

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 401 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/16/09

A Bill

HOUSE BILL 1387

5 By: Representative Davenport
6
7

For An Act To Be Entitled

9 AN ACT PROVIDING FOR THE JOINDER OF THIS STATE IN
10 THE INTERSTATE PEST CONTROL COMPACT; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13 AN ACT PROVIDING FOR THE JOINDER OF THIS
14 STATE IN THE INTERSTATE PEST CONTROL
15 COMPACT.
16
17
18

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

21 SECTION 1. Arkansas Code Title 2, Chapter 16 is amended to add an
22 additional subchapter to read as follows:

23 2-16-901. Pest Control Compact.

24 The Pest Control Compact is hereby enacted into law and entered into
25 with all other jurisdictions legally joining therein in the form
26 substantially as follows:
27

28 Article I: Findings.

29 (a) In the absence of the higher degree of cooperation among them
30 possible under this Compact, the annual loss of approximately 137 billion
31 dollars from the depredations of pests is virtually certain to continue, if
32 not to increase.

33 (b) Because of the varying climatic, geographic and economic factors,
34 each state may be affected differently by particular species of pests; but
35 all states share the inability to protect themselves fully against those



1 pests which present serious dangers to them.

2 (c) The migratory character of pest infestations makes it necessary
3 for states both adjacent to and distant from one another, to complement each
4 other's activities when faced with conditions of infestation and
5 reinfestation.

6 (d) While every state is seriously affected by a substantial number of
7 pests, and every state is susceptible of infestation by many species of pests
8 not now causing damage to its crops and plant life and products, the fact
9 that relatively few species of pests present equal danger to or are of
10 interest to all states makes the establishment and operation of an Insurance
11 Fund, from which individual states may obtain financial support for pest
12 control programs of benefit to them in other states and to which they may
13 contribute in accordance with their relative interest, the most equitable
14 means of financing cooperative pest eradication and control programs.

15
16 Article II: Definitions

17 As used in this Compact, unless the context clearly requires a
18 different construction:

19 (a) "State" means a state, territory or possession of the United
20 States, the District of Columbia, and the Commonwealth of Puerto Rico.

21 (b) "Requesting state" means a state which invokes the
22 procedures of the Compact to secure the undertaking or intensification of
23 measures to control or eradicate one or more pests within one or more other
24 states.

25 (c) "Responding state" means a state requested to undertake or
26 intensify the measures referred to in subdivision (b) of this Article.

27 (d) "Pest" means any invertebrate animal, pathogen, parasitic
28 plant or similar or allied organism which can cause disease or damage in any
29 crops, trees, shrubs, grasses, or other plants of substantial value.

30 (e) "Insurance Fund" means the Pest Control Insurance Fund
31 established pursuant to this Compact.

32 (f) "Governing Board" means the administrators of this Compact
33 representing all of the party states when such administrators are acting as a
34 body in pursuance of authority vested in them by this Compact.

35 (g) "Executive committee" means the committee established
36 pursuant to Article V (e) of this Compact.

1
2 Article III: The Insurance Fund.

3 There is hereby established a Pest Control Insurance Fund for the
4 purpose of financing other than normal pest control operations which states
5 may be called upon to engage in pursuant to this Compact. The Insurance Fund
6 shall contain moneys appropriated to it by the party states and any donations
7 and grants accepted by it. All appropriations, except as conditioned by the
8 rights and obligations of party states expressly set forth in this Compact,
9 shall be unconditional and may not be restricted by the appropriating state
10 to use in the control of any specified pest or pests. Donations and grants
11 may be conditional or unconditional, provided that the Insurance Fund shall
12 not accept any donation or grant whose terms are inconsistent with any
13 provision of this Compact.

14
15 Article IV: The Insurance Fund, Internal Operations and Management.

16 (a) The Insurance Fund shall be administered by a Governing Board and
17 Executive Committee as hereinafter provided. The actions of the Governing
18 Board and the Executive Committee pursuant to this Compact shall be deemed
19 the actions of the Insurance Fund.

20 (b) The members of the Governing Board shall be entitled to one vote
21 on such board. No action of the Governing Board shall be binding unless taken
22 at a meeting at which a majority of the total number of votes on the
23 Governing Board is cast in favor thereof. Action of the Governing Board
24 shall be only at a meeting at which a majority of the members are present.

