

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.

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
36 pests which present serious dangers to them.



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

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

14
15 Article II: Definitions

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

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

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

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

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

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

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

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

36

1 Article III: The Insurance Fund.

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

13
14 Article IV: The Insurance Fund, Internal Operations and Management.

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

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

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

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

34 (e) Irrespective of the civil service, personnel or other merit system
35 laws of any of the party states, the executive director, or if there be no
36 executive director, the chairman, in accordance with such procedures as the

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

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

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

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

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

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

32
33 Article V: Compact and Insurance Fund Administration.

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

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

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

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

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

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

25 (e) The Executive Committee shall be composed of the chairman of the
26 Governing Board and four additional members of the Governing Board chosen by
27 it so that there shall be one member representing each of four geographic
28 groupings of party states. The Governing Board shall make such geographic
29 groupings. If there is representation of the United States on the Governing
30 Board, one such representative may meet with the Executive Committee. The
31 chairman of the Governing Board shall be chairman of the Executive Committee.
32 No action of the Executive Committee shall be binding unless taken at a
33 meeting at which at least four members of such Committee are present and vote
34 in favor thereof. Necessary expenses of each of the five members of the
35 Executive Committee incurred in attending meetings of such Committee, when
36 not held at the same time and place as a meeting of the Governing Board,

1 shall be charges against the Insurance Fund.

2
3 Article VI: Assistance and Reimbursement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25
26 Article VII: Advisory and Technical Committees.

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

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

6
7 Article VIII: Relations with Nonparty Jurisdictions.

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

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

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

29
30 Article IX: Finance.

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

35 (b) Each of the budgets shall contain specific recommendations of the
36 amount or amounts to be appropriated by each of the party states. The request

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

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

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

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

1 Insurance Fund shall be audited yearly by a certified or licensed public
2 accountant and report of the audit shall be included in and become part of
3 the annual report of the Insurance Fund.

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

7
8 Article X: Entry Into Force and Withdrawal.

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

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

18
19 Article XI: Construction and Severability.

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

31
32 2-16-902. Consistent with law and within available appropriations, the
33 departments, agencies and officers of this state may cooperate with the
34 Insurance Fund established by the Pest Control Compact.

35
36 2-16-903. Pursuant to Article IV (h) of the Compact, copies of bylaws

1 and amendments thereto shall be filed with the Director of the State Plant
2 Board.

3
4 2-16-904. The Compact administrator for this state shall be the
5 Director of the State Plant Board.

6
7 2-16-905. Within the meaning of Article VI (b) or VIII (a), a request
8 or application for assistance from the Insurance Fund may be made by the
9 Governor or the Director of the Plant Board, whenever in his judgment the
10 conditions qualifying this state for such assistance exist and it would be in
11 the best interest of this state to make such request.

12
13 2-16-906. In addition to the state Compact Administrator, notices
14 pursuant to Article VI (d) should be sent to the Plant Board Assistant
15 Director and the person designated as the State Plant Regulatory Official.

16
17 2-16-907. The department, agency, or officer expending or becoming
18 liable for an expenditure on account of a control or eradication program
19 undertaken or intensified pursuant to the Compact shall have credited to his
20 account, in the state treasury the amount or amounts of any payments made to
21 this state to defray the cost of such program, or any part thereof, or as
22 reimbursement thereof.

23
24 2-16-908. As used in this Compact, with reference to this state, the
25 term "executive head" shall mean the Governor.

26
27 2-16-909. This law becomes effective September 1, 2009.

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31 */s/ Davenport*
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