

House Bill No. 255

An act relating to pest control; creating s. 570.345, F.S.; enacting the Pest Control Compact; requiring the Commissioner of Agriculture to administer the compact; requiring that an application for assistance under the compact be made by the commissioner; providing findings; providing definitions; providing for the establishment of the Pest Control Insurance Fund to finance pest-control operations under the compact; providing for the fund to be administered by a governing board and executive committee; providing for the internal operations and management of the governing board; requiring an annual report to the governor and legislature of each state participating in the compact; providing for the administration of the fund; providing procedures to apply for expenditures from the fund; providing for a determination regarding expenditures from the fund and for review of such expenditures; authorizing the governing board to establish advisory and technical committees; providing for an application for assistance from the fund on behalf of a nonparty state; providing requirements for the fund regarding budgets and maintaining financial assets; prohibiting a pledge of the assets of a state that is a party to the compact; providing for the compact to enter into force upon its enactment by five or more states; providing a procedure for a state to withdraw from the compact; providing for construction and severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 570.345, Florida Statutes, is created to read:

570.345 Pest Control Compact.—

(1) ENACTMENT OF COMPACT.—The Pest Control Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as provided in this section.

(a) Consistent with law and within available appropriations, the departments, agencies, and officers of this state may cooperate with the insurance fund established by the compact.

(b) Pursuant to paragraph (5)(h), copies of bylaws and amendments shall be filed with the Commissioner of Agriculture.

(c) The compact administrator for this state shall be the Commissioner of Agriculture.

(d) Within the meaning of paragraph (7)(b) or paragraph (9)(a), a request or application for assistance from the insurance fund may be made by the Commissioner of Agriculture.

(e) The department, agency, or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken

or intensified pursuant to the compact shall have credited to the appropriate account in the State Treasury the amount of any payments made to this state to defray the cost of such program or as reimbursement.

(f) As used in this compact, with reference to this state, the term “executive head” means the Governor.

(2) FINDINGS.—

(a) In the absence of the higher degree of cooperation possible under this compact, the annual loss of approximately \$137 billion from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of the varying climatic, geographic, and economic factors, each state may be affected differently by particular species of pests. However, all states share the inability to protect themselves fully against pests that present serious dangers.

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

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

(3) DEFINITIONS.—As used in this compact, the term:

(a) “State” means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) “Requesting state” means a state that invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate pests within one or more other states.

(c) “Responding state” means a state that is requested to undertake or intensify the measures referred to in paragraph (b).

(d) “Pest” means any invertebrate animal, pathogen, parasitic plant, or similar or allied organism that can cause disease or damage in any crops, trees, shrubs, grasses, or other plants of substantial value.

(e) “Insurance fund” means the Pest Control Insurance Fund established pursuant to this compact.

(f) “Governing board” means the administrators of this compact representing the party states when the administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) “Executive committee” means the committee established pursuant to paragraph (6)(e).

(4) INSURANCE FUND.—There is established the Pest Control Insurance Fund to finance other than normal pest-control operations that states may be required to engage in pursuant to this compact. The insurance fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any pest. Donations and grants may be conditional or unconditional, except that the insurance fund may not accept a donation or grant that contains terms that are inconsistent with this compact.

(5) PEST CONTROL INSURANCE FUND; INTERNAL OPERATIONS AND MANAGEMENT.—

(a) The insurance fund shall be administered by a governing board and executive committee. The actions of the governing board and the executive committee shall be deemed the actions of the insurance fund.

(b) Each member of the governing board is entitled to one vote on the board. Action by the governing board is not binding unless taken at a meeting at which a majority of the total number of votes on the governing board is cast in favor of the action. Action of the governing board shall be taken only at a meeting at which a majority of the members are present.

(c) The insurance fund shall have a seal that may be employed as an official symbol and may be affixed to documents and used as the governing board provides.

(d) The governing board shall elect annually, from among its members, a chairperson, vice chairperson, secretary, and treasurer. The chairperson may not succeed himself or herself. The governing board may appoint an executive director and fix the duties of the executive director and compensation, if any. The executive director shall serve at the pleasure of the governing board. The governing board shall provide for the bonding of any officers and employees of the insurance fund as it finds appropriate.

(e) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director or, if there is no executive director, the chairperson, pursuant to procedures as the bylaws may provide, shall appoint, remove, or discharge such personnel necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board in its bylaws shall provide personnel policies and programs of the insurance fund.

(f) The insurance fund may borrow, accept, or contract for the services of personnel from any state, the United States, any governmental agency, or any person, firm, association, or corporation.

