SUBJECT: Boll weevil eradication program

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 8 ayes — Patterson, Swinford, Cook, Flores, Oakley, Rabuck, Roman, B. Turner

0 nays

1 absent — Hupp

SENATE VOTE: On final passage, May 16 — 30-0

WITNESSES: *No public hearing was held on CSSB 1814. The following witnesses testified at a May 20 hearing on the Texas Boll Weevil Eradication program:*

For — Sidney Long, Southern Rolling Plains Cotton Growers and Blackland Cotton and Grain Producers; Elmer Braden, Jr., Trans Pecos Cotton Grower Association; Erick Richards, Jones County Cotton Producers; Ronnie Riddle, Rolling Plains Cotton Growers; Bill Clayton, Don Marble; and 63 others representing themselves

Against — Joe Rankin, Texas Farmers Union; Tommy Mayfield, Hermosa Farms, Inc.; Patrick Krutilek, Kelly and Patrick Krutilek Partnership; Gilbert Pekar, Pekar Bros and Sweep Out II; Charles Mayfield, Laraine Batchelor, Edward Matejka, Arthur Val Perkins and Harry Weidemann, Jr., Sweep Out II; and 31 others representing themselves

On — Ray Frisbie; Tommy D. Fondren; Sidney Wayne Hopkins; Reggie James, Consumers Union Southwest Regional Office; Katie Dickie, Texas Department of Agriculture; Edward G. Hayer; Zane Reese

BACKGROUND: In April 1997, the Texas Supreme Court ruled the state's program to control the cotton boll weevil was unconstitutional because it included an overly broad delegation of legislative authority to the foundation that was created to run the program. When the program was declared unconstitutional, the foundation ceased operation and furloughed about 400 employees.

The program. SB 30 by Sims, enacted in 1993, and its 1995 amendments in SB 1196 by Sims, Lucio required, if approved by the state's cotton growers, programs to eliminate cotton boll weevils to be implemented by the agriculture commissioner and a newly created Cotton Growers' Boll Weevil Eradication Foundation. Nine boll weevil control zones were established, and cotton growers in each zone had to vote on whether their zone would participate in the program. Each participating zone was entitled to elect one member of the nine-member Texas Boll Weevil Eradication Foundation, Inc., board, which developed and ran the programs.

Growers in six of the state's nine zones had approved participation in the program. However, in January 1996 growers in the Lower Rio Grande Valley Grande Valley voted to quit the program. This left five zones participating in the program with active eradication efforts going on in three of the five zones; the other two zones had not yet begun their program.

Growers in participating zones were to pay annual fees and subject their fields to the foundation's pest control measures. The Texas Department of Agriculture (TDA) and the foundation were authorized by law to inspect fields for boll weevil infestations and to treat, quarantine, monitor and destroy cotton or other infested plants. The foundation board and a technical advisory committee, with input from advisory committees in the zones, developed and ran the programs with U.S. Department of Agriculture's assistance. The foundation established a headquarters in Abilene and offices in each zone with an operational program.

TDA oversaw elections and discontinuation of the program in the Valley and was involved in the collection of delinquent assessments. Department officials said TDA became involved in eradication efforts only if an area were quarantined or declared a nuisance.

The foundation received no state funds and relied on grower assessments, loans and federal funds and the use of some federal equipment. Grower assessments, which growers had to approve in an election, varied from zone to zone and grower to grower, depending on such variables as irrigation and number of acres planted. Since 1993, the foundation has spent about $80 million — about $13 million in federal funds, $32 million in grower assessments, and $35 million in borrowed money. The money was

borrowed by the foundation but was accounted for by zone, and growers in each zone were to pay back the loans for their zone through their assessments.

Court ruling. The legislation authorizing the boll weevil eradication foundation was challenged by cotton growers on a variety of constitutional and statutory grounds, and was ultimately ruled unconstitutional by the Texas Supreme Court, in *Texas Boll Weevil Eradication Foundation, Inc. v. Lewellen*, No. 96-0745 and 96-0839, in April 1997. The court held that the Legislature made an overly broad delegation of legislative authority to a private entity, the eradication foundation, violating Article II, Sec. 1 of the Texas Constitution, the separation of powers requirement.

