

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1614

By: Lawler

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2001, Sections 3-50.1, 3-50.2, 3-50.3, 3-50.4, 3-50.5, 3-50.6, 3-50.7, as last amended by Section 1, Chapter 93, O.S.L. 2005, 3-50.8, as amended by Section 2, Chapter 93, O.S.L. 2005, 3-50.9a, as amended by Section 3, Chapter 93, O.S.L. 2005, 3-50.10, 3-50.11, as amended by Section 4, Chapter 93, O.S.L. 2005, 3-50.14, 3-50.15, 3-50.16, 3-50.17, 3-50.18, 3-50.19, 3-50.20, 3-50.21 and 3-50.30 (2 O.S. Supp. 2005, Sections 3-50.7, 3-50.8, 3-50.9a and 3-50.11), which relate to the Boll Weevil Eradication Act; clarifying language; providing for posteradication maintenance and control; adding, modifying, and deleting certain definitions; deleting obsolete language; authorizing the Commissioner of Agriculture to make recommendation to the Legislature for certain programs; deleting language relating to the Board of directors; setting terms of office; modifying and adding powers of the Board; modifying date of assessments for cotton gins; requiring cotton gins to pay assessments on certain date; providing for assessment of fine for certain purposes; requiring cotton growers to keep certain records; providing for penalty or fine; exempting the Oklahoma Department of Agriculture, Food, and Forestry from certain debts or obligations; authorizing the Commissioner to assist in certain programs; adding certain authority for obtaining warrant; authorizing the Department to modify and add rules; authorizing the Department to destroy cotton under certain circumstances; updating statutory cites; authorizing the Department to conduct periodic reviews; repealing 2 O.S. 2001, Sections 3-50.9v1, 3-50.9v2, 3-50.12 and 3-50.13, which relate to the boll weevil eradication program; and providing an 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The Organization shall be, and is hereby declared to be, a governmental agency of the State of Oklahoma, body politic and corporate, with powers of government and with the authority to exercise the rights, privileges, and functions specified by the Boll Weevil Eradication Act.

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

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

~~2. The primary function of the initial board is to:~~

~~a. fairly and equitably establish five election districts,~~

- ~~b. conduct the election of the first board of directors of the Organization,~~
- ~~e. establish written procedures for the due and orderly administration of the affairs of the initial board and for its responsibilities specified pursuant to the provisions of the Boll Weevil Eradication Act,~~
- ~~d. advise, consult and cooperate with agencies of this state and political subdivisions thereof, other states, the federal government and with affected groups,~~
- ~~e. collect and disseminate information relating to boll weevil eradication,~~
- ~~f. hold public hearings regarding the establishment of election districts, and~~
- ~~g. facilitate the expeditious transfer of authority to the elected board of directors.~~

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

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

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

2. A cotton grower who desires to be a candidate for the board of directors ~~must~~ shall file a petition signed by five ~~(5)~~ cotton growers with the ~~initial~~ board. The application ~~must~~ shall be:

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

3. On receipt of an application and verification that the application meets the requirements of this section, an applicant's

name shall be placed on the ballot for the election ~~for~~ of the board of directors.

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

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

C. ~~1. The Department shall bear all reasonable expenses incurred in conducting the election of the first board of directors. All such expenses shall be approved by the Commissioner prior to being incurred.~~

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

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

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

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

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

Section 3-50.7 A. 1. Except as ~~otherwise~~ provided by this section, the board of directors of the Oklahoma Boll Weevil Eradication Organization shall be composed of five ~~(5)~~ cotton growers from this state, ~~each of~~ whom are elected from the five separate districts established by the ~~initial~~ board.

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

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

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

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

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

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

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

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

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

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

~~e. if the~~

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

~~(1)~~

a. neglect of duty,

~~(2)~~

b. willful misconduct,

~~(3)~~

c. malpractice in office,

~~(4)~~

d. self-dealing,

~~(5)~~

e. ~~incompetency~~ incompetence,

~~(6)~~

f. gross inefficiency, or

~~(7)~~

g. any other unbecoming conduct ~~which~~ that can or may affect the Organization's ability to satisfactorily perform its duties or carry out its mission as a public body ~~or otherwise~~.

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

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

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

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

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

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

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



4. ~~Develop a proposed maximum assessment for implementation of the Boll Weevil Eradication Act. The assessment levied pursuant to the Boll Weevil Eradication Act shall be determined upon a fair and equitable system that is based upon cotton production and infestation factors. The board of directors shall determine the collection method and manner and the period of time for which the assessment is to be levied pursuant to Section 3-50.9 of this title~~  
Determine and establish the assessment annually for the following crop year pursuant to the Boll Weevil Eradication Act and the program enabling referendum. The assessment levied pursuant to the Boll Weevil Eradication Act shall be determined upon a fair and equitable system that is based on cotton production and infestation factors. The assessment shall be a flexible rate not to exceed Seven Dollars and fifty cents (\$7.50) per acre and one cent (\$.01) per pound of lint produced. Upon any change in the assessment rate, the board shall immediately notify growers and cotton gins of the new rate;

