

CS for SB 1614

THE STATE SENATE
Wednesday, February 22, 2006

Committee Substitute for
Senate Bill No. 1614

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1614 - By: LAWLER of the Senate and McMULLEN of the House.

[agriculture - Boll Weevil Eradication Act - providing for posteradication maintenance and control - providing for a tick eradication program - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2001, Section 3-50.1, is amended to read as follows:

Section 3-50.1 ~~Sections 1 through 20 of this~~ This act shall be known and may be cited as the "Boll Weevil Eradication Act".

SECTION 2. AMENDATORY 2 O.S. 2001, Section 3-50.2, is amended to read as follows:

Section 3-50.2 A. The *Anthonomus grandis* Boheman, known as the boll weevil, is hereby declared to be a public nuisance, a pest, and a menace to the cotton industry. Due to the interstate nature of boll weevil infestation, it is necessary to secure the cooperation of cotton growers, other state governments, and agencies of the federal government in order to carry out a program of boll weevil eradication and posteradication maintenance and control.

B. The purpose of the Boll Weevil Eradication Act is to secure and ensure on a continuing basis the eradication of the boll weevil.

1 SECTION 3. AMENDATORY 2 O.S. 2001, Section 3-50.3, is
2 amended to read as follows:

3 Section 3-50.3 As used in the Boll Weevil Eradication Act:

4 1. "Board of directors" means the board of directors of the
5 Oklahoma Boll Weevil Eradication Organization elected pursuant to
6 the provisions of the Boll Weevil Eradication Act;

7 2. "Boll weevil" means the insect *Anthonomus grandis* Boheman,
8 in any stage of development, including the egg, larval, pupal and
9 adult stages;

10 3. "Commissioner" means the Commissioner of the Oklahoma
11 Department of Agriculture, Food, and Forestry or ~~his~~ designee;

12 4. "Cotton" means a cotton plant or any part of it including
13 bolls, stalk, flowers, root, or leaves or cotton products such as
14 seed cotton, cottonseed, and hulls;

15 5. "~~Cotton~~ Eligible cotton grower" means any person ~~who is~~
16 actively engaged in the production of cotton either currently or ~~who~~
17 ~~was actively engaged in production of cotton~~ in any two (2) of the
18 three (3) years immediately preceding the calling of an election or
19 a referendum;

20 6. "Department" means the Oklahoma ~~State~~ Department of
21 Agriculture, Food, and Forestry;

22 7. "Eradicated area" means an area free of boll weevil;

1 8. "Host" means any plant or plant product in which the boll
2 weevil is capable of completing any portion of its life cycle;

3 ~~8.~~ 9. "Infested" means the presence of the boll weevil in any
4 life stage or the existence of circumstances that make it reasonable
5 to believe that the boll weevil is present;

6 ~~9.~~ 10. "Organization" means the Oklahoma Boll Weevil
7 Eradication Organization established pursuant to the provisions of
8 the Boll Weevil Eradication Act;

9 ~~10.~~ ~~"Person" means any individual, corporation, company,~~
10 ~~society, association, or other business entity; and~~

11 11. "Regulated article" means any article carrying or capable
12 of carrying the boll weevil, including but not limited to cotton
13 plants, seed cotton, gin trash, other hosts, or cotton harvesting
14 equipment; and

15 12. "Quarantined area" means any area or part of the state
16 designated as quarantined by the State Board of Agriculture at the
17 request of the Oklahoma Boll Weevil Eradication Organization.

18 SECTION 4. AMENDATORY 2 O.S. 2001, Section 3-50.4, is
19 amended to read as follows:

20 Section 3-50.4 A. ~~Upon the effective date of this act, the~~
21 ~~Commissioner is hereby authorized and directed to implement Sections~~
22 ~~5 through 13 of this act.~~

1 ~~B.~~ The Commissioner in conjunction with the State Board of
2 Agriculture is authorized to ~~cooperate with any agency of the~~
3 ~~federal government, any state contiguous to this state, any other~~
4 ~~agency in this state, or any person engaged in growing, processing,~~
5 ~~marketing, or handling cotton, or any group of such persons in this~~
6 ~~state, in programs to implement Sections 5 through 13 of this act,~~
7 ~~and may enter into written agreements to effectuate such purposes~~
8 review and make recommendations to the Legislature regarding the
9 boll weevil eradication and posteradication maintenance and control
10 program.

11 SECTION 5. AMENDATORY 2 O.S. 2001, Section 3-50.5, is
12 amended to read as follows:

13 Section 3-50.5 A. 1. The State of Oklahoma shall contain ~~one~~
14 a boll weevil eradication district to be known as the Oklahoma Boll
15 Weevil Eradication Organization for the ~~purpose~~ purposes of
16 eradicating boll weevils and performing posteradication maintenance
17 and control functions as an agency of the State of Oklahoma. The
18 Organization and the board of directors may enter into agreements
19 with other state agencies, other states, the United States of
20 America and any other entity or party as ~~may be~~ necessary to carry
21 out the purposes of the Boll Weevil Eradication Act.

22 2. The Organization shall be, and is hereby declared to be, a
23 governmental agency of the State of Oklahoma, body politic and

1 corporate, with powers of government and with the authority to
2 exercise the rights, privileges, and functions specified by the Boll
3 Weevil Eradication Act.

4 B. Every person who is a cotton grower in this state is subject
5 to the provisions of the Boll Weevil Eradication Act; however, only
6 eligible cotton growers may vote in the elections provided for by
7 the Boll Weevil Eradication Act.

