

By: Hegar

H.B. No. 774

A BILL TO BE ENTITLED

AN ACT

relating to the Interstate Pest Control Compact.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 5, Agriculture Code, is amended by adding Chapter 79 to read as follows:

CHAPTER 79. INTERSTATE PEST CONTROL COMPACT

Sec. 79.001. DEFINITIONS. In this chapter:

(1) "Compact" means the Interstate Pest Control Compact.

(2) "Executive head" as used in the compact, with reference to this state, means the governor.

Sec. 79.002. FILING OF BYLAWS. Under Article IV(h) of the compact, copies of the bylaws adopted by the governing board and amendments to the bylaws must be filed with the commissioner.

Sec. 79.003. COMPACT ADMINISTRATOR. The commissioner is the compact administrator for this state.

Sec. 79.004. COOPERATION WITH PEST CONTROL INSURANCE FUND. Consistent with other law and using funds appropriated for the purpose, the state may cooperate with the insurance fund established by the compact.

Sec. 79.005. REQUEST FOR ASSISTANCE. The commissioner may request or apply for assistance from the insurance fund established by the compact, as provided by Article VI(b) or VIII(a) of the compact.

1 Sec. 79.006. DISPOSITION OF CERTAIN MONEY. A department or
2 agency that expends or becomes liable for an expenditure due to a
3 control or eradication program undertaken or intensified under the
4 compact shall have credited to the department or agency account in
5 the state treasury the amount of any payment made to the state to
6 defray the cost of the program or to reimburse the state.

7 Sec. 79.007. EXECUTION OF INTERSTATE COMPACT. This state
8 enters into a compact with all other states legally joining in the
9 compact in substantially the following form:

10 "INTERSTATE PEST CONTROL COMPACT

11 "ARTICLE I. FINDINGS

12 "The party states find that:

13 (1) in the absence of the higher degree of cooperation
14 among them possible under this Compact, the annual loss of
15 approximately 137 billion dollars from the depredations of pests is
16 virtually certain to continue, if not to increase;

17 (2) because of the varying climatic, geographic and
18 economic factors, each state may be affected differently by
19 particular species of pests; but all states share the inability to
20 protect themselves fully against those pests which present serious
21 dangers to them;

22 (3) the migratory character of pest infestations makes
23 it necessary for states both adjacent to and distant from one
24 another to complement each other's activities when faced with
25 conditions of infestation and reinfestation; and

26 (4) while every state is seriously affected by a
27 substantial number of pests, and every state is susceptible of

1 infestation by many species of pests not now causing damage to its
2 crops and plant life and products, the fact that relatively few
3 species of pests present equal danger to or are of interest to all
4 states makes the establishment and operation of an insurance fund,
5 from which individual states may obtain financial support for pest
6 control programs of benefit to them in other states and to which
7 they may contribute in accordance with their relative interest, the
8 most equitable means of financing cooperative pest eradication and
9 control programs.

10 "ARTICLE II. DEFINITIONS

11 "As used in this Compact, unless the context clearly requires
12 a different construction:

13 (1) "State" means a state, territory or possession of
14 the United States, the District of Columbia, or the Commonwealth of
15 Puerto Rico.

16 (2) "Requesting state" means a state which invokes the
17 procedures of the Compact to secure the undertaking or
18 intensification of measures to control or eradicate one or more
19 pests within one or more other states.

20 (3) "Responding state" means a state requested to
21 undertake or intensify the measures to control or eradicate one or
22 more pests.

23 (4) "Pest" means any invertebrate animal, pathogen,
24 parasitic plant or similar or allied organism which can cause
25 disease or damage in any crops, trees, shrubs, grasses, or other
26 plants of substantial value.

27 (5) "Insurance Fund" means the Pest Control Insurance

1 Fund established under this Compact.

2 (6) "Governing Board" means the administrators of this
3 Compact representing all of the party states when such
4 administrators are acting as a body in pursuance of authority
5 vested in them by this compact.

6 (7) "Executive committee" means the committee
7 established under Article V (e) of this compact.

8 "ARTICLE III. THE INSURANCE FUND

9 "There is hereby established a Pest Control Insurance Fund
10 for the purpose of financing other than normal pest control
11 operations which states may be called upon to engage in pursuant to
12 this Compact. The Insurance Fund shall contain moneys appropriated
13 to it by the party states and any donations and grants accepted by
14 it. All appropriations, except as conditioned by the rights and
15 obligations of party states expressly set forth in this Compact,
16 shall be unconditional and may not be restricted by the
17 appropriating state to use in the control of any specified pest or
18 pests. Donations and grants may be conditional or unconditional,
19 provided that the Insurance Fund shall not accept any donation or
20 grant whose terms are inconsistent with any provision of this
21 Compact.

