

ENROLLED
HB 255

2009 Legislature

1 A bill to be entitled
2 An act relating to pest control; creating s. 570.345,
3 F.S.; enacting the Pest Control Compact; requiring the
4 Commissioner of Agriculture to administer the compact;
5 requiring that an application for assistance under the
6 compact be made by the commissioner; providing findings;
7 providing definitions; providing for the establishment of
8 the Pest Control Insurance Fund to finance pest-control
9 operations under the compact; providing for the fund to be
10 administered by a governing board and executive committee;
11 providing for the internal operations and management of
12 the governing board; requiring an annual report to the
13 governor and legislature of each state participating in
14 the compact; providing for the administration of the fund;
15 providing procedures to apply for expenditures from the
16 fund; providing for a determination regarding expenditures
17 from the fund and for review of such expenditures;
18 authorizing the governing board to establish advisory and
19 technical committees; providing for an application for
20 assistance from the fund on behalf of a nonparty state;
21 providing requirements for the fund regarding budgets and
22 maintaining financial assets; prohibiting a pledge of the
23 assets of a state that is a party to the compact;
24 providing for the compact to enter into force upon its
25 enactment by five or more states; providing a procedure
26 for a state to withdraw from the compact; providing for
27 construction and severability; providing an effective
28 date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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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,

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57 the term "executive head" means the Governor.

58 (2) FINDINGS.--

59 (a) In the absence of the higher degree of cooperation
 60 possible under this compact, the annual loss of approximately
 61 \$137 billion from the depredations of pests is virtually certain
 62 to continue, if not to increase.

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

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

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

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

84 (a) "State" means a state, territory, or possession of the

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85 United States, the District of Columbia, or the Commonwealth of
86 Puerto Rico.

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

91 (c) "Responding state" means a state that is requested to
92 undertake or intensify the measures referred to in paragraph
93 (b).

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

98 (e) "Insurance fund" means the Pest Control Insurance Fund
99 established pursuant to this compact.

100 (f) "Governing board" means the administrators of this
101 compact representing the party states when the administrators
102 are acting as a body in pursuance of authority vested in them by
103 this compact.

104 (g) "Executive committee" means the committee established
105 pursuant to paragraph (6) (e).

106 (4) INSURANCE FUND.--There is established the Pest Control
107 Insurance Fund to finance other than normal pest-control
108 operations that states may be required to engage in pursuant to
109 this compact. The insurance fund shall contain moneys
110 appropriated to it by the party states and any donations and
111 grants accepted by it. All appropriations, except as conditioned
112 by the rights and obligations of party states set forth in this

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113 compact, shall be unconditional and may not be restricted by the
114 appropriating state to use in the control of any pest. Donations
115 and grants may be conditional or unconditional, except that the
116 insurance fund may not accept a donation or grant that contains
117 terms that are inconsistent with this compact.

118 (5) PEST CONTROL INSURANCE FUND; INTERNAL OPERATIONS AND
119 MANAGEMENT.--

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

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

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

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

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141 it finds appropriate.

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

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

155 (g) The insurance fund may accept for any of its purposes
156 and functions under this compact any donations and grants of
157 money, equipment, supplies, materials, and services, conditional
158 or otherwise, from any state, the United States, any other
159 governmental agency, or from any person, firm, association, or
160 corporation, and may receive, use, and dispose of the same. Any
161 donation, gift, or grant accepted by the governing board
162 pursuant to this paragraph or services borrowed pursuant to
163 paragraph (f) shall be reported in the annual report of the
164 insurance fund. The report must include the nature, amount, and
165 conditions of the donation, gift, grant, or services borrowed
166 and the identity of the donor or lender.

167 (h) The governing board shall adopt bylaws for the
168 operation of the insurance fund and may amend or rescind the

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169 bylaws. The insurance fund shall publish its bylaws in a
 170 convenient form and shall file a copy and a copy of any
 171 amendment with the appropriate agency or officer in each of the
 172 party states.

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

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

181 (6) COMPACT AND INSURANCE FUND ADMINISTRATION.--

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

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

196 (c) The governing board shall meet at least once each year

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197 to set policies and procedures in the administration of the
198 insurance fund and, consistent with the provisions of the
199 compact, shall supervise and direct the expenditure of moneys
200 from the insurance fund. Additional meetings of the governing
201 board shall be held at the call of the chairperson, the
202 executive committee, or a majority of the membership of the
203 governing board.

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

210 (e) The executive committee shall be composed of the
211 chairperson of the governing board and four additional members
212 of the governing board chosen by it so that one member
213 represents each of four geographic groupings of party states.
214 The governing board shall make such geographic groupings. If
215 there is representation of the United States on the governing
216 board, one representative may meet with the executive committee.
217 The chair of the governing board shall be the chairperson of the
218 executive committee. Action of the executive committee is not
219 binding unless taken at a meeting at which at least four members
220 are present and vote in favor of the action. Necessary expenses
221 of each of the five members of the executive committee incurred
222 in attending meetings of such committee, when not held at the
223 same time and place as a meeting of the governing board, shall
224 be charged against the insurance fund.