8 C. ~~1. The Organization's initial board shall be composed of~~
9 ~~four (4) members. Three members shall be cotton growers from this~~
10 ~~state who are selected by the Governor from a list of six persons~~
11 ~~submitted by the Oklahoma Cotton Improvement Association for~~
12 ~~purposes of appointment to the initial board. The fourth member,~~
13 ~~appointed by the Governor, shall be a representative of state~~
14 ~~government from this state. The initial board shall serve only~~
15 ~~until a board of directors is elected pursuant to Section 3-50.6 of~~
16 ~~this title.~~

17 ~~2. The primary function of the initial board is to:~~
18 ~~a. fairly and equitably establish five election~~
19 ~~districts,~~
20 ~~b. conduct the election of the first board of directors~~
21 ~~of the Organization,~~
22 ~~c. establish written procedures for the due and orderly~~
23 ~~administration of the affairs of the initial board and~~

1 ~~for its responsibilities specified pursuant to the~~
2 ~~provisions of the Boll Weevil Eradication Act,~~
3 ~~d. advise, consult and cooperate with agencies of this~~
4 ~~state and political subdivisions thereof, other~~
5 ~~states, the federal government and with affected~~
6 ~~groups,~~
7 ~~e. collect and disseminate information relating to boll~~
8 ~~weevil eradication,~~
9 ~~f. hold public hearings regarding the establishment of~~
10 ~~election districts, and~~
11 ~~g. facilitate the expeditious transfer of authority to~~
12 ~~the elected board of directors.~~

13 ~~3. In creating election districts the initial board shall~~
14 ~~utilize geographic areas balanced by cotton production density as~~
15 ~~the primary factor.~~

16 SECTION 6. AMENDATORY 2 O.S. 2001, Section 3-50.6, is
17 amended to read as follows:

18 Section 3-50.6 A. 1. ~~The first election~~ Elections for the
19 board of directors shall be conducted under the procedures provided
20 by this section.

21 2. A cotton grower eligible to vote in a particular district
22 who desires to be a candidate for the board of directors ~~must~~ shall
23 file with the board a petition signed by five ~~(5)~~ cotton growers

1 ~~with the initial~~ from the district board. The application ~~must~~
2 shall be:

- 3 a. filed not later than thirty (30) days before the date
4 set for the election, and
5 b. on a form approved by the ~~initial~~ board.

6 3. On receipt of an application and verification that the
7 application meets the requirements of this section, an applicant's
8 name shall be placed on the ballot for the election ~~for~~ of the board
9 of directors.

10 4. The election ~~must~~ shall be preceded by at least forty-five
11 (45) days' notice published in one or more newspapers published and
12 distributed in the established election districts. The notice shall
13 be published not less than once a week for three (3) consecutive
14 weeks.

15 B. All cotton growers actively engaged in the production of
16 cotton in the year of the calling of ~~such~~ an election or who were
17 actively engaged in production of cotton in any two (2) of the three
18 (3) years immediately preceding the calling of the election shall be
19 entitled to vote in ~~any such~~ the election. The ~~initial~~ board shall
20 determine ~~any questions of~~ eligibility to vote.

21 C. 1. ~~The Department shall bear all reasonable expenses~~
22 ~~incurred in conducting the election of the first board of directors.~~

1 ~~All such expenses shall be approved by the Commissioner prior to~~
2 ~~being incurred.~~

3 ~~2. The written procedures established by the initial board for~~
4 ~~the~~ The board shall establish an election process that shall include
5 but not be limited to provisions for determining:

- 6 a. who is a cotton grower eligible to vote in an
7 election,
8 b. whether a board member is elected by a plurality or a
9 majority of the votes cast, and
10 c. qualifications for membership of the board of
11 directors.

12 ~~3. D. An eligible~~ Eligible cotton growers may vote in any
13 district in which ~~he produces~~ they produce cotton.

14 ~~D. E.~~ E. Ballots in an election may be mailed to a central
15 location or delivered in person to a location or locations
16 designated by the ~~initial~~ board.

17 SECTION 7. AMENDATORY 2 O.S. 2001, Section 3-50.7, as
18 last amended by Section 1, Chapter 93, O.S.L. 2005 (2 O.S. Supp.
19 2005, Section 3-50.7), is amended to read as follows:

20 Section 3-50.7 A. 1. Except as ~~otherwise~~ provided by this
21 section, the board of directors of the Oklahoma Boll Weevil
22 Eradication Organization shall be composed of five ~~(5)~~ cotton

1 growers from this state, ~~each of whom~~ who are elected from the five
2 separate districts established by the ~~initial~~ board.

3 2. The terms of office of the elected board of directors,
4 ~~except as otherwise provided by this section,~~ shall be ~~as follows:~~
5 three (3) years.

6 a. ~~one (1) year for district one,~~

7 b. ~~two (2) years for districts two and four, and~~

8 c. ~~three (3) years for districts three and five.~~

9 ~~Thereafter the term of office shall be for three (3) years.~~

10 3. ~~Each district shall also elect an alternate to serve for one~~
11 ~~or more of the following reasons:~~

12 a. ~~the death of the director,~~

13 b. ~~the resignation of the director,~~

14 c. ~~the incapacity of the director for a period of four~~
15 ~~(4) consecutive months or more,~~

16 d. ~~if the director's principal residence changes to a~~
17 ~~location outside the district from which the director~~
18 ~~was elected, or~~

19 e. ~~if the~~

20 A director ~~is~~ may be removed from office by a majority vote of
21 the board of directors for cause. Causes for removal include the
22 following:

23 ~~(1)~~

- 1 a. neglect of duty,
2 ~~(2)~~
- 3 b. willful misconduct,
4 ~~(3)~~
- 5 c. malpractice in office,
6 ~~(4)~~
- 7 d. self-dealing,
8 ~~(5)~~
- 9 e. ~~incompetency~~ incompetence,
10 ~~(6)~~
- 11 f. gross inefficiency, or
12 ~~(7)~~
- 13 g. any other unbecoming conduct ~~which~~ that can or may
14 affect the Organization's ability to satisfactorily
15 perform its duties or carry out its mission as a
16 public body ~~or otherwise~~.