(g) The insurance fund may accept for any of its purposes and functions under this compact any donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the

United States, any other governmental agency, or from any person, firm, association, or corporation, and may receive, use, and dispose of the same. Any donation, gift, or grant accepted by the governing board pursuant to this paragraph or services borrowed pursuant to paragraph (f) shall be reported in the annual report of the insurance fund. The report must include the nature, amount, and conditions of the donation, gift, grant, or services borrowed and the identity of the donor or lender.

(h) The governing board shall adopt bylaws for the operation of the insurance fund and may amend or rescind the bylaws. The insurance fund shall publish its bylaws in a convenient form and shall file a copy and a copy of any amendment with the appropriate agency or officer in each of the party states.

(i) The insurance fund shall submit an annual report to the governor and legislature of each party state which covers its activities for the preceding year. The insurance fund may submit such additional reports as it deems desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the insurance fund may do any other things necessary and incidental to the conduct of its affairs pursuant to this compact.

(6) COMPACT AND INSURANCE FUND ADMINISTRATION.—

(a) In each party state there shall be a compact administrator who shall be selected and serve in the manner as the laws of the state provide. The administrator shall assist in coordinating activities pursuant to the compact in that state and shall represent that state on the governing board of the insurance fund.

(b) If the laws of the United States specifically provide, or if administrative provision is made within the Federal Government, the United States may be represented on the governing board of the insurance fund by not more than three representatives. Any representative of the United States shall be appointed and serve in the manner provided by federal law, but may not vote on the governing board or the executive committee.

(c) The governing board shall meet at least once each year to set policies and procedures in the administration of the insurance fund and, consistent with the provisions of the compact, shall supervise and direct the expenditure of moneys from the insurance fund. Additional meetings of the governing board shall be held at the call of the chairperson, the executive committee, or a majority of the membership of the governing board.

(d) At its meetings, the governing board shall pass upon applications for assistance from the insurance fund and shall authorize disbursements from the fund. When the governing board is not in session, the executive committee shall act as agent of the governing board and has full authority to act for it in passing upon applications.

(e) The executive committee shall be composed of the chairperson of the governing board and four additional members of the governing board chosen

by it so that one member represents each of four geographic groupings of party states. The governing board shall make such geographic groupings. If there is representation of the United States on the governing board, one representative may meet with the executive committee. The chair of the governing board shall be the chairperson of the executive committee. Action of the executive committee is not binding unless taken at a meeting at which at least four members are present and vote in favor of the action. Necessary expenses of each of the five members of the executive committee incurred in attending meetings of such committee, when not held at the same time and place as a meeting of the governing board, shall be charged against the insurance fund.

(7) ASSISTANCE AND REIMBURSEMENT.—

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, all pests within its boundaries. The performance of this function includes:

1. The maintenance of pest-control and eradication activities of interstate significance at a level that would be reasonable for its own protection in the absence of this compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) If a party state is threatened by a pest not present within its borders but present within another party state, or if a party state undertakes activities to control or eradicate a pest and finds that such activities are impracticable or substantially more difficult because of the failure of another party state to cope with an actual or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for measures to eradicate or control the infestation by other party states at a level sufficient to prevent, or reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization, any responding states shall take or increase any warranted eradication or control measures. A responding state shall use moneys available from the insurance fund expeditiously and efficiently to assist in providing the protection requested.

(c) In order to apply for expenditures from the insurance fund, a requesting state shall submit, in writing:

1. A detailed statement of the circumstances that occasion the request for invoking the compact.

2. Evidence that the pest for which eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass, or other plant having a substantial value to the requesting state.

3. A statement of the extent of the present and projected program of the requesting state, including full information as to the legal authority for the

conduct of such program and the expenditures made or budgeted for the eradication, control, or prevention of introduction of the pest.

4. Proof that the expenditures being made or budgeted as detailed in subparagraph 3. do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program activity detailed in subparagraph 3. constitutes a normal level of pest-control activity.

5. A declaration as to whether, to the best of the requesting state's knowledge and belief, the conditions that require the invoking of the compact can be abated by a program undertaken with the aid of moneys from the insurance fund within 1 year or less, or whether the request is for an installment in a program that is likely to continue for a longer period.

6. Any other information that the governing board requires, consistent with this compact.

(d) The governing board or executive committee shall give notice of any meeting at which an application for assistance from the insurance fund is to be considered. Such notice shall be given to the compact administrator of each party state and to any other officers and agencies designated by the laws of the party states. The requesting state and any other party state is entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission of the information required by paragraph (c) and any other information that the requesting state may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified, the governing board or executive committee shall authorize support of the program. The governing board or executive committee may meet at any time and in any place to receive and consider an application. All determinations of the governing board or executive committee related to an application and the reasons for the determination shall be recorded and subscribed to show the votes of the individual members.