The court also addressed other challenges to the program and held that the assessments paid by growers and levied by the foundation were not unconstitutional taxes but rather regulatory fees, and that the act, on its face and as applied to appellees, did not violate the right to equal protection under the U.S. or Texas Constitutions.

For more information on the boll weevil eradication program, including details on how it operated and a summary of the debate surrounding the program, see *Valley Cotton Growers Quit State's New Boll Weevil Control Program*, House Research Organization, Interim News Number 74-1, January 29, 1996.

DIGEST:

CSSB 1814 would revise the 1993 and 1995 laws that set up a foundation to establish programs to eliminate cotton boll weevils. The bill would transfer numerous duties concerning the program from the foundation board to the agriculture commissioner, establish six statutory eradication zones, allow the commissioner to approve additional zones, and make the foundation immune from certain lawsuits. The agriculture commissioner would have general authority over the ratifying, running and discontinuation of the program

CSSB 1814 would reenact numerous provisions from the 1993 and 1995 laws including ones on eradication zone referenda, board elections, board duties, board member compensation, discontinuation of the foundation, conduct of board elections, referenda and balloting, violations of the law or

rules, and subjecting the foundation board to Sunset review

CSSB 1814 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

Intent. CSSB 1814 would declare that the boll weevil and the pink boll worm to be public nuisances and a menace to the cotton industry and that their eradication is a public necessity. The bill would state that the Legislature intends that the eradication and suppression efforts be carried out with the best available integrated pest management techniques (IPM) and that dividing the state into zones would best accomplish eradication and suppression.

Eradication foundation. CSSB 1814 would require that TDA recognize the Texas Boll Weevil Eradication foundation, Inc. as the entity to plan, carry out and operate eradication and diapause programs, under supervision of TDA, to eliminate the boll weevil and the pink bollworm from cotton. The agriculture commissioner would be able to terminate the foundation's authority to carry out boll weevil eradication.

The foundation would be a quasi-governmental entity acting under the supervision and control of the agriculture commissioner. The foundation would be a state agency only for exemption from taxes and indemnification under the Civil Practice and Remedies Code provision dealing with state liability of the conduct of public servants.

The foundation board would be able to borrow money only with the approval of the commissioner. The commissioner would review and approve the foundation's operating budget, and the foundation's transactions would be subject to audit by the state auditor. The foundation would be subject to state law on open meetings and open records.

CSSB 1814 would require an annual report detailing its efforts from the foundation board to the commissioner and the oversight committee of the House of Representatives.

Eradication foundation board. The initial board of directors of the foundation would have to be appointed by the commissioner and be

composed of 15 members, but the commissioner would be able to change the number of board positions or zone representation to accommodate changes in the number of zones. The board would be composed of the following persons who would have terms that could not exceed four years:

- persons elected from each statutory eradication zone that was validated by referendum;
- persons from each nonstatutory zone that was established by referendum; and
- persons appointed by the commissioner from other cotton growing areas of the state; and

the following members appointed by the commissioner for four-year terms:

- an agricultural lender;
- an independent entomologist who was a specialist in integrated pest management;
- two persons from industries allied with cotton production; and
- a representative from the pest control industry.

Each zone would have to be represented on the board and would have to remain represented until eradication operations were concluded and all debt of the zone was paid. Cotton growers who were eligible to vote in a referendum would be eligible to be on the board if the grower had at least seven years of experience as a grower.

Board members would not be able to vote on matters in which they had a pecuniary interest and would be subject to conflict of interest restrictions that are placed on local officials by the Local Government Code.

The foundation would be required to adjust the composition of its board to permit the commissioner to appoint board members to comply with CSSB 1814 within 30 days of the bill's effective date.

Authority of the commissioner. The agriculture commissioner, instead of the foundation board, would conduct board elections and referenda on zone establishment and continuation, propose the amount of grower assessments, and conduct assessment referenda.

Some authority given to the commissioner in the 1993 and 1995 laws would be reenacted, including authority to adopt rules about where cotton may not be planted in an eradication zone, a requirement that all growers of commercial cotton to participate in a boll weevil or pink bollworm eradication program, and authority to order the destruction and purchase of cotton under some circumstances.

Certain rules adopted by the commissioner would be valid and continue in effect, if consistent with CSSB 1814. The commissioner would be able to establish an advisory committee to help develop rules but, unlike the 1993 law, would not be required to do so.