17 ~~The alternate director must~~ All new directors shall take the an
18 oath of office before assuming the role as a director on the board.

19 4. ~~The directors and alternate directors~~ Directors shall hold
20 office until their respective successors are elected and take the
21 oath of office.

22 5. ~~The~~ At each election, the cotton grower with the highest
23 number of votes from each district shall ~~be elected as the director~~

1 ~~each election~~ serve on the board of directors. ~~The cotton grower~~
2 ~~with the second highest number of votes from each district shall be~~
3 ~~elected as the alternate director each election.~~

4 B. The board of directors shall have the power and duty to:

5 1. ~~Conduct board elections~~ Appoint a new director from the
6 appropriate election district to serve the remaining term in the
7 event of a vacancy on the board of directors;

8 2. ~~Conduct assessment referenda~~ Collect assessments pursuant to
9 ~~Section 9 of this title~~ the Boll Weevil Eradication Act;

10 3. Conduct programs consistent with the Boll Weevil Eradication
11 Act;

12 4. ~~Develop a proposed maximum assessment for implementation of~~
13 ~~the Boll Weevil Eradication Act. The assessment levied pursuant to~~
14 ~~the Boll Weevil Eradication Act shall be determined upon a fair and~~
15 ~~equitable system that is based upon cotton production and~~
16 ~~infestation factors. The board of directors shall determine the~~
17 ~~collection method and manner and the period of time for which the~~
18 ~~assessment is to be levied pursuant to Section 3-50.9 of this title~~
19 Determine and establish the assessment annually for the following
20 crop year pursuant to the Boll Weevil Eradication Act and the
21 program enabling referendum. The assessment shall be determined
22 upon a fair and equitable system that is based on cotton production
23 and infestation factors. The assessment shall be a flexible rate

1 not to exceed Seven Dollars and fifty cents (\$7.50) per acre and one
2 cent (\$.01) per pound of lint produced. Upon any change in the
3 assessment rate, the board shall immediately notify growers and
4 cotton gins of the new rate;

5 5. Develop bylaws for the due and orderly administration of the
6 affairs of the board of directors and for its responsibilities
7 specified pursuant to the provisions of the Boll Weevil Eradication
8 Act;

9 6. Develop, implement and pay for a plan for boll weevil
10 eradication and posteradication maintenance and control in this
11 state;

12 7. Advise, consult, and cooperate with agencies of this state,
13 ~~and political subdivisions thereof~~, other states, the federal
14 government, and ~~with~~ affected groups;

15 8. Collect and disseminate information relating to boll weevil
16 eradication and posteradication maintenance and control;

17 ~~9. Contract with agencies of this state, and political~~
18 ~~subdivisions thereof, other states, the federal government and other~~
19 ~~organizations or persons to comply and fulfill it's mission pursuant~~
20 ~~to the provisions of the Boll Weevil Eradication Act; Recommend the~~
21 designation of "eradicated areas" to the State Board of Agriculture
22 upon completion of active eradication and the beginning of
23 posteradication maintenance and control;

1 10. ~~Hold public hearings regarding the assessment referenda or~~
2 ~~for other purposes consistent with the provisions of the Boll Weevil~~
3 ~~Eradication Act;~~

4 11. ~~Designate one or more areas of this state as "elimination~~
5 ~~zones" where boll weevil eradication programs will be undertaken;~~

6 12. ~~Sue and be sued, implead and be impleaded, complain and~~
7 ~~defend in all courts;~~

8 ~~13.~~ 11. Adopt, use, and alter at will a corporate seal;

9 ~~14.~~ 12. Adopt bylaws for the management and regulation of its
10 affairs and to promulgate and issue rules governing its operations;

11 ~~15.~~ 13. Appoint officers, agents, and employees and prescribe
12 their duties and fix their compensation, within any limitations
13 prescribed by law;

14 ~~16.~~ 14. Make contracts of every name and nature and execute all
15 instruments necessary or convenient for the carrying on of ~~its~~ the
16 Organization's business;

17 ~~17.~~ 15. Accept grants from and enter into contracts or other
18 transactions with any federal agency;

19 ~~18.~~ 16. Issue and sell bonds, or ~~otherwise~~ borrow money, in
20 ~~such~~ amounts as shall be needed from time to time for the purposes
21 set forth in the Boll Weevil Eradication Act.

22 a. ~~Such~~ The bonds may:

23 (1) be issued in one or more series,

- 1 (2) bear ~~such~~ the date or dates,
- 2 (3) mature at ~~such~~ time or times not exceeding twenty
- 3 (20) years from their date,
- 4 (4) be in ~~such~~ denomination or denominations,
- 5 (5) be in ~~such~~ form, either coupon or registered,
- 6 (6) carry ~~such~~ registration and conversion
- 7 privileges,
- 8 (7) be executed in ~~such~~ a proper manner,
- 9 (8) be payable in ~~such~~ medium of payment at ~~such~~ a
- 10 place or places,
- 11 (9) be subject to ~~such~~ terms of redemption with or
- 12 without premium, and
- 13 (10) bear ~~such~~ rate or rates of interest, as may be
- 14 provided by resolution or resolutions to be
- 15 adopted by the Board within ~~such~~ limits provided
- 16 by law, and be sold in ~~such~~ a manner and at ~~such~~
- 17 a price or prices as may be considered by the
- 18 Board to be advisable.
- 19 b. Bonds shall have all the qualities and incidents of
- 20 negotiable paper and the interest thereon shall not be
- 21 subject to taxation by the State of Oklahoma.
- 22 c. The board of directors may issue bonds pursuant to the
- 23 Boll Weevil Eradication Act for the purpose of

1 ~~refunding~~ renewing funding of any obligations of the
2 board of directors, or may authorize and deliver a
3 single issue of bonds hereunder for the purpose in
4 part of ~~refunding~~ renewing funding for obligations of
5 the board.

