SUBJECT: Establishing the right to engage in certain agricultural practices

COMMITTEE: Agriculture & Livestock — committee substitute recommended

VOTE: 8 ayes — Cain, Anderson, Goodwin, Cody Harris, Kitzman, Rosenthal, Thimesch, Wilson

0 nays

1 absent — Bernal

WITNESSES: For — Russell Boening, Texas Farm Bureau; James Lockridge; (*Registered, but did not testify*: Charles Maley, South Texans Property Rights Association; Josh Winegarner, Texas Cattle Feeders Association; Rob Hughes, Texas Forestry Association; Jimmy Gaines, Texas landowners Council; Ryan Skrobarczyk, Texas Nursery & Landscape Association; JC Essler, Texas Poultry Federation; Bryan Gentsch, Texas Seed Trade Association; Joe Morris, Texas Sheep and Goat Raisers Association; Joey Park, Texas Wildlife Association; Joe Morris, Travis County Farm Bureau, President)

Against — Judith McGeary, Farm and Ranch Freedom Alliance (*Registered, but did not testify*: Alex Gamez, Humane Society)

DIGEST: CSHJR 126 would amend the Texas Constitution to establish the right of the people to engage in generally accepted farm, ranch, timber production, horticulture, or wildlife management practices on real property they owned or leased.

The resolution would not affect the authority of the Legislature to authorize regulation of these practices by:

- a state agency or local authority when there was clear and convincing evidence that the regulation was necessary to protect public health from imminent danger;
- a state agency to prevent a danger to animal health or crop

production; or

- a state agency or local authority to conserve natural resources of the state.

The resolution would not affect the authority of the Legislature to authorize the use or acquisition of property for a public use, including the development of natural resources of the state.

The ballot proposal would be presented to voters at an election on November 7, 2023, and would read: "The constitutional amendment protecting the right to engage in farming, ranching, timber production, horticulture, and wildlife management."

SUPPORTERS SAY:

CSHJR 126 would provide necessary protection for the state's essential agricultural operations. As the Texas population continues to grow and the demand for food increases, it is important to prevent municipal overregulation that could threaten agricultural production. CSHJR 126 would address this issue by ensuring that entities attempting to restrict an agricultural practice provided clear and convincing evidence of the dangers or harms being posed by the practice.

The resolution would not just benefit large factory farms, but also would provide protections to small family-owned farms that make up the majority of farms in the state. Additionally, the resolution would recognize the authority of the state or a political subdivision to protect the state's natural resources, including water quality. CSHJR 125 would not compromise the state's ability to address concerns involving public health and animal welfare.

CRITICS SAY:

By limiting local communities' and state legislators' abilities to set reasonable standards regarding food safety, water pollution, and animal welfare, CSHJR 126 would enable large, industrial factory farms to operate with less accountability, which also could undermine smaller family farms.

While the goal of the resolution to protect agricultural operations is

commendable, the constitutional amendment would go too far by requiring that the threat to health and safety be "imminent." This requirement could hinder entities' ability to regulate agricultural operations that could pose a threat to public safety during a natural disaster until the natural disaster was imminent. Also, the burden of proof of clear and convincing evidence required by the resolution is too high. Requiring government entities to demonstrate that a regulation was necessary by a preponderance of the evidence would be a better standard of proof.

NOTES:

According to the Legislative Budget Board, the cost to the state for publication of the resolution would be $204,406.