25 (c) The Insurance Fund shall have a seal which may be employed as an
26 official symbol and which may be affixed to documents and otherwise used as
27 the Governing Board may provide.

28 (d) The Governing Board shall elect annually, from among its members,
29 a chairman, a vice chairman, a secretary and a treasurer. The chairman may
30 not succeed himself. The Governing Board may appoint an executive director
31 and fix his duties and his compensation, if any. Such executive director
32 shall serve at the pleasure of the Governing Board. The Governing Board shall
33 make provision for the bonding of such of the officers and employees of the
34 Insurance Fund as may be appropriate.

35 (e) Irrespective of the civil service, personnel or other merit system
36 laws of any of the party states, the executive director, or if there be no

1 executive director, the chairman, in accordance with such procedures as the
2 bylaws may provide, shall appoint, remove or discharge such personnel as may
3 be necessary for the performance of the functions of the Insurance Fund and
4 shall fix the duties and compensation of such personnel. The Governing Board
5 in its bylaws shall provide for the personnel policies and programs of the
6 Insurance Fund.

7 (f) The Insurance Fund may borrow, accept or contract for the services
8 of personnel from any state, the United States, or any other governmental
9 agency, or from any person, firm, association, or corporation.

10 (g) The Insurance Fund may accept for any of its purposes and
11 functions under this Compact any and all donations, and grants of money,
12 equipment, supplies, materials, and services, conditional or otherwise, from
13 any state, the United States, or any other governmental agency, or from any
14 person, firm, association, or corporation, and may receive, utilize and
15 dispose of the same. Any donation, gift, or grant accepted by the Governing
16 Board pursuant to this paragraph or services borrowed pursuant to paragraph
17 (f) of this Article shall be reported in the annual report of the Insurance
18 Fund. Such report shall include the nature, amount and conditions, if any, of
19 the donation, gift, grant, or services borrowed and the identity of the donor
20 or lender.

21 (h) The Governing Board shall adopt bylaws for the conduct of the
22 business of the Insurance Fund and shall have the power to amend and to
23 rescind these bylaws. The Insurance Fund shall publish its bylaws in
24 convenient form and shall file a copy thereof and a copy of any amendment
25 thereto with the appropriate agency or officer in each of the party states.

26 (i) The Insurance Fund annually shall make to the Governor and
27 legislature of each party state a report covering its activities for the
28 preceding year. The Insurance Fund may make such additional reports as it may
29 deem desirable.

30 (j) In addition to the powers and duties specifically authorized and
31 imposed, the Insurance Fund may do such other things as are necessary and
32 incidental to the conduct of its affairs pursuant to this Compact.

33
34 Article V: Compact and Insurance Fund Administration.

35 (a) In each party state there shall be a Compact administrator, who
36 shall be selected and serve in such manner as the laws of his state may

1 provide, and who shall:

2 (1) Assist in the coordination of activities pursuant to the
3 Compact in his state; and

4 (2) Represent his state on the Governing Board of the Insurance
5 Fund.

6 (b) If the laws of the United States specifically so provide, or if
7 administrative provision is made therefore within the federal government, the
8 United States may be represented on the Governing Board of the Insurance Fund
9 by not to exceed three representatives. Any such representative or
10 representatives of the United States shall be appointed and serve in such
11 manner as may be provided by or pursuant to federal law, but no such
12 representative shall have a vote on the Governing Board or the Executive
13 Committee thereof.

14 (c) The Governing Board shall meet at least once each year for the
15 purpose of determining policies and procedures in the administration of the
16 Insurance Fund and, consistent with the provisions of the Compact,
17 supervising and giving direction to the expenditure of moneys from the
18 Insurance Fund. Additional meetings of the Governing Board shall be held on
19 call of the chairman, the Executive Committee, or a majority of the
20 membership of the Governing Board.

21 (d) At such times as it may be meeting, the Governing Board shall pass
22 upon applications for assistance from the Insurance Fund and authorize
23 disbursements therefrom. When the Governing Board is not in session, the
24 Executive Committee thereof shall act as agent of the Governing Board, with
25 full authority to act for it in passing upon such applications.