6 d. The bonds issued pursuant to the Boll Weevil
7 Eradication Act shall not be an indebtedness of the
8 State of Oklahoma but shall be special obligations
9 payable solely from the assessments. The board of
10 directors is authorized and directed to pledge all or
11 any part of ~~such~~ the assessments to the payment of and
12 interest on the bonds.

13 e. The board of directors may enter into any agreement or
14 contracts with the United States of America or the
15 State of Oklahoma or any agency or instrumentality
16 thereof which it may consider advisable or necessary
17 in order to obtain a grant of funds or other aid to be
18 used in connection with the proceeds of the bonds.

19 f. All bonds issued pursuant to the Boll Weevil
20 Eradication Act shall have on the backs thereof the
21 certificate required by Section 29 of Article 10 of
22 the Constitution of Oklahoma. ~~Such~~ The bonds shall be
23 submitted to the Attorney General of Oklahoma for

1 examination. ~~Such~~ The bonds, having been examined and
2 certified as legal obligations by the Attorney General
3 in accordance with ~~such~~ the requirements as the
4 Attorney General may make, shall be incontestable in
5 any court in the State of Oklahoma unless suit thereon
6 shall be brought in a court having jurisdiction
7 thereof within thirty (30) days from the date of ~~such~~
8 approval. Bonds so approved by the Attorney General
9 shall be prima facie valid and binding obligations
10 according to their terms. The only defense ~~which~~ that
11 may be offered ~~thereto~~ in any suit instituted after
12 ~~such~~ a thirty-day period shall have expired shall be a
13 violation of the Constitution.

14 g. Any bank, trust, or insurance company organized under
15 the laws of Oklahoma may invest its capital, surplus,
16 and reserves in bonds issued under the provisions of
17 the Boll Weevil Eradication Act;

18 ~~19.~~ 18. File an application, at its discretion, with the
19 Supreme Court of Oklahoma for the validation of the Boll Weevil
20 Eradication Act or for the approval of any series of bonds to be
21 issued hereunder or any other actions to be taken by the board of
22 directors. Exclusive original jurisdiction is hereby conferred upon
23 the Supreme Court to hear and determine each ~~such~~ application.

- 1 a. It shall be the duty of the Supreme Court to give ~~such~~
2 applications precedence over the other business of the
3 Supreme Court and to consider and pass upon the
4 applications and any protests ~~which~~ that may be filed
5 thereto as speedily as possible.
- 6 b. Notice of the hearing on each application shall be
7 given by a notice published in a newspaper of general
8 circulation in the state that on a day named, the
9 board of directors will ask the court to hear its
10 application. ~~Such~~ The notice shall inform all persons
11 interested that they may file protests against the
12 validation or approval and be present at the hearing
13 and contest the same. ~~Such~~ The notice shall be
14 published one time, not less than ten (10) days prior
15 to the date named for the hearing, and the hearing may
16 be adjourned from time to time at the discretion of
17 the court.
- 18 c. In any action to approve bonds, if the Supreme Court
19 is satisfied that the bonds have been properly
20 authorized in accordance with the provisions of the
21 Boll Weevil Eradication Act and that when issued they
22 will constitute valid obligations in accordance with
23 their terms, the Supreme Court shall render its

1 written opinion approving the bonds and shall fix the
2 time within which a petition for rehearing may be
3 filed. The decision of the Supreme Court shall be a
4 judicial determination of the validity of the bonds,
5 shall be conclusive as to the board of directors, its
6 officers and agents, and thereafter the bonds so
7 approved and the revenues pledged to their payment
8 shall be incontestable in any court in the State of
9 Oklahoma;

10 ~~20.~~ 19. Conduct elections, at the discretion of the board of
11 directors, for any lawful purpose, including, but not limited to,
12 any assessment modification policy to deal with natural disasters.
13 Election procedures shall be established by the board of directors.
14 Fifty percent (50%) or more of the cotton growers voting ~~must~~ shall
15 approve each ballot issue for its adoption;

16 ~~21.~~ 20. Reexamine the number and composition of the existing
17 election districts in order to ensure fair and equitable geographic
18 areas based upon cotton production density. If the board of
19 directors determine that ~~either~~ the number or composition ~~or both~~
20 ~~the number and composition~~ of the election districts should be
21 reestablished, the board of directors shall:

- 1 a. fairly and equitably establish the election districts
2 necessary utilizing geographic areas based upon cotton
3 production density as the primary factor,
4 b. conduct the election of the next board of directors
5 ~~and alternates~~ consistent with ~~subsection A~~ of this
6 section,
7 c. hold public hearings regarding the establishment of
8 election districts,
9 d. facilitate the expeditious transfer of authority to
10 the newly elected board of directors, and
11 e. establish ~~initial~~ terms of office for the new board
12 consistent with ~~subsection A~~ of this section.

