

**SUBJECT:** Boll weevil eradication program

**COMMITTEE:** Agriculture and Livestock — committee substitute recommended

**VOTE:** 7 ayes — Patterson, R. Cuellar, Hawley, King, Rabuck, Rusling, Swinford  
0 nays  
2 absent — Finnell, Walker

**WITNESSES:** For — Woody Anderson and Ed Small, Texas Boll Weevil Eradication Foundation; Wayne Huffaker, Plains Cotton Growers; Craig D. Shook, Texas Cotton Producers; Durwood Tucker, Texas Farm Bureau  
  
Against — Lawrence Kriegel, James L. Wedel, Cliff Bingham, Texas Organic Cotton Marketing Cooperative; Terry Pepper; Tommy D. Fondren; Joe Rankin, Texas Farmers Union; Reggie James, Consumers Union; Scott Royder, Sierra Club, Lone Star Chapter.  
  
On — Susan Pitman, The Chemical Connection, A Public Health Network of Texans Sensitive to Chemicals.

**BACKGROUND:** The 73rd Legislature established the boll weevil eradication program, administered by the Texas Boll Weevil Eradication Foundation Board, which is elected by cotton growers. The goal of the program is to eradicate the boll weevil through the use of integrated pest management (IPM). IPM calls for ". . . the coordinated use of pest and environmental information with available pest control methods to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to people, property, and the environment."

**DIGEST:** HB 2892 would expand the authority of the Texas Boll Weevil Eradication Board to change an existing eradication zone, with voter approval in a referendum, under the following circumstances: cotton production begins in the area or the area is adjacent to an eradication zone or has biological characteristics similar to the eradication zone.

The board could initiate the boll weevil eradication program in an area added to an eradication zone and assess cotton growers in the area added to the eradication zone. The board could not reduce the area of the High Plains Boll Weevil Suppression Program Area.

The board could accept gifts and grants, borrow money as necessary, and take other action and exercise other authority as necessary to implement the program.

The bill would require the foundation to provide fidelity bonds, in amounts determined by the board, for persons who manage foundation funds. The bill also would restate that the foundation and board are state agencies for the purposes of tax exemption and indemnification. It also would clarify that the foundation is a governmental unit entitled to governmental immunity.

The board could not treat or require treatment of organic cotton fields with chemicals that are not approved for use on certified organic cotton. Plow-up could be required as an alternative to the use of chemicals in some cases. Losses could be mitigated by production of an economically feasible alternative crop.

A cotton grower who had failed to pay assessments and penalties after receiving notice of the delinquency would have 10 days instead of 31 days before the grower's crops would be destroyed for nonpayment. The bill would also allow the board to adopt procedures for reimbursement by the grower for destruction of the crops. In addition to any other remedy to collect assessments and penalties, the Texas Department of Agriculture could place a lien on cotton produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid.

HB 2892 would take effect September 1, 1995.

**SUPPORTERS  
SAY:**

CSHB 2892 would provide additional powers to the Texas Boll Weevil Eradication Foundation Board to ensure the eradication of boll weevils and other cotton pests including allowing the board to accept gifts and grants, borrow money and exercise other broadly defined powers to guarantee the success of the program. The foundation and board assess cotton growers

and receive funds from federal grants to fight boll weevils, creating cash flow crises at times for the board. Loans taken out by the foundation board would be in anticipation of money expected to come in from the federal government and from assessments of cotton growers.

The legislation would impose reasonable checks on the board's powers, including forbidding the board from reducing the size of the High Plains Boll Weevil Suppression Program Area or the St. Lawrence Cotton Growers Boll Weevil Control Zone. The funds of one zone would not be allowed to be used to pay the another zone's bank loans. The legislation would extend the eradication program into areas that have cotton fields now that did not have them when the program was initiated.

The committee substitute makes concessions to organic growers without sacrificing the ability of the foundation and board to eradicate cotton pests. The board could not treat certified organic cotton fields with chemicals, but could plow the field if necessary.

The substitute would reduce the time a lien may be placed against a property from five years to the year the assessment and penalties are unpaid. This is a reasonable length of time and would still provide that the overdue money is collected. Also, the bill would reduce the time that a cotton grower has to repay overdue assessments and penalties to 10 days after receiving notification of delinquency. The late-paying grower would be responsible for paying the cost of destroying crops.

The bill would not grant new indemnification rights to the board or foundation, but would merely restate that the foundation and board are state government agencies and are protected by indemnification. The requirements in the bill pertaining to fidelity bonds for employees or agents who handle funds for the foundation is necessary for some financial institutions to loan money to the foundation board.

OPPONENTS  
SAY:

This bill would confer too much authority to the board and would allow it overly broad discretion to rule on the means necessary to control boll weevils.

The board could accept gifts and grants, and take out loans, when there is no sound financial reason for the board to take out operating loans.

The foundation and board are authorized to use highly toxic pesticides that sometimes overreach their bounds and contaminate organic crops and pose a threat to people with special medical needs. This legislation would further expand the indemnification protection of the board. The foundation and board should be held responsible for its actions that cause harm to citizens. This additional indemnification protection is counter productive and would insulate the foundation from responsibility for its actions.

OTHER  
OPPONENTS  
SAY:

The bill would not go far enough to protect organic farmers. Besides authorizing the use of pesticides, the board should be required to look into expanding the use of natural predators to the boll weevils. Parasitic wasps have been developed to combat the spread of boll weevils and have proven to be quite effective.

NOTES:

The committee substitute added provisions allowing counties to be annexed in to an existing zone only if the addition is approved in a referendum; prohibiting an area from being removed from the existing High Plains Boll Weevil Suppression Program Area Zone; prohibiting the funds of one zone being used to pay another zone's bank loans; and allowing the department to perfect a lien on cotton produced during the year that an assessment was unpaid. The original version allowed a lien on any cotton produced on the acreage for the next five years.

The original bill specified that the board would endeavor to develop rules to protect organic cotton production, but would have to give highest priority to the eradication program. The substitute would establish that the board maintain the effectiveness of the program, but not endanger the certification of an organic cotton grower by the spraying of chemicals. The substitute would establish an indemnity provision for the organic growers.

SB 1196 by Lucio, companion to HB 2892, passed the Senate on April 21 and has been referred to the House Agriculture and Livestock Committee.

A related bill, HB 3003 by Finnell, which would consolidate the boll weevil and pink bollworm eradication programs into a single cotton program and establish and define pest management zones and geographical zones, passed the House by 146-0 on April 25 and has been referred to the Senate Natural Resources Committee.