26 (e) The Executive Committee shall be composed of the chairman of the
27 Governing Board and four additional members of the Governing Board chosen by
28 it so that there shall be one member representing each of four geographic
29 groupings of party states. The Governing Board shall make such geographic
30 groupings. If there is representation of the United States on the Governing
31 Board, one such representative may meet with the Executive Committee. The
32 chairman of the Governing Board shall be chairman of the Executive Committee.
33 No action of the Executive Committee shall be binding unless taken at a
34 meeting at which at least four members of such Committee are present and vote
35 in favor thereof. Necessary expenses of each of the five members of the
36 Executive Committee incurred in attending meetings of such Committee, when

1 not held at the same time and place as a meeting of the Governing Board,
2 shall be charges against the Insurance Fund.

3
4 Article VI: Assistance and Reimbursement.

5 (a) Each party state pledges to each other party state that it will
6 employ its best efforts to eradicate, or control within the strictest
7 practicable limits, any and all pests. It is recognized that performance of
8 this responsibility involves:

9 (1) The maintenance of pest control and eradication activities
10 of interstate significance by a party state at a level that would be
11 reasonable for its own protection in the absence of this Compact.

12 (2) The meeting of emergency outbreaks or infestations of
13 interstate significance to no less an extent than would have been done in the
14 absence of this Compact.

15 (b) Whenever a party state is threatened by a pest not present within
16 its borders but present within another party state, or whenever a party state
17 is undertaking or engaged in activities for the control or eradication of a
18 pest or pests, and finds that such activities are or would be impracticable
19 or substantially more difficult of success by reason of failure of another
20 party state to cope with infestation or threatened infestation, that state
21 may request the Governing Board to authorize expenditures from the Insurance
22 Fund for eradication or control measures to be taken by one or more of such
23 other party states at a level sufficient to prevent, or to reduce to the
24 greatest practicable extent, infestation or reinfestation of the requesting
25 state. Upon such authorization the responding state or states shall take or
26 increase such eradication or control measures as may be warranted. A
27 responding state shall use moneys available from the Insurance Fund
28 expeditiously and efficiently to assist in affording the protection
29 requested.

30 (c) In order to apply for expenditures from the Insurance Fund, a
31 requesting state shall submit the following in writing:

32 (1) A detailed statement of the circumstances which occasion the
33 request for the invoking of the Compact.

34 (2) Evidence that the pest on account of whose eradication or
35 control assistance is requested constitutes a danger to an agricultural or
36 forest crop, product, tree, shrub, grass, or other plant having a substantial

1 value to the requesting state.

2 (3) A statement of the extent of the present and projected
3 program of the requesting state and its subdivisions, including full
4 information as to the legal authority for the conduct of such program or
5 programs and the expenditures being made or budgeted therefore, in connection
6 with the eradication, control, or prevention of introduction of the pest
7 concerned.

8 (4) Proof that the expenditures being made or budgeted as
9 detailed in item 3 do not constitute a reduction of the effort for the
10 control or eradication of the pest concerned or, if there is a reduction, the
11 reasons why the level of program detailed in item 3 constitutes a normal
12 level of pest control activity.

13 (5) A declaration as to whether, to the best of its knowledge
14 and belief, the conditions which in its view occasion the invoking of the
15 Compact in the particular instance can be abated by a program undertaken with
16 the aid of moneys from the Insurance Fund in one year or less, or whether the
17 request is for an installment in a program which is likely to continue for a
18 longer period of time.

19 (6) Such other information as the Governing Board may require
20 consistent with the provisions of this Compact.

21 (d) The Governing Board or Executive Committee shall give due notice
22 of any meeting at which an application for assistance from the Insurance Fund
23 is to be considered. Such notice shall be given to the Compact administrator
24 of each party state and to such other officers and agencies as may be
25 designated by the laws of the party states. The requesting state and any
26 other party state shall be entitled to be represented and present evidence
27 and argument at such meeting.