13 ~~The duly~~ Any elected or appointed board ~~of directors~~ member
14 shall have ~~the same~~ all the powers and duties as ~~assigned to the~~
15 ~~original board of directors and such other powers and duties~~
16 granted pursuant to the Boll Weevil Eradication Act; and

17 ~~22.~~ 21. Take ~~such~~ any other actions deemed necessary by the
18 board of directors to implement the provisions of the Boll Weevil
19 Eradication Act.

20 C. As used in ~~subsection B~~ of this section, "bonds" means
21 bonds, notes, loan agreements, or other forms of indebtedness issued
22 or delivered by the Oklahoma Boll Weevil Eradication Organization.

1 D. The bylaws established by the board of directors relating to
2 boll weevil eradication and the assessment referenda shall be
3 submitted to the State Board of Agriculture for determination as to
4 whether ~~such~~ the bylaws will be promulgated as rules of the State
5 Board of Agriculture. ~~Such~~ The bylaws may be promulgated in whole
6 or in part or may be returned for modification to the board of
7 directors. The State Board of Agriculture shall comply with the
8 Administrative Procedures Act in promulgating any rules adopted
9 pursuant to the provisions of this subsection.

10 E. The board of directors shall:

11 1. Make available all books, records of account, and minutes of
12 proceedings maintained by the Organization for inspection by the
13 Office of the State Auditor and Inspector for an annual independent
14 audit ~~when bonds are issued pursuant to the Boll Weevil Eradication~~
15 ~~Act. When bonds are not issued, the board of directors shall comply~~
16 ~~with the reporting requirements of paragraph 2 of this subsection;~~

17 2. Not later than forty-five (45) days after the last day of
18 the fiscal year, submit to the Commissioner a report itemizing all
19 income and expenditures and describing all activities of the
20 Organization during the fiscal year;

21 3. Provide surety bonds in amounts determined by the
22 Commissioner for employees or agents who handle funds for the
23 Organization;

1 4. Receive, hold in trust, and disburse all assessments and
2 other funds collected pursuant to the Boll Weevil Eradication Act as
3 trust funds of the Organization; and

4 5. Make available all books, records of account, and minutes of
5 proceedings of the Organization for inspection or audit by the
6 Commissioner at any reasonable time.

7 F. 1. Pursuant to the authority granted by the Boll Weevil
8 Eradication Act, except for instances of gross negligence,
9 individual criminal actions or acts of dishonesty, the board of
10 directors and employees of the board of directors are not
11 individually liable to a cotton grower or other person for:

- 12 a. errors in judgment,
- 13 b. mistakes, or
- 14 c. omissions.

15 2. Under no circumstances shall the board of directors, the
16 individual board members, or employees of the board of directors be
17 personally liable for any bonds of the Organization.

18 3. A member of the board of directors or an employee of the
19 board of directors is not individually liable for an act or omission
20 of another member or employee of the board of directors.

21 G. The board of directors shall serve without compensation but
22 are entitled to reimbursement for reasonable and necessary expenses
23 incurred in the discharge of their duties.

1 SECTION 8. AMENDATORY 2 O.S. 2001, Section 3-50.8, as
2 amended by Section 2, Chapter 93, O.S.L. 2005 (2 O.S. Supp. 2005,
3 Section 3-50.8), is amended to read as follows:

4 Section 3-50.8 Every person growing cotton in this state shall
5 annually certify to the board of directors ~~the~~ their number of acres
6 ~~in the program~~ and provide the legal description and the United
7 States Department of Agriculture Farm Services Agency (FSA) numbers
8 ~~of the United States Department of Agriculture~~ for each field. The
9 certification shall occur on or before July 20 of each year. The
10 cotton grower shall also furnish to the board of directors any other
11 information reasonably required to carry out the provisions of the
12 Boll Weevil Eradication Act.

13 SECTION 9. AMENDATORY 2 O.S. 2001, Section 3-50.9a, as
14 amended by Section 3, Chapter 93, O.S.L. 2005 (2 O.S. Supp. 2005,
15 Section 3-50.9a), is amended to read as follows:

16 Section 3-50.9a A. 1. The assessment imposed pursuant to the
17 provisions of the Boll Weevil Eradication Act shall be levied on a
18 cotton grower at the time of sale and shall be collected and
19 remitted to the board of directors by the cotton gin serving as the
20 selling agent for the cotton produced. The cotton gins shall
21 furnish monthly reports to the board of directors on or before the
22 ~~tenth~~ fifteenth day of each month regarding the assessments
23 collected, pay all of the assessments collected each month, and

1 furnish the board with any other information reasonably requested by
2 it to ensure the collection of the assessments for each grower.

3 2. Pursuant to the provisions of the Boll Weevil Eradication
4 Act no cotton shall be subject to assessment of a fee more than
5 once.

6 B. 1. The cotton gin serving as selling agent for the cotton
7 grower shall collect the assessment in the same manner as ginning
8 costs are deducted from the purchase price of the cotton or from any
9 funds advanced for that purpose.

10 2. The board of directors, by registered or certified mail,
11 shall notify each cotton gin of the duty to collect the assessment,
12 the manner in which the assessment is to be collected, and the date
13 on or after which the cotton gin is to begin collecting the
14 assessment, the date by which an accounting of all assessments
15 collected and paid will be submitted, and the date by which the
16 balance of previously collected assessment shall be paid.

17 3. The amount of the assessment collected shall be clearly
18 shown on the sales invoice or other document evidencing the
19 transaction. The cotton gin, as the seller's agent, shall furnish a
20 copy of the document to the cotton grower.

21 C. 1. The cotton gin may rely upon the information or
22 certification provided by the board of directors to the cotton gin
23 regarding ~~the number of~~ cotton acres and other related information

1 as deemed necessary by the board of directors in determining the
2 amount of assessment due and owing from the cotton grower.

