

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Senator Smith
5 *By: Representatives Schexnayder and Jordan*

A Bill

SENATE BILL 692

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR THE CREATION AND ESTABLISHMENT OF
9 REGIONAL MOSQUITO ABATEMENT PLANNING DISTRICTS AND BOARDS
10 WHICH SHALL CORRESPOND TO THE BOUNDARIES OF THE PLANNING
11 AND DEVELOPMENT DISTRICTS ESTABLISHED PURSUANT TO A.C.A.
12 14-166-202; TO PROVIDE THAT REGIONAL MOSQUITO ABATEMENT
13 PLANNING BOARDS MUST EVALUATE THE MOSQUITO ABATEMENT
14 MANAGEMENT NEEDS OF THEIR AREA; AND THAT ANY PERSON WHO
15 WANTS TO CONDUCT A MOSQUITO ABATEMENT PROGRAM MUST BE
16 LICENSED PURSUANT TO A.C.A. 20-20-201, ET SEQ.; AND FOR
17 OTHER PURPOSES."

Subtitle

18
19 "REGARDING REGIONAL MOSQUITO ABATEMENT
20 PLANNING DISTRICTS AND BOARDS"
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22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. The purpose of this act is to protect the public health and
26 the State's environmental quality by requiring regional mosquito abatement
27 management planning. The current system regulating mosquito abatement in
28 Arkansas does not foster long-range planning or efficient allocation of the
29 State's resources; and some areas are facing serious mosquito overpopulation
30 to the point of crisis, while other areas have very few problems with
31 mosquitos. In addition some areas have the financial resources to combat
32 mosquito infestation, while other areas do not. Given these disparate
33 environmental and economic concerns, the Arkansas General Assembly concludes
34 that regional mosquito abatement management planning, under the oversight of
35 the State Plant Board is essential to address the imminent and future needs

1 of the State. The terms and obligations of this act shall be liberally
2 construed so as to achieve remedial intent.

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4 SECTION 2. As used in this act, unless the context otherwise requires:

5 (1) "Board" or "Regional Board" means a Regional Mosquito Abatement
6 Planning Board established pursuant to this act;

7 (2) "Director" means the Director of the State Plant Board;

8 (3) "District" means a Regional Mosquito Abatement Planning District
9 as established pursuant to this act;

10 (4) "Interested party" means the Director or his designee, the Board,
11 the person making application to the Board, or any person submitting written
12 comments on an application within the public comment period;

13 (5) "Mosquito Abatement Services Area" means an area within a Regional
14 Mosquito Abatement Planning District or within two or more Regional districts
15 established in accordance with this act and with the approval of the State
16 Plant Board;

17 (6) "Mosquito abatement site" means any locality where mosquitos
18 threaten the health and safety of the local population that is targeted for a
19 mosquito abatement program developed under this act; and

20 (7) "Source reduction" means the physical land or water management of
21 mosquito breeding areas to reduce the area's suitability for mosquito
22 breeding.

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24 SECTION 3. (a) There are created eight (8) Regional Mosquito Abatement
25 Planning Districts and eight (8) Regional Mosquito Abatement Planning Boards
26 whose respective jurisdictions shall correspond to the boundaries of the
27 Planning and Development Districts established pursuant to Arkansas Code
28 14-166-202.

29 (b) *Each regional board shall be composed of representatives of the*
30 *counties within the district and representatives of all first class cities,*
31 *of all cities with a population over two thousand (2,000) according to the*
32 *latest federal decennial census, and of the largest city of each county*
33 *within the district. The county judge of each county within the district and*
34 *the mayor of each city entitled to a representative in the district shall*
35 *serve on the board, unless such county judge or mayor elects instead to*

1 appoint a member as follows:

2 (1) The county judge with confirmation by the quorum court of
3 each county within the district shall appoint one (1) member to the board;

4 (2) The mayor with confirmation by the governing body of each
5 city entitled to a representative in the district shall appoint one (1)
6 member.

7 (c) Each board shall have a minimum of five (5) members.

8 (1) If the number of members serving under subsection (b) above
9 is less than five (5), additional members necessary to make the total number
10 equal five (5) shall be appointed by mutual agreement of the other board
11 members and shall represent the general public within the district.

12 (2) Appointed regional board members shall serve for staggered
13 terms of two (2) years; provided, however, that all members appointed
14 pursuant to subsection (b) of this section shall serve at the pleasure of the
15 appointing body. Each appointed board member shall be eligible for a maximum
16 of two (2) terms or four (4) years, total.