28 (e) Upon the submission as required by paragraph (c) of this Article
29 and such other information as it may have or acquire, and upon determining
30 that an expenditure of funds is within the purposes of this Compact and
31 justified thereby, the Governing Board or Executive Committee shall authorize
32 support of the program. The Governing Board or Executive Committee may meet
33 at any time or place for the purpose of receiving and considering an
34 application. Any and all determinations of the Governing Board or Executive
35 Committee, with respect to an application, together with the reasons
36 therefore shall be recorded and subscribed in such manner as to show and

1 preserve the votes of the individual members thereof.

2 (f) A requesting state which is dissatisfied with a determination of
3 the Executive Committee shall upon notice in writing given within twenty days
4 of the determination with which it is dissatisfied, be entitled to receive a
5 review thereof at the next meeting of the Governing Board. Determinations of
6 the Executive Committee shall be reviewable only by the Governing Board at
7 one of its regular meetings, or at a special meeting held in such manner as
8 the Governing Board may authorize.

9 (g) Responding states required to undertake or increase measures
10 pursuant to this Compact may receive moneys from the Insurance Fund, either
11 at the time or times when such state incurs expenditures on account of such
12 measures, or as reimbursement for expenses incurred and chargeable to the
13 Insurance Fund. The Governing Board shall adopt and, from time to time, may
14 amend or revise procedures for submission of claims upon it and for payment
15 thereof.

16 (h) Before authorizing the expenditure of moneys from the Insurance
17 Fund pursuant to an application of a requesting state, the Insurance Fund
18 shall ascertain the extent and nature of any timely assistance or
19 participation which may be available from the federal government and shall
20 request the appropriate agency or agencies of the federal government for such
21 assistance and participation.

22 (i) The Insurance Fund may negotiate and execute a memorandum of
23 understanding or other appropriate instrument defining the extent and degree
24 of assistance or participation between and among the Insurance Fund,
25 cooperating federal agencies, states, and any other entities concerned.

26
27 Article VII: Advisory and Technical Committees.

28 The Governing Board may establish advisory and technical committees
29 composed of state, local, and federal officials, and private persons to
30 advise it with respect to any one or more of its functions. Any such
31 advisory or technical committee, or any member or members thereof may meet
32 with and participate in its deliberations upon request of the Governing Board
33 or Executive Committee. An advisory or technical committee may furnish
34 information and recommendations with respect to any application for
35 assistance from the Insurance Fund being considered by such Board or
36 Committee and the Board or Committee may receive and consider the same:

1 provided that any participant in a meeting of the Governing Board or
2 Executive Committee held pursuant to Article VI (d) of the Compact shall be
3 entitled to know the substance of any such information and recommendations,
4 at the time of the meeting if made prior thereto or as a part thereof or, if
5 made thereafter, no later than the time at which the Governing Board or
6 Executive Committee makes its disposition of the application.

7
8 Article VIII: Relations with Nonparty Jurisdictions.

9 (a) A party state may make application for assistance from the
10 Insurance Fund in respect of a pest in a nonparty state. Such application
11 shall be considered and disposed of by the Governing Board or Executive
12 Committee in the same manner as an application with respect to a pest within
13 a party state, except as provided in this Article.

14 (b) At or in connection with any meeting of the Governing Board or
15 Executive Committee held pursuant to Article VI (d) of this Compact a
16 nonparty state shall be entitled to appear, participate, and receive
17 information only to such extent as the Governing Board or Executive Committee
18 may provide. A nonparty state shall not be entitled to review of any
19 determination made by the Executive Committee.

20 (c) The Governing Board or Executive Committee shall authorize
21 expenditures from the Insurance Fund to be made in a nonparty state only
22 after determining that the conditions in such state and the value of such
23 expenditures to the party states as a whole justify them. The Governing Board
24 or Executive Committee may set any conditions which it deems appropriate with
25 respect to the expenditure of moneys from the Insurance Fund in a nonparty
26 state and may enter into such agreement or agreements with nonparty states
27 and other jurisdictions or entities as it may deem necessary or appropriate
28 to protect the interests of the Insurance Fund with respect to expenditures
29 and activities outside of party states.

30
31 Article IX: Finance.

32 (a) The Insurance Fund shall submit to the executive head or
33 designated officer or officers of each party state a budget for the Insurance
34 Fund for such period as may be required by the laws of that party state for a
35 presentation to the legislature thereof.