TDA or the foundation would be able to enter cotton fields to inspect, treat and monitor cotton, but explicit authority under the 1993 program to destroy plants would be eliminated. The agriculture department would have to give notice to all cotton growers in an eradication zone of the intent of the department or foundation. A planned schedule to enter a field would have to be published in a general publication newspaper and posted in the county courthouse before the proposed dates. Prior to chemical treatments, the foundation would be required to make an effort to notify each grower.

The commissioner would be given authority over referendum to discontinue the eradication program. The percentage of growers who must present a petition to the commissioner calling for a discontinuation referendum would be reduced from 40 percent in the 1993 law to 30 percent. The program would be discontinued if approved by two thirds of those voting, instead of a majority as under the 1993 law, or if those in favor of discontinuation farmed over 50 percent of the cotton in the zone.

The commissioner, instead of the board, would be required to develop provisions governing organic cotton growers. Provisions would remain from the 1993 and 1995 laws concerning organic cotton, including about treatment and the plowing up of organic cotton and allowing rules to be adopted by the commissioner to provide for indemnity for organic cotton growers under some circumstances.

The commissioner would have to establish procedures for the informal resolution of a claim arising from actions of the foundation. CSSB 1814

would outline procedures, including a request for a formal administrative hearing, for persons dissatisfied with the agriculture department's resolution of their claim.

Eradication zones. CSSB 1814 would establish six statutory eradication zones and would allow the agriculture commissioner to designate additional zones.

The following six statutory zones would be established by CSSB 1814:

- Northern High Plains Eradication Zone;
- Rolling Plains Central Eradication Zone;
- St. Lawrence Eradication Zone;
- South Texas Winter Garden Eradication Zone;
- Southern High Plains-Caprock Eradication Zone; and
- Southern Rolling Plains Eradication Zone.

Within the South Texas Winter Garden Eradication Zone, the counties of Austin, Brazoria, Colorado, Fort Bend, Jackson, Matagorda and Wharton would be included in the zone only for the purpose of repaying the debt that existed on April 30, 1997. They would not be included in the zone for any other purpose, including eradication efforts, unless the commissioner proposed, by rule, that the area be included and the proposal was approved in an referendum.

The commissioner would be able to designate, by rule, areas of the state as proposed eradication zones as long as the areas were not within a statutory zone that had approved a referendum for an eradication program. After adopting a rule designating a proposed eradication zone, the commissioner would be required to conduct a referendum in the zone to determine whether growers wanted to establish the zone. The foundation could ask the commissioner to call another referenda in a zone in which a referendum was defeated. Another referendum could be held no earlier than one year after the last vote. Voters would have to be allowed by subsequent referenda to vote on whether to continue their assessments.

The commissioner would be able, by rule, to add an area to an eradication zone or to transfer an area or county from one statutory zone to another

under statutory guidelines that included approval in a referendum. The commissioner would be able, by rule and after soliciting public comment, to divide a statutory zone and fairly apportion any debt to each portion of the divided zone. The commissioner would be able to designate interim advisory groups for the zones or areas that are to be considered for inclusion into a zone.

Referenda. The commissioner would have to have a referendum every four years in each zone conducting eradication activities on whether to continue the program. A majority of those voting would have to approve continuation, and foundation board members would have to be elected at the same time. If a referendum were not approved, the commissioner could hold another vote, but not before one year, instead of 121 days as in the 1995 legislation, after the date of the last referendum.

Agreements between the foundation and persons engaged in growing, processing, marketing or handling cotton or a group of persons in Texas who are involved in similar programs would have to be approved in each referendum.

By October 20, 1997, the agriculture commissioner would have to hold a retention referendum and board election in the Southern Rolling Plains, Central Rolling Plains and the South Texas/Winter Garden zones. A majority of those voting would have to vote to continue the program. Until the referendum only a diapause program could be carried out. The commissioner would have to conduct a referendum in the Southern High Plains-Caprock zone by August 1, 1997.

Assessments. The commissioner, instead of the foundation, would propose the assessment to be imposed on growers and conduct the assessment referendum. CSSB 1814 would establish criteria for the commissioner to use in determining the assessment. The commissioner would be required to hold a public hearing about the proposed assessment referendum. The commissioner, instead of the board, would be authorized to set penalties for growers who failed to pay their assessments.

