

**82<sup>nd</sup> LEGISLATIVE DISTRICT**  
CROCKETT, HAYWOOD & LAUDERDALE  
COUNTIES

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## House of Representatives State of Tennessee

**CRAIG FITZHUGH**  
House Democratic Leader

FINANCE

EDUCATION ADMINISTRATION &  
PLANNING

GOVERNMENT OPERATIONS

FINANCE SUB

CALENDAR AND RULES

JOINT PENSIONS AND INSURANCE

HOUSE RULES

May 30, 2018

The Honorable Herbert H. Slatery, III  
Attorney General and Reporter  
425 5<sup>th</sup> Ave. North, Second Floor  
Nashville, TN 37243

Dear General Slatery,

The State of Tennessee has invested considerable taxpayer resources to recruit a new Tyson Foods processing facility to the town of Humboldt in Gibson County. The \$300 million facility is expected to process up to 1.25 million chickens per week which will be grown by contract farmers within a 50-mile radius. The company projects at least 390 chicken houses will be needed to meet demand at the Humboldt facility. In addition, Tyson recently announced plans to double capacity at its neighboring Union City processing facility, which the company anticipates will require an additional 200 chicken houses to meet demand.

The prospect of nearly 600 new chicken houses in a small geographic area has many of my constituents in surrounding Crockett, Haywood and Lauderdale counties concerned about the impact these Concentrated Animal Feeding Operations (CAFOs) will have on the land and their rural quality of life. TDEC has already placed a number of waterways in this region on the Impaired and Threatened Waterways list, as required under section 303(d) of the Federal Clean Water Act. Residents and elected officials are understandably concerned about the impact hundreds of new CAFOs will have on their communities and already imperiled water resources.

Tennessee is a "Right to Farm" state and laws regarding CAFOs have changed a number of times in recent years. Most recently the legislature eliminated state operating permits for "medium-sized" CAFO's while permits for poultry operations were exempted altogether. As a result of these regulatory changes, significant questions have arisen around the authority local communities have to regulate issues such as truck traffic, nuisance odors and agricultural runoff.

Recently, officials in Haywood County were notified by the Tennessee Farm Bureau Federation that state law may prohibit counties and municipalities from regulating agricultural operations, including feedlots. Recognizing that some rural counties, like Haywood County, already have zoning ordinances in place for animal feeding operations, I respectfully request a legal opinion with regard to the interpretation of state statutes concerning the authority of counties to regulate concentrated animal feeding operations. Specifically:

- (1) Can a county regulate concentrated animal feeding operations through its zoning ordinance or through other types of regulations as provided in T.C.A. § 44-18-104?

- (2) How does T.C.A. § 13-7-114 affect the reservation of local regulatory authority found at T.C.A. § 44-18-104?
- (3) If counties may regulate concentrated animal feeding operations pursuant to T.C.A. § 44-18-104 must the regulations have been in place as of April 12, 1979?
- (4) What is the effect of T.C.A. § 44-18-104(b) and (d), which direct compliance with the section where no zoning or regulations exist?

Should you need additional information in connection with this request, please feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink that reads "Craig Fitzhugh". The signature is written in a cursive, flowing style.

Representative Craig Fitzhugh  
House Minority Leader