36 (b) Each of the budgets shall contain specific recommendations of the

1 amount or amounts to be appropriated by each of the party states. The request
2 for appropriations shall be apportioned among the party states as follows:
3 one-tenth of the total budget in equal shares and the remainder in proportion
4 to the value of agricultural and forest crops and products, excluding animals
5 and animal products, produced in each party state. In determining the value
6 of such crops and products the Insurance Fund may employ such source or
7 sources of information as in its judgment present the most equitable and
8 accurate comparisons among the party states. Each of the budgets and requests
9 for appropriations shall indicate the source or sources used in obtaining
10 information concerning value of products.

11 (c) The financial assets of the Insurance Fund shall be maintained in
12 two accounts to be designated respectively as the "Operating Account" and the
13 "Claims Account." The Operating Account shall consist only of those assets
14 necessary for the administration of the Insurance Fund during the next
15 ensuing two-year period. The Claims Account shall contain all moneys not
16 included in the Operating Account and shall not exceed the amount reasonably
17 estimated to be sufficient to pay all legitimate claims on the Insurance Fund
18 for a period of three years. At any time when the Claims Account has reached
19 its maximum limit or would reach its maximum limit by the addition of moneys
20 requested for appropriation by the party states, the Governing Board shall
21 reduce its budget requests on a pro rata basis in such manner as to keep the
22 Claims Account within such maximum limit. Any moneys in the Claims Account by
23 virtue of conditional donations, grants, or gifts shall be included in
24 calculations made pursuant to this paragraph only to the extent that such
25 moneys are available to meet demands arising out of the claims.

26 (d) The Insurance Fund shall not pledge the credit of any party state.
27 The Insurance Fund may meet any of its obligations in whole or in part with
28 moneys available to it under Article IV (g) of this Compact, provided that
29 the Governing Board take specific action setting aside such moneys prior to
30 incurring any obligation to be met in whole or in part in such manner. Except
31 where the Insurance Fund makes use of moneys available to it under Article IV
32 (g) hereof, the Insurance Fund shall not incur any obligation prior to the
33 allotment of moneys by the party states adequate to meet the same.

34 (e) The Insurance Fund shall keep accurate accounts of all receipts
35 and disbursements. The receipts and disbursements of the Insurance Fund
36 shall be subject to the audit and accounting procedures established under its

1 bylaws. However, all receipts and disbursements of funds handled by the
2 Insurance Fund shall be audited yearly by a certified or licensed public
3 accountant and report of the audit shall be included in and become part of
4 the annual report of the Insurance Fund.

5 (f) The accounts of the Insurance Fund shall be open at any reasonable
6 time for inspection by duly authorized officers of the party states and by
7 any persons authorized by the Insurance Fund.

8
9 Article X: Entry Into Force and Withdrawal.

10 (a) This Compact shall enter into force when enacted into law by any
11 five or more states. Thereafter, this Compact shall become effective as to
12 any other state upon its enactment thereof.

13 (b) Any party state may withdraw from this Compact by enacting a
14 statute repealing the same, but no such withdrawal shall take effect until
15 two years after the executive head of the withdrawing state has given notice
16 in writing of the withdrawal to the executive heads of all other party
17 states. No withdrawal shall affect any liability already incurred by or
18 chargeable to a party state prior to the time of such withdrawal.

19
20 Article XI: Construction and Severability.

21 This Compact shall be liberally construed so as to effectuate the
22 purposes thereof. The provisions of this Compact shall be severable and if
23 any phrase, clause, sentence, or provision of this Compact is declared to be
24 contrary to the constitution of any state or of the United States or the
25 applicability thereof to any government, agency, person, or circumstance is
26 held invalid, the validity of the remainder of this Compact and the
27 applicability thereof to any government, agency, person, or circumstance
28 shall not be affected thereby. If this Compact shall be held contrary to the
29 constitution of any state participating herein the Compact shall remain in
30 full force and effect as to the remaining party states and in full force and
31 effect as to the state affected as to all severable matters.

32
33 2-16-902. Consistent with law and within available appropriations, the
34 departments, agencies and officers of this state may cooperate with the
35 Insurance Fund established by the Pest Control Compact.

36