Some assessments approved under the 1993 legislation would continue. Assessments previously approved by the Southern Rolling Plains, Central

Rolling Plains and the South Texas/Winter Garden zones and all agreements and obligations of the foundation related to the statutory zones made or approved before the bill's effective date would be validated and would continue. For other eradication zones that existed before the bill's effective date (the Rio Grande Valley zone), the *assessments* would be validated only as to the amount already collected by the foundation prior to the bill's effective date. Assessments in pre-existing zones that have been deposited in a court registry before April 30, 1997, or paid by plaintiffs in a pleading filed before April 30 would not be considered assessments actually collected by the foundation.

Exemptions from lawsuits, liability, taxation. The foundation, named in the bill as a quasi-governmental agency acting under the supervision and control of the agriculture commissioner, would be immune from lawsuits and liability except as allowed by Chapter 101 of the Civil Practice and Remedies Code and for claims pending against the foundation on or before April 30, 1997, plus attorneys fees and court costs.

Except for the above two situations, funds and assessments held or received by the foundation would be exempt from garnishment, attachment or other seizure and from state and local taxes or other process and would be unassignable. This would not affect existing or future indebtedness or security interests created under a note or other loan agreement between the foundation and a lender or any judgment that allowed recovery against the foundation under a loan agreement.

CSSB 1814 would add applicators of pesticides or other chemicals under contract with the foundation to the list of entities (currently the foundation, and its members, directors, officers and employees) who would not be individually liable for certain acts. Applicators would be immune from civil liability from acts or omissions that resulted in death, damage or injury if the applicator were acting according to reasonably precise directions from the foundation, complied with the directions, and did not know of any risks of harm or injury to persons or property that were not known to the foundation at the time.

Applicators would be liable for death, damage or injury to a person or property proximately caused by the applicator while undertaking eradication

efforts if it resulted from a negligent act or omission involving the use of chemicals, any act taken with specific intent to wrongfully injure the person or property, or any act done with conscious indifference or reckless disregard for the safety of others. Applicators and other persons could be held responsible for violations of state and federal pesticide and herbicide laws and regulations.

The foundation would have to have at least $500,000 in liability coverage for acts and omissions of the foundation and its volunteers for each single occurrence of death, bodily injury or property damage.

Bio-intensive control methods. The commissioner would be required to adopt rules, by September 1, 1998, to allow a cotton grower to use biological, botanical or other non-synthetic pest control methods. Cotton growers who chose to use one of these methods would have to notify the foundation board, and the board and the grower would have to coordinate their efforts to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations. The grower would have to pay any additional cost for bio-intensive control that is in addition to their assessment.

SUPPORTERS SAY:

CSSB 1814 would allow the state to continue its efforts to eradicate the cotton boll weevil while passing constitutional muster. CSSB 1814 would address the constitutional problem identified by the Texas Supreme Court of an overly broad delegation of authority to a private entity under the 1993 and 1995 laws. CSSB 1814 would give the agriculture commissioner — a statewide elected official — authority over the program while making the Texas Boll Weevil Eradication foundation a quasi-state entity. Cotton growers would continue to have to approve participation in the program and assessments that pay for the program.

Without CSSB 1814, the state's cotton production could be in jeopardy of being ruined by the boll weevil. Cotton is the state's No. 1 row crop, and Texas is the nation's top cotton-producing state. Texas generally provides one-fourth to one-third of U.S. cotton production. In 1996 the Texas cotton crop was worth about $800 million. The boll weevil, by destroying cotton bolls before full bloom, causes annual losses in Texas cotton production estimated at over $20 million, and Texas growers reportedly were spending

about $20 million a year to combat the pest.

The eradication program has been successful in other parts of the country and within Texas. It is important that the Legislature act quickly to ensure that eradication efforts can continue so that the state's investment in eradication efforts so far would not be lost. The success of other states in eradicating the boll weevil means Texas has no time to waste in continuing its program in order to remain competitive. Because the weevil can migrate from field to field, a statewide effort is needed with guidelines under which growers can organize and coordinate programs. Factors unrelated to the foundation's program were the primary causes of crop loss in the Rio Grande Valley.

