

1-1 By: Duncan, Seliger S.B. No. 1428  
1-2 (In the Senate - Filed March 10, 2005; March 21, 2005, read  
1-3 first time and referred to Subcommittee on Agriculture and Coastal  
1-4 Resources; March 30, 2005, reported adversely, with favorable  
1-5 Committee Substitute to Committee on Natural Resources;  
1-6 April 18, 2005, reported adversely, with favorable Committee  
1-7 Substitute from Committee on Natural Resources by the following  
1-8 vote: Yeas 9, Nays 0; April 18, 2005, sent to printer.)

1-9 COMMITTEE SUBSTITUTE FOR S.B. No. 1428 By: Jackson

1-10 A BILL TO BE ENTITLED  
1-11 AN ACT

1-12 relating to the establishment of a statewide maintenance program  
1-13 for boll weevil and pink bollworm eradication.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subsection (a), Section 74.101, Agriculture  
1-16 Code, is amended to read as follows:

1-17 (a) It is hereby found and declared that:

1-18 (1) the insects *Anthonomus grandis* Boheman, known as  
1-19 the boll weevil, and *Pectinophora gossypiella*, known as the pink  
1-20 bollworm, are public nuisances and a menace to the cotton industry,  
1-21 and their eradication is a public necessity;

1-22 (2) because of the differences in soil conditions,  
1-23 growing seasons, farming techniques, and climate conditions among  
1-24 several areas in the state where cotton is grown, the eradication  
1-25 and suppression of the nuisance can best be accomplished by  
1-26 dividing the cotton-growing areas into separate zones so that  
1-27 integrated pest management programs may be developed for each zone;

1-28 (3) there is a need for a quasi-governmental entity  
1-29 acting under the supervision and control of the commissioner whose  
1-30 members are actual cotton growers who would be represented on the  
1-31 board of the entity by directors elected by them to manage  
1-32 eradication and suppression programs and to furnish expertise in  
1-33 the field of insect control and eradication, because such an entity  
1-34 would enhance the interest and participation of cotton growers in  
1-35 the program; ~~and~~

1-36 (4) because of the progress made in eradication,  
1-37 investments made by cotton growers in certain areas, the potential  
1-38 injustice to certain cotton growers who have made such investments,  
1-39 and the stage of development of the cotton crops in the statutory  
1-40 eradication zones, an urgent public necessity exists to validate  
1-41 and ratify the assessments, agreements, and obligations of the  
1-42 Texas Boll Weevil Eradication Foundation, Inc., made or incurred by  
1-43 the foundation and related to certain statutory zones;

1-44 (5) cotton growers, in partnership with the state and  
1-45 federal governments, have made significant investments toward the  
1-46 eradication of these pests in this state;

1-47 (6) it is essential to the well-being of the cotton  
1-48 industry and the agricultural economy of this state that the  
1-49 investments of the cotton growers and the state and federal  
1-50 governments be protected; and

1-51 (7) the establishment of a maintenance program to be  
1-52 carried out by the foundation under the supervision of the  
1-53 department is required to protect the investments in eradication.

1-54 SECTION 2. Section 74.114, Agriculture Code, is amended by  
1-55 adding Subsection (a-1) to read as follows:

1-56 (a-1) Notwithstanding Subsection (a), the commissioner may  
1-57 conduct only one referendum on continuation in each zone on or after  
1-58 September 1, 2005. The commissioner shall include on the ballot  
1-59 adequate notice of:

1-60 (1) the fact that a referendum on continuation is the  
1-61 final referendum on continuation for the zone in which it is held;  
1-62 and

1-63 (2) the existence of the petition provision in Section

2-1 74.112(f).

2-2 SECTION 3. Chapter 74, Agriculture Code, is amended by  
 2-3 adding Subchapter F to read as follows:

2-4 SUBCHAPTER F. MAINTENANCE PROGRAM FOR BOLL WEEVIL AND PINK

2-5 BOLLWORM ERADICATION

2-6 Sec. 74.201. DEFINITIONS. The definitions provided by  
 2-7 Section 74.102 apply to this subchapter.

2-8 Sec. 74.202. MAINTENANCE AREAS. (a) On the request of the  
 2-9 foundation and affected cotton grower steering committees, the  
 2-10 commissioner by rule may designate boll weevil and pink bollworm  
 2-11 eradication maintenance areas for the continued protection of the  
 2-12 cotton industry. To the extent practicable, and to the extent  
 2-13 consistent with Subsection (b), maintenance areas must follow the  
 2-14 lines of existing eradication zones. Contiguous eradication zones  
 2-15 eligible for inclusion in a maintenance area may be included in the  
 2-16 same maintenance area. Additional counties not previously included  
 2-17 in an eradication zone may be added to maintenance areas to prevent  
 2-18 reinfestation or otherwise support the eradication efforts of the  
 2-19 state on request of the foundation, if the county is contiguous with  
 2-20 a maintenance area.

2-21 (b) An eradication zone is eligible for inclusion in a  
 2-22 maintenance area if:

2-23 (1) the commissioner determines that the boll weevil  
 2-24 has been functionally eradicated in that zone;

2-25 (2) the zone has satisfied any debt owed to the  
 2-26 foundation;

2-27 (3) the cotton grower steering committee requests the  
 2-28 inclusion of the zone in a maintenance area; and

2-29 (4) the foundation requests the inclusion of the zone  
 2-30 in a maintenance area.

2-31 (c) To the extent consistent with this subchapter,  
 2-32 Subchapter D applies to the activities of the department and  
 2-33 foundation under this subchapter.

2-34 Sec. 74.203. MAINTENANCE FEES. (a) The commissioner by  
 2-35 rule may impose a maintenance fee on all cotton grown or on all  
 2-36 cotton acres in a maintenance area.

2-37 (b) The maintenance fee must be collected on a per-acre or  
 2-38 per-bale basis at a rate to be set by the commissioner after  
 2-39 receiving a recommendation from the board. The board shall consult  
 2-40 with cotton grower steering committees and the technical advisory  
 2-41 committee in formulating a recommendation to the commissioner under  
 2-42 this subsection. The commissioner may accept, reject, or modify a  
 2-43 board recommendation.

2-44 (c) The commissioner by rule may determine the method,  
 2-45 manner, and mechanism by which maintenance fees are collected,  
 2-46 including provisions for collection at central points in the cotton  
 2-47 marketing process. The rules must provide for the fee collector to  
 2-48 forward maintenance fees to the credit of the foundation.

2-49 (d) The amount of the maintenance fee must be based on:

2-50 (1) the number of cotton acres in a maintenance area;

2-51 (2) the potential for reinfestation from outside the  
 2-52 maintenance area;

2-53 (3) the growing season;

2-54 (4) epidemiology;

2-55 (5) historical weather conditions;

2-56 (6) the expected costs of the maintenance program; and

2-57 (7) the need for an adequate reserve to respond to  
 2-58 potential reinfestations in a rapid, effective manner.

2-59 (e) The department shall hold one or more hearings regarding  
 2-60 the amount and collection methods of a maintenance fee to be imposed  
 2-61 under this section.

2-62 (f) Maintenance fees collected under this section are not  
 2-63 state funds.

2-64 Sec. 74.204. RULES. The department may adopt rules  
 2-65 necessary for the implementation and operation of a maintenance  
 2-66 program under this subchapter, including rules limiting the balance  
 2-67 of maintenance fees that the foundation may carry over from year to  
 2-68 year in the foundation budget.

2-69 SECTION 4. This Act takes effect September 1, 2005.

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