

By: Senator(s) Furniss

To: Agriculture; Finance

SENATE BILL NO. 2889

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

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

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

12 SECTION 2. (1) Upon the petition of one hundred (100)
 13 landowners in any county the board of supervisors shall declare
 14 that a threat exists to the agricultural economy of the county by
 15 reason of the growth and infestation of a species of grass,
 16 Sorghum halepense, commonly known as "Johnson grass." After such
 17 declaration there shall be submitted to the qualified voters of
 18 the county at the next general election or a special election
 19 called for that purpose, the question of enforcing the eradication
 20 and control of Johnson Grass Act. The board shall give notice of
 21 the election by publication in a newspaper published in the county
 22 for three (3) weeks consecutively, the last insert of which shall
 23 be at least ten (10) days before the day of the election. There
 24 shall be written or printed on each ballot voted at said election
 25 the following: "For Enforcing the Law Controlling and Eradicating
 26 Johnson Grass" - "Against Enforcing the Law Controlling and
 27 Eradicating Johnson Grass." The election shall be conducted by
 28 the laws applicable to general elections for state and county
 29 elections.

30 (2) If a majority of the votes cast at the election are in
31 favor of enforcing the law controlling and eradicating Johnson
32 grass, the chancery clerk shall, within ten (10) days after the
33 election, notify the Commissioner of Agriculture of the result of
34 the election. If a majority of the votes cast at the election are
35 not in favor of enforcing such law, the question shall not be
36 resubmitted for at least two (2) years after the election.

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

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

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

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

61 (b) He shall inspect lands and places for compliance
62 with this act;

63 (c) He shall inform himself of the origin, nature and
64 appearance of Johnson grass and the manner in which it is
65 disseminated and shall follow recommendations as to the best and
66 approved method to control, eradicate and prevent the
67 dissemination of Johnson grass;

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

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

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

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

93 (b) To employ methods of control and eradication and
94 for the prevention of the regrowth and reinfestation of Johnson

95 grass as directed by the Commissioner of Agriculture of the County
96 Weed Control Board;

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

100 SECTION 6. The existence or growth of Johnson grass in an
101 electing county is hereby declared to be a public and common
102 nuisance and the prosecuting attorney for each county shall have
103 the duty to bring an action in the circuit court of the county to
104 enjoin such nuisance. The action shall be in the name of the
105 State of Mississippi and shall be against all persons permitting
106 or maintaining such nuisance. The complaint in the action shall
107 recite that thirty (30) days' advance notice of the action has
108 been served upon the defendants thereto, and that the defendants
109 have taken no suitable action to comply with the provisions of the
110 law prior to the filing of the complaint. Any landowner whose
111 land is adjacent to or within one hundred (100) feet of land on
112 which such nuisance is permitted or maintained and who is
113 undertaking a Johnson grass control program may bring a civil
114 action for injunction against any person permitting or maintaining
115 such nuisance and shall, in addition to injunctive relief, be
116 entitled to recover as a penalty the sum of Five Hundred Dollars
117 (\$500.00) as well as a reasonable attorney fee and any actual
118 damages sustained as a result of such nuisance.

119 SECTION 7. The board of supervisors of any county declared a
120 Johnson grass extermination area, in addition to any and all
121 taxing powers which it may possess, shall be authorized to levy
122 upon all property subject to its authority a tax in an amount not
123 to exceed one (1) mill for the purpose of paying the expenses of
124 the County Weed Control Board or the agent of the board in making
125 the inspection required under this act and for the expense of
126 controlling and eradicating Johnson grass on county roads and
127 rights-of-way, provided that not more than twenty-five percent

128 (25%) of the taxes so levied and collected shall be used for
129 administrative purposes. The cost of control and eradication of
130 Johnson grass on all lands and highways owned or supervised by the
131 state highways and transportation department shall be paid by the
132 highways and transportation department out of funds appropriated
133 for its use.

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

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

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

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