularly used by the general public during the entire calendar year;
49 and

50 (iii) connected to electric or water systems.

51 (b) "Commercial enterprise" does not include an agriculture operation.

52 (3) "County large concentrated animal feeding operation land use ordinance" means an
53 ordinance adopted in accordance with Section [17-27a-1103](#).

54 (4) "Education institution" means a building in which any part is used:

55 (a) for more than three hours each weekday during a school year as a public or private:

56 (i) elementary school;

57 (ii) secondary school; or

- 58 (iii) kindergarten;
59 (b) a state institution of higher education as defined in Section 53B-3-102; or
60 (c) a private institution of higher education in the state accredited by a regional or
61 national accrediting agency recognized by the United States Department of Education.
62 (5) "Health care facility" means the same as that term is defined in Section 26-21-2.
63 (6) "Large concentrated animal feeding operation" means an animal feeding operation
64 that stables or confines as many as or more than the numbers of animals specified in any of the
65 following categories:
66 (a) 700 mature dairy cows, whether milked or dry;
67 (b) 1,000 veal calves;
68 (c) 1,000 cattle other than mature dairy cows or veal calves, with "cattle" including
69 heifers, steers, bulls, and cow calf pairs;
70 (d) 2,500 swine each weighing 55 pounds or more;
71 (e) 10,000 swine each weighing less than 55 pounds;
72 (f) 500 horses;
73 (g) 10,000 sheep or lambs;
74 (h) 55,000 turkeys;
75 (i) 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure
76 handling system;
77 (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other
78 than a liquid manure handling system;
79 (k) 82,000 laying hens, if the animal feeding operation uses other than a liquid manure
80 handling system;
81 (l) 30,000 ducks, if the animal feeding operation uses other than a liquid manure
82 handling system; or
83 (m) 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.
84 (7) "Manure" includes manure, bedding, compost, a raw material, or other material
85 commingled with manure or set aside for disposal.
86 (8) "Public area" means land that:
87 (a) is owned by the federal government, the state, or a political subdivision with
88 facilities that attract the public to congregate and remain in the area for significant periods of
89 time;

90 (b) (i) is part of a public park, preserve, or recreation area that is owned or managed by
91 the federal government, the state, a political subdivision, or a nongovernmental entity; and

92 (ii) has a cultural, archaeological, scientific, or historic significance or contains a rare
93 or valuable ecological system, including a site recognized as a National Historic Landmark or
94 Site; or

95 (c) is a cemetery.

96 (9) "Religious institution" means a building and grounds used at least monthly for
97 religious services or ceremonies.

98 Section 3. Section 17-27a-1103 is enacted to read:

99 **17-27a-1103. County adoption of a county large concentrated animal feeding**
100 **operation land use ordinance.**

101 (1) (a) The legislative body of a county desiring to restrict siting of large concentrated
102 animal feeding operations shall adopt a county large concentrated animal feeding operation land
103 use ordinance in accordance with this part by no later than May 1, 2022.

104 (b) A county may consider an application to locate large concentrated animal feeding
105 operations in the county before the county adopts the county large concentrated animal feeding
106 operation land use ordinance under this part.

107 (2) A county large concentrated animal feeding operation land use ordinance described
108 in Subsection (1) shall:

109 (a) ~~H→ [designate the geographic areas within the county in which large concentrated animal~~
110 ~~feeding operations may be located, including adopting a map described in Section 17-27a-1104]~~
110a **designate geographic areas of sufficient size to support large concentrated animal feeding**
110b **operations, including state trust lands described in Subsection 53C-1-103(8) and private**
110c **property within the county, including adopting a map described in Section 17-27a-1104** ←H ;

111 (b) establish requirements and procedures for applying for land use decision that
112 provides a reasonable opportunity to operate large concentrated animal feeding operations
113 within the geographic area described in Subsection (2)(a);

114 (c) disclose fees imposed to apply for the land use decision described in Subsection
115 (2)(b);

116 (d) disclose any requirements in addition to fees described in Subsection (2)(c) to be
117 imposed by the county; and

118 (e) provide for administrative remedies consistent with this chapter.

119 (3) H→ (a) ←H This part does not authorize a county to regulate the operation of large
119a concentrated ☒

120 ☛ animal feeding operations in any way that conflicts with state or federal statutes or regulations.

120a Ĥ→ (b) Nothing in this part supersedes or authorizes enactment of an ordinance that

120b infringes on Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials

120c Protection Areas, or Title 4, Chapter 44, Agricultural Operations Nuisances Act. ←Ĥ

121 Section 4. Section 17-27a-1104 is enacted to read:

122 17-27a-1104. Criteria considered in adopting the geographic area of a county large
 123 concentrated animal feeding operation land use ordinance -- Maps -- Exception.

124 (1) (a) To determine the geographic areas where large concentrated animal feeding
 125 operations may be located under a county large concentrated animal feeding operation land use
 126 ordinance, the county shall consider:

127 (i) the distance of the geographic area measured in feet from the following:

128 (A) a residential zone;

129 (B) a health care facility;

130 (C) a public area;

131 (D) an education institution;

132 (E) a religious institution;

133 (F) a commercial enterprise;

134 (G) a municipal boundary; and

135 (H) a state or county highway or road;

136 (ii) prevailing winds;

137 (iii) topography; ~~H→~~ and ~~←H~~

138 (iv) economic benefits to the county ~~H→~~ [~~and~~

139 ~~— (v) access to transportation, water, and power infrastructure] ~~←H~~ .~~

140 (b) A county may consider criteria in addition to those described in Subsection (1)(a).

140a ~~H→~~ (c) A designated geographic area shall have economically accessible
 140b transportation, electrical infrastructure, and water supply, whether by groundwater or other
 140c means, sufficient to support large concentrated animal feeding operations. ~~←H~~

141 (2) After considering the factors described in Subsection (1), the county shall designate
 142 the geographic areas where large concentrated animal feeding operations may locate as required
 143 by Subsection 17-27a-1103(2)(a) and prepare a map available to the public showing the
 144 geographic areas in the county.

145 (3) A county may not designate a geographic area for large concentrated animal feeding
 146 operations based solely on a uniform setback distance requirement from the locations described
 147 in Subsection (1)(a)(i), but shall determine the geographic area by evaluating all criteria in
 148 Subsection (1).

149 ~~H→~~ ~~(4) If the county establishes different geographic areas for large concentrated animal~~
 150 ~~feeding operations based on animal species type, the county shall provide the rationale as to how~~
 151 ~~the establishment of different geographic areas based on animal species type promotes the~~
 152 ~~general welfare and best interests of county residents.] ~~←H~~~~

153 ~~H→~~ ~~(5)~~ (4) ~~←H~~ A county shall designate at least one geographic area within the county
 153a where large

154 concentrated animal feeding operations ~~H~~→ [for any animal species listed in Subsection
155 17-27a-1102(6)] ←~~H~~ may be located unless the county demonstrates that one of the following makes
155a it
156 ~~H~~→ [impossible] not feasible ←~~H~~ for the county to meet the criteria described in this section:
157 (a) the county's population density; or
158 (b) the county's population density relative to the amount of private land within the
159 county.