

By: Duncan

S.B. No. 1428

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 (a) It is hereby found and declared that:

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

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

18 (3) there is a need for a quasi-governmental entity
19 acting under the supervision and control of the commissioner whose
20 members are actual cotton growers who would be represented on the
21 board of the entity by directors elected by them to manage
22 eradication and suppression programs and to furnish expertise in
23 the field of insect control and eradication, because such an entity
24 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 in each zone on or after September 1,
24 2005. The commissioner shall ensure that adequate notice of the
25 fact that a referendum is the final referendum for the zone in which
26 it is held is included on the ballot.

27 SECTION 3. Chapter 74, Agriculture Code, is amended by

1 adding Subchapter F to read as follows:

2 SUBCHAPTER F. MAINTENANCE PROGRAM FOR BOLL WEEVIL AND PINK

3 BOLLWORM ERADICATION

4 Sec. 74.201. DEFINITIONS. The definitions provided by
5 Section 74.102 apply to this subchapter.

6 Sec. 74.202. MAINTENANCE AREAS. (a) The commissioner by
7 rule may designate boll weevil and pink bollworm eradication
8 maintenance areas for the continued protection of the cotton
9 industry. To the extent practicable, and to the extent consistent
10 with Subsection (b), maintenance areas must follow the lines of
11 existing eradication zones. Contiguous eradication zones may be
12 included in the same maintenance area. Additional counties may be
13 added to maintenance areas:

14 (1) to prevent reinfestation or otherwise support the
15 eradication efforts of the state; and

16 (2) on request of the foundation, if the county is
17 contiguous with a maintenance area.

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

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

22 (2) the zone has satisfied any debt owed to the
23 foundation; and

24 (3) the foundation requests the inclusion of the zone
25 in a maintenance area.

26 (c) To the extent consistent with this subchapter,
27 Subchapter D applies to the activities of the department and

1 foundation under this subchapter.

2 Sec. 74.203. MAINTENANCE FEES. (a) The commissioner by
3 rule may impose a maintenance fee on all cotton grown in a
4 maintenance area.

5 (b) The maintenance fee must be collected on a per-acre or
6 per-bale basis at a rate to be set by the commissioner in
7 cooperation with the board. The board shall consult with cotton
8 grower steering committees in formulating a recommendation to the
9 commissioner under this subsection. The commissioner may accept,
10 reject, or modify a board recommendation.

11 (c) The commissioner by rule shall determine the timing and
12 frequency with which maintenance fees are collected. The rules
13 must provide for the fee collector to forward maintenance fees to
14 the credit of the foundation.

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

16 (1) the number of cotton acres in a maintenance area;
17 (2) the potential for reinfestation from outside the
18 maintenance area;

19 (3) the growing season;

20 (4) epidemiology;

21 (5) historical weather conditions;

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

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

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

1 (f) Maintenance fees collected under this section are not
2 state funds.

3 Sec. 74.204. RULES. The department may adopt rules
4 necessary for the implementation and operation of a maintenance
5 program under this subchapter, including rules limiting the balance
6 of maintenance fees that the foundation may carry over from year to
7 year in the foundation budget.

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2005.