

SUBJECT: Final referendum for maintenance program for boll weevil eradication

COMMITTEE: Agriculture and Livestock — favorable without amendment

VOTE: 4 ayes — Hardcastle, Anderson, B. Brown, Herrero

1 nay — Burnam

2 absent — Farrar, Olivo

WITNESSES: For — Ed Small, Texas Boll Weevil Eradication Foundation

Against — None

BACKGROUND: In 1993, the 73rd Legislature established the Texas Boll Weevil Eradication Foundation (TBWEF) to oversee the eradication of the boll weevil in Texas. In 1997, enactment of SB 1814 by Duncan resolved constitutional issues concerning the foundation and gave the Texas Department of Agriculture (TDA) oversight authority.

Texas currently has 16 boll weevil eradication zones covering the entire state. Cotton farmers in participating regions have voted to assess themselves a per-acre fee to achieve eradication. Agriculture Code sec. 74.114 requires a referendum on the continuation of the program every four years in each operational eradication zone.

DIGEST: HB 3226 would authorize the agriculture commissioner to conduct one final referendum in each of the state's boll weevil eradication zones on or after September 1, 2005, instead of the retention referendum currently required every four years. The commissioner would have to ensure that producers had adequate notice that the referendum was to be the final referendum for that zone.

HB 3226 would authorize the commissioner to designate boll weevil and pink bollworm eradication maintenance areas and to impose a maintenance fee on all cotton grown in a maintenance area.

To the extent practical, the maintenance areas would have to follow the lines of the existing eradication zones, but contiguous zones could be

included in the same area and additional counties could be added to the areas. Eradication zones would be eligible for inclusion in a maintenance area if the commissioner determined that the boll weevil had been eradicated in that zone, the zone had satisfied any debt owed to the foundation, and the foundation requested that the zone be put in the maintenance area.

The commissioner, in cooperation with the foundation board, would set the maintenance fee. The fee would have to be collected on a per-acre or per-bale basis and would be based on the number of cotton acres in a maintenance area, potential for reinfestation from outside the area, growing season, epidemiology, historical weather conditions, expected cost of the maintenance program, and the need for a reserve to respond to potential reinfestations. The commissioner would determine the timing and frequency of collection of the fee. The fees would not be considered state funds.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

HB 3226 would take boll weevil eradication efforts to the next level by allowing for one final referendum that would allow the program to continue under maintenance areas.

Currently, a referendum on whether to continue the boll weevil eradication program in a zone must occur every four years. When the eradication program was established, it was important to have frequent retention elections because it was unclear how the program would work and how farmers would react to it. However, as the program has matured and farmer support has solidified, it has become clear that setting up these frequent referenda, campaigning for them, and holding the vote can be time consuming and expensive and wastes resources that better could be spent on maintaining a zone's eradication status.

Holding such frequent votes also runs the risk that a retention referendum could fail if a majority of farmers who supported the program became complacent and did not vote while a minority organized and voted against the program. If farmers have signaled their approval of the program, there should be no need to ask them to do so again every four years.

HB 3226 would address this situation by allowing for one final vote in each zone to establish the boll weevil eradication program and to allow the agriculture commissioner to establish maintenance areas and a maintenance program. The bill would not usurp grower authority or oversight over the program because it would give growers the final decision about whether to continue the periodic retention referendum or to have one final vote about a maintenance program.

It is important for the Texas cotton crop that a maintenance and monitoring program continue in areas in which the weevil has been eradicated so that intervention could occur quickly if necessary. If a retention election failed and the program in a zone came to an abrupt halt, the cotton crop in that region, and the whole state, could be in jeopardy. The state, or areas within it, could be placed under quarantine, and farmers could have difficulty moving equipment and other items

Growers would continue to have safeguards that ensured their input into the program. Agriculture Code sec. 74.112(f) would continue to require the agriculture commissioner to hold a referendum on discontinuing the program if at least 30 percent of the cotton growers within a zone petitioned for elimination of the program. In addition, each zone has an elected representative on the TBWEF board of directors, and each zone has a steering committee of local farmers. The law also would authorize TDA to establish advisory committees of growers.

HB 3226 would put the eradication program in line with programs in other states. About 15 states have eradication programs, and Texas is the only one that requires a mandatory, periodic retention election. The maintenance program established by the bill would be similar to ones in other states.

The bill also would allow a maintenance fee to be collected on either a per-acre or per-bale basis to give the program more flexibility in making assessments.

**OPPONENTS  
SAY:**

When the boll weevil eradication program was developed, the periodic retention elections were established to ensure that growers had an ongoing voice in the program, and the need for this grower input and oversight has not lessened. Because the boll weevil program involves mandatory fees paid by farmers and authorizes certain actions to be taken

in farmers' fields, it is important that the program continue to stand for periodic approval.

NOTES:

The companion bill, SB 1428 by Duncan, passed the Senate on the Local and Uncontested Calendar on April 28 and was reported favorably, without amendment, by the House Agriculture and Livestock Committee on May 4, making it eligible to be considered in lieu of HB 3226.