22 "ARTICLE IV. THE INSURANCE FUND, INTERNAL OPERATIONS AND
23 MANAGEMENT

24 "(a) The Insurance Fund shall be administered by a Governing
25 Board and Executive Committee as hereinafter provided. The actions
26 of the Governing Board and the Executive Committee pursuant to this
27 Compact shall be deemed the actions of the Insurance Fund.

1 "(b) The members of the Governing Board shall be entitled to
2 one vote on such board. No action of the Governing Board shall be
3 binding unless taken at a meeting at which a majority of the total
4 number of votes on the Governing Board is cast in favor thereof.
5 Action of the Governing Board shall be only at a meeting at which a
6 majority of the members are present.

7 "(c) The Insurance Fund shall have a seal which may be
8 employed as an official symbol and which may be affixed to documents
9 and otherwise used as the Governing Board may provide.

10 "(d) The Governing Board shall elect annually, from among
11 its members, a chairman, a vice chairman, a secretary and a
12 treasurer. The chairman may not succeed himself. The Governing
13 Board may appoint an executive director and fix his duties and his
14 compensation, if any. Such executive director shall serve at the
15 pleasure of the Governing Board. The Governing Board shall make
16 provision for the bonding of such of the officers and employees of
17 the Insurance Fund as may be appropriate.

18 "(e) Irrespective of the civil service, personnel or other
19 merit system laws of any of the party states, the executive
20 director, or if there be no executive director, the chairman, in
21 accordance with such procedures as the bylaws may provide, shall
22 appoint, remove or discharge such personnel as may be necessary for
23 the performance of the functions of the Insurance Fund and shall fix
24 the duties and compensation of such personnel. The Governing Board
25 in its bylaws shall provide for the personnel policies and programs
26 of the Insurance Fund.

27 "(f) The Insurance Fund may borrow, accept or contract for

1 the services of personnel from any state, the United States, or any
2 other governmental agency, or from any person, firm, association,
3 or corporation.

4 "(g) The Insurance Fund may accept for any of its purposes
5 and functions under this Compact any and all donations, and grants
6 of money, equipment, supplies, materials, and services,
7 conditional or otherwise, from any state, the United States, or any
8 other governmental agency, or from any person, firm, association,
9 or corporation, and may receive, utilize and dispose of the same.
10 Any donation, gift, or grant accepted by the Governing Board
11 pursuant to this paragraph or services borrowed pursuant to
12 paragraph (f) of this Article shall be reported in the annual report
13 of the Insurance Fund. Such report shall include the nature, amount
14 and conditions, if any, of the donation, gift, grant, or services
15 borrowed and the identity of the donor or lender.

16 "(h) The Governing Board shall adopt bylaws for the conduct
17 of the business of the Insurance Fund and shall have the power to
18 amend and to rescind these bylaws. The Insurance Fund shall publish
19 its bylaws in convenient form and shall file a copy thereof and a
20 copy of any amendment thereto with the appropriate agency or
21 officer in each of the party states.

22 "(i) The Insurance Fund annually shall make to the Governor
23 and legislature of each party state a report covering its
24 activities for the preceding year. The Insurance Fund may make such
25 additional reports as it may deem desirable.

26 "(j) In addition to the powers and duties specifically
27 authorized and imposed, the Insurance Fund may do such other things

1 as are necessary and incidental to the conduct of its affairs
2 pursuant to this Compact.

3 "ARTICLE V. COMPACT AND INSURANCE FUND ADMINISTRATION

4 "(a) In each party state there shall be a Compact
5 administrator, who shall be selected and serve in such manner as the
6 laws of his state may provide, and who shall:

7 1. Assist in the coordination of activities pursuant
8 to the Compact in his state; and

9 2. Represent his state on the Governing Board of the
10 Insurance Fund.

11 "(b) If the laws of the United States specifically so
12 provide, or if administrative provision is made therefore within
13 the federal government, the United States may be represented on the
14 Governing Board of the Insurance Fund by not to exceed three
15 representatives. Any such representative or representatives of the
16 United States shall be appointed and serve in such manner as may be
17 provided by or pursuant to federal law, but no such representative
18 shall have a vote on the Governing Board or the Executive Committee
19 thereof.

