MISSISSIPPI LEGISLATURE

REGULAR SESSION 2001

By: Senator(s) Furniss
To: Agriculture; Finance

SENATE BILL NO. 2889

AN ACT TO PROVIDE A PROGRAM FOR THE ERADICATION OF JOHNSON GRASS; TO PROVIDE FOR A REFERENDUM IN EACH COUNTY FOR SUCH PROGRAM; TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPLEMENT THE PROGRAM; TO REQUIRE PUBLIC UTILITIES AND THE DEPARTMENT OF TRANSPORTATION TO CONTROL AND ERADICATE JOHNSON GRASS ON RIGHTS-OF-WAYS; TO AUTHORIZE COUNTIES TO LEVY AN AD VALOREM TAX TO FUND SUCH PROGRAM; TO PROVIDE THAT JOHNSON GRASS IS A PUBLIC NUISANCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known as the "Eradication and Control of Johnson Grass Act."

SECTION 2. (1) Upon the petition of one hundred (100) landowners in any county the board of supervisors shall declare that a threat exists to the agricultural economy of the county by reason of the growth and infestation of a species of grass, Sorghum halepense, commonly known as "Johnson grass." After such declaration there shall be submitted to the qualified voters of the county at the next general election or a special election called for that purpose, the question of enforcing the eradication and control of Johnson Grass Act. The board shall give notice of the election by publication in a newspaper published in the county for three (3) weeks consecutively, the last insert of which shall be at least ten (10) days before the day of the election. There shall be written or printed on each ballot voted at said election the following: "For Enforcing the Law Controlling and Eradicating Johnson Grass" - "Against Enforcing the Law Controlling and Eradicating Johnson Grass." The election shall be conducted by the laws applicable to general elections for state and county elections.
(2) If a majority of the votes cast at the election are in favor of enforcing the law controlling and eradicating Johnson grass, the chancery clerk shall, within ten (10) days after the election, notify the Commissioner of Agriculture of the result of the election. If a majority of the votes cast at the election are not in favor of enforcing such law, the question shall not be resubmitted for at least two (2) years after the election.

SECTION 3. (1) The Commissioner of Agriculture shall, within thirty (30) days after receipt of the notice from the chancery clerk of the county, declare such county a "Johnson Grass Extermination Area" and the Commissioner of Agriculture shall cause suitable notice to be published in a newspaper in the county for three (3) consecutive weeks. The notice shall contain, among other things, that the county has been declared a Johnson grass extermination area and that all property owners in the county shall, no later than April 30th of the subsequent year, take steps toward controlling and eradicating Johnson grass on all lands owned by them or under their control.

(2) The Commissioner of Agriculture shall, within ten (10) days after receipt of the notice provided in subsection (1), appoint a three-man County Weed Control Board, composed of citizens of the county, to serve as advisors and to assist in the administration of this act and to perform such other duties as prescribed by the Commissioner of Agriculture. Members of the board shall receive no salary but shall be fairly reimbursed by the county for necessary expenses incurred in performance of their duties.

SECTION 4. (1) The Commissioner of Agriculture shall have the following duties:

(a) He shall supervise the control and eradication of Johnson grass;

(b) He shall inspect lands and places for compliance with this act;
(c) He shall inform himself of the origin, nature and appearance of Johnson grass and the manner in which it is disseminated and shall follow recommendations as to the best and approved method to control, eradicate and prevent the dissemination of Johnson grass;

(d) He shall cooperate with and have authority to enter into cooperative agreements with state and federal agencies and departments for the furtherance of the control and eradication of Johnson grass. He shall make all rules and regulations for carrying out the provisions and requirements of this act.

(2) The County Weed Control Board under the supervision of the Commissioner of Agriculture shall inspect or cause to be inspected all lands of the county between the dates of August 15th and October 31st of each year during which the county is classed as a Johnson grass extermination area. The Commissioner of Agriculture, or his designated representative, as well as the County Weed Control Board or the designated representative of the board, shall have the right of ingress or egress upon all lands in the county in making an inspection or performing any other duties imposed by this act. All failure to comply with this act shall be reported to the prosecuting attorney of the county and it shall be his duty to prosecute all violations of this act.

SECTION 5. It shall be the duty of public utilities, the Department of Transportation, the boards of supervisors, railroads, drainage districts, special road districts and other public and quasi-public corporations and every landowner in Johnson grass extermination areas:

(a) To control and eradicate Johnson grass and to prevent its regrowth and reinfestation on all lands, rights-of-way and easements owned, occupied or controlled by them;

(b) To employ methods of control and eradication and for the prevention of the regrowth and reinfestation of Johnson
grass as directed by the Commissioner of Agriculture of the County Weed Control Board;

(c) To comply with all orders, rules and regulations promulgated by the Commissioner of Agriculture pursuant to this act.

SECTION 6. The existence or growth of Johnson grass in an electing county is hereby declared to be a public and common nuisance and the prosecuting attorney for each county shall have the duty to bring an action in the circuit court of the county to enjoin such nuisance. The action shall be in the name of the State of Mississippi and shall be against all persons permitting or maintaining such nuisance. The complaint in the action shall recite that thirty (30) days' advance notice of the action has been served upon the defendants thereto, and that the defendants have taken no suitable action to comply with the provisions of the law prior to the filing of the complaint. Any landowner whose land is adjacent to or within one hundred (100) feet of land on which such nuisance is permitted or maintained and who is undertaking a Johnson grass control program may bring a civil action for injunction against any person permitting or maintaining such nuisance and shall, in addition to injunctive relief, be entitled to recover as a penalty the sum of Five Hundred Dollars ($500.00) as well as a reasonable attorney fee and any actual damages sustained as a result of such nuisance.

SECTION 7. The board of supervisors of any county declared a Johnson grass extermination area, in addition to any and all taxing powers which it may possess, shall be authorized to levy upon all property subject to its authority a tax in an amount not to exceed one (1) mill for the purpose of paying the expenses of the County Weed Control Board or the agent of the board in making the inspection required under this act and for the expense of controlling and eradicating Johnson grass on county roads and rights-of-way, provided that not more than twenty-five percent
(25%) of the taxes so levied and collected shall be used for administrative purposes. The cost of control and eradication of Johnson grass on all lands and highways owned or supervised by the state highways and transportation department shall be paid by the highways and transportation department out of funds appropriated for its use.

SECTION 8. It shall be the duty of public utilities, the Department of Transportation, boards of supervisors, railroads, drainage districts, special road districts and other public and quasi-public corporations to follow recommendations as to the best and approved method to control, eradicate and prevent the dissemination of Johnson grass.

SECTION 9. Classification of a county as a Johnson grass extermination area shall be terminated by an order of the board of supervisors of such county and an election conducted in the manner and form prescribed for classifying such county as a Johnson grass extermination area. Elections covered under this section may not be presented to the qualified voters more often than once every two (2) years.

SECTION 10. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 11. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.