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Governor signs controversial bill into law restricting county oversight of agricultural operations

By Mike Tony mtony@hdmediallc.com

Feb 26, 2024

Gov. Jim Justice has signed into law controversial legislation that restricts county oversight of agricultural operations.

Justice on Friday signed Senate Bill 171, which bars county commissions from passing ordinances or rules stricter than state law regarding agricultural operations.

SB 171 becomes law despite [fears the bill would remove county zoning oversight](#) that has been an obstacle to locally unpopular agricultural and energy projects.



Bill targeting county agricultural oversight renews WV overreach fears

By Mike Tony mtony@hdmediallc.com  5 min to read

Under SB 171, any ordinance, rule, license requirement or other authorization stricter than state law, rule or regulation regarding agricultural operations adopted by a county commission will be revoked.

SB 171 bars county commissions from adopting measures that prohibit the purchase of any federally or state-registered pesticide, herbicide or insecticide product, or alter the allowed use of any such product.

The new law takes effect 90 days from passage, on May 13.

SB 171 follows a 2022 bill targeting local oversight of agricultural operations, Senate Bill 242, in drawing ire from Hardy County opponents. SB 242 limited the authority of counties and municipalities to limit use of land of any size for a farm or agricultural operation by the owner.

The House Government Organization Committee [advanced SB 171](#) despite an observation from committee counsel the bill could lead to litigation due to potentially varying interpretations of how state silence on certain operations implicates language that county commissions may not adopt an ordinance “stricter than” any state law or regulation on agricultural operations.

‘Reasonabl[e] enforcement’ amendment rejected

After opposition from Government Organization Committee Vice Chairman Pat McGeehan, R-Hancock, the committee rejected an amendment proposal from committee Minority Vice Chairman Ric Griffith, D-Wayne, that would have allowed a county or planning commission to “reasonably enforc[e] any ordinance enacted for the protection of the health safety of the citizens.”

McGeehan objected to the word “reasonably,” saying it was “very subjective.”

But the committee blocked Griffith from an attempt to remove “reasonably” from his proposed amendment.

The state’s definition of agricultural operation is broad, covering any facility used for production of food, fiber and woodland products, plus forestry, cultivation of trees and gardens, packing, shipping, milling and marketing of agricultural products conducted by the proprietor “or any other legal plant or animal production and all farm practices.”

Hardy County residents have feared SB 171 could allow operations like a log fumigation site proposed there that drew widespread opposition last year before Grant County-based hardwood producer Allegheny Wood Products [withdrew its permit application](#) amid local

zoning uncertainty.



Allegheny Wood Products withdraws air quality permit application for Hardy County log fumigation site amid local opposition

By Mike Tony mtony@hdmediallc.com  3 min to read

Allegheny Wood Products closing operations

An abrupt closure of operations last week at Allegheny Wood Products, which has operated sawmills throughout West Virginia, is expected to affect nearly 900 workers.

Allegheny Wood Products President John Crites II did not respond to requests for comment after a company representative referred comment to him.

WorkForce West Virginia Acting Commissioner Scott Adkins told the West Virginia Senate Finance Committee Saturday the state expects about 900 workers to be impacted.

Adkins said the state did not receive from Allegheny Wood Products a federally required notice under the Worker Adjustment and Retraining Notification Act. The law requires employers with 100 or more employees to provide at least 60 calendar days advance written notice of a plant closing and mass layoff affecting 50 or more employees at a single site of employment.

Adkins said the state had received word the lack of notification from Allegheny Wood Products was due to a bank seizing company assets.

Fear water supply will be exhausted

An exemption in state environmental oversight has sparked worries in Hardy County.

West Virginia code explicitly excludes farm use, “including watering livestock or poultry on a farm,” from the state’s definition of large-quantity water users under environmental regulation.

West Virginia Department of Environmental Protection spokesman Terry Fletcher said the agency isn't aware of any other water use regulations under its authority that would apply to farm use activities. Fletcher similarly said that per the state Department of Health, the department's Office of Environmental Health Services in the Bureau of Public Health isn't aware of any water use regulations under its authority that would apply to farm use activities.

The exemption looms large in Hardy County given its high concentration of large-scale poultry farms.

"Our ultimate fear is that they will use up all the water," Hardy County Planner Melissa Scott previously told the Gazette-Mail.

Scott estimated poultry houses each use up to 3,000 gallons of water per day.

Dwayne O'Dell, West Virginia Farm Bureau government affairs director, said two-unit chicken houses aren't economically feasible anymore due to industry centralization.

House Government Organization Committee counsel interpreted SB 171 to disallow a county from passing an ordinance to try to protect "equal use of the groundwater from a large entity."

Senate fast-tracked bill to passage

SB 171 passed the Republican-supermajority Senate with no debate and no committee consideration last month two days into the legislative session, fast-tracked along with other bills lifted from last year's session. The lead sponsor of SB 171 is Agriculture and Natural Resources Committee Chairman Bill Hamilton, R-Upshur.

Conservation West Virginia, a Jefferson County-based conservationist group, has opposed SB 171, saying in a statement it shows the Senate's "disdain for democracy" and predicting it would "create uncertainty and frustration in local government."

The West Virginia Environmental Council also has opposed SB 171, noting local communities would be barred from enforcing regulations that exceed state laws on pesticides to protect public health.



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