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

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

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

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

9. ~~Contract with agencies of this state, and political subdivisions thereof, other states, the federal government and other organizations or persons to comply and fulfill it's mission pursuant~~

~~to the provisions of the Boll Weevil Eradication Act;~~ Recommend the designation of "eradicated areas" to the State Board of Agriculture upon completion of active eradication and the beginning of posteradication maintenance and control;

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

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

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

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

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

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

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

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

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

a. ~~Such~~ The bonds may:

- (1) be issued in one or more series,
- (2) bear ~~such~~ the date or dates,
- (3) mature at ~~such~~ time or times not exceeding twenty (20) years from their date,
- (4) be in ~~such~~ denomination or denominations,
- (5) be in ~~such~~ form, either coupon or registered,

- (6) carry ~~such~~ registration and conversion privileges,
- (7) be executed in ~~such~~ a proper manner,
- (8) be payable in ~~such~~ medium of payment at ~~such~~ a place or places,
- (9) be subject to ~~such~~ terms of redemption with or without premium, and
- (10) bear ~~such~~ rate or rates of interest, as may be provided by resolution or resolutions to be adopted by the Board within ~~such~~ limits provided by law, and be sold in ~~such~~ a manner and at ~~such~~ a price or prices as may be considered by the Board to be advisable.

- b. Bonds shall have all the qualities and incidents of negotiable paper and the interest thereon shall not be subject to taxation by the State of Oklahoma.
- c. The board of directors may issue bonds pursuant to the Boll Weevil Eradication Act for the purpose of ~~refunding~~ renewing funding of any obligations of the board of directors, or may authorize and deliver a single issue of bonds hereunder for the purpose in part of ~~refunding~~ renewing funding for obligations of the board.
- d. The bonds issued pursuant to the Boll Weevil Eradication Act shall not be an indebtedness of the State of Oklahoma but shall be special obligations payable solely from the assessments. The board of directors is authorized and directed to pledge all or any part of ~~such~~ the assessments to the payment of and interest on the bonds.
- e. The board of directors may enter into any agreement or contracts with the United States of America or the

State of Oklahoma or any agency or instrumentality thereof which it may consider advisable or necessary in order to obtain a grant of funds or other aid to be used in connection with the proceeds of the bonds.

f. All bonds issued pursuant to the Boll Weevil Eradication Act shall have on the backs thereof the certificate required by Section 29 of Article 10 of the Constitution of Oklahoma. ~~Such~~ The bonds shall be submitted to the Attorney General of Oklahoma for examination. ~~Such~~ The bonds, having been examined and certified as legal obligations by the Attorney General in accordance with ~~such~~ the requirements as the Attorney General may make, shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction thereof within thirty (30) days from the date of ~~such~~ approval. Bonds so approved by the Attorney General shall be prima facie valid and binding obligations according to their terms. The only defense ~~which~~ that may be offered ~~thereto~~ in any suit instituted after ~~such~~ a thirty-day period shall have expired shall be a violation of the Constitution.

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

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

- a. It shall be the duty of the Supreme Court to give ~~such~~ applications precedence over the other business of the Supreme Court and to consider and pass upon the applications and any protests ~~which~~ that may be filed thereto as speedily as possible.
- b. Notice of the hearing on each application shall be given by a notice published in a newspaper of general circulation in the state that on a day named, the board of directors will ask the court to hear its application. ~~Such~~ The notice shall inform all persons interested that they may file protests against the validation or approval and be present at the hearing and contest the same. ~~Such~~ The notice shall be published one time, not less than ten (10) days prior to the date named for the hearing, and the hearing may be adjourned from time to time at the discretion of the court.
- c. In any action to approve bonds, if the Supreme Court is satisfied that the bonds have been properly authorized in accordance with the provisions of the Boll Weevil Eradication Act and that when issued they will constitute valid obligations in accordance with their terms, the Supreme Court shall render its written opinion approving the bonds and shall fix the time within which a petition for rehearing may be filed. The decision of the Supreme Court shall be a judicial determination of the validity of the bonds, shall be conclusive as to the board of directors, its officers and agents, and thereafter the bonds so approved and the revenues pledged to their payment shall be incontestable in any court in the State of Oklahoma;

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

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

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

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

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

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

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

E. The board of directors shall:

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

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

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

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

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

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

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

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

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

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

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

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

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



Section 3-50.9a A. 1. The assessment imposed pursuant to the provisions of the Boll Weevil Eradication Act shall be levied on a cotton grower at the time of sale and shall be collected and remitted to the board of directors by the cotton gin serving as the selling agent for the cotton produced. The cotton gins shall furnish monthly reports to the board of directors on or before the ~~tenth~~ fifteenth day of each month regarding the assessments collected, pay all of the assessments collected each month, and furnish the board with any other information reasonably requested by it to ensure the collection of the assessments for each grower.

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

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

2. The board of directors, by registered or certified mail, shall notify each cotton gin of the duty to collect the assessment, the manner in which the assessment is to be collected, and the date on or after which the cotton gin is to begin collecting the assessment, and the cotton gin shall pay the assessment by June 1 of each year or a fine for late payment shall be assessed.