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225 (7) ASSISTANCE AND REIMBURSEMENT.--
 226 (a) Each party state pledges to each other party state
 227 that it will employ its best efforts to eradicate, or control
 228 within the strictest practicable limits, all pests within its
 229 boundaries. The performance of this function includes:
 230 1. The maintenance of pest-control and eradication
 231 activities of interstate significance at a level that would be
 232 reasonable for its own protection in the absence of this
 233 compact.
 234 2. The meeting of emergency outbreaks or infestations of
 235 interstate significance to no less an extent than would have
 236 been done in the absence of this compact.
 237 (b) If a party state is threatened by a pest not present
 238 within its borders but present within another party state, or if
 239 a party state undertakes activities to control or eradicate a
 240 pest and finds that such activities are impracticable or
 241 substantially more difficult because of the failure of another
 242 party state to cope with an actual or threatened infestation,
 243 that state may request the governing board to authorize
 244 expenditures from the insurance fund for measures to eradicate
 245 or control the infestation by other party states at a level
 246 sufficient to prevent, or reduce to the greatest practicable
 247 extent, infestation or reinfestation of the requesting state.
 248 Upon such authorization, any responding states shall take or
 249 increase any warranted eradication or control measures. A
 250 responding state shall use moneys available from the insurance
 251 fund expeditiously and efficiently to assist in providing the
 252 protection requested.

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- 253 (c) In order to apply for expenditures from the insurance
254 fund, a requesting state shall submit, in writing:
- 255 1. A detailed statement of the circumstances that occasion
256 the request for invoking the compact.
- 257 2. Evidence that the pest for which eradication or control
258 assistance is requested constitutes a danger to an agricultural
259 or forest crop, product, tree, shrub, grass, or other plant
260 having a substantial value to the requesting state.
- 261 3. A statement of the extent of the present and projected
262 program of the requesting state, including full information as
263 to the legal authority for the conduct of such program and the
264 expenditures made or budgeted for the eradication, control, or
265 prevention of introduction of the pest.
- 266 4. Proof that the expenditures being made or budgeted as
267 detailed in subparagraph 3. do not constitute a reduction of the
268 effort for the control or eradication of the pest concerned or,
269 if there is a reduction, the reasons why the level of program
270 activity detailed in subparagraph 3. constitutes a normal level
271 of pest-control activity.
- 272 5. A declaration as to whether, to the best of the
273 requesting state's knowledge and belief, the conditions that
274 require the invoking of the compact can be abated by a program
275 undertaken with the aid of moneys from the insurance fund within
276 1 year or less, or whether the request is for an installment in
277 a program that is likely to continue for a longer period.
- 278 6. Any other information that the governing board
279 requires, consistent with this compact.
- 280 (d) The governing board or executive committee shall give

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281 notice of any meeting at which an application for assistance
282 from the insurance fund is to be considered. Such notice shall
283 be given to the compact administrator of each party state and to
284 any other officers and agencies designated by the laws of the
285 party states. The requesting state and any other party state is
286 entitled to be represented and present evidence and argument at
287 such meeting.

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

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

306 (g) Responding states required to undertake or increase
307 measures pursuant to this compact may receive moneys from the
308 insurance fund when such states incur expenditures because of

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309 such measures or as reimbursement for expenses incurred and
310 chargeable to the insurance fund. The governing board shall
311 adopt procedures for the submission and payment of claims.

312 (h) Before authorizing the expenditure of moneys from the
313 insurance fund, the governing board shall determine the extent
314 and nature of any timely assistance or participation that may be
315 available from the Federal Government and shall request
316 assistance and participation from the appropriate federal
317 agencies.

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

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

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337 than the time at which the governing board or executive
338 committee makes its disposition of the application.

339 (9) RELATIONS AND NONPARTY JURISDICTION.--

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

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

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

364 (10) FINANCE.--

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365 (a) The insurance fund shall submit to the executive head
366 or designated officer of each party state a budget for the
367 insurance fund for the period required by the laws of that party
368 state for a presentation to the party state's legislature.

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

381 (c) The financial assets of the insurance fund shall be
382 maintained in two accounts to be designated respectively as the
383 "operating account" and the "claims account." The operating
384 account shall consist only of assets necessary to administer the
385 insurance fund during the next ensuing 2-year period. The claims
386 account shall contain all moneys not included in the operating
387 account and may not exceed the amount reasonably estimated to be
388 sufficient to pay all legitimate claims against the insurance
389 fund for a period of 3 years. When the claims account reaches
390 its maximum limit or will reach its maximum limit by the
391 addition of moneys requested for appropriation by the party
392 states, the governing board shall reduce its budget requests on

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393 a pro rata basis to keep the claims account within the maximum
 394 limit. Any moneys in the claims account because of conditional
 395 donations, grants, or gifts shall be included in calculations
 396 made pursuant to this paragraph only to the extent that such
 397 moneys are available to meet demands arising out of the claims.

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

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

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

418 (11) ENTRY INTO FORCE AND WITHDRAWAL.--

419 (a) This compact shall enter into force when enacted into
 420 law by five or more states. Thereafter, it shall become

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421 effective for any other state upon its enactment by that state.

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

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

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