

BILL ANALYSIS

Senate Research Center

S.B. 1871
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Boll weevil eradication has been largely successful in Texas. Thanks to joint efforts of farmers and the Texas Boll Weevil Eradication Foundation, Inc. (foundation), over 80 percent of the state's cotton acres are now free of this pest. However, certain areas of the state, such as the Lower Rio Grande Valley, the Texas coast, and the Southern Blacklands, have weevil populations under control but need additional tools to complete the eradication.

Cotton is a perennial plant, meaning it will re-grow from dead stalks given proper conditions. This re-growth provides prime boll weevil habitat and must be eliminated. Volunteer cotton poses similar problems for the program. This legislation would give growers, the foundation, and the Texas Department of Agriculture (TDA) tools to build upon existing stalk destruction statutes and regulatory authority to more aggressively work to reduce re-growth and volunteer cotton, thereby increasing the effectiveness of the boll weevil eradication program.

As proposed, S.B. 1871 requires that volunteer and other noncommercial cotton, to protect the cotton industry of this state, be eliminated. S.B. 1871 requires TDA to submit the recommendations of each administrative committee for each pest management zone to the foundation. This bill requires the foundation, on review of the administrative committee recommendations, to submit to TDA an estimate of the amount by which the implementation would increase the cost of administering the program. This bill also requires TDA to establish and collect a hostable cotton fee for fields in which cotton stalks, volunteer cotton, or other noncommercial cotton remains past the stalk destruction deadline for the applicable zone.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 2 (Section 74.0042, Agriculture Code) and SECTION 4 (Section 74.119, Agriculture Code) of this bill.

Rulemaking authority previously granted to the commissioner of agriculture is modified in SECTION 3 (Section 74.118, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 74.001, Agriculture Code, as follows:

Sec. 74.001. PUBLIC NUISANCE. (a) Creates this subsection from existing text.

(b) Provides that the legislature finds that volunteer and other noncommercial cotton is a public nuisance that threatens the cotton growers' boll weevil eradication program (program) by serving as a host for cotton pests such as boll weevils and pink bollworms. Requires that volunteer and other noncommercial cotton, to protect the cotton industry of this state, be eliminated subject to the provisions of this chapter.

SECTION 2. Amends Subchapter A, Chapter 74, Agriculture Code, by adding Sections 74.0031 and 74.0042, as follows:

Sec. 74.0031. COTTON STALK DESTRUCTION. (a) Requires the Texas Department of Agriculture (TDA) to submit the recommendations of each administrative committee

for each pest management zone (zone) under Section 74.003 (Establishment of Pest Management Zones) to the Texas Boll Weevil Eradication Foundation, Inc. (foundation). Requires the foundation, on review of the administrative committee recommendations, to submit to TDA an estimate of the amount by which the implementation of each recommendation would increase the cost of administering the program.

(b) Requires the foundation to conduct a study of the effects of incomplete cotton stalk destruction and volunteer cotton control on boll weevil eradication activities and to submit recommendations to TDA and the foundation's board of directors for a cotton stalk destruction deadline for each zone not later than November 1, 2009, and authorizes the foundation to consult with its technical advisory committee in formulating the study and recommendations called for by this subsection.

(c) Requires TDA to set a cotton stalk destruction deadline for each zone based on the foundation's recommendations under Subsection (b).

Sec. 74.0042. HOSTABLE COTTON FEE. (a) Requires TDA to establish and collect a hostable cotton fee (fee) for fields in which cotton stalks, volunteer cotton, or other noncommercial cotton remains past the stalk destruction deadline for the applicable zone. Requires that a fee under this section be expressed in terms of dollars per acre per week and apply for each week that the stalks, volunteer cotton, or other noncommercial cotton remains in the field.

