

HOUSE BILL REPORT

2EHB 1743

As Passed House:
February 12, 2008

Title: An act relating to noxious weed control boards.

Brief Description: Requiring the appointment of county noxious weed control boards.

Sponsors: By Representatives Kretz, B. Sullivan, Sump, Upthegrove and Linville.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 2/8/07, 2/13/07 [DP].

Floor Activity:

Passed House: 3/9/07, 95-2.

Floor Activity:

Passed House: 2/12/08, 91-4.

Brief Summary of Second Engrossed Bill

- Requires each county to have a noxious weed control board in place beginning January 1, 2009.
- Repeals statutes providing for activation and deactivation of county noxious weed control boards.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass. Signed by 15 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Dickerson, Eickmeyer, Grant, Hailey, Kagi, Lantz, McCoy, Newhouse, Orcutt, Strow and VanDeWege.

Staff: Colleen Kerr (786-7168).

Background:

Noxious Weeds

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Noxious weeds are defined in law as plants that, when established, are highly destructive, competitive, or difficult to control by cultural or chemical practices. Having been primarily brought into the state by human action and having no significant natural enemies such as insects or diseases, these plants can multiply rapidly and cause crop losses, reduce biodiversity, and impact fish and wildlife. Noxious weeds are divided into three categories. Class A are noxious weeds that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state (examples: kudzu, Italian thistle). Class B are noxious weeds that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region (examples: Japanese knotweed; purple loosestrife). Class C are any other noxious weeds (examples: babysbreath; common tansy).

Noxious Weed Control

The purpose of Chapter 17.10 RCW, Noxious Weeds - Control Boards, is "to limit economic loss and adverse effects to Washington's agricultural, natural, and human resources due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state."

Current law delineates the duties of land owners and state agencies to control the spread of noxious weeds, and provides for the creation of state, regional, and county noxious weed control boards.

- The 12