

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H1/23/97 S2/17/97

A Bill

ACT 330 OF 1997
HOUSE BILL 1181

5 By: Representatives McGinnis and Simmons
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS BOLL
10 WEEVIL SUPPRESSION ERADICATION ACT TO PERMIT REGIONAL
11 REFERENDA ON LEVYING AN ASSESSMENT OF COTTON GROWERS IN
12 THE REGION TO FUND A BOLL WEEVIL SUPPRESSION OR
13 ERADICATION PROGRAM; AND FOR OTHER PURPOSES."
14

Subtitle

15 "TO AMEND THE ARKANSAS BOLL WEEVIL
16 SUPPRESSION ERADICATION ACT."
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code 2-16-602(b) is amended to read as
22 follows:

23 "(b) The purpose of this subchapter is to secure the suppression
24 or eradication of the boll weevil and to provide for certification of a
25 cotton growers' organization to cooperate with state and federal
26 agencies in the administration of any available cost-sharing programs
27 for the suppression or eradication of the boll weevil."
28

29 SECTION 2. Arkansas Code 2-16-603(3) is amended to read as
30 follows:

31 "(3) Cotton grower means any person, other than a cash rent
32 landlord, who is engaged in ~~and~~ or has an economic risk in the business
33 of producing, or causing cotton to be produced, for market, ~~cotton and~~
34 ~~will share equitably in expenses of the potential boll weevil~~
35 ~~eradication program;~~"
36

1 SECTION 3. Arkansas Code 2-16-610(b)(2) is amended to read as
2 follows:

3 "(2) The State Plant Board is authorized to issue regulations
4 prohibiting the planting of noncommercial cotton in such ~~elimination~~
5 eradication zones, and requiring that all growers of commercial cotton
6 in the eradication zones participate in a program of boll weevil
7 eradication including cost sharing as prescribed in the regulations."
8

9 SECTION 4. Arkansas Code 2-16-610(d)(2) is amended to read as
10 follows:

11 "(2) Such penalty fees shall not exceed a charge of twenty-five
12 dollars (\$25.00) per acre per year. Any such penalty is in addition to
13 any assessments otherwise due, which assessments shall also remain
14 payable."
15

16 SECTION 5. Arkansas Code 2-16-612(e) is amended to read as
17 follows:

18 "'(e)(1) In addition to any authority granted the certified
19 cotton growers' organization, such organization is hereby authorized to
20 borrow funds ~~or to~~ from any bona fide lender, including any state entity
21 or authority, instruct the Arkansas Development Finance Authority to
22 issue bonds pursuant to §15-5-101 et seq., or to issue bonds in any
23 other appropriate manner, any of which credit arrangements may be
24 secured by a pledge of funds derived from assessments against cotton
25 grower members of the organization.

26 (2) Any funds borrowed and any funds derived from the sale of
27 bonds shall be used exclusively for funding a boll weevil suppression or
28 eradication program.

29 (e) Funds derived from assessments against cotton grower
30 members of the organization shall be used to pay the operating expenses
31 of the boll weevil suppression or eradication program and to repay any
32 loans or obligations incurred by such boll weevil suppression or
33 eradication program.'"
34

35 SECTION 6. Arkansas Code 2-16-612 is amended by adding at the end
36 thereof a new subdivision to read as follows:

1 "(f) Upon being certified as the certified cotton growers'
2 organization under this subchapter, the certified cotton growers'
3 organization and its board of directors are granted all the immunities
4 and protections allowed under Arkansas Code Annotated §§ 16-120-101 -
5 16-120-104, notwithstanding the requirements of the Arkansas Code
6 Annotated §16-120-102(a). The certified cotton growers' organization
7 may indemnify its directors against liability incurred in connection
8 with their duties as board members."

9
10 SECTION 7. Arkansas Code 2-16-614 is amended to read as follows:
11 "§ 2-16-614. Referendum - Assessments.

12 (a)(1) At the request of the certified cotton growers
13 organization, the State Plant Board shall authorize a ~~statewide~~
14 referendum among cotton growers in a designated region on the question
15 of whether an assessment shall be levied upon cotton growers in ~~the~~
16 ~~state~~ that region to offset, in whole or in part, the cost of boll
17 weevil suppression, ~~or~~ pre-eradication, eradication, or maintenance
18 programs authorized by this subchapter or any other law of this state.

19 (2) Such program shall be designed on a regional basis so as to
20 reflect the differences in boll weevil infestation and the relative cost
21 of financing a boll weevil suppression and eradication program in the
22 respective regions.

23 (b)(1) The assessment levied under this subchapter shall be based
24 upon the number of acres of cotton planted in the eradication area.