20 "(c) The Governing Board shall meet at least once each year
21 for the purpose of determining policies and procedures in the
22 administration of the Insurance Fund and, consistent with the
23 provisions of the Compact, supervising and giving direction to the
24 expenditure of moneys from the Insurance Fund. Additional meetings
25 of the Governing Board shall be held on call of the chairman, the
26 Executive Committee, or a majority of the membership of the
27 Governing Board.

1 "(d) At such times as it may be meeting, the Governing Board
2 shall pass upon applications for assistance from the Insurance Fund
3 and authorize disbursements therefrom. When the Governing Board is
4 not in session, the Executive Committee thereof shall act as agent
5 of the Governing Board, with full authority to act for it in passing
6 upon such applications.

7 "(e) The Executive Committee shall be composed of the
8 chairman of the Governing Board and four additional members of the
9 Governing Board chosen by it so that there shall be one member
10 representing each of four geographic groupings of party states. The
11 Governing Board shall make such geographic groupings. If there is
12 representation of the United States on the Governing Board, one
13 such representative may meet with the Executive Committee. The
14 chairman of the Governing Board shall be chairman of the Executive
15 Committee. No action of the Executive Committee shall be binding
16 unless taken at a meeting at which at least four members of such
17 Committee are present and vote in favor thereof. Necessary expenses
18 of each of the five members of the Executive Committee incurred in
19 attending meetings of such Committee, when not held at the same time
20 and place as a meeting of the Governing Board, shall be charges
21 against the Insurance Fund.

22 "ARTICLE VI. ASSISTANCE AND REIMBURSEMENT

23 "(a) Each party state pledges to each other party state that
24 it will employ its best efforts to eradicate, or control within the
25 strictest practicable limits, any and all pests. It is recognized
26 that performance of this responsibility involves:

27 (1) The maintenance of pest control and eradication

1 activities of interstate significance by a party state at a level
2 that would be reasonable for its own protection in the absence of
3 this Compact.

4 (2) The meeting of emergency outbreaks or infestations
5 of interstate significance to no less an extent than would have been
6 done in the absence of this Compact.

7 "(b) Whenever a party state is threatened by a pest not
8 present within its borders but present within another party state,
9 or whenever a party state is undertaking or engaged in activities
10 for the control or eradication of a pest or pests, and finds that
11 such activities are or would be impracticable or substantially more
12 difficult of success by reason of failure of another party state to
13 cope with infestation or threatened infestation, that state may
14 request the Governing Board to authorize expenditures from the
15 Insurance Fund for eradication or control measures to be taken by
16 one or more of such other party states at a level sufficient to
17 prevent, or to reduce to the greatest practicable extent,
18 infestation or reinfestation of the requesting state. Upon such
19 authorization the responding state or states shall take or increase
20 such eradication or control measures as may be warranted. A
21 responding state shall use moneys available from the Insurance Fund
22 expeditiously and efficiently to assist in affording the protection
23 requested.

24 "(c) In order to apply for expenditures from the Insurance
25 Fund, a requesting state shall submit the following in writing:

26 (1) A detailed statement of the circumstances which
27 occasion the request for the invoking of the Compact.

1 (2) Evidence that the nest on account of whose
2 eradication or control assistance is requested constitutes a danger
3 to an agricultural or forest crop, product, tree, shrub, grass, or
4 other plant having a substantial value to the requesting state.

5 (3) A statement of the extent of the present and
6 projected program of the requesting state and its subdivisions,
7 including full information as to the legal authority for the
8 conduct of such program or programs and the expenditures being made
9 or budgeted therefore, in connection with the eradication, control,
10 or prevention of introduction of the pest concerned.

11 (4) Proof that the expenditures being made or budgeted
12 as detailed in item 3 do not constitute a reduction of the effort
13 for the control or eradication of the pest concerned or, if there is
14 a reduction, the reasons why the level of program detailed in item 3
15 constitutes a normal level of pest control activity.

16 (5) A declaration as to whether, to the best of its
17 knowledge and belief, the conditions which in its view occasion the
18 invoking of the Compact in the particular instance can be abated by
19 a program undertaken with the aid of moneys from the Insurance Fund
20 in one year or less, or whether the request is for an installment in
21 a program which is likely to continue for a longer period of time.

22 (6) Such other information as the Governing Board may
23 require consistent with the provisions of this Compact.

