

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

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

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

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

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

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

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

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

Section 4. EXEMPTION FROM PROCUREMENT CODE AND PERSONNEL ACT. -- Pink bollworm control committees are exempt from the provisions of the Procurement Code and the Personnel Act. The committee members and committee employees are public employees for the purposes of the Tort Claims Act and shall be provided all insurance and self-insurance coverage provided by the risk management division of the general services department.

Section 5. ESTABLISHMENT OF PINK BOLLWORM CONTROL DISTRICT. -- Any five or more persons producing cotton for which it is proposed to establish a pink bollworm control district may file a petition with the department asking that a pink bollworm control district be established. The

petition shall set forth:

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

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

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

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

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

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

A. The director shall:

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

(2) estimate the cost of the proposed hearings and referendum for the creation or abolishment of a pink bollworm control district and prepare a budget for the

petitioners who shall remit to the director the amount of the cost within thirty days of receiving it;

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

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

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

B. The director may not take action on a second petition relating to the same locale within one year from the date the director denies the need for establishment or abolishment of a pink bollworm control district.

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

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

(1) two-thirds or more of the eligible

cotton producers voting vote in favor of the referendum; or

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

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

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

B. A pink bollworm control committee may:

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

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

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

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

(5) levy and collect a special assessment, based on cotton acreage or cotton yield per acre, within the

pink bollworm control districts; or

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

B. A pink bollworm control committee shall:

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

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

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

(4) select an organic cotton producer operating within the district to serve on the pink bollworm control committee if the pink bollworm control district

includes certified organic cotton acreage.

Section 9. ORGANIC COTTON REGULATIONS. --

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

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

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

D. The pink bollworm control committee shall confer with an organic cotton producer to determine measures that might be taken to attempt to keep all or a portion of the organic cotton producer's cotton acreage below trigger levels for required treatment. If the organic cotton producer chooses to use a nonconventional method, the committee shall pay the costs of the nonconventional method used by the organic cotton producer, provided the costs do not exceed the equivalent costs of conventional control

methods. If pink bollworm trigger levels are reached on the organic cotton producer's acres and pink bollworm migration from outside these acres has been eliminated as a cause of these levels, the organic cotton producer shall be allowed to harvest these acres but shall not be allowed to grow cotton on the acreage for one year.

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

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

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

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

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

E. the amount assessed against the land user.

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

A. Any five or more persons producing cotton within a pink bollworm control district may file a petition

with the department asking for a referendum to be held to abolish the pink bollworm control district. The petition shall set forth:

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

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

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

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

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

C. If a referendum is held and is adopted to abolish a pink bollworm control district, the district:

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

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

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