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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

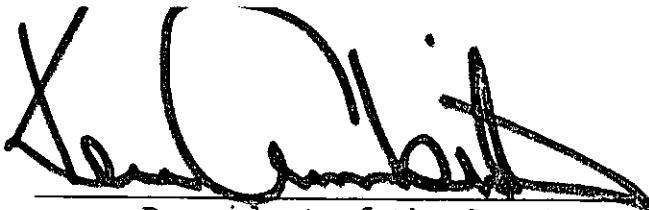
5 (7) the need for an adequate reserve to respond to
6 potential reinfestations in a rapid, effective manner.

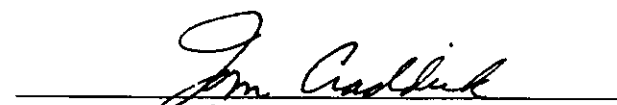
7 (e) The department shall hold one or more hearings regarding
8 the amount and collection methods of a maintenance fee to be imposed
9 under this section.

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

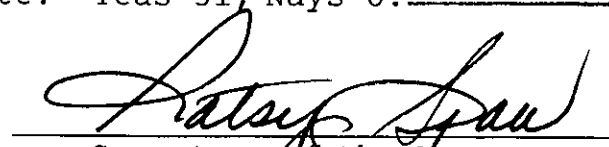
12 Sec. 74.204. RULES. The department may adopt rules
13 necessary for the implementation and operation of a maintenance
14 program under this subchapter, including rules limiting the balance
15 of maintenance fees that the foundation may carry over from year to
16 year in the foundation budget.

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

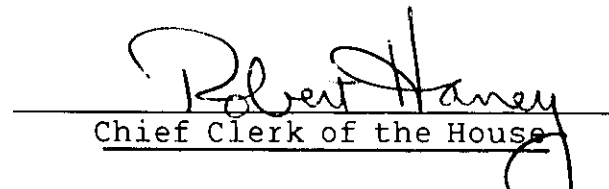

President of the Senate


Speaker of the House

I hereby certify that S.B. No. 1428 passed the Senate on April 28, 2005, by the following vote: Yeas 31, Nays 0. _____


Secretary of the Senate

I hereby certify that S.B. No. 1428 passed the House on May 10, 2005, by the following vote: Yeas 142, Nays 0, two present not voting. _____

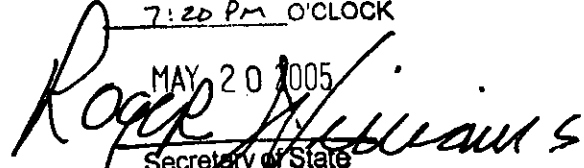

Chief Clerk of the House

Approved:

20 MAY 05
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
7:20 PM O'CLOCK


Secretary of State