

BILL ANALYSIS

Senate Research Center
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S.B. 1004
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Boll Weevil Eradication Foundation (foundation) is primarily a grower-initiated and grower-funded effort created to eradicate the boll weevil and pink bollworm from Texas cotton fields. The foundation's main functions include mapping cotton fields, setting and monitoring boll weevil traps, and arranging for aerial pesticide applications in areas of boll weevil infestation. All active cotton-growing areas in Texas voluntarily participate in the foundation's boll weevil eradication efforts.

The foundation is a quasi-governmental entity with oversight from the commissioner of agriculture (commissioner). Its employees are not state employees, and its budget is not subject to the legislative appropriations process. In 2008, the foundation operated on a budget of about \$58 million, comprising assessments from nearly 26,000 growers, federal funding, and state funding. The foundation also has an accumulated statewide debt of \$99 million in low-interest loans from the Farm Service Agency.

The foundation is subject to the Texas Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. A review by the Texas Sunset Advisory Commission found that the foundation's current structure promotes meaningful participation by cotton growers and encourages a cooperative, self-policing attitude that makes the program more proactive than traditional regulatory approaches. However, inflexible methods and mechanisms for collecting and using grower assessments may affect the foundation's ability to successfully complete its mission of eradicating the boll weevil.

As proposed, S.B. 1004 authorizes the foundation, with the approval of the foundation's board of director's (board) and the commissioner of agriculture, to transfer certain proceeds from one eradication zone to another eradication zone. The bill authorizes the commissioner to adopt rules related to the maximum amount of assessments and the manner in which alternative methods of assessments are imposed and collected. S.B. 1004 requires the board to consult with certain committees in formulating recommendations to the commissioner. S.B. 1004 also extends the existence of the board to September 1, 2021.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of agriculture in SECTION 2 (Section 74.1135, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 74.113, Agriculture Code, by amending Subsection (f) and adding Subsection (1), as follows:

(f) Authorizes an assessment levied on cotton growers in an eradication zone authorized be applied only to eradication, rather than eradication in that zone, certain operating costs of the Texas Boll Weevil Eradication Foundation (foundation), and conducting certain programs. Deletes existing text that authorizes an assessment levied on cotton growers in an eradication zone to be applied only to the foundation's operating costs, including payments on debt incurred for a foundation activity, except that the funds of one zone are prohibited from being used to pay another zone's bank loans or debts.

(1) Authorizes the foundation, with approval of the foundation's board of director's (board) and the commissioner of agriculture (commissioner), to transfer the proceeds from the collection of assessments in one eradication zone to another eradication zone. Authorizes that the transferred proceeds be applied only as provided by Subsection (f).

SECTION 2. Amends Subchapter D, Chapter 74, Agriculture Code, by adding Section 74.1135, as follows:

Sec. 74.1135. ALTERNATIVE METHOD OF ASSESSMENTS. (a) Authorizes the commissioner to adopt rules that provide for an alternative method, manner, and mechanism by which assessments are imposed and collected under this subchapter. Authorizes the commissioner to adopt the rules only after receiving a recommendation from the board. Requires the board to consult with cotton grower steering committees and the technical advisory committee in formulating a recommendation to the commissioner under this subsection. Authorizes the commissioner to accept, reject, or modify a board recommendation. Provides that the rules apply notwithstanding Section 74.113. Requires that the rules require any person collecting an assessment to forward the assessment to the foundation.

(b) Prohibits the maximum amount of an assessment under this section from exceeding the maximum amount of an assessment approved in an assessment referendum under this subchapter.

SECTION 3. Amends Section 74.127(a), Agriculture Code, to provide that, unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2021, rather than September 1, 2009.

SECTION 4. Effective date: upon passage or September 1, 2009.