

Date of Hearing: March 15, 2023

ASSEMBLY COMMITTEE ON AGRICULTURE
Robert Rivas, Chair
AB 402 (Aguiar-Curry) – As Introduced February 2, 2023

SUBJECT: Weeds: Broomrape Control Program

SUMMARY: This bill would establish the Broomrape Control Program (BCP) within the California Department of Food and Agriculture (CDFA) for the purpose of funding research and control methods for the noxious weed Broomrape. Specifically, *this bill*:

1. Makes legislative findings and declarations related to the invasive and noxious weed Orobanche, known commonly as Broomrape, as follows:
 - a. Broomrape is an invasive weed that is a threat to California’s tomato industry as well as other commodities.
 - b. Financial support for a Broomrape Control Program (BCP) shall be provided by commodities listed in this law, and,
 - c. BCP is in the public interest, as specified.

2. Defines the following:
 - a. Board means the Broomrape Control Board (BCB).
 - b. Broomrape or Orobanche means a small parasitic herbaceous plant.
 - c. Department means the Department of Food and Agriculture (CDFA).
 - d. “Districts” consists of the following geographical areas:
 - i. District 1: The Counties of Butte, Colusa, Glenn, Placer, Solano, Sutter, Yolo, and Yuba.
 - ii. District 2: The Counties of Alameda, Contra Costa, Sacramento, San Benito, San Joaquin, Santa Clara, and Stanislaus.
 - iii. District 3: The Counties of Fresno, Madera, Merced, Monterey, San Luis Obispo, Santa Barbara, and Santa Cruz.
 - iv. District 4: The Counties of Imperial, Kern, Kings, Riverside and Tulare, and that portion of the County of Los Angeles lying north of the San Gabriel Mountains.
 - e. When necessary to accomplish the purposes of this chapter, additional areas of the state may be added to these districts or additional districts may be established when recommended by the board and approved by the secretary.
 - f. “Handler” means a person or entity who receives tomatoes from a producer and who prepares the tomatoes for processing.
 - g. “Person” means a producer, handler, or any other entity that holds title to tomatoes subject to assessment pursuant to this chapter.
 - h. “Producer” means a person engaged in the commercial production of processing tomatoes in California.

- i. “Secretary” means the Secretary of CDFA.
3. Establishes within CDFA the BCB.
4. Requires the secretary to appoint at least 12 members to the BCB.
 - a. Requires BCB consist of at least three representatives from each district and be comprised of persons recommended by the tomato industry and approved by the secretary.
 - b. Requires the term of service and other BCB related operational issues to be established by the BCB and approved by the secretary.
 - c. Allows the secretary to appoint a public member to the BCB from a list of persons provided by the BCB who do not have a financial interest in any commodities subject to this chapter but may have general knowledge of commercial agricultural practices.
 - d. Requires the public member to have the same voting and other rights and immunities as other members of the BCB.
 - e. Allows the secretary, in consultation with the BCB, to appoint nonvoting ex officio members to the BCB, including, but not limited to, county agricultural commissioners, pest control advisors, and representatives of the University of California and California State University system.
5. Provides that persons appointed to the board are intended to represent and further the interest of the particular agricultural commodities concerned, and that the representation and furtherance is intended to serve the public interest and accordingly is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.
6. Provides that a member or agent of the board shall not be personally liable for the actions of the board or the department, as specified.
7. Requires the BCB to recommend specific actions to the secretary, including, but not limited to, all of the following:
 - a. Conducting research related to Broomrape.
 - b. Disseminating technical information and progress reports to stakeholders.
 - c. Surveying, detecting, analyzing, and treating causes of Broomrape.
 - d. Funding activities required to accomplish the purposes of this chapter.
 - e. Establishing an annual assessment rate or schedule of rates that shall be paid equally by producers and handlers.
 - f. Establishing an annual budget.
 - g. Specifying other commodities produced in California that shall be subject to this chapter, increasing membership on the board to include producers and handlers of those commodities, and establishing an assessment rate consistent with expenditures needed to accomplish the purposes of this chapter.
 - h. Adoption of regulations recommended by the board relating to Broomrape.
8. Requires the secretary, upon receipt of a recommendation from the BCB for the adoption of regulations, to do one of the following within 30 working days:

