

By Senator Alexander

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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
7 findings; providing definitions; providing for the
8 establishment of the Pest Control Insurance Fund to
9 finance pest-control operations under the compact;
10 providing for the fund to be administered by a
11 governing board and executive committee; providing for
12 the internal operations and management of the
13 governing board; requiring an annual report to the
14 governor and legislature of each state participating
15 in the compact; providing for the administration of
16 the fund; providing procedures to apply for
17 expenditures from the fund; providing for a
18 determination regarding expenditures from the fund and
19 for review of such expenditures; authorizing the
20 governing board to establish advisory and technical
21 committees; providing for an application for
22 assistance from the fund on behalf of a nonparty
23 state; providing requirements for the fund regarding
24 budgets and maintaining financial assets; prohibiting
25 a pledge of the assets of a state that is a party to
26 the compact; providing for the compact to enter into
27 force upon its enactment by five or more states;
28 providing a procedure for a state to withdraw from the
29 compact; providing for construction and severability;

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30 providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 570.345, Florida Statutes, is created to
35 read:

36 570.345 Pest Control Compact.-

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

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

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

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

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

52 (e) The department, agency, or officer expending or
53 becoming liable for an expenditure on account of a control or
54 eradication program undertaken or intensified pursuant to the
55 compact shall have credited to the appropriate account in the
56 State Treasury the amount of any payments made to this state to
57 defray the cost of such program or as reimbursement.

58 (f) As used in this compact, with reference to this state,

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59 the term "executive head" means the Governor.

60 (2) FINDINGS.—

61 (a) In the absence of the higher degree of cooperation
62 possible under this compact, the annual loss of approximately
63 \$137 billion from the depredations of pests is virtually certain
64 to continue, if not to increase.

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

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

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

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

86 (a) "State" means a state, territory, or possession of the
87 United States, the District of Columbia, or the Commonwealth of

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88 Puerto Rico.

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

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

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

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

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

106 (g) "Executive committee" means the committee established
107 pursuant to paragraph (6) (e).

108 (4) INSURANCE FUND.—There is established the Pest Control
109 Insurance Fund to finance other than normal pest-control
110 operations that states may be required to engage in pursuant to
111 this compact. The insurance fund shall contain moneys
112 appropriated to it by the party states and any donations and
113 grants accepted by it. All appropriations, except as conditioned
114 by the rights and obligations of party states set forth in this
115 compact, shall be unconditional and may not be restricted by the
116 appropriating state to use in the control of any pest. Donations

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117 and grants may be conditional or unconditional, except that the
118 insurance fund may not accept a donation or grant that contains
119 terms that are inconsistent with this compact.

120 (5) PEST CONTROL INSURANCE FUND; INTERNAL OPERATIONS AND
121 MANAGEMENT.-

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

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

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

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

144 (e) Irrespective of the civil service, personnel, or other
145 merit system laws of any party state, the executive director or,

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146 if there is no executive director, the chairperson, pursuant to
147 procedures as the bylaws may provide, shall appoint, remove, or
148 discharge such personnel necessary for the performance of the
149 functions of the insurance fund and shall fix the duties and
150 compensation of such personnel. The governing board in its
151 bylaws shall provide personnel policies and programs of the
152 insurance fund.

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

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

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

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

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

183 (6) COMPACT AND INSURANCE FUND ADMINISTRATION.—

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

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

198 (c) The governing board shall meet at least once each year
199 to set policies and procedures in the administration of the
200 insurance fund and, consistent with the provisions of the
201 compact, shall supervise and direct the expenditure of moneys
202 from the insurance fund. Additional meetings of the governing
203 board shall be held at the call of the chairperson, the

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204 executive committee, or a majority of the membership of the
205 governing board.

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

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

227 (7) ASSISTANCE AND REIMBURSEMENT.—

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

232 1. The maintenance of pest-control and eradication

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233 activities of interstate significance at a level that would be
234 reasonable for its own protection in the absence of this
235 compact.

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

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

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

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

259 2. Evidence that the pest for which eradication or control
260 assistance is requested constitutes a danger to an agricultural
261 or forest crop, product, tree, shrub, grass, or other plant

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262 having a substantial value to the requesting state.

263 3. A statement of the extent of the present and projected
264 program of the requesting state, including full information as
265 to the legal authority for the conduct of such program and the
266 expenditures made or budgeted for the eradication, control, or
267 prevention of introduction of the pest.

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

274 5. A declaration as to whether, to the best of the
275 requesting state's knowledge and belief, the conditions that
276 require the invoking of the compact can be abated by a program
277 undertaken with the aid of moneys from the insurance fund within
278 1 year or less, or whether the request is for an installment in
279 a program that is likely to continue for a longer period.

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

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

290 (e) Upon the submission of the information required by

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

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

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

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

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

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

341 (9) RELATIONS AND NONPARTY JURISDICTION.—

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

348 (b) At or in connection with any meeting of the governing

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349 board or executive committee held pursuant to paragraph (7)(d),
350 a nonparty state is entitled to appear, participate, and receive
351 information only to the extent as the governing board or
352 executive committee provides. A nonparty state may not review
353 any determination made by the executive committee.

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

366 (10) FINANCE.—

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

371 (b) Each budget shall contain specific recommendations of
372 the amount to be appropriated by each party state. The request
373 for appropriations shall be apportioned among the party states
374 as follows: one-tenth of the total budget in equal shares and
375 the remainder in proportion to the value of agricultural and
376 forest crops and products, excluding animals and animal
377 products, produced in each party state. In determining the value

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378 of such crops and products, the insurance fund may employ any
379 sources of information which present the most equitable and
380 accurate comparisons among the party states. Each budget and
381 request for appropriations shall indicate the source used to
382 obtain information concerning the value of products.

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

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

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407 not incur any obligation before the allotment of moneys by the
408 party states adequate to meet the obligation.

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

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

420 (11) ENTRY INTO FORCE AND WITHDRAWAL.-

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

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

431 (12) CONSTRUCTION AND SEVERABILITY.-This compact shall be
432 liberally construed to effectuate its purposes. The provisions
433 of this compact are severable and if any phrase, clause,
434 sentence, or provision is declared to be contrary to the
435 constitution of any state or the United States or the

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436 applicability thereof to any government, agency, person, or
437 circumstance is held invalid, the validity of the remainder of
438 this compact and the applicability thereof to any government,
439 agency, person, or circumstance shall not be affected. If this
440 compact is held contrary to the constitution of any state
441 participating herein, the compact shall remain in full force and
442 effect as to the remaining party states and in full force and
443 effect as to the state affected as to all severable matters.

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