**SB403 Summary:** This bill proposes to abolish several boards and commissions at the Department of Agriculture by eliminating statutory language related to the boards and transferring the responsibilities of those statutes to the “big 4” agencies at the department, including the State Plant Board, the Livestock and Poultry Commission, the Forestry Commission, and the Natural Resources Commission.

The bill does not propose to eliminate the Cotton Grower Organization (aka Boll Weevil Eradication Foundation), which manages the eradication program. However, the legislation does amend the statute related to the Organization and proposes to make the Organization a “subcommittee” of the State Plant Board.

The bill does propose to eliminate the following:

Arkansas Agricultural Board (advisory)

Plant Board Related-

Seed Arbitration Committee, Abandoned Pesticide Committee, and State Board of Soil Classifiers

Livestock & Poultry Related-

Milk Stabilization Board, Vet Medical Exam Board

Natural Resources Commission Related-

Water Well Construction Commission, Private Wetland & Riparian Zone Conservation Committee, Red River Commission

Forestry Commission Related-  
Registered Foresters Board

The bill also changes the Director of the Plant Board Hiring Process by removing the role of the State Plant Board and assigning the role to the Governor in the form of an appointment to serve at the pleasure of the Governor. The powers of the director are granted by the Secretary of the Department of Agriculture.

**Brief History of Cotton Grower Organization & Program:** The organization today is a 501 (C) (5), under the internal revenue code, which allows for tax exempt agricultural organizations that are aimed at the betterment of the conditions of those engaged in agriculture, the improvement of their products, and their occupational efficiency. Most states in the cotton belt established these types of entities to operate their programs to have maximum flexibility in collecting assessments, managing funds, and implementing the programs. Such organizations were single purpose - in that they were established to engage in one activity under the leadership of participants in that activity.

The original statute establishing the boll weevil eradication foundation was signed into law by Governor Mike Huckabee in 1993. Governor Mike Huckabee has hailed the program by saying, “The eradication of the boll weevil from Arkansas by Arkansas cotton farmers is one of the most monumental events in our state’s economic history.”

The statute allowed for the State Plant Board to certify a grower organization to implement the program in partnership with the State Plant Board. The structure of the grower organization was also included in the statute. Current law sets the membership of the organization It allowed for the grower organization to have 8 cotton farmers (one, but not more than two, from each zone: NE Ridge; NE Delta, Central; SE; & SW). It allowed for the Plant Board to select 2 growers; the Ag Council to nominate & gov appoint 3 growers; and Farm Bureau to nominate and gov appoint 3 growers. It also allowed for one representative of the State Government to represent the Plant Board to be appointed by the Governor. In addition, 2 representatives from the University of Arkansas BW Technical Advisory Committee (TAC) were allowed to serve as ex-officio members to the board.

Since enactment, the program has operated under its own budget with its own personnel. The current director is Regina Coleman. Over the history of the program, cotton farmers have leveed assessments of up to $35/acre at the peak eradication period when costs exceeded $37M/year. The organization also borrowed money from USDA FSA in cooperation with USDA APHIS. Loans have since been paid back in full, and current assessments in the maintenance phase are set at $3/acre with a $1/acre rebate for a net assessment of $2/acre.

The flexibility granted to the growers and their organization has allowed for the fees to be increased as needed and lowered as needed. By all accounts the public-private partnership has been a success in Arkansas and across the U.S. Cotton belt. Weevils were officially eradicated in Arkansas in 2008, and suppression efforts among states have isolated weevils to an area in SW Texas along the Mexican border.

Arkansas cotton growers continue a maintenance program that includes trapping annually in each cotton zone around cotton acres. The organization maintains a surplus budget of a year’s worth of maintenance income in reserves. Should a reinfestation occur, the organization stands ready to respond, but it’s likely that assessments would need to be adjusted upward to account for costs associated with the effort to combat the pest.

**What Changes to Boll Weevil Program does the SB403 propose?:**

It supplants the Department of Agriculture in lieu of State Plant Board for most parts of law relating to the program, including language where the department “may certify” the grower organization (current law grants the State Plant Board the authority to certify). The same changes apply to authorities to carry out eradication and suppression efforts, and enforcement.

The bill proposes to change the number of growers on the Cotton Grower Org board to 5 with 1 from each zone. It removes 3 grower positions from the board. It removes proportional representation from each zone based on average production.

It removes the industry trade organizations (Ag Council & Farm Bureau) from nomination role in statute. FYI-we are agreeable to this as it is intended to address court rulings related to *McCarty/FarmVoice vs. State Plant Board*. With this bill, the new law would allow Governor to Appoint and Senate to confirm.

Makes the board of directors serve as a “subcommittee” of the State Plant Board.

The bill changes the State Plant Board’s authority on authorizing a referendum among cotton growers from “shall” to “may” upon the request of the cotton grower organization.

The bill changes the direction of where funds will flow upon an assessment to remit the funds to the department rather than the grower organization. However, the bill continues to note that the funds are not to be considered state funds.

**Potential Problems with Bill:**

1. Changing the composition of the Grower Org board in fashion proposed by this bill (from 8 down to 5) presents a number of issues.
   * There is difficulty in finding growers from SW Zone due to small and volatile production.
   * Limiting to 5, could lead to a board of 4 and significant quorum concerns for meetings.
   * Limiting the number to 5 takes away current law provisions, which grant additional seats to larger production zones to provide greater balance of representation based on production. The bill also strikes these provisions from law.
   * Reducing the size of the Foundation board, limits overall grower representation and diminishes knowledge base and abilities of industry cooperation.
   * The Grower Org will have to change by-laws to reflect new structure.
2. Ability to raise assessments in eradication could become difficult with department set with authority under term “may” rather than “shall,” upon the request of Grower Org.
3. Changes to flow of funds could present challenges to the collection and use of funds. Funds need to be guaranteed to flow to the program (i.e. the Grower Organization).
4. Making the Grower Org a subcommittee of the Plant Board creates many questions on role of each organization and authorities of each organization.

**What Changes would we propose?:**

We suggest keeping current law related to the structure of the board of the Grower Organization. If changes need to be made to reduce the number, we prefer a board of 7 growers. We’d like to retain a board comprised of a sufficient number of members to avoid quorum issues and to provide sufficient representation of acres throughout each zone across the state. For background (13 yr acreage average per zone): SW – 4,780; SE - 104,501; CEN – 129,218; NER 85,791; NED 147,798.

Latest Proposed Agreement as of 3.22.23 - (SHS Admin plan to work with Sen. Johnson):

At least 6 growers to board with option up to 7  
5 growers at-large with 1 from each zone & 1 cotton farmer from the plant board  
Provides for larger zones to gain members beyond the 5 from each zone  
Changes 4 year terms to 5 year  
Other technical corrections on 2023 and Delta zone  
Ensures Funds are remitted to Grower Organization instead of Ag Dept.