

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2559

As Amended by Senate Committee of the Whole

Brief*

HB 2559, as amended, would establish the Kansas Cotton Boll Weevil Act and create the Kansas Cotton Boll Weevil Program, which would be administered by a board of directors.

Act and Definitions (Sections 1-2)

The bill would establish the Kansas Cotton Boll Weevil Act (Act) and would define the terms “Act,” “board,” “cotton pest,” “grower,” “person,” and “Secretary” for purposes of the Act.

Program and Board of Directors (Sections 3-5)

The bill would establish the Kansas Cotton Boll Weevil Program (Program) and authorize the Board of Directors (Board) to administer and implement the Program.

Board Membership

The Board would consist of five voting members and three ex officio non-voting members: the Dean of the Kansas State University College of Agriculture, or the Dean’s designee; the Secretary of Agriculture (Secretary), or the Secretary’s designee; and the Association chairperson, or the chairperson’s designee.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would require the Board of Directors of the Kansas Cotton Association to submit seven nominations to the Secretary, from which the Secretary would appoint the five voting members.

Each appointed Board member would serve a four-year term, and two of the Board members first appointed on and after the effective date of the bill would be appointed for two-year terms.

The Board would elect a chairperson from the voting members of the Board each year. The Board would be required to meet at least once every calendar year in conjunction with the Association's annual meeting.

The bill would require that, upon a vacancy on the Board, or at least 30 days prior to the expiration of the term of any voting member, the Board of Directors of the Kansas Cotton Association would submit three nominations to the Secretary for each vacancy or expiring term, from which the Secretary would appoint a voting member.

Board Authority

The Board would have the following authority, for the purposes of administering and implementing the Program, to:

- Establish and implement a cotton pest monitoring plan that would be required to include:
 - Development and distribution of educational materials; and
 - Authority for the Board's designee to, subject to notice requirements, enter private property to:
 - Perform inspections of any cotton field upon the private property to determine whether an infestation of cotton exists or

whether cotton pests are present on the property; and

- Set and monitor traps;
- Accept grants and donations;
- Sue and be sued;
- Appoint and compensate an administrator, who is knowledgeable about the cotton industry, and other personnel as needed, and establish an office for the administrator at any place in the state selected by the Board; and
- Enter into contracts for purposes of the Act, including, but not limited to, collection of the cotton assessment or coordination with any local, state, or national organization or agency, whether private or created by state or federal law, engaged in work or activities similar to the work and activities of the Board.

Private Property Notification

The bill would require an individual entering private property to perform inspections or to set or monitor traps to notify the owner, operator, or lessee of the property for the purpose of the entry and allow any present and notified owner, operator, or lessee, or any representative, to accompany the individual conducting the inspections or setting or monitoring traps.

Eradication Plan

The bill would allow the Board to authorize the development and implementation of an eradication plan with the Secretary of Agriculture, pursuant to the Plant Pest and Agriculture Commodity Certification Act (KSA 2-2112 *et seq.*).

Cotton Bale Assessment (Section 6)

The bill would authorize the Board to set an assessment per cotton bale at an amount not to exceed \$2. The Board would review, set, and communicate the assessment to cotton growers each year.

The assessment would be levied on a grower at the time of deposit at the cotton gin and would be collected and remitted to the Board.

For an in-state cotton gin that serves as the selling agent for the cotton products, the cotton gin would be required to:

- Collect the assessment by deducting the assessment from the ginning price of the cotton as a ginning cost or from any funds advanced for ginning costs;
- Provide monthly reports to the Board on or before the 15th day of each month regarding the collected assessments;
- Remit all of the collected assessments each month to the Board;
- Provide the Board with any other information reasonably requested by the Board to ensure the collection of the assessments; and
- Provide a copy of the sales invoice or other document showing the transaction to the grower that shows the amount of the assessment collected.

For an out-of-state cotton gin that serves as the selling agent for the cotton produced, subject to any contract with the Board, the bill would authorize the gin to:

- Collect the assessment on behalf of the grower at the time of the deposit at the gin; and
- Remit all of the assessments collected each month to the Board.