3 2. A cotton gin that uses due diligence in collecting an
4 assessment from a cotton grower based upon information or a
5 certification provided by the board of directors regarding ~~such~~ the
6 cotton grower shall be relieved of any liability for any errors or
7 omissions in ~~such~~ the assessment should it ~~later~~ be determined that
8 the assessment was inaccurate.

9 3. ~~Every cotton grower shall keep accurate production records~~
10 ~~on the amount of cotton ginned and the number of acres planted and~~
11 ~~harvested for a minimum of two (2) years. Copies shall be furnished~~
12 ~~to any authorized agent of the board of directors at any time during~~
13 ~~reasonable business hours of the cotton grower, immediately upon~~
14 ~~request in person, or within ten (10) working days of a written~~
15 ~~request by mail, fax, e-mail, web site, or any other electronic~~
16 ~~media customarily used~~ The provisions contained in this section
17 apply to all cotton gins located in the State of Oklahoma or in any
18 other state. Any gin that, whether by design or inadvertent act,
19 fails to forward to the board of directors by June 1 of each year an
20 accounting of all assessments collected and paid as well as payment
21 for all assessments previously collected but not paid shall be
22 subject to an administrative penalty or fine pursuant to the Boll
23 Weevil Eradication Act.

1 D. ~~The provisions contained in this section apply to all cotton~~
2 ~~gins located in the State of Oklahoma or in any other state~~ Every
3 cotton grower shall keep accurate production records on the amount
4 of cotton ginned and the number of acres planted and harvested for a
5 minimum of two (2) years. Copies shall be furnished to any
6 authorized agent of the board of directors or the State Board of
7 Agriculture at any time during reasonable business hours of the
8 cotton grower immediately upon oral request, or within ten (10)
9 working days of any written request.

10 E. Failure to pay the required assessment or any remaining
11 amount due shall result in an administrative penalty or fine to the
12 grower, or other legal action to the grower or to the cotton gin
13 when the assessment has been collected from the cotton grower.

14 SECTION 10. AMENDATORY 2 O.S. 2001, Section 3-50.10, is
15 amended to read as follows:

16 Section 3-50.10 A. There is hereby created the Boll Weevil
17 Eradication Fund. The Boll Weevil Eradication Fund shall be
18 administered by the board of directors for the benefit of the cotton
19 growers in this state to eradicate and ensure the long-term
20 eradication and control of boll weevils. The Boll Weevil
21 Eradication Fund shall be established and maintained in a bank or
22 other depository approved by the Commissioner.

23 B. The Boll Weevil Eradication Fund shall consist of:

1 1. All monies received by the board of directors as proceeds
2 from the assessment imposed pursuant to ~~3-50.9 of this act~~ the Boll
3 Weevil Eradication Act;

4 2. Interest attributable to investment of money in the Boll
5 Weevil Eradication Fund; and

6 3. Monies received by the board of directors in the form of
7 gifts, grants, reimbursements, or from any other source designated
8 by law for deposit to the Boll Weevil Eradication Fund.

9 C. ~~1. Except as otherwise provided by law, the~~ The monies
10 deposited in the Boll Weevil Eradication Fund, including emergency
11 contingency funding for posteradication infestation, shall at no
12 time become monies of the state.

13 ~~2. Any costs incurred by the board of directors pursuant to the~~
14 ~~provisions of the Boll Weevil Eradication Act shall not exceed the~~
15 ~~actual expenditures made by the board of directors to implement and~~
16 ~~manage the Boll Weevil Eradication Act.~~

17 D. Monies in the Boll Weevil Eradication Fund shall only be
18 expended for:

19 1. Implementation and management of the Boll Weevil Eradication
20 Act; and

21 2. Costs incurred by the board of directors and the State Board
22 of Agriculture for the administration of the Boll Weevil Eradication
23 Act.

1 E. Any debts or obligations of the organization shall not
2 become or be construed to be obligations of the Oklahoma Department
3 of Agriculture, Food, and Forestry or this state.

4 ~~F. The Organization shall provide to the Department an annual~~
5 ~~audit of the Boll Weevil Eradication Fund performed by a certified~~
6 ~~public accountant.~~

7 SECTION 11. AMENDATORY 2 O.S. 2001, Section 3-50.11, as
8 amended by Section 4, Chapter 93, O.S.L. 2005 (2 O.S. Supp. 2005,
9 Section 3-50.11), is amended to read as follows:

10 Section 3-50.11 A. The board of directors may request the
11 ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry to
12 provide for the collection of the assessment or for other
13 enforcement action necessary as determined by the board of directors
14 for violations of the Boll Weevil Eradication Act and for collection
15 of any administrative penalty or fine from any person who is
16 determined to have violated any provision of the Boll Weevil
17 Eradication Act.

18 B. Failure by any person to comply with any provisions of the
19 Boll Weevil Eradication Act may result in assessment of an
20 administrative penalty or fine of not less than One Hundred Dollars
21 (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for
22 each violation.

1 C. Any administrative penalty or fine collected pursuant to the
2 provisions of this section shall be deposited in the Boll Weevil
3 Eradication Fund, provided, the Department shall be reimbursed for
4 any costs incurred by the Department in the enforcement of this
5 section.