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

C. 1. The cotton gin may rely upon the information or certification provided by the board of directors to the cotton gin regarding ~~the number of~~ cotton acres and other related information as deemed necessary by the board of directors in determining the amount of assessment due and owing from the cotton grower.

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

3. ~~Every cotton grower shall keep accurate production records on the amount of cotton ginned and the number of acres planted and harvested for a minimum of two (2) years. Copies shall be furnished to any authorized agent of the board of directors at any time during reasonable business hours of the cotton grower, immediately upon request in person, or within ten (10) working days of a written request by mail, fax, e-mail, web site, or any other electronic media customarily used.~~ The provisions contained in this section apply to all cotton gins located in the State of Oklahoma or in any other state. Any gin that, whether by design or inadvertent act, fails to forward to the board of directors by June 1 assessments previously collected shall be subject to a lien pursuant to the Boll Weevil Eradication Act for the value of assessments owing and a fine.

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

E. Failure to pay the required assessment shall result in an administrative penalty or fine to the grower, or the cotton gin when the assessment has been collected from the cotton grower.

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

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

B. The Boll Weevil Eradication Fund shall consist of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3-50.15 The Commissioner is authorized to cooperate with any agency of the federal government, any state contiguous to this state, any other agency in this state, or any person engaged in growing, processing, marketing, or handling cotton in this state, or any group of ~~such~~ persons, in programs to effectuate the purposes of the Boll Weevil Eradication Act, and may enter into written agreements to effectuate ~~such~~ these purposes. The agreements may provide for cost sharing, for division of duties and responsibilities pursuant to the Boll Weevil Eradication Act and may include other provisions ~~generally to~~ that effectuate the purposes of the Boll Weevil Eradication Act.

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

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

- a. enter cotton fields and other premises in order to carry out activities, including but not limited to treatment with pesticides, monitoring, and destruction of growing cotton and other host plants, as ~~may be~~ necessary to carry out the provisions of the Boll Weevil Eradication Act,
- b. make inspection of any fields or premises in this state and any property ~~located therein or thereon~~ for the purpose of determining ~~whether such~~ if the property is infested with boll weevils, and
- c. examine and make photocopies of any records and documents relating to the Boll Weevil Eradication Act.

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

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

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

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

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

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

3. ~~Governing the movement of regulated articles from any other state or portion thereof into this state when such state is known to be infested with boll weevils. Before quarantining any area, the Department shall hold a public hearing, at which any interested party may appear and be heard either in person or by attorney. Provided however, the Department may promulgate rules, imposing a temporary quarantine for a period not to exceed sixty (60) days, during which time a public hearing, as herein provided, shall be held if it appears that a quarantine for more than sixty (60) days will be necessary to prevent, eradicate, or retard the spread of boll weevils~~ Governing the storage or other handling in the eradicated or other quarantined areas of regulated articles and the movement of regulated articles into or from these areas, when the Department determines that an action is necessary, or reasonably appears necessary, to prevent, eradicate, control, or retard the spread of boll weevil.

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

2. ~~Any rules promulgated pursuant to the Boll Weevil Eradication Act shall be promulgated in accordance with the~~

~~Administrative Procedures Act~~ The Department shall promulgate rules necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Boll Weevil Eradication Act.

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

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

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

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

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

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

Section 3-50.19 A. It shall be unlawful for any person to store or handle any regulated article in a ~~an~~ an eradicated or other quarantined area, or to move into or from a ~~a~~ an eradicated or other quarantined area any regulated article, except under ~~such~~ conditions



as may be prescribed by the rules promulgated by the ~~Commissioner~~  
State Board of Agriculture.

B. Any person who, except in compliance with the rules of the Department, moves any regulated article into this state from any other state ~~which the Department found in such rules is~~ infested by boll weevils shall be deemed guilty of a misdemeanor and, upon conviction ~~thereof~~ shall be subject to the penalty provided in Section ~~20~~ 3-50.20 of this ~~act~~ title. ~~In addition, such~~ Any person convicted of a violation may be required to pay restitution for ~~any~~ damages caused by ~~a~~ the violation ~~of this section~~.

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

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

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

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

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

B. The Oklahoma Boll Weevil Eradication Organization is authorized to employ seasonal employees for projects throughout the calendar year. Project labor employed by the Oklahoma Boll Weevil

Eradication Organization may be employed for a period of time necessary to complete the project. Regardless of the number of hours worked during any fiscal year, project employees shall not be entitled to paid leave, paid holidays, retirement, longevity, health, dental or life insurance, and disability benefits, and shall be exempt from any laws, rules or practices providing for ~~such~~ these benefits, or to state employee minimum annualized salaries, salary increases or adjustments, unless ~~otherwise~~ specifically authorized by law.

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

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

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

SECTION 21. REPEALER 2 O.S. 2001, Sections 3-50.9v1, 3-50.9v2, 3-50.12 and 3-50.13, are hereby repealed.

SECTION 22. This act shall become effective November 1, 2006.

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