(b) Authorizes the administrative committee for the applicable zone, if adverse weather affects an area within 10 days of the date of harvest, to request that TDA grant a blanket extension of the cotton stalk destruction deadline for all fields located in the zone. Requires that a request under this subsection be made not later than the 14th day before the applicable cotton stalk destruction deadline. Provides that a field is not subject to a fee if TDA grants a blanket extension of the deadline. Requires the foundation to submit to TDA an estimate of the amount by which an extension under this subsection will increase the cost of administering the program.

(c) Authorizes a cotton grower, if TDA denies a request for a blanket extension of the cotton stalk destruction deadline for the fields in a zone, to apply for an individual extension of the deadline. Requires that a request under this subsection be made not later than the fourth business day before the applicable zone's stalk destruction deadline. Requires the foundation to submit to TDA an estimate of the amount by which any extension of a stalk destruction deadline that is granted under this subsection will increase the cost of administering the program.

(d) Provides that any cotton or cotton stalks that remain in a field after the cotton stalk destruction deadline has passed that are covered by an individual extension are subject to one-half the fee established under Subsection (a) for the duration of the individual extension.

(e) Provides that any cotton or cotton stalks that remain in a field after the cotton stalk destruction deadline or any extension of the stalk destruction deadline has passed are subject to the fee established under Subsection (a). Provides that any cotton or cotton stalks that remain in a field for more than 30 days after the stalk destruction deadline or any extension of the deadline are subject to twice the fee established under Subsection (a).

(f) Requires that fees collected by TDA be sent to the comptroller of public accounts and deposited in an account established for the treatment of cotton until the cotton is rendered nonhostable and for other expenses incident to boll weevil eradication. Authorizes TDA to contract with the foundation or its successor entity for treatment, control, or monitoring activities funded from the account.

(g) Authorizes TDA, if a fee that is due is not paid on or before the 45th day after the date TDA gives notice to a cotton grower that the fee is due, to destroy any cotton or cotton stalks that remain in the field, as provided by Section 74.004 (Destruction of Host Plants).

(h) Requires TDA to adopt rules to administer this section.

SECTION 3. Amends Section 74.118(a), Agriculture Code, to authorize the commissioner of agriculture to adopt reasonable rules regarding areas where cotton is prohibited from being planted in an eradication zone if there is reason to believe that planting will jeopardize the success of the program by making treatment impracticable or present a hazard to public health or safety.

SECTION 4. Amends Section 74.119, Agriculture Code, as follows:

Sec. 74.119. AUTHORITY FOR DESTRUCTION OR TREATMENT OF COTTON IN ERADICATION ZONES; COMPENSATION PAYABLE. (a) Creates this subsection from existing text. Requires TDA to destroy or treat volunteer or other noncommercial cotton and establish procedures for the purchase and destruction of commercial cotton in eradication zones, rather than authorizes TDA to destroy or treat volunteer or other noncommercial cotton and establish procedures for the purchase and destruction of commercial cotton in eradication zones if TDA determines the action is necessary to carry out the purposes of this subchapter.

(b) Requires TDA, not later than January 1, 2010, to adopt rules providing for the regulation and control of volunteer and other noncommercial cotton in zones. Requires that the rules, at a minimum, provide a cotton grower with a period of not less than five or more than 15 days in which the grower is required to destroy volunteer or other noncommercial cotton on receipt of a notice from TDA, or allow TDA or a person designated by TDA to monitor and treat volunteer or other noncommercial cotton for boll weevil infestation if the cotton grower does not destroy the cotton in compliance with the notice from TDA.

(c) Requires the cotton grower, if a grower does not destroy volunteer or other noncommercial cotton as provided by Subsection (b)(1) (relating to destruction within not less than five or more than 15 days), to be liable to TDA for a volunteer cotton fee to be set by TDA. Requires that the fee in no event be less than the eradication assessment that would have been owed if the entire field in question were planted in cotton. Requires that volunteer cotton fees be deposited in the hostable cotton fee account established under Section 74.0042, and authorizes the fee proceeds to be expended for like expenses.

SECTION 5. Effective date: upon passage or September 1, 2009.