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HOUSE BILL 499

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Andrew Nunez

AN ACT

RELATING TO AGRICULTURE; ENACTING THE PINK BOLLWORM CONTROL ACT; PROVIDING FOR CONTROL OF PINK BOLLWORM INFESTATION OF COTTON CROPS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Pink Bollworm Control Act".

Section 2. DEFINITIONS.--As used in the Pink Bollworm Control Act:

A. "board" means the board of regents of New Mexico state university;

B. "cotton producer" means any person growing five or more acres of cotton plants. For the purposes of the Pink Bollworm Control Act, only one person from any farm, sole proprietorship, corporation, partnership or any other legal

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1 business arrangement shall be eligible to vote to establish or
2 dissolve a pink bollworm control district;

3 C. "department" means the New Mexico department of
4 agriculture;

5 D. "director" means the director of the New
6 Mexico department of agriculture;

7 E. "organic cotton producer" means any person
8 growing cotton who is certified by the organic commodity
9 commission as a producer of organic or transitional cotton;

10 F. "pink bollworm" means any life stage of the
11 cotton insect *Pectinophora gossypiella*;

12 G. "pink bollworm control committee" means the
13 persons, not less than three nor more than seven, elected by a
14 majority of the cotton producers voting in a designated pink
15 bollworm control district; and

16 H. "pink bollworm control district" means a
17 designated area duly established under the Pink Bollworm
18 Control Act wherein a program to suppress or eradicate the
19 pink bollworm is administered.

20 Section 3. DEPARTMENT ADMINISTRATION. --The department
21 shall administer the Pink Bollworm Control Act.

22 Section 4. EXEMPTION FROM PROCUREMENT CODE AND PERSONNEL
23 ACT. --Pink bollworm control committees are exempt from the
24 provisions of the Procurement Code and the Personnel Act. The
25 committee members and committee employees are public employees

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1 for the purposes of the Tort Claims Act and shall be provided
2 all insurance and self-insurance coverage provided by the risk
3 management division of the general services department.

4 Section 5. ESTABLISHMENT OF PINK BOLLWORM CONTROL

5 DISTRICT. -- Any five or more persons producing cotton for which
6 it is proposed to establish a pink bollworm control district
7 may file a petition with the department asking that a pink
8 bollworm control district be established. The petition shall
9 set forth:

10 A. a concise statement of the reasons for the
11 establishment of a pink bollworm control district;

12 B. a request that a referendum be held among the
13 cotton producers on the question of the establishment of a
14 pink bollworm control district;

15 C. the name and address of the individual who is
16 authorized to represent the petitioners;

17 D. the maximum per unit assessment on the cotton
18 acreage or production for which the pink bollworm control
19 district is established; and

20 E. the method of levy and collection of an
21 assessment upon cotton producers for the support of the pink
22 bollworm control district.

23 Section 6. DIRECTOR--DUTIES AND POWERS. --

24 A. The director shall:

25 (1) determine any critically infested or

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1 threatened agricultural areas within New Mexico, hold public
2 hearings within the proposed pink bollworm control district
3 determined to be critically infested or at risk and provide
4 technical support and advice in the formulation of plans for
5 the control or eradication of such infestation;

6 (2) estimate the cost of the proposed
7 hearings and referendum for the creation or abolishment of a
8 pink bollworm control district and prepare a budget for the
9 petitioners who shall remit to the director the amount of the
10 cost within thirty days of receiving it;

11 (3) within sixty days after a petition has
12 been filed and payment of the cost received, publish a notice
13 in a newspaper of general circulation in the proposed pink
14 bollworm control district of the proposed hearings;

15 (4) send a copy of the public hearing notice
16 directly to the organic commodity commission, at least
17 fourteen days prior to the date of the hearing; and

18 (5) after the public hearing, based on facts
19 and other relevant data, determine if there is a need for the
20 creation or abolishment of a pink bollworm control district
21 and if the need is sufficient to justify the holding of a
22 referendum.

23 B. The director may not take action on a second
24 petition relating to the same locale within one year from the
25 date the director denies the need for establishment or

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1 abolishment of a pink bollworm control district.

2 Section 7. REFERENDUM - PINK BOLLWORM CONTROL DISTRICTS - -
3 LOCAL PINK BOLLWORM CONTROL COMMITTEES. - -

4 A. If the director decides there is justification
5 for creating or abolishing a pink bollworm control district,
6 the department shall hold a referendum. A pink bollworm
7 control district shall be created or abolished if:

8 (1) two-thirds or more of the eligible cotton
9 producers voting vote in favor of the referendum; or

10 (2) those voting in favor of the referendum
11 represent more than fifty percent, as determined by the
12 director, of the cotton acreage within the area threatened
13 with or infested by the pink bollworm

14 Section 8. PINK BOLLWORM CONTROL COMMITTEES
15 ESTABLISHED - - DUTIES AND POWERS. - -

16 A. Cotton producers within a pink bollworm control
17 district shall establish and elect a local pink bollworm
18 control committee composed of not less than three or more than
19 seven members. The committee members shall not receive per
20 diem or compensation for their services.