24 "(d) The Governing Board or Executive Committee shall give
25 due notice of any meeting at which an application for assistance
26 from the Insurance Fund is to be considered. Such notice shall be
27 given to the Compact administrator of each party state and to such

1 other officers and agencies as may be designated by the laws of the
2 party states. The requesting state and any other party state shall
3 be entitled to be represented and present evidence and argument at
4 such meeting.

5 "(e) Upon the submission as required by paragraph (c) of
6 this Article and such other information as it may have or acquire,
7 and upon determining that an expenditure of funds is within the
8 purposes of this Compact and justified thereby, the Governing Board
9 or Executive Committee shall authorize support of the program. The
10 Governing Board or Executive Committee may meet at any time or place
11 for the purpose of receiving and considering an application. Any
12 and all determinations of the Governing Board or Executive
13 Committee, with respect to an application, together with the
14 reasons therefore shall be recorded and subscribed in such manner
15 as to show and preserve the votes of the individual members thereof.

16 "(f) A requesting state which is dissatisfied with a
17 determination of the Executive Committee shall upon notice in
18 writing given within twenty days of the determination with which it
19 is dissatisfied, be entitled to receive a review thereof at the next
20 meeting of the Governing Board. Determinations of the Executive
21 Committee shall be reviewable only by the Governing Board at one of
22 its regular meetings, or at a special meeting held in such manner as
23 the Governing Board may authorize.

24 "(g) Responding states required to undertake or increase
25 measures pursuant to this Compact may receive moneys from the
26 Insurance Fund, either at the time or times when such state incurs
27 expenditures on account of such measures, or as reimbursement for

1 expenses incurred and chargeable to the Insurance Fund. The
2 Governing Board shall adopt and, from time to time, may amend or
3 revise procedures for submission of claims upon it and for payment
4 thereof.

5 "(h) Before authorizing the expenditure of moneys from the
6 Insurance Fund pursuant to an application of a requesting state,
7 the Insurance Fund shall ascertain the extent and nature of any
8 timely assistance or participation which may be available from the
9 federal government and shall request the appropriate agency or
10 agencies of the federal government for such assistance and
11 participation.

12 "(i) The Insurance Fund may negotiate and execute a
13 memorandum of understanding or other appropriate instrument
14 defining the extent and degree of assistance or participation
15 between and among the Insurance Fund, cooperating federal agencies,
16 states, and any other entities concerned.

17 "ARTICLE VII. ADVISORY AND TECHNICAL COMMITTEES

18 "The Governing Board may establish advisory and technical
19 committees composed of state, local, and federal officials, and
20 private persons to advise it with respect to any one or more of its
21 functions. Any such advisory or technical committee, or any member
22 or members thereof may meet with and participate in its
23 deliberations upon request of the Governing Board or Executive
24 Committee. An advisory or technical committee may furnish
25 information and recommendations with respect to any application for
26 assistance from the Insurance Fund being considered by such Board
27 or Committee and the Board or Committee may receive and consider the

1 same: provided that any participant in a meeting of the Governing
2 Board or Executive Committee held pursuant to Article VI (d) of the
3 Compact shall be entitled to know the substance of any such
4 information and recommendations, at the time of the meeting if made
5 prior thereto or as a part thereof or, if made thereafter, no later
6 than the time at which the Governing Board or Executive Committee
7 makes its disposition of the application.

8 "ARTICLE VIII. RELATIONS WITH NONPARTY JURISDICTIONS

9 "(a) A party state may make application for assistance from
10 the Insurance Fund in respect of a pest in a nonparty state. Such
11 application shall be considered and disposed of by the Governing
12 Board or Executive Committee in the same manner as an application
13 with respect to a pest within a party state, except as provided in
14 this Article.

15 "(b) At or in connection with any meeting of the Governing
16 Board or Executive Committee held pursuant to Article VI (d) of this
17 Compact a nonparty state shall be entitled to appear, participate,
18 and receive information only to such extent as the Governing Board
19 or Executive Committee may provide. A nonparty state shall not be
20 entitled to review of any determination made by the Executive
21 Committee.

22 "(c) The Governing Board or Executive Committee shall
23 authorize expenditures from the Insurance Fund to be made in a
24 nonparty state only after determining that the conditions in such
25 state and the value of such expenditures to the party states as a
26 whole justify them. The Governing Board or Executive Committee may
27 set any conditions which it deems appropriate with respect to the

1 expenditure of moneys from the Insurance Fund in a nonparty state
2 and may enter into such agreement or agreements with nonparty
3 states and other jurisdictions or entities as it may deem necessary
4 or appropriate to protect the interests of the Insurance Fund with
5 respect to expenditures and activities outside of party states.

