

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1579

4 By: Representatives McGinnis, Schexnayder, Simmons, Fletcher, Choate, Wagner,
5 Beatty, Northcutt, Angel, Jordan, Johnson, Thomas, and Ferguson

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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 2-16-612, 2-16-617(b) AND
10 2-16-617(e), TO CLARIFY AND STRENGTHEN THE ARKANSAS BOLL
11 WEEVIL SUPPRESSION ERADICATION ACT; AND FOR OTHER
12 PURPOSES."

13

Subtitle

14
15 "TO CLARIFY AND STRENGTHEN THE ARKANSAS
16 BOLL WEEVIL SUPPRESSION ERADICATION
17 ACT."

18

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

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21 SECTION 1. Arkansas Code 2-16-612 is amended to read as follows:

22 "2-16-612. Certification of cotton growers' organizations -
23 Requirements.

24 (a) The Plant Board may certify a cotton growers' organization for the
25 purpose of entering into agreements with the State of Arkansas, other states,
26 the federal government, and other parties as may be necessary to carry out
27 the purposes of this subchapter.

28 (b)(1) In order to be eligible for certification by the Plant Board,
29 the cotton growers' organization must demonstrate to the satisfaction of the
30 board that:

31 (A) It is a nonprofit organization and could qualify as a
32 tax-exempt organization under § 501(a) of the Internal Revenue Code of 1986,
33 as amended.

34 (B) Membership in the organization will consist of all cotton
35 growers in an eradication zone.

1 (2) The organization shall have only one (1) class of members with
2 each member entitled to only one (1) vote.

3 (c) The organization's board of directors shall be composed as
4 follows: (1) Two (2) Arkansas cotton growers recommended by the
5 Plant Board, to be appointed by the Governor;

6 (2) Three (3) Arkansas cotton growers recommended by the Arkansas
7 Farm Bureau Federation, to be appointed by the Governor;

8 (3) Three (3) Arkansas cotton growers recommended by the
9 Agricultural Council of Arkansas, to be appointed by the Governor;

10 (4) One (1) representative of state government from this state
11 recommended by the Plant Board, to be appointed by the Governor; and

12 (5) The cochairmen of the University of Arkansas Boll Weevil
13 Eradication Technical Advisory Committee will serve as ex officio members of
14 the cotton grower organization board to serve in an advisory capacity.

15 (d)(1) All books and records of account and minutes of proceedings of
16 the organization shall be available for inspection or audit by the Plant
17 Board at any reasonable time; and

18 (2) Employees or agents of the growers' organization who handle
19 funds of the organization shall be adequately bonded in an amount to be
20 determined by the Plant Board.

21 (e) In addition to any authority granted the certified cotton grower
22 *association, such association is hereby authorized to borrow funds or to*
23 *instruct the Arkansas Development Finance Authority to issue bonds pursuant*
24 *to Arkansas Code 15-5-101 et seq., or to issue bonds in any other appropriate*
25 *manner, any of which may be secured by a pledge of funds derived from*
26 *assessments against cotton grower members of the association. Any funds*
27 *borrowed and any funds derived from the sale of bonds shall be used*
28 *exclusively for funding a boll weevil suppression or eradication program."*
29

30 SECTION 2. Arkansas Code 2-16-614 is amended to read as follows:

31 "2-16-614. Referendum - Assessments.

32 (a) At the request of the certified organization, the Plant Board
33 shall authorize a statewide referendum among cotton growers on the question
34 of whether an assessment shall be levied upon cotton growers in the state to
35 offset, in whole or in part, the cost of boll weevil suppression or

1 eradication programs authorized by this subchapter or any other law of this
2 state. Such program shall be designed on a regional basis so as to reflect
3 the differences in boll weevil infestation and the relative cost of financing
4 a boll weevil suppression and eradication program in the respective regions.

5 (b) The assessment levied under this subchapter shall be based upon
6 the number of acres of cotton planted in the eradication area. The amount of
7 the assessment, the period of time for which it shall be levied, how it shall
8 be levied, when it shall be paid, and the geographical area to be covered by
9 the assessment shall be determined by the State Plant Board and established
10 by regulations pursuant to this section. The annual cost shall not exceed
11 fifty dollars (\$50.00) per acre.