CSSB 1814 would include the pink bollworm as a public nuisance so that, if necessary, efforts could also be made to combat this pest. Currently, there are no organized eradication efforts against the pink bollworm

Accountability. CSSB 1814 would address the problem identified by the Texas Supreme Court of an overly broad delegation of authority given to the foundation under the 1993 and 1995 laws by giving the agriculture commissioner clear responsibility to oversee the program. The commissioner would be able to establish eradication zones, oversee referenda, oversee the foundation's board of directors, and make rules governing the program. Giving this authority to the agriculture commissioner would place the necessary accountability with a statewide elected official and a state agency.

Allegations that a lack of accountability led to problems with the program in the past would be addressed by these changes because growers and the public would be able to hold the agriculture commissioner responsible for the program and know where to go with suggestions or concerns about the program. In addition, growers would have ample input into the program through their inclusion on the foundation board and through advisory committees that the commissioner could set up. The foundation board that would be established under CSSB 1814 would include representation from a broad range of those involved in the industry. Allegations that the foundation overspent, misused funds or personnel or other complaints about the operations of the eradication efforts would be addressed by the increased

accountability included in this bill and should not be allowed to derail the state's eradication efforts.

CSSB 1814 would specify clearly that the eradication program was to use integrated pest management techniques. Because CSSB 1814 would increase the agriculture commissioners' involvement and oversight in the program, allegations of the inadequate or improper use of IPM techniques would be able to be addressed in the future.

Make-up of zones. CSSB 1814 would establish six statutory eradication zones to cover most of the state since these were areas that were already involved in eradication efforts before the Supreme Court decision. It would not be appropriate to place all counties in the state in a statutory zone since all areas are not involved in cotton production, and all areas were not previously in a zone and not all are ready to begin eradication efforts. When an area that is not in a statutory zone was ready to join the eradication efforts, the commissioner would be authorized to organize them into zones. In addition, the commissioner would have authority to alter the zones and move counties in and out of zones.

It would be appropriate to exclude the seven counties listed in the bill from the South Texas Winter Garden Zone. These counties, in the upper part of the zone near Houston, are different — including their climate, geography and entomological conditions — from the other counties in the zones. Eradication efforts used in other parts of the zone would not necessarily be appropriate in these unique counties. These seven counties would continue their own eradication efforts and would not harm eradication efforts in other parts of the state.

While CSSB 1814 would allow these counties to be excluded from further eradication efforts used in the rest of the South Texas Winter Garden Zone, the bill would require that growers in these counties continue to pay off the debt that had been incurred when they were part of eradication efforts under the 1993 and 1995 laws.

Liability of foundation, applicators. The liability protections given to the foundation would be similar to those given to other state agencies. Without these protections, the foundation, and the grower assessments it

would collect, would be exposed to a multitude of lawsuits. These assessments are similar to tax dollars and should be protected in the same way that other tax dollars are protected.

CSSB 1814 would not prohibit all lawsuits against the foundation. The foundation would be subject to suits brought under Chapter 101 of the Civil Practice and Remedies Code relating to governmental liability and could be sued under the guidelines in the code. The foundation would have to have at least $500,000 in liability coverage for each single occurrence of death, bodily injury or property damage.

Foundation employees and officers need to be immune from personal liability, like state employees, or it would be impossible to get persons to work for the foundation. CSSB 1814 would add chemical applicators to the list of those who would not be individually liable for certain acts. This would allow applicators to be treated like other foundation employees and would be appropriate because applicators perform work for the foundation just like employees. Applicators would only be immune from liability if they complied with directions from the foundation and did not know of any risks that were not known to the foundation. Applicators would be liable for negligent acts, acts done with specific intent to wrongfully injure persons or property or with conscious indifference ro reckless disregard for the safety of others.

The foundation should be immune from lawsuits and liability for claims pending against the foundation except for those pending on or before April 30, 1997. This is the date that the Supreme Court declared the eradication program unconstitutional. Persons filing lawsuits after that date had solid notice that the program was unconstitutional and that their actions could be barred by legislation. Persons filing suits after this date were most likely rushing to try and take advantage of the status of the program, and these suits should be treated as if they were not filed.

Repayment of loans. CSSB 1814 would allow assessments approved by three zones that were operational before the Supreme Court decision to continue so that these programs could continue. However, the assessments for the Rio Grande Valley, which dropped out of the program in 1996, would not continue, and the growers in this zone would not have to repay

any debt incurred by the zone. This zone is no longer participating in the program, and many growers suffered large losses and should not be obligated to repay the debt that was incurred by the foundation. The risk of nonpayment is a standard risk that lenders take, and they should not be afforded special consideration in this situation.

