

**MOSQUITO, GYPSY MOTH
ABATEMENT AUTHORITIES**

House Bill 4399

Sponsor: Rep. Michael J. Bennane

Committee: Public Health

Complete to 6-1-94

A SUMMARY OF HOUSE BILL 4399 AS INTRODUCED 3-9-94

The bill would add a new part, "Pest Control," to the Public Health Code (Public Act 368 of 1978) that would authorize counties to create "integrated pest management authorities" ("pest" would mean either mosquitoes or gypsy moths) and to pay for their operation through service charges, special assessments, and property tax millages. The bill would require authorities to use people knowledgeable and experienced in pest control, and would require that any pesticides applied be applied by certified, commercial, or registered applicators. The bill would require notification of residents before pesticide applications and would allow people to be exempted from pesticide applications except in emergencies.

Integrated pest management authorities. The bill would allow a county board of commissioners (or a county agency designated by the board) to establish an integrated pest management authority upon petition by voters in the county. A county could formally describe the boundaries of an integrated pest management authority, and authorize that its operation be undertaken by someone other than the county. (The bill would define "integrated pest management" to mean "a pest [i.e. mosquito or gypsy moth] control system that provides for an assessment of pest infestation and provides a cohesive combination of biologic, physical, and chemical techniques to provide long-term pest control considering the economic, ecologic, and sociologic consequences of the system.")

If the county board of commissioners was petitioned by at least 51 percent of the registered voters in the county who had voted in the last gubernatorial election and who were within the boundaries of the proposed authority (as described in the petition), then the county could establish an integrated pest management authority. If the board were petitioned by at least 8 percent of the registered voters, the county could put the question of establishing an authority to the voters at the next general election or at a special election. If a majority of the voters approved, the county could establish the authority.

If two or more adjacent counties established integrated pest management authorities, the counties' boards of commissioners could contract to consolidate these authorities (by pooling management funds, apportioning costs, and cooperating in using equipment and staff to do joint integrated pest management).

Local units of government ("or an entity that serves a geographical area for purposes pertaining to pest management") still could develop integrated pest management programs within their boundaries. Local units of government that had their own integrated pest management program when (or before) the bill was enacted wouldn't be included in a county's integrated pest management authority if the local unit had given the county board

of commissioners written notification of its intent not to be so included. (Note: The bill defines "local unit of government" to mean "a county, city, village, or township.")

Termination of integrated pest management authorities. A county board of commissioners could terminate an integrated pest management authority, after the authority had been in operation for two years, in the same way authorities are created (that is, by voter petition).

Integrated pest management authority boards. A county board of commissioners would have to appoint a governing board for an integrated pest management authority within 30 days of the authority's creation. (If a county agency were designated by the county board as the pest management authority, then that agency would assume the powers, duties, functions, and responsibilities of a governing board.)

Single county pest management authorities would have five members on their governing boards: the chief county public health official would be an ex officio member and the other four members would be county residents appointed by the county board of commissioners. At least two of the four county residents would have to live in the pest management authority district, and at least one of the four would have to be "knowledgeable" about integrated pest management.

Multi-county pest management authorities wouldn't have a specific number of members designated for their governing boards. Instead, authority board members would have to include the following: One or more of the chief public health officials of the counties involved in the authority (as ex officio members); one member who was "knowledgeable" about "pest management" and who was appointed by consensus of the county boards of commissioners of the counties involved in the authority; and two members from each of the counties involved, appointed by their respective county boards of commissioners.

Non-ex officio board members would serve for two years beginning on January 2 following their appointment. However, at the first meeting of the pest management authority board, the board would classify members by lot so that certain members had one-year terms (two members of single-county boards, a bare majority of multi-county boards). Board members couldn't receive compensation for serving but would be reimbursed for necessary expenses incurred in performing their official duties. Boards would elect a chairperson and secretary from among their members, and would establish procedures "considered necessary by the board for the proper functioning of the board."

Governing boards (or their designated agents or subcontractors) would be responsible for providing for integrated pest management within the jurisdiction of their pest management authorities. This would include, but not be limited to, the following:

- * Buying supplies and materials;
- * employing staff; and
- * establishing an active public education program ("as may be considered necessary or proper by the board in the furtherance of the objects of this part").

Governing boards would be required (as they determined appropriate) to try to hire college students and the chronically unemployed for seasonal employee positions. Governing boards also would have to "utilize" professional entomologists (insect specialists) "or other person[s] with knowledge and experience in the field of pest control" to ensure that integrated pest management operations were consistent with state-of-the-art technology and good pest control and integrated pest management practices.

Pest management authority governing boards could accept appropriations from the federal, state, or local units of government, as well as gifts and contributions from anyone. Boards also would be authorized to spend money to implement the bill's provisions.

Financing integrated pest management authority operations. To finance the operation of an integrated pest management authority, one or more local units of government could do one or more of the following:

- (1) Impose a service charge (determined by the governing board of the pest management authority, but not to exceed the actual costs incurred or anticipated for pest management procedures) on residents of the authority;
- (2) Levy a special assessment (that could be collected at the same time as property taxes) on lands benefitted by the authority;
- (3) Appropriate money to the governing board of a pest management authority for purposes of integrated pest management within the boundaries of the authority; or
- (4) Levy an ad valorem property tax of up to five mills for up to ten years at any one time on the property within the boundaries of the authority if a millage were approved by a majority of the registered voters living in the authority.