6 SECTION 12. AMENDATORY 2 O.S. 2001, Section 3-50.14, is
7 amended to read as follows:

8 Section 3-50.14 A. ~~Upon the passage and collection of the~~
9 ~~assessment pursuant to Section 9 of this act, the~~ The Commissioner,
10 upon the request of the board of directors, is hereby authorized ~~to~~
11 ~~carry out programs of the board of directors to~~ assist in the
12 ~~eradicate~~ eradication and control of the boll weevils weevil in this
13 state ~~at the request of the board of directors.~~

14 B. State-appropriated monies shall not be a funding source for
15 activities conducted pursuant to ~~Sections 15 through 20 of this act~~
16 the Boll Weevil Eradication Act. The Department shall be reimbursed
17 for any costs and expenses incurred for any assistance provided ~~as a~~
18 ~~result of Sections 15 through 20 of this act~~ pursuant to the Boll
19 Weevil Eradication Act.

20 SECTION 13. AMENDATORY 2 O.S. 2001, Section 3-50.15, is
21 amended to read as follows:

22 Section 3-50.15 The Commissioner is authorized to cooperate
23 with any agency of the federal government, any state contiguous to

1 this state, any other agency in this state, or any person engaged in
2 growing, processing, marketing, or handling cotton in this state, or
3 any group of ~~such~~ persons, in programs to effectuate the purposes of
4 the Boll Weevil Eradication Act, and may enter into written
5 agreements to effectuate ~~such~~ these purposes. The agreements may
6 provide for cost sharing, for division of duties and
7 responsibilities pursuant to the Boll Weevil Eradication Act and may
8 include other provisions ~~generally to~~ that effectuate the purposes
9 of the Boll Weevil Eradication Act.

10 SECTION 14. AMENDATORY 2 O.S. 2001, Section 3-50.16, is
11 amended to read as follows:

12 Section 3-50.16 A. 1. The board of directors, ~~or~~ and the
13 Oklahoma Department of Agriculture, Food, and Forestry, or their
14 authorized agents ~~at the request of the board of directors,~~ shall
15 have authority, to:

- 16 a. enter cotton fields and other premises in order to
17 carry out activities, including but not limited to
18 treatment with pesticides, monitoring, and destruction
19 of growing cotton and other host plants, as ~~may be~~
20 necessary to carry out the provisions of the Boll
21 Weevil Eradication Act,
22 b. make inspection of any fields or premises in this
23 state and any property ~~located therein or thereon~~ for

1 the purpose of determining ~~whether such~~ if the
2 property is infested with boll weevils, and
3 c. examine and make photocopies of any records and
4 documents relating to the Boll Weevil Eradication Act.

5 2. The inspection and other activities may be conducted at any
6 hour with the ~~permission~~ notification of the owner or person in
7 charge of the premises or property. If ~~permission~~ access is denied,
8 ~~the inspection and other activities shall be conducted in a~~
9 ~~reasonable manner, with a warrant, with respect to any premises or~~
10 ~~property~~ the board of directors, the Oklahoma Department of
11 Agriculture, Food, and Forestry, or the authorized agent of either
12 shall have the right to apply to and obtain from a district court an
13 administrative warrant as necessary to enforce the right of access
14 and inspection as authorized pursuant to 2-14 of the Oklahoma Code.

15 B. Any judge of this state shall ~~may~~, within ~~his~~ the judge's
16 territorial jurisdiction, and upon proper statutory authority ~~cause~~
17 ~~to believe that any cotton or other regulated article is in or upon~~
18 ~~any premises in this state,~~ issue administrative warrants for the
19 purpose of conducting administrative inspections and other
20 activities authorized by the Boll Weevil Eradication Act.

21 SECTION 15. AMENDATORY 2 O.S. 2001, Section 3-50.17, is
22 amended to read as follows:

1 Section 3-50.17 A. The ~~State~~ Oklahoma Department of
2 Agriculture, Food, and Forestry is authorized to promulgate rules,
3 including, but not limited to:

4 1. ~~Quarantining~~ Establishing quarantine areas in this state, or
5 any portion thereof at the request of the board of directors;

6 2. ~~Governing the storage or other handling in the areas of~~
7 ~~regulated articles and the movement of regulated articles into or~~
8 ~~from such areas, when the Department determines that such action is~~
9 ~~necessary, or reasonably appears necessary, to prevent, eradicate,~~
10 ~~or retard the spread of boll weevils~~ Designating this state, or any
11 portion thereof as an "eradicated area"; and

12 3. ~~Governing the movement of regulated articles from any other~~
13 ~~state or portion thereof into this state when such state is known to~~
14 ~~be infested with boll weevils. Before quarantining any area, the~~
15 ~~Department shall hold a public hearing, at which any interested~~
16 ~~party may appear and be heard either in person or by attorney.~~

17 ~~Provided however, the Department may promulgate rules, imposing a~~
18 ~~temporary quarantine for a period not to exceed sixty (60) days,~~
19 ~~during which time a public hearing, as herein provided, shall be~~
20 ~~held if it appears that a quarantine for more than sixty (60) days~~
21 ~~will be necessary to prevent, eradicate, or retard the spread of~~
22 ~~boll weevils~~ Governing the storage or other handling in the
23 eradicated or other quarantined areas of regulated articles and the

1 movement of regulated articles into or from these areas, when the
2 Department determines that an action is necessary, or reasonably
3 appears necessary, to prevent, eradicate, control, or retard the
4 spread of boll weevil.

5 B. 1. The Department shall promulgate rules establishing a
6 reasonable schedule of administrative penalties and fines for
7 violations of the Boll Weevil Eradication Act.

8 2. ~~Any rules promulgated pursuant to the Boll Weevil~~
9 ~~Eradication Act shall be promulgated in accordance with the~~
10 ~~Administrative Procedures Act~~ The Department shall promulgate rules
11 necessary, expedient, or appropriate for the performance,
12 enforcement, or carrying out of any of the purposes, objectives, or
13 provisions of the Boll Weevil Eradication Act.