21 B. A pink bollworm control committee may:

22 (1) adopt regulations to set the method for
23 determining the assessment amount due;

24 (2) conduct programs to suppress or eradicate
25 pink bollworms within a pink bollworm control district;

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1 (3) cooperate with and enter into contracts
2 or cooperative agreements with state, federal or local
3 agencies;

4 (4) publish information and conduct seminars
5 on the distribution and control of the pink bollworm;

6 (5) levy and collect a special assessment,
7 based on cotton acreage or cotton yield per acre, within the
8 pink bollworm control districts; or

9 (6) borrow money or accept grants, donations
10 or contributions for any purpose consistent with the powers
11 and duties of the pink bollworm control committee.

12 B. A pink bollworm control committee shall:

13 (1) prescribe control measures for any cotton
14 planted within a pink bollworm control district. When
15 prescribing control measures, the committee shall make every
16 effort to adhere to integrated pest management practices, to
17 allow organic cotton producers to choose organic pest
18 management practices that will allow them to maintain their
19 organic certification and to adhere to the management goals of
20 individual cotton producers consistent with the goal of
21 complete eradication of the pink bollworm;

22 (2) provide a complete accounting of the
23 funds collected through the special assessment to all
24 participating cotton producers in the pink bollworm control
25 district;

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1 (3) send notice of the establishment of a
2 pink bollworm control district and its defined boundaries to
3 the organic commodity commission within fourteen days of its
4 establishment; and

5 (4) select an organic cotton producer
6 operating within the district to serve on the pink bollworm
7 control committee if the pink bollworm control district
8 includes certified organic cotton acreage.

9 Section 9. ORGANIC COTTON REGULATIONS. --

10 A. Each organic cotton producer within an
11 established pink bollworm control district shall notify the
12 pink bollworm control committee in writing at least thirty
13 days prior to planting of the number of acres on which organic
14 cotton will be planted.

15 B. Organic cotton producers shall pay the
16 assessment established for the pink bollworm control district
17 in the same manner as producers of conventionally grown cotton
18 in the district.

19 C. After crop planting, the pink bollworm control
20 committee shall notify an organic cotton producer of the
21 status of pink bollworm on his acreage and the status of pink
22 bollworm on surrounding acres, as documented by the
23 committee's normal pink bollworm trapping program.

24 D. The pink bollworm control committee shall
25 confer with an organic cotton producer to determine measures

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1 that might be taken to attempt to keep all or a portion of the
2 organic cotton producer's cotton acreage below trigger levels
3 for required treatment. If the organic cotton producer
4 chooses to use a nonconventional method, the committee shall
5 pay the costs of the nonconventional method used by the
6 organic cotton producer, provided the costs do not exceed the
7 equivalent costs of conventional control methods. If pink
8 bollworm trigger levels are reached on the organic cotton
9 producer's acres and pink bollworm migration from outside
10 these acres has been eliminated as a cause of these levels,
11 the organic cotton producer shall be allowed to harvest these
12 acres but shall not be allowed to grow cotton on the acreage
13 for one year.

14 Section 10. AGRICULTURAL LAND ASSESSMENT-- ENFORCED
15 COLLECTION.--A cotton producer shall pay a special assessment
16 levied by a local pink bollworm control committee, payable
17 upon the cotton producer's receipt of an assessment statement.
18 The committee's statement shall indicate:

19 A. the total number of acres treated within the
20 pink bollworm control district;

21 B. the total treated acres under the control of
22 the land user;

23 C. the total amount of money expended or estimated
24 to be spent in the pink bollworm control district for the
25 control program;

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1 D. the total acres or yield per acre of lands
2 under the control of the land user assessed; and

3 E. the amount assessed against the land user.

4 Section 11. PETITION FOR ABOLISHMENT OF A PINK BOLLWORM
5 CONTROL DISTRICT. --

6 A. Any five or more persons producing cotton
7 within a pink bollworm control district may file a petition
8 with the department asking for a referendum to be held to
9 abolish the pink bollworm control district. The petition
10 shall set forth:

11 (1) the name and description of the pink
12 bollworm control district to be abolished;

13 (2) a concise statement of the reasons for
14 the abolishment of the pink bollworm control district;

15 (3) a request that a referendum be held among
16 the producers of the crop on the question of the abolishment
17 of the pink bollworm control district; and

18 (4) the name and address of the individual
19 who is authorized to represent the petitioners.

20 B. The director shall prepare and deliver to the
21 petitioners an original budget estimate of the cost of the
22 proposed hearings and referendum. The petitioners, within
23 thirty days after receipt of the cost estimate, shall remit to
24 the director the amount of the cost estimate.

25 C. If a referendum is held and is adopted to

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1 abolish a pink bollworm control district, the district:

2 (1) may be abolished when the committee and
3 the director determine that all financial and legal
4 obligations have been satisfied; and

5 (2) shall cease expenditures of pink bollworm
6 control district funds and make an accounting of funds spent
7 and refund the remaining funds.

8 Section 12. DISPOSITION OF ASSESSMENT PROCEEDS. -- Money
9 collected by a local pink bollworm control committee is not
10 state funds and is not required to be deposited in the state
11 treasury. A local committee shall deposit all money collected
12 in a state chartered bank or other insured depository. Funds
13 collected by local committees shall be held separate from each
14 other. Money remaining after the abolishment of a pink
15 bollworm control district shall be distributed to cotton
16 producers in proportion to the percentage they contributed
17 during the life of the pink bollworm control district.