OPPONENTS SAY:

Legislation mandating a boll weevil eradication program is unnecessary, and the whole program should be scrapped. If growers in an area want to eradicate the boll weevil, they already can voluntarily organize, assess themselves a fee, and eradicate the pest.

foundation activities have actually harmed growers. For example, in the Rio Grande Valley the foundation's pesticide spraying program was largely to blame for the Rio Grande Valley's record poor cotton harvest in 1995 because it killed insects that prey on cotton pests. Growers have survived with the boll weevils, but may not survive if these ill-conceived eradication efforts continue.

The declaration by CSSB 1814 that the boll weevil and pink bollworm are public nuisances is unnecessary and could result in the commissioner and the foundation assuming overly broad authority that infringes on property rights as part of eradication efforts.

CSSB 1814 should include a way for growers to have options for which control methods would be used in their fields. One method of eradication might not be appropriate for all fields, even within one zone, and growers should have more than a single option as long as they meet the control standards applied to other fields.

Accountability. CSSB 1814 would not address problems about adequate accountability in the boll weevil eradication program. These problems include how much money would be spent on the program, how much growers would be assessed to pay for the program, overly broad powers of the foundation, and a lack of grower controls over the program.

Under CSSB 1814 there would be no adequate check on the powers of the foundation or the agriculture commissioner. For example, they could mandate a practice such as pesticide spraying with a specific chemical and a

grower could be unable to stop the action. Also, the commissioner and the foundation would be given essentially a blank check to spend money on the eradication program and then assess growers to repay the money spent. Under the 1995 program, there were charges of wasteful spending on trucks, equipment and personnel, and these problems would not be solved with CSSB 1814 because growers — who are footing the bill — would not have direct input into spending.

In addition, the foundation has been unresponsive to growers and CSSB 1814 would not necessarily correct this. For example, the foundation did not follow integrated pest management practices in its previous operations, and growers had no recourse or way to force the use of these techniques.

Advisory committees should be mandated, not just allowed, and should be on a regional, not statewide, basis to ensure that unique regional needs are taken into consideration.

CSSB 1814 should require, not simply allow, for payments if organic cotton were destroyed and should allow organic growers to be rebated, at least in part, for eradication effort assessments since they also would have to pay for their own organic eradication efforts.

Make-up of zones. All areas of the state should be included in a statutory zone to ensure that the whole state would participate in the eradication efforts. Counties could be included in a zone that could approve its participation in eradication efforts in a later referendum.

The seven counties within the South Texas Winter Garden zone should not be excluded from eradication efforts in the zone. Because the boll weevil can move from field to field, a coordinated programs within each zone is necessary. Exempting individual counties would allow these areas to become nurseries for boll weevils which then could travel into other areas and undercut their eradication efforts.

Liability of foundation, applicators. The liability of the foundation should not be limited. Growers and the public need to be able to turn to the courts for full compensation when the foundation harms persons or property to ensure adequate accountability for actions of the foundation and the

commissioner. CSSB 1814 also would be an unfair retroactive limitation on liability for claims pending after April 30.

Applicators should not be included in the immunities given to foundation employees and officers. Applicators are private businesses that contract with the foundation and should be treated the same as other contractors who do business with the state.

Repayment of loans. Growers in the Rio Grande Valley should have to repay the approximately $10 million in outstanding loans for funds that were borrowed for their eradication zone programs. Even though they have dropped out of the eradication program they had approved participation in the program and should be held responsible for debts incurred on their behalf.

OTHER OPPONENTS SAY:

If certain counties are going to be exempted from inclusion in eradication zones, other counties should also be allowed to opt out of a zone.

NOTES:

The committee substitute made numerous changes to the Senate-passed version of the bill, including:

- changing in the statutory zones;
- requiring additional referenda in the same zone to be held no earlier than one year after the date of the last referendum;
- requiring that the foundation board include members from nonstatutory zones established by referendum;
- requiring the commissioner to establish procedures for resolution of claims;
- eliminating a requirement that the foundation be subject to the administrative procedure law;
- making changes in the percent of producers who must present a petition calling for a discontinuation referendum;

- adding requirements that TDA publish planned schedules to enter fields; and
- adding a requirement that the commissioner adopt rules concerning bio-intensive controls.