17 (3) Vacancies shall be filled for any unexpired term of an
18 appointed member in the same manner as provided in subsection (b) and
19 subdivision (c)(1) of this section.

20 (4)(A) A majority of the membership of the board shall
21 constitute a quorum.

22 (B) A majority vote of those members present shall be
23 required for any action of the board.

24 (5) Each board shall annually select a chairman.
25

26 SECTION 4. (a) The Regional Mosquito Abatement Planning Boards shall
27 have the following powers and duties:

28 (1) To collect data, study and initially evaluate the mosquito
29 abatement management needs of all localities, including source reduction
30 measures, within their Districts and to publish their findings as a Regional
31 Report;

32 (2) To evaluate and recommend revenue sources for the support of
33 mosquito abatement programs;

34 (3) To evaluate the current expenditures on mosquito abatement
35 programs in the district and a state or district fee or tax;

1 (4) To evaluate on a continuous basis the mosquito abatement
2 needs of their Districts, and update the Regional Report at least every three
3 (3) years;

4 (5) To formulate recommendations to all local governments within
5 their Districts on mosquito abatement management issues, and to formulate
6 plans for providing adequate mosquito abatement management;

7 (6) To contract with private individuals or organizations with
8 established expertise in the field of mosquito abatement in order to meet the
9 requirements of this act;

10 (7) To carry out all other powers and duties conferred by this
11 act.

12 (b) The Regional Boards shall meet at least quarterly.

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14 SECTION 5. (a) No later than September 30, 1996, each Board shall
15 prepare a Regional Report assessing the general nature of mosquito problems
16 in their District. This Regional Report shall be submitted to the State
17 Plant Board for review and approval. The report shall be drafted in clear
18 and concise language that is readily understandable by the general public and
19 shall include, at the minimum, the following:

20 (1) A basic evaluation of the needs of all localities within the
21 district as to the adequacy or inadequacy of mosquito abatement efforts
22 within those localities;

23 (2) A basic evaluation and balancing of the environmental,
24 economic and other relevant factors which would be implicated by mosquito
25 abatement efforts from within the boundaries of the District; and

26 (3) A basic evaluation and recommendation of revenue sources for
27 the support of mosquito abatement programs in their districts.

28 (b) Each Board shall update their Regional Report, at the minimum,
29 every three (3) years.

30 (c) A Board may apply to the State Plant Board for an exemption from
31 this act if it can demonstrate that mosquitos do not pose a significant
32 threat to the health, safety and comfort of the population within its
33 district.

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35 SECTION 6. All Regional Reports required by this act are subject to

1 review and approval for completeness by the State Plant Board. Failure to
2 provide complete reports as required by this act may provide the State Plant
3 Board with grounds to initiate enforcement actions against the Regional
4 Boards or their component governmental entities. Pursuant to administrative
5 procedures, sanctions may be imposed, which may include denial,
6 discontinuation, or reimbursement of any grant funding administered by the
7 State Plant Board to a District or any of their component government
8 entities.

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10 SECTION 7. The State Plant Board may prescribe procedures and
11 regulations to implement the provisions of the act which:

12 (1) Guide the initial and continued organization and operation of the
13 respective Boards in accordance with the purposes of this act;

14 (2) Ensure public notice and participation prior to adoption of
15 Regional Reports or other findings made by the Boards;

16 (3) Establish criteria by which a demonstrable increase or other
17 indicator of mosquito population levels is determined to constitute a public
18 health or environmental problem;

19 (4) Establish criteria regarding aerial spraying on private lands of
20 pesticides, petroleum products, or other substances for control of adult
21 mosquitos, which minimize the potential for substantial adverse effects
22 caused by such airborne substances;

23 (5) Defray the costs of the administration of this act including, but
24 not limited to, inspections and technical review of submissions required by
25 this act; and

26 (6) Establish administrative fines and penalties for violations of
27 this act.

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29 SECTION 8. *Any person who applies to a Regional Board to conduct a*
30 *mosquito abatement program under this act must be licensed pursuant to*
31 *Arkansas Code 20-20-201, et seq.*

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33 SECTION 9. (a) After notification of the appropriate Regional Board
34 or Boards, the State Plant Board may designate counties within each district
35 or counties within two or more districts as Mosquito Abatement Service Areas.

1 Mosquito Abatement Service Areas shall be designated for purposes which
2 address local exigencies, needs, and other requirements of this act.