25 (2) The amount of the assessment, the period of time for which it
26 shall be levied, how it shall be levied, when it shall be paid, and the
27 geographical area to be covered by the assessment shall be determined by
28 the State Plant Board and established by regulations pursuant to this
29 section.

30 (3) The annual ~~cost~~ assessment shall not exceed fifty dollars
31 (\$50.00) per acre.

32 (c) All affected cotton growers ~~and landowners with a cotton base~~
33 shall be entitled to vote in any such referendum, ~~and the provided,~~
34 however, that such cotton growers produced a cotton crop for harvest, or
35 had an interest therein, in the designated region conducting the
36 referendum in the crop year immediately preceding the year in which the

1 referendum is conducted. A cotton grower may vote through a power of
2 attorney evidenced in writing, including, but not limited to, a power of
3 attorney recognized by the Farm Service Agency or its successor. The
4 State Plant Board, or its cooperators, shall determine any questions of
5 eligibility to vote.

6 (1) Each person who is eligible to vote in the referendum shall
7 be mailed a ballot upon which to cast a vote for or against the boll
8 weevil suppression and eradication program.

9 (2) ~~If at least two-thirds (2/3) of those voting vote in favor of~~
10 ~~the assessment, then the assessment.~~ Passage of such referendum shall
11 require an affirmative vote of two-thirds (2/3) of those voting in the
12 referendum.

13 "(d) The assessments approved under this subchapter shall be
14 collected by the certified cotton growers' organization or such other
15 agency or entity designated by the State Plant Board from the affected
16 cotton growers.

17 The assessments collected by the State Plant Board or such other
18 agency or entity designated by the State Plant Board under this
19 subchapter shall be promptly remitted to the certified cotton grower's
20 organization under such terms and conditions as the State Plant Board
21 shall deem necessary to ensure that such assessments are used in a sound
22 program of eradication or suppression of the boll weevil."

23 (e) The certified organization shall provide to the State Plant
24 Board an annual audit of its accounts performed by a certified public
25 accountant.

26 (f) The assessments collected by the State Plant Board under this
27 subchapter shall not be state funds.

28 (g)(1) In addition to the authority granted in this section for a
29 ~~statewide~~ referendum among cotton growers, the State Plant Board is
30 authorized to conduct a separate referendum among cotton growers in the
31 southwest corner of the state, within boundaries to be defined by the
32 State Plant Board, on the question of whether an assessment shall be
33 levied upon cotton growers in the defined area to provide funds to fund
34 in whole or in part the cost of a boll weevil suppression or eradication
35 program.

36 (2) Any such regional referendum shall be conducted in the same

1 manner as ~~a statewide~~ any other referendum authorized in this section,
2 and any assessments levied pursuant to such referendum shall be subject
3 to the same uses and limitations and shall be made, collected, and
4 remitted in the same manner as assessments levied pursuant to ~~a~~
5 ~~statewide referendum~~ any other referenda conducted under this
6 subchapter."

7
8 SECTION 8. Arkansas Code 2-16-616 is amended to read as follows:
9 "§ 2-16-616. Subsequent referenda.

10 (a) In the event any referendum conducted under this subchapter
11 fails to receive the required number of affirmative votes, the certified
12 organization may, with the consent of the State Plant Board, be
13 authorized to call other referenda.

14 (b)(1) After the passage of any referendum, ~~eligible growers will~~
15 ~~be allowed to hold another referendum five (5) years after actual field~~
16 ~~operations begin, or at the call of the foundation~~ the eligible voters
17 shall be allowed, by subsequent referenda to be held upon recommendation
18 of the certified cotton growers organization, to vote on whether to
19 eliminate or modify the program. Upon petition by one-third (1/3) of
20 the cotton growers within a designated region established under Ark.
21 Code Ann. § 2-16-614, the certified cotton growers organization shall be
22 required to conduct a subsequent referendum on whether to eliminate or
23 modify the program, provided that the certified cotton growers
24 organization is required to hold no more than one (1) petitioned
25 referendum for each designated region during any given calendar year.
26 Passage of the question called in the subsequent referendum requires
27 that a two-thirds (2/3) majority of those voting approve the subsequent
28 referendum.

29 (2) All the requirements for an initial referendum must be met in
30 subsequent referenda.

31 (c) If an approved eradication program is discontinued for any
32 reason, or the certified cotton growers organization is abolished or
33 loses its certification for any reason, assessments approved, levied, or
34 otherwise collectable under this subchapter on the date of such event
35 remain valid as necessary to pay the financial obligations of the
36 certified cotton growers organization."

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SECTION 9. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Rep. McGinnis, et al

APPROVED:3-03-97