6 "ARTICLE IX. FINANCE

7 "(a) The Insurance Fund shall submit to the executive head
8 or designated officer or officers of each party state a budget for
9 the Insurance Fund for such period as may be required by the laws of
10 that party state for a presentation to the legislature thereof.

11 "(b) Each of the budgets shall contain specific
12 recommendations of the amount or amounts to be appropriated by each
13 of the party states. The request for appropriations shall be
14 apportioned among the party states as follows: one-tenth of the
15 total budget in equal shares and the remainder in proportion to the
16 value of agricultural and forest crops and products, excluding
17 animals and animal products, produced in each party state. In
18 determining the value of such crops and products the Insurance Fund
19 may employ such source or sources of information as in its judgment
20 present the most equitable and accurate comparisons among the party
21 states. Each of the budgets and requests for appropriations shall
22 indicate the source or sources used in obtaining information
23 concerning value of products.

24 "(c) The financial assets of the Insurance Fund shall be
25 maintained in two accounts to be designated respectively as the
26 "Operating Account" and the "Claims Account." The Operating Account
27 shall consist only of those assets necessary for the administration

1 of the Insurance Fund during the next ensuing two-year period. The
2 Claims Account shall contain all moneys not included in the
3 Operating Account and shall not exceed the amount reasonably
4 estimated to be sufficient to pay all legitimate claims on the
5 Insurance Fund for a period of three years. At any time when the
6 Claims Account has reached its maximum limit or would reach its
7 maximum limit by the addition of moneys requested for appropriation
8 by the party states, the Governing Board shall reduce its budget
9 requests on a pro rata basis in such manner as to keep the Claims
10 Account within such maximum limit. Any moneys in the Claims Account
11 by virtue of conditional donations, grants, or gifts shall be
12 included in calculations made pursuant to this paragraph only to
13 the extent that such moneys are available to meet demands arising
14 out of the claims.

15 "(d) The Insurance Fund shall not pledge the credit of any
16 party state. The Insurance Fund may meet any of its obligations in
17 whole or in part with moneys available to it under Article IV (g) of
18 this Compact, provided that the Governing Board take specific
19 action setting aside such moneys prior to incurring any obligation
20 to be met in whole or in part in such manner. Except where the
21 Insurance Fund makes use of moneys available to it under Article IV
22 (g) hereof, the Insurance Fund shall not incur any obligation prior
23 to the allotment of moneys by the party states adequate to meet the
24 same.

25 "(e) The Insurance Fund shall keep accurate accounts of all
26 receipts and disbursements. The receipts and disbursements of the
27 Insurance Fund shall be subject to the audit and accounting

1 procedures established under its bylaws. However, all receipts and
2 disbursements of funds handled by the Insurance Fund shall be
3 audited yearly by a certified or licensed public accountant and
4 report of the audit shall be included in and become part of the
5 annual report of the Insurance Fund.

6 "(f) The accounts of the Insurance Fund shall be open at any
7 reasonable time for inspection by duly authorized officers of the
8 party states and by any persons authorized by the Insurance Fund.

9 "ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

10 "(a) This Compact shall enter into force when enacted into
11 law by any five or more states. Thereafter, this Compact shall
12 become effective as to any other state upon its enactment thereof.

13 "(b) Any party state may withdraw from this Compact by
14 enacting a statute repealing the same, but no such withdrawal shall
15 take effect until two years after the executive head of the
16 withdrawing state has given notice in writing of the withdrawal to
17 the executive heads of all other party states. No withdrawal shall
18 affect any liability already incurred by or chargeable to a party
19 state prior to the time of such withdrawal.

20 "ARTICLE XI. CONSTRUCTION AND SEVERABILITY

21 "This Compact shall be liberally construed so as to
22 effectuate the purposes thereof. The provisions of this Compact
23 shall be severable and if any phrase, clause, sentence, or
24 provision of this Compact is declared to be contrary to the
25 constitution of any state or of the United States or the
26 applicability thereof to any government, agency, person, or
27 circumstance is held invalid, the validity of the remainder of this

1 Compact and the applicability thereof to any government, agency,
2 person, or circumstance shall not be affected thereby. If this
3 Compact shall be held contrary to the constitution of any state
4 participating herein the Compact shall remain in full force and
5 effect as to the remaining party states and in full force and effect
6 as to the state affected as to all severable matters."

7 SECTION 2. This Act takes effect September 1, 2005.