



## **Provide Fair Representation on the Texas Animal Health Commission**

The Texas Animal Health Commission (TAHC) currently does not adequately represent the interests of the regulated community or the general public. In order to provide fair representation, the TAHC should add two additional seats to represent the interests of small-scale producers and strengthen the requirements for commissioners to serve as members of the general public.

### **Current Composition of the TAHC**

The TAHC consist of thirteen appointed Commissioners, including (1) a practitioner of veterinary medicine; (2) a dairyman; (3) a cattle raiser; (4) a hog raiser; (5) a sheep or goat raiser; (6) a poultry raiser; (7) an individual involved in the equine industry; (8) an individual involved in the feedlot industry; (9) an individual involved in the livestock marketing industry; (10) an individual involved in the exotic livestock or exotic fowl industry, and (11-13) three members of the general public.<sup>1</sup>

### **Lack of Representation for the Majority of Animal Owners**

None of the current thirteen seats on the TAHC represent the largest, and one of the only growing, segments of livestock owners: small-scale producers. This is particularly troubling given the agency's scope of regulatory authority.

The TAHC is unusual among regulatory agencies in that its regulatory reach is not limited to commercial entities. Every person who owns a livestock animal or poultry is subject to the TAHC's regulations. Since the agency's jurisdiction includes "exotic fowl," its rules can cover even such things as pet parakeets. The TAHC's broad authority was highlighted in the fight over the National Animal Identification System in 2006 and 2007, during which the TAHC sought to require every person who owned even one livestock animal – even just a single backyard chicken or pet pony – to register with the agency and pay a fee.

The vast majority of Texans who own livestock or poultry own just a few animals. For example, according to the USDA 2012 Census of Agriculture, 90% of the farms with sheep have fewer than 100 head; 97% of the farms with poultry have fewer than 100 birds; 97% of the farms with horses own fewer than 25 head; 83% of the farms with hogs own fewer than 25 head; and 56% of the farms with cattle have fewer than 20 head.<sup>2</sup>

Moreover, these very small farms are growing in numbers, while other farms are becoming less numerous. For example, on farms with cattle, the number of farms with fewer than 20 head of cattle increased by 15% between 2007 and 2012; the number of farms with cattle of every other size decreased in numbers in the same time frame. Similarly, farms with fewer than 100 head of sheep increased by 29% between 2007 and 2012; the number of farmers with sheep of every other size decreased in numbers in the same time frame.

These census numbers are striking, yet they don't tell the whole story. The census only includes "farms," which are defined as having \$1,000 or more of product to sell the year before the census. The

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<sup>1</sup> Tex. Agric. Code § 161.021(a).

<sup>2</sup> 2012 Census of Agriculture, State Data for Texas, Tables 12, 25, 28, 31, and 32.

TAHC's jurisdiction extends far beyond the census, to cover every person who owns a few backyard chickens, a pet pony, or a pygmy goat.

Although theoretically the Commissioners who represent cattle raisers, poultry raisers, or other livestock groups could be small-scale producers, in practice they consistently, if not uniformly, represent large-scale business interests. The result is regulation without representation.

### **The “General Public” Commissioners do not represent the actual general public**

Members of the general public qualifying to be commissioners of the TAHC are defined by exclusion; anyone is qualified, unless he or she or his or her spouse:

- (1) is registered, certified, or licensed by the commission;
- (2) is employed by or participates in the management of a business entity or other organization regulated by the commission or receiving money from the commission;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the commission; or
- (4) uses or receives a substantial amount of tangible goods, services, or money from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.<sup>3</sup>

This is the standard language used to define a member of the general public for almost all Texas agencies. In the case of the TAHC, however, this language is ill-suited for eliminating people with significant conflicts of interest. The TAHC does not license or regulate businesses or other entities. Instead, its regulations address health and disease issues of animals, such as cattle, horses, sheep, goats, hogs, poultry, and wildlife. These regulations have a very significant impact on many businesses, yet the businesses themselves, and their owners and employees, do not fall within the statutory language above.

For example, consider two of the three Commissioners who currently hold the general public seats at the TAHC, Beau White and Eric White. Beau White and his family own one of the largest ranches in the country, with over 125,000 acres in West Texas.<sup>4</sup> Eric White is the Business Manager of a very large deer and exotic game hunting ranch.<sup>5</sup> Although the ranches they own and manage are not regulated by the TAHC, the cattle and the wildlife on those ranches are. Neither Commissioner fulfills the legislative intent of having members of the “general public” serve as Commissioners.

### **Proposed Statutory Changes**

The TAHC's governing statute should be amended to:

- 1) Provide two seats for small-scale producers, one for small-scale livestock and one for small-scale poultry.
- 2) Clarify the general public requirements so that individuals who own or are employed by businesses involving animals that are regulated by the agency are excluded from serving as “general public” representatives

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<sup>3</sup> Tex. Agric. Code § 161(d).

<sup>4</sup> <http://bigbendnow.com/2012/12/far-west-texas-ranchers-among-the-largest-landowners-nationwide/>; <http://landreport.epubxp.com/i/84777> (Beau White is one of the Brite Ranch Heirs)

<sup>5</sup> <http://www.star-s-ranch.com/Staff.php>