3 (b) After receiving approval of the State Plant Board, the Mosquito
4 Abatement Service Area shall succeed to all powers and duties of the Regional
5 Mosquito Abatement Planning District within its designated area. The
6 Mosquito Abatement Service Area shall be managed by a Service Area Board
7 which shall succeed to all powers and duties of the regional Board within the
8 area's *jurisdiction*.

9 (c) *Each service area board shall be composed of representatives of*
10 *the counties within the service area and representatives of all first class*
11 *cities, of all cities with a population over two thousand (2,000) according*
12 *to the latest federal decennial census, and of the largest city of each*
13 *county within the service area. The county judge of each county within the*
14 *service area and the mayor of each city entitled to a representative in the*
15 *service area shall serve on the service area board, unless such county judge*
16 *or mayor elects instead to appoint a member as follows:*

17 (1) *The county judge with confirmation by the quorum court of*
18 *each county within the service area shall appoint one (1) member to the*
19 *service area board;*

20 (2) *The mayor with confirmation by the governing body of each*
21 *city entitled to a representative in the service area shall appoint one (1)*
22 *member.*

23 (d) *Each service area board shall have a minimum of five (5) members.*

24 (1) *If the number of members serving under subsection (b) above*
25 *is less than five (5), additional members necessary to make the total number*
26 *equal five (5) shall be appointed by mutual agreement of the other service*
27 *area board members and shall represent the general public within the service*
28 *area.*

29 (2) *Appointed service area board members shall serve for*
30 *staggered terms of two (2) years; provided, however, that all members*
31 *appointed pursuant to subsection (b) of this section shall serve at the*
32 *pleasure of the appointing body. Each appointed service area board member*
33 *shall be eligible for a maximum of two (2) terms or four (4) years, total.*

34 (3) *Vacancies shall be filled for any unexpired term of an*
35 *appointed member in the same manner as provided in subsection (b) and*

1 *subdivision (c)(1) of this section.*

2 (4)(A) *A majority of the membership of the service area board*
3 *shall constitute a quorum.*

4 (B) *A majority vote of those members present shall be*
5 *required for any action of the service area board.*

6 (5) *Each service area board shall annually select a chairman.*

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8 SECTION 10. Any Regional Mosquito Abatement Planning Board or Mosquito
9 Abatement Service Area may enter into contract for the specific purpose of
10 implementing this act. Any such contract shall specify the following:

11 (1) Its duration;

12 (2) The precise organization composition and nature of any separate
13 legal or administrative entity created, together with the powers delegated,
14 thereto, provided such entity may be legally created;

15 (3) Its purpose or purposes, and when applicable, the scope of the
16 proposed mosquito abatement services and the manner in which the services
17 will be implemented;

18 (4) The manner of financing the joint or cooperative undertaking and
19 of establishing and maintaining a budget therefor provided that such legal
20 entity may incur indebtedness for the lease or purchase of land, equipment
21 and other expenses necessary to the operation of a mosquito abatement project
22 or any part thereof;

23 (5) The permissible method or methods to be employed in accomplishing
24 the partial or complete termination of the agreement and for disposing of
25 property upon such partial or complete termination;

26 (6) The degree to which the joint or individual plans are drawn in
27 accordance with the Regional Reports required by this act; and

28 (7) Any other necessary and proper matters.

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30 SECTION 11. No provision of this act shall be construed so as to
31 diminish or nullify any existing *mosquito abatement program being implemented*
32 *by a governmental entity or any contract for mosquito abatement services*
33 *between a governmental entity and a private company engaged in providing*
34 *mosquito abatement services.*

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1 SECTION 12. The provisions of this act shall be in addition and
2 supplemental to all other laws of Arkansas now in effect pertaining to
3 mosquito abatement and mosquito abatement management and regulation, and
4 shall repeal only such laws or parts of laws as may be specifically in
5 conflict with this act.

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7 SECTION 13. All provisions of this act of a general and permanent
8 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
9 Code Revision Commission shall incorporate the same in the Code.

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11 SECTION 14. If any provision of this act or the application thereof to
12 any person or circumstance is held invalid, such invalidity shall not affect
13 other provisions or applications of the act which can be given effect without
14 the invalid provision or application, and to this end the provisions of this
15 act are declared to be severable.

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17 SECTION 15. All laws and parts of laws in conflict with this act are
18 hereby repealed.

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/s/Smith et al

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