

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1871
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Agriculture & Rural Affairs
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Committee Report (Substituted)

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.

C.S.S.B. 1871 amends current law relating to the management of volunteer and other noncommercial cotton in pest management zones. C.S.S.B. 1871 requires that volunteer and other noncommercial cotton, to protect the cotton industry of this state, be eliminated. C.S.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 74.0032, 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 74.0032, as follows:

Sec. 74.0031. COTTON STALK DESTRUCTION. (a) Requires the Texas Department of Agriculture (TDA) to submit the recommendations of each administrative committee that governs a pest management zone (zone) under Section 74.003 (Establishment of Pest Management Zones) to the Texas Boll Weevil Eradication Foundation (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 annual recommendations to TDA and the board of directors of the foundation for a cotton stalk destruction deadline for each zone.

(c) Authorizes the foundation to consult with its technical advisory committee in fulfilling its duties under Subsection (b).

(d) Requires TDA to set a cotton stalk destruction deadline for each zone, with consideration given to the recommendations of the foundation and the applicable administrative committee submitted under Subsection (b).

Sec. 74.0032. HOSTABLE COTTON FEE. (a) Requires TDA to establish a hostable cotton fee (fee) for fields in which hostable cotton stalks, hostable volunteer cotton, or other hostable noncommercial cotton remains past the stalk destruction deadline set for the applicable pest management zone under Section 74.0031. Requires that a fee under this section be expressed in terms of dollars per acre, per week in which the stalks, volunteer cotton, or other noncommercial cotton remains in the field. Requires TDA to establish a procedure to notify a cotton grower that a fee is due TDA under this section.

(b) Authorizes the administrative committee that governs the applicable zone, if adverse weather conditions or other good cause exists, to request that TDA grant an extension of the cotton stalk destruction deadline for any specified part of the zone or for the entire zone. Requires that a request under this subsection be made not later than 10 business days before the applicable cotton stalk destruction deadline. Provides that a field is not subject to a fee if TDA grants an 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 the applicable administrative committee does not request an extension, or if TDA denies a request for an extension of the cotton stalk destruction deadline for a specified part of a zone, to apply for an individual extension of the deadline. Requires that a request under this subsection be made not later than 10 business days before the applicable zone's stalk destruction deadline.

(d) 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 Subsection (c) will increase the cost of administering the program.

(e) Provides that any hostable cotton or hostable cotton stalks that remain in a field after an individual extension granted under Subsection (c) has passed are subject to 50 percent of the hostable cotton fee established by Subsection (a). Provides that any hostable cotton or hostable 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 hostable cotton fee established under Subsection (a). Provides that any hostable cotton or hostable 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 150 percent of the fee established under Subsection (a).

(f) Requires that a hostable cotton fee be sent to the comptroller of public accounts and authorizes the fee to be appropriated only for the purpose of treating hostable cotton or for other expenses related 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, unless on or before the 45th day after the date TDA gives notice to a cotton grower that a hostable cotton fee is due the fee is paid, 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 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 hostable 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 or landowner with a period of time in which the grower or owner is required to destroy hostable volunteer or other hostable noncommercial cotton on receipt of a notice from TDA, and allow TDA or a person designated by TDA to monitor and treat hostable volunteer or other hostable noncommercial cotton that is located in a crop field for boll weevil infestation if the cotton grower or landowner does not destroy the cotton in compliance with the notice from TDA, and to destroy hostable volunteer or other hostable noncommercial cotton that is not in a crop field, as provided by Section 74.004.

(c) Requires a grower or landowner, if the grower or owner does not destroy hostable volunteer or other hostable noncommercial cotton as required by Subsection (b)(1) (relating to destruction within not less than five or more than 15 days), to pay to TDA a volunteer cotton fee in an amount determined by TDA. Provides that a fee under this subsection is authorized to be assessed only on acreage where hostable volunteer or other hostable noncommercial cotton is located, prohibited from being less than one-half the amount the grower or owner would owe if the entire acreage were planted with cotton, and required to be deposited to the credit of the hostable cotton fee account established by Section 74.0032.

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