On June 1 of each year, the bill would require each cotton gin required to collect an assessment to forward to the Board an accounting of all assessments collected and paid, and payment for all assessments previously collected but not paid.

The bill would require all funds expended by the Board for administration and payment of all claims from performance or neglect of any duties or activities pursuant to the Act to be paid from proceeds of the assessment. The bill would prohibit use of these funds for any other purposes.

Bank accounts used for operating and conducting the Program's duties would be required to be secured by pledge of securities in the manner prescribed in law for state bank accounts (KSA 75-4218). The bill would require an institution to be licensed by a state or the federal government if the bank account would be in an institution outside of the state.

Violations (Section 7)

Any violation of the Act would be a class C nonperson misdemeanor.

Discontinuation of Program (Section 8)

The Program, or any activity conducted under the Program, could be discontinued upon resolution of the Program, or activity, and with approval by the Secretary of Agriculture (Secretary), if the Board determines the Program, or activity, is no longer necessary or reasonable to operate pursuant to the Act.

Before the dissolution, however, the Board would be required to file a final report with the Secretary, including a financial report, and submit all remaining funds to the Association. Final books of the Program would be required to be filed with the Secretary and would be subject to audit by the Secretary.

The bill would require the Secretary to pay from the Program's remaining funds all of the Program's outstanding obligations and would be allowed to collect assessments until all obligations are paid, with any remaining funds returned to the Association.

The bill would require the Secretary to submit a final report to the Legislature upon the conclusion of all activities related to the dissolution of the Program.

Background

The bill was introduced by the House Committee on Agriculture at the request of a representative of the Kansas Cooperative Council.

House Committee on Agriculture

In the House Committee hearing on February 3, 2022, representatives of the Kansas Cotton Association, Southern Kansas Growers Cooperative, and U.S. Cotton Growers provided **proponent** testimony, stating that while boll weevils still exist in southwest Texas, other cotton-growing states have eradicated the boll weevil population; however, because boll weevils are hardy and high reproducers, cotton-growing states must remain vigilant to ensuring that outbreaks do not occur. The proponents stated Kansas is increasing its cotton acres each year, to the point where other states have requested that Kansas start its own boll weevil program. In addition, cotton producers currently pay a \$.50 per cotton bale assessment on a voluntary basis. Other proponent

testimony was provided by representatives of the Kansas Cooperative Council and Kansas Farm Bureau.

Written-only proponent testimony was provided by a representative of the Kansas Department of Agriculture (KDA). No other testimony was provided.

The House Committee recommended the bill be passed on February 11, 2022. The bill was withdrawn from the House Calendar and rereferred to the House Committee on February 15, 2022.

On February 16, 2022, the House Committee amended the bill to change the appointment process for the voting members of the Board and recommended the bill be passed as amended.

Senate Committee on Agriculture and Natural Resources

In the Senate Committee hearing on March 10, 2022, proponent testimony was provided by the Deputy Secretary of Agriculture and representatives of the Kansas Cooperative Council, National Cotton Council of America, and Southern Kansas Cotton Growers Cooperative, Inc. Written-only proponent testimony was provided by representatives of Kansas Farm Bureau and the State of Oklahoma Boll Weevil Eradication Organization. No other testimony was provided.

Senate Committee of the Whole

On March 22, 2022, the Senate Committee of the Whole amended the bill to:

- Decrease the number of nominations, from seven to three, required to be submitted by the Board of Directors of the Kansas Cotton Association for a vacancy or expiring term on the Board; and

- Require an individual entering private property to perform inspections or to set or monitor traps to notify the owner of the property. The bill would have previously required attempted notification, if practicable.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the KDA and Kansas State University indicate that any costs to the agencies resulting from enactment of the bill would be absorbed within existing resources. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Kansas Cotton Boll Weevil Act; Kansas Cotton Boll Weevil Program; Board of Directors of the Kansas Cotton Boll Weevil Program; cotton; agriculture; pests; assessments