12 (c) All affected cotton growers and landowners with a cotton base
13 shall be entitled to vote in any such referendum, and the Plant Board, or its
14 cooperators, shall determine any questions of eligibility to vote.

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

18 (2) If at least two-thirds (2/3) of those voting vote in favor
19 of the assessment, then the assessment shall be collected by the agency
20 designated by the Plant Board from the affected cotton growers.

21 (d) The assessments collected by the Plant Board under this subchapter
22 shall be promptly remitted to the certified organization under such terms and
23 conditions as the Plant Board shall deem necessary to ensure that such
24 assessments are used in a sound program of eradication or suppression of the
25 boll weevil.

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

28 (f) The assessments collected by the Plant Board under this subchapter
29 shall not be state funds.

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

1 eradication program. Any such regional referendum shall be conducted in the
2 same manner as a statewide referendum authorized above and any assessments
3 levied pursuant to such referendum shall be subject to the same uses and
4 limitations and shall be made, collected, and remitted in the same manner as
5 assessments levied pursuant to a statewide referendum."
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7 SECTION 3. Arkansas Code 2-16-617(b) is amended to read as follows:

8 "(b) The Plant Board may petition the chancery court of the chancery
9 district in which the public nuisance is located to have said nuisance
10 condemned and destroyed with all costs of destroying to be levied against the
11 grower. This injunctive relief shall be available to the Plant Board
12 notwithstanding the existence of any other legal remedy, and the Plant Board
13 shall not be required to file a bond."
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15 SECTION 4. Arkansas Code 2-16-617(e) is amended to read as follows:

16 "(e) The State Plant Board shall by regulation establish a procedure
17 whereby a cotton grower can apply for exemption from payment of any
18 assessment or penalty imposed herein, on the basis that the payment of the
19 assessment or the penalty will impose undue financial hardship on the grower,
20 and shall prescribe the criteria to be used in determining undue financial
21 hardship.

22 Any cotton grower who wishes to request an exemption from payment of
23 the assessment or the penalty or both shall apply for the exemption on forms
24 prescribed by the Board. A separate application must be filed for each
25 calendar year for which the cotton grower seeks an exemption and each such
26 application shall contain information on which the grower relies to justify
27 an exemption on the basis of undue financial hardship. The application form
28 shall include an oath or affirmation of the applicant as to the truth of all
29 information contained in or accompanying the application.

30 The Board shall forward each completed exemption application form and
31 any information accompanying the form to the cotton growers_ organization
32 certified pursuant to Section 2-16-612. The certified cotton growers_
33 organization shall determine whether each applicant qualifies for a hardship
34 exemption based on the information contained in or accompanying the
35 application form. If the certified organization determines that the payment

1 of the assessment or the penalty or both would impose undue financial
2 hardship on a cotton grower who has applied for an exemption, the
3 organization may (1) exempt the cotton grower from payment of the assessment
4 or the penalty or both, or (2) permit the cotton grower to pay the assessment
5 or penalty or both on an installment payment plan and prescribe the payment
6 schedule.

7 Upon making a determination on any application for exemption the
8 certified organization shall notify the State Plant Board of its
9 determination, which shall be binding on the applicant.

10 Upon receipt of notice of a determination by the organization, the
11 Board shall promptly notify the affected cotton grower of the determination.

12 If an exemption is denied, the assessment and penalties for the year in
13 which the application is made will be due at the time they would otherwise
14 have been due if the application had not been filed or within thirty (30)
15 days after the date the notice of the adverse determination is received by
16 the cotton grower, whichever is later."

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18 SECTION 5. All provisions of this act of a general and permanent
19 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
20 Code Revision Commission shall incorporate the same in the Code.

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22 SECTION 6. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 7. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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31 SECTION 8. EMERGENCY. It is hereby found and determined by the
32 General Assembly that the Arkansas boll weevil suppression program has been
33 and continues to be a valuable tool in controlling the boll weevil population
34 in the state; that the boll weevil suppression program law is in need of
35 minor revisions to promote and strengthen the program; that such revisions

1 are urgently needed to assure the continued success of the program and that
2 this act is designed to effect those revisions and should be given effect
3 immediately. Therefore, an emergency is hereby declared to exist and this
4 act being necessary for the preservation of the public peace, health and
5 safety shall be in full force and effect from and after its passage and
6 approval.

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/s/Rep. McGinnis, et al