- a. Initiate appropriate action to implement the recommendation of the board.
 - b. Decline to initiate action on the recommendation of the board and provide the board with a written statement of reasons for the decision.
 - c. Request that the board provide additional information regarding the recommendation.
9. Requires the BCB to authorize reimbursement of the secretary for all expenditures incurred by the secretary in carrying out the duties and responsibilities specified in this chapter.
10. Requires that the secretary not receive reimbursement for costs that exceed expenditures authorized in the annual budget without first receiving authorization from the BCB.
11. Requires the BCB to recommend an assessment rate or schedule of rates for approval by the secretary.
 - a. Allows the secretary to adjust the assessment rate or schedule of rates from time to time when recommended by the BCB.
 - b. Allows the assessment rate or schedule of rates to vary from district to district and from commodity to commodity based on the degree of vulnerability to damage from Broomrape experienced by producers.
12. Requires the assessments collected from producers to be paid by handlers to the secretary as provided by the secretary.
 - a. Any assessment that is imposed on the producer or handler pursuant to this article is a personal debt of the person assessed.
 - b. Failure to collect the assessment does not exempt the person assessed from liability and does not relieve a person from the obligation to pay the assessment.
 - c. Any person who fails to file a report or pay the assessment or otherwise comply with this chapter shall pay a penalty, as specified.
13. Requires any funds received by the secretary pursuant to this article and from other sources to benefit BCP to be deposited in an account specified by the board and shall be expended for the purposes, administration, and enforcement of this chapter.
14. Allows the secretary to establish and enforce provisions consistent with the intent expressed in this chapter and any action shall be liberally construed to effect the intent of this chapter.
15. Requires the BCP to become inoperative on December 31, 2027, unless a later enacted statute extends the date on which it becomes inoperative.

16. Requires upon termination of the BCP, any remaining funds received pursuant to this chapter shall be refunded on a pro rata basis to all persons from whom assessments were collected during the 12-month period before the inoperative date, as specified.

EXISTING LAW:

- 1) Establishes within state government, CDFA, in order to promote and protect the agricultural industry of the state. (Food and Agriculture Code (FAC) 101-105)
- 2) Provides for the regulation of weeds and pest seeds generally. (FAC 7270 – 7276)

FISCAL EFFECT: Unknown

COMMENTS: Broomrapes are root parasitic plants that can cause devastating damage to tomatoes and many other economically important broadleaf crops. These weeds use a modified root, called a haustorium, to fuse into a host plant root and extract nutrients and water. This greatly reduces productivity and sometimes kills the host. Broomrape was the focus of an eradication effort four decades ago in California, has recently re-emerged in tomato fields in several Central Valley counties.

Tomatoes are highly susceptible to both branched broomrape and Egyptian broomrape. CDFA has classified broomrape as an “A” pest. An “A” pest is an organism of known economic importance subject to state-enforced action involving eradication, quarantine regulation, containment, rejection, or other holding action. The discovery of broomrape in a commercial tomato field leads to quarantine and crop destruction without harvest; processors will not accept a load of tomatoes from an infested field.

Broomrapes can cause significant yield losses. For example, tomatoes can lose up to 40% yield. Some crops, such as cabbages and celery, may yield the same amount, but the plants will be yellow and unappealing to consumers. The weed's presence could result in partial or total crop losses and the possible loss of potential to produce some crops in heavily affected areas. Broomrape can also cause loss of export markets interstate and overseas; and, increases in management and control costs.

According to the author, Broomrape is a noxious weed new to California, recently found in tomato fields in Yolo County. It is important for California’s agricultural industry to conduct research and find control methods for this weed before it is established. The BCP will be an industry-funded program at CDFA. This industry-led effort will provide recommendations and guidance to CDFA.

Beet Leafhopper Control (FAC 6031-6043), Cotton Pest Control [FAC 6001 - 6006.6] and The Pierce’s Disease/Glassy-winged Sharpshooter Board (FAC6045 – 6047) are example of pest control boards with in FAC that tackle specific pest and vectors. The Boards provide recommendations to the secretary on the use of funds collected under specified pest assessment. The focus of Board funds is on research to find solutions to pest issues.

PREVIOUS LEGISLATION: AB 1620 (Aguiar-Curry, 2022) would have establish the Broomrape Control Program (BCP) within CDFA for the purpose of funding research and control methods for the noxious weed Broomrape. Held in Assembly Appropriations.

REGISTERED SUPPORT / OPPOSITION:

Support

California Agricultural Commissioners & Sealers Association
Solano County Board of Supervisors

Opposition

None on file

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