Service charges and special assessments. If a local unit of government wished to impose a service charge or levy a special assessment, the governing board of the pest management authority would have to hold a public hearing regarding the amount to be imposed or levied, and give notice of the hearing in a newspaper of general circulation in the district in which the service charge might be imposed or the special assessment levied. The pest management authority governing board would determine the amount of a service charge, though public comments offered at a public hearing would have to be reviewed and considered by the board before it decided the amount of the charge.

Property taxes. A property tax for integrated pest management services within the boundaries of a pest management authority couldn't be levied by a local unit of government except upon the approval of a majority of the registered voters living in authority and voting on the tax at a general or special election (which could be called by resolution of the pest authority's governing board).

If the governing board of a pest management authority called for a millage election, it would have to file a copy of the resolution calling for the election with the clerk of each affected local unit of government (or portion of the local unit of government) within the authority not less than 60 days before the date of the election. The resolution would have to contain a statement of the proposition to be submitted to the voters. Each clerk and all other local officials would be required to "undertake those steps to properly submit the proposition" to the voters at the specified election. Not more than two millage elections

could be held (in the boundaries of a pest management authority) in a calendar year. If the millage election were a special election, the pest management authority for which the election was held would be required to pay its share of the costs of the election.

The authorized tax rate would be levied and collected like other property taxes. The pest management authority's recording officer would be required, at appropriate times, to certify to the proper local officials the amount of taxes to be levied and collected each year by each county, city, and township. Tax officials and county treasurers would be required to levy and collect the taxes certified by the pest management authority and to pay those taxes to the authority within the time specified in the General Property Tax Act. The collection of all or part of an authority's authorized property tax levy would have to comply with both of the following conditions:

- * The amount that the authority had agreed to pay as reasonable collection expenses would have to be stated in writing and reported to the state treasurer; and
- * The taxes authorized to be collected would become a lien against the property on which they were assessed, and would be payable by the property owner.

Finally, to the extent applicable and consistent with the bill's requirements, the General Property Tax Act would apply to proceedings in relation to the assessment, spreading, and collection of taxes under the bill.

Pesticide application. If a pest management board used a pesticide as a mosquito management technique, the pesticide would have to be applied by a certified, commercial, or registered applicator (as defined in the Pesticide Control Act, Public Act 171 of 1976). The use of pesticides (or any other substance used for mosquito or gypsy moth control) would have to be in compliance with all applicable state and federal laws, rules, and regulations.

Before applying a pesticide, a pest management board would have to notify all residents in the proposed application area (following the MDA rules for areawide application of pesticides under the Pesticide Control Act). The notification would have to include a notice that people could be excluded from pesticide application (or other integrated pest management procedures) by requesting annually, in writing, that their property be excluded from pesticide application (or other integrated pest management procedures). Pest management boards would be required to exclude property from pesticide applications (or other integrated pest management practices) if so requested. The Department of Agriculture could authorize a pesticide application without prior notification if, upon application to the department by a pest management board, the department determined that an emergency existed that justified the application of pesticides without complying with the bill's notification and exemption requirements.

Pesticide application reports. Certified, commercial, and registered pesticide applicators who applied pesticides for an integrated pest management authority, a local unit of government, or a neighborhood organization, lake association, or subdivision would have to make annual reports on each application to the Departments of Public Health and Agriculture. The reports would be due before January 31 of each year, and would cover each pesticide application done in the previous year. The report would have to include the

name of the contracting group and two contacts for the group, the date(s) of the pesticide application, the geographic area served, and the pesticide's type, name, and method of application. The Departments of Public Health and Agriculture could contact the people listed as contacts for groups that had contracted to have pesticides applied to offer information that would help to ensure that the methods and materials used were consistent with integrated pest management techniques, were effective, and had the least potential for harm.

Pesticide Advisory Committee. The Pesticide Advisory Committee (created under the Pesticide Control Act) would serve as an advisory body regarding the implementation of the bill, and could review the annual reports required under the bill.

Endangered species. The governing boards of integrated pest management authorities would be required to consult with the Departments of Natural Resources and Agriculture (or a cooperative extension service designated by the MDA) to determine whether a pest management procedure contemplated by the board would have a negative impact on an endangered species (as defined in the federal or state endangered species acts). If the board determined that a proposed procedure would or might have a negative impact on an endangered species, it couldn't pursue that practice and would have to use alternative procedures (if there were alternative procedures that wouldn't have a negative impact on endangered species). The Departments of Natural Resources and Agriculture would be required to help governing boards of pest management authorities (with regard to endangered species and pest management procedures) if so requested by a board.

Gypsy moths. If a pest management authority board sought to suppress gypsy moths in its integrated pest management program, the program would be subject to rules promulgated by the Department of Agriculture.

MCL 333.13901 et al.