

By: Duncan, Seliger

S.B. No. 1428

A BILL TO BE ENTITLED

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AN ACT

relating to the establishment of a statewide maintenance program for boll weevil and pink bollworm eradication.

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

SECTION 1. Subsection (a), Section 74.101, Agriculture Code, is amended to read as follows:

(a) It is hereby found and declared that:

(1) the insects *Anthonomus grandis* Boheman, known as the boll weevil, and *Pectinophora gossypiella*, known as the pink bollworm, are public nuisances and a menace to the cotton industry, and their eradication is a public necessity;

(2) because of the differences in soil conditions, growing seasons, farming techniques, and climate conditions among several areas in the state where cotton is grown, the eradication and suppression of the nuisance can best be accomplished by dividing the cotton-growing areas into separate zones so that integrated pest management programs may be developed for each zone;

(3) there is a need for a quasi-governmental entity acting under the supervision and control of the commissioner whose members are actual cotton growers who would be represented on the board of the entity by directors elected by them to manage eradication and suppression programs and to furnish expertise in the field of insect control and eradication, because such an entity would enhance the interest and participation of cotton growers in

1 the program; ~~and~~

2 (4) because of the progress made in eradication,  
3 investments made by cotton growers in certain areas, the potential  
4 injustice to certain cotton growers who have made such investments,  
5 and the stage of development of the cotton crops in the statutory  
6 eradication zones, an urgent public necessity exists to validate  
7 and ratify the assessments, agreements, and obligations of the  
8 Texas Boll Weevil Eradication Foundation, Inc., made or incurred by  
9 the foundation and related to certain statutory zones;

10 (5) cotton growers, in partnership with the state and  
11 federal governments, have made significant investments toward the  
12 eradication of these pests in this state;

13 (6) it is essential to the well-being of the cotton  
14 industry and the agricultural economy of this state that the  
15 investments of the cotton growers and the state and federal  
16 governments be protected; and

17 (7) the establishment of a maintenance program to be  
18 carried out by the foundation under the supervision of the  
19 department is required to protect the investments in eradication.

20 SECTION 2. Section 74.114, Agriculture Code, is amended by  
21 adding Subsection (a-1) to read as follows:

22 (a-1) Notwithstanding Subsection (a), the commissioner may  
23 conduct only one referendum on continuation in each zone on or after  
24 September 1, 2005. The commissioner shall include on the ballot  
25 adequate notice of:

26 (1) the fact that a referendum on continuation is the  
27 final referendum on continuation for the zone in which it is held;

1 and

2 (2) the existence of the petition provision in Section  
3 74.112(f).

4 SECTION 3. Chapter 74, Agriculture Code, is amended by  
5 adding Subchapter F to read as follows:

6 SUBCHAPTER F. MAINTENANCE PROGRAM FOR BOLL WEEVIL AND PINK

7 BOLLWORM ERADICATION

8 Sec. 74.201. DEFINITIONS. The definitions provided by  
9 Section 74.102 apply to this subchapter.

10 Sec. 74.202. MAINTENANCE AREAS. (a) On the request of the  
11 foundation and affected cotton grower steering committees, the  
12 commissioner by rule may designate boll weevil and pink bollworm  
13 eradication maintenance areas for the continued protection of the  
14 cotton industry. To the extent practicable, and to the extent  
15 consistent with Subsection (b), maintenance areas must follow the  
16 lines of existing eradication zones. Contiguous eradication zones  
17 eligible for inclusion in a maintenance area may be included in the  
18 same maintenance area. Additional counties not previously included  
19 in an eradication zone may be added to maintenance areas to prevent  
20 reinfestation or otherwise support the eradication efforts of the  
21 state on request of the foundation, if the county is contiguous with  
22 a maintenance area.

23 (b) An eradication zone is eligible for inclusion in a  
24 maintenance area if:

25 (1) the commissioner determines that the boll weevil  
26 has been functionally eradicated in that zone;

27 (2) the zone has satisfied any debt owed to the

1 foundation;

2 (3) the cotton grower steering committee requests the  
3 inclusion of the zone in a maintenance area; and

4 (4) the foundation requests the inclusion of the zone  
5 in a maintenance area.

6 (c) To the extent consistent with this subchapter,  
7 Subchapter D applies to the activities of the department and  
8 foundation under this subchapter.

9 Sec. 74.203. MAINTENANCE FEES. (a) The commissioner by  
10 rule may impose a maintenance fee on all cotton grown or on all  
11 cotton acres in a maintenance area.

12 (b) The maintenance fee must be collected on a per-acre or  
13 per-bale basis at a rate to be set by the commissioner after  
14 receiving a recommendation from the board. The board shall consult  
15 with cotton grower steering committees and the technical advisory  
16 committee in formulating a recommendation to the commissioner under  
17 this subsection. The commissioner may accept, reject, or modify a  
18 board recommendation.

19 (c) The commissioner by rule may determine the method,  
20 manner, and mechanism by which maintenance fees are collected,  
21 including provisions for collection at central points in the cotton  
22 marketing process. The rules must provide for the fee collector to  
23 forward maintenance fees to the credit of the foundation.

24 (d) The amount of the maintenance fee must be based on:

25 (1) the number of cotton acres in a maintenance area;

26 (2) the potential for reinfestation from outside the  
27 maintenance area;

1           (3) the growing season;

2           (4) epidemiology;

3           (5) historical weather conditions;

4           (6) the expected costs of the maintenance program; and

5           (7) the need for an adequate reserve to respond to  
6 potential reinfestations in a rapid, effective manner.

7           (e) The department shall hold one or more hearings regarding  
8 the amount and collection methods of a maintenance fee to be imposed  
9 under this section.

10           (f) Maintenance fees collected under this section are not  
11 state funds.

12           Sec. 74.204. RULES. The department may adopt rules  
13 necessary for the implementation and operation of a maintenance  
14 program under this subchapter, including rules limiting the balance  
15 of maintenance fees that the foundation may carry over from year to  
16 year in the foundation budget.

17           SECTION 4. This Act takes effect September 1, 2005.