14 3. Any rules promulgated pursuant to the Boll Weevil
15 Eradication Act, including the establishment of quarantines, shall
16 be promulgated in accordance with the Administrative Procedures Act.

17 SECTION 16. AMENDATORY 2 O.S. 2001, Section 3-50.18, is
18 amended to read as follows:

19 Section 3-50.18 A. When a ~~cotton grower~~ person fails to meet
20 the rules promulgated by the Oklahoma Department of Agriculture,
21 Food, and Forestry, the Commissioner, at the request of the board of
22 directors, shall have authority to destroy cotton in ~~elimination~~
23 ~~zones~~ any area of the state not in compliance with ~~such~~ the rules.

1 B. ~~The Commissioner, at the request of the board of directors~~
2 ~~shall have authority to destroy, or to treat with pesticides,~~
3 ~~volunteer or other noncommercial cotton in elimination zones~~ Cotton
4 in any area of the state from a volunteer or noncommercial source
5 may be destroyed or treated with pesticides by the Oklahoma
6 Department of Agriculture, Food, and Forestry upon request of the
7 board of directors.

8 C. ~~The board of directors shall pay for losses resulting from~~
9 ~~the destruction of cotton which was planted in elimination zones~~
10 ~~prior to publication notice of the elimination zone as provided in~~
11 ~~Section 7 of this act.~~

12 SECTION 17. AMENDATORY 2 O.S. 2001, Section 3-50.19, is
13 amended to read as follows:

14 Section 3-50.19 A. It shall be unlawful for any person to
15 store or handle any regulated article in a an eradicated or other
16 quarantined area, or to move into or from a an eradicated or other
17 quarantined area any regulated article, except under such conditions
18 as may be prescribed by the rules promulgated by the ~~Commissioner~~
19 State Board of Agriculture.

20 B. Any person who, except in compliance with the rules of the
21 Department, moves any regulated article into this state from any
22 other state ~~which the Department found in such rules is~~ infested by
23 boll weevils shall be deemed guilty of a misdemeanor and, upon

1 conviction ~~thereof~~ shall be subject to the penalty provided in
2 Section ~~20~~ 3-50.20 of this ~~act~~ title. ~~In addition, such~~ Any person
3 convicted of a violation may be required to pay restitution for ~~any~~
4 damages caused by a the violation ~~of this section~~.

5 SECTION 18. AMENDATORY 2 O.S. 2001, Section 3-50.20, is
6 amended to read as follows:

7 Section 3-50.20 ~~A.~~ Any person who violates any of the
8 provisions of Boll Weevil Eradication Act or the rules promulgated
9 thereto, or who shall alter, forge, counterfeit, or use without
10 authority any certificate, ~~or~~ permit, or other document provided for
11 in the Boll Weevil Eradication Act or in rules promulgated thereto
12 shall, upon conviction ~~thereof~~, be guilty of a misdemeanor and shall
13 be punished by a fine of not less than Fifty Dollars (\$50.00) nor
14 more than One Thousand Dollars (\$1,000.00).

15 ~~B. Except as otherwise provided by the Boll Weevil Eradication~~
16 ~~Act any penalty collected by the Department pursuant to the~~
17 ~~provisions of this section shall be deposited in the Agriculture~~
18 ~~Revolving Fund.~~

19 SECTION 19. AMENDATORY 2 O.S. 2001, Section 3-50.21, is
20 amended to read as follows:

21 Section 3-50.21 A. The Oklahoma Boll Weevil Eradication
22 Organization shall not be subject to the Merit System of Personnel
23 Administration.

1 B. The Oklahoma Boll Weevil Eradication Organization is
2 authorized to employ seasonal employees for projects throughout the
3 calendar year. Project labor employed by the Oklahoma Boll Weevil
4 Eradication Organization may be employed for a period of time
5 necessary to complete the project. Regardless of the number of
6 hours worked during any fiscal year, project employees shall not be
7 entitled to paid leave, paid holidays, retirement, longevity,
8 health, dental or life insurance, and disability benefits, and shall
9 be exempt from any laws, rules or practices providing for ~~such~~ these
10 benefits, or to state employee minimum annualized salaries, salary
11 increases or adjustments, unless ~~otherwise~~ specifically authorized
12 by law.

13 SECTION 20. AMENDATORY 2 O.S. 2001, Section 3-50.30, is
14 amended to read as follows:

15 Section 3-50.30 ~~A.~~ The ~~State~~ Oklahoma Department of
16 Agriculture ~~shall~~, Food, and Forestry may periodically conduct a
17 ~~study to determine the degree of boll weevil infestation in the~~
18 ~~State of Oklahoma and~~ reviews to evaluate the ~~current~~ on-going boll
19 weevil eradication and posteradication efforts in the state.

20 ~~B. As funds become available, the Department shall develop a~~
21 ~~boll weevil eradication program. The program shall be implemented~~
22 ~~by the Department in cooperation with existing organizations at the~~
23 ~~local level.~~

1 SECTION 21. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3-130 of Title 2, unless there
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma Department of Agriculture, Food, and Forestry shall
5 establish and maintain by November 1, 2006, a tick eradication
6 program. Funding for this program shall be appropriated to the
7 Department as directed by the Legislature.

8 SECTION 22. REPEALER 2 O.S. 2001, Sections 3-50.9v1, 3-
9 50.9v2 and 3-50.12, are hereby repealed.

10 SECTION 23. This act shall become effective November 1, 2006.

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-15-06 - DO
12 PASS, As Amended and Coauthored.