(f) A requesting state that is dissatisfied with a determination of the executive committee shall, upon notice in writing submitted within 20 days after the determination, be given a review of the determination at the next meeting of the governing board. Determinations of the executive committee are reviewable only by the governing board at a regular meeting or at a special meeting authorized by the governing board.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the insurance fund when such states incur expenditures because of such measures or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt procedures for the submission and payment of claims.

(h) Before authorizing the expenditure of moneys from the insurance fund, the governing board shall determine the extent and nature of any timely assistance or participation that may be available from the Federal

Government and shall request assistance and participation from the appropriate federal agencies.

(i) The insurance fund may negotiate and execute a memorandum of understanding or other instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states, and other entities concerned.

(8) ADVISORY AND TECHNICAL COMMITTEES.—The governing board may establish advisory and technical committees composed of state, local, and federal officials and private persons to advise it regarding its functions. Any advisory or technical committee may meet with and participate in its deliberations upon the request of the governing board or executive committee. An advisory or technical committee may furnish information and recommendations concerning an application for assistance from the insurance fund being considered by the board or committee. However, a participant in a meeting of the governing board or executive committee held pursuant to paragraph (7)(d) is entitled to know at the time of the meeting the substance of such information and recommendations that are made prior to or as part of the meeting or, if made after the meeting, no later than the time at which the governing board or executive committee makes its disposition of the application.

(9) RELATIONS AND NONPARTY JURISDICTION.—

(a) A party state may apply for assistance from the insurance fund regarding a pest in a nonparty state. The application shall be considered and disposed of by the governing board or executive committee in the same manner as an application regarding a pest within a party state, except as provided in this subsection.

(b) At or in connection with any meeting of the governing board or executive committee held pursuant to paragraph (7)(d), a nonparty state is entitled to appear, participate, and receive information only to the extent as the governing board or executive committee provides. A nonparty state may not review any determination made by the executive committee.

(c) The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in such state and the value of the expenditures to the party state as a whole justify the expenditures. The governing board or executive committee may set any conditions that it deems appropriate regarding the expenditure of moneys from the insurance fund in a nonparty state and may enter into any agreements with nonparty states and other jurisdictions or entities as it deems necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.

(10) FINANCE.—

(a) The insurance fund shall submit to the executive head or designated officer of each party state a budget for the insurance fund for the period

required by the laws of that party state for a presentation to the party state's legislature.

(b) Each budget shall contain specific recommendations of the amount to be appropriated by each party state. The request for appropriations shall be apportioned among the party states as follows: one-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products, the insurance fund may employ any sources of information which present the most equitable and accurate comparisons among the party states. Each budget and request for appropriations shall indicate the source used to obtain information concerning the value of products.

(c) The financial assets of the insurance fund shall be maintained in two accounts to be designated respectively as the "operating account" and the "claims account." The operating account shall consist only of assets necessary to administer the insurance fund during the next ensuing 2-year period. The claims account shall contain all moneys not included in the operating account and may not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims against the insurance fund for a period of 3 years. When the claims account reaches its maximum limit or will reach its maximum limit by the addition of moneys requested for appropriation by the party states, the governing board shall reduce its budget requests on a pro rata basis to keep the claims account within the maximum limit. Any moneys in the claims account because of conditional donations, grants, or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of the claims.

(d) The insurance fund may not pledge the credit of any party state. The insurance fund may meet any of its obligations with moneys available to it under paragraph (5)(g) if the governing board takes specific action to set aside such moneys before incurring any obligation to be met in whole or in part in such manner. Except where the insurance fund uses moneys available to it under paragraph (5)(g), the insurance fund may not incur any obligation before the allotment of moneys by the party states adequate to meet the obligation.

(e) The insurance fund shall keep accurate records of all receipts and disbursements. The receipts and disbursements of the insurance fund are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the insurance fund shall be audited annually by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the insurance fund.

(f) The accounts of the insurance fund shall be open at any reasonable time for inspection by authorized officers of the party states and any persons authorized by the insurance fund.

(11) ENTRY INTO FORCE AND WITHDRAWAL.—

(a) This compact shall enter into force when enacted into law by five or more states. Thereafter, it shall become effective for any other state upon its enactment by that state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the compact, but a withdrawal does not take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. A withdrawal does not affect any liability incurred by or chargeable to a party state before the time of its withdrawal.

(12) CONSTRUCTION AND SEVERABILITY.—This compact shall be liberally construed to effectuate its purposes. The provisions of this compact are severable and if any phrase, clause, sentence, or provision is declared to be contrary to the constitution of any state or the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected. If this compact is held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Section 2. This act shall take effect July 1, 2009.

Approved by the Governor June 1, 2009.

Filed in Office Secretary of State June 1, 2009.