

## **BILL ANALYSIS**

Senate Research Center  
2001S04462/1

S.B. 717  
By: Duncan  
Natural Resources  
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As Filed

### **DIGEST AND PURPOSE**

Currently, the Texas Commissioner of Agriculture has the ability to designate certain cotton boll weevil eradication zone interim advisory groups and their membership, which were designated for the main purpose of making determinations and recommendations to the commissioner on the formation of eradication zones across the state. As a result of the expansion of the program, the focus for the interim advisory group has changed. S.B. 717 gives the interim advisory group the new label of advisory committee and gives the commissioner the ability to appoint the members. This bill also makes clear that the assessment lien is not to be treated as an agricultural lien as described by Chapter 9, Business and Commerce Code, and it gives the Texas Department of Agriculture the ability to investigate possible violations of the lien provision. Finally, this bill allows the Texas Boll Weevil Eradication Foundation, with the approval of the commissioner, to cooperate with the appropriate state agency of an adjoining state to carry out boll weevil eradication.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 74.1041, Agriculture Code, as follows:

Sec. 74.1041. New heading: ADVISORY COMMITTEES. (a) Adds language regarding an existing eradication zone or an area of the state that is to be considered by the commissioner of agriculture (commissioner) for designation as or inclusion in an eradication zone. Makes conforming changes.

(b) Adds language regarding what each advisory committee is authorized to consider and make recommendations to the commissioner and the Texas Boll Weevil Eradication Foundation, Inc. (foundation) concerning ongoing implementation of an eradication program approved by growers in an eradication zone. Makes conforming changes.

(c) Adds language to require each advisory committee appointed under this section to include a sufficient number of cotton growers to ensure adequate representation across the eradication zone. Makes a conforming change.

(d) Provides that advisory committees appointed under this section are immune from lawsuits and liability to the same extent the foundation is immune from lawsuits and liability under Section 74.129.

(e) Provides that an advisory committee established under this section is subject to the requirements of Chapters 551 and 552 (Open Meetings and Public Information), Government Code.

SECTION 2. Amends Section 74.115, Agriculture Code, by amending Subsection (d) and adding Subsection (f), as follows:

(d) Adds language to provide that an assessment lien is not an agricultural lien for the purposes of Chapter 9, Business and Commerce Code, and is not subject to the provisions of that chapter. Provides that an assessment lien is subject to and preempted by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.) and requires it be treated under that Act in the same manner as a security interest created by the seller. Adds language regarding what a buyer of cotton takes free of the assessment if the buyer does not receive notice of the assessment lien as required by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.), or buys cotton from a person other than the producer of the cotton.

(f) Authorizes the Department of Agriculture (department) to investigate and, during normal business hours, audit and inspect the records of the person who is the subject of the investigation, if the department has cause to believe that a violation of this section or rules promulgated under this section has occurred.

SECTION 3. Amends Section 74.124(a), Agriculture Code, to add language regarding approval by the commissioner and other groups and persons to include an appropriate state agency of another state contiguous to the affected area, to the extent allowed by federal law, the law of the contiguous state, and the law of this state, to authorize the foundation to carry out programs to destroy and eliminate the boll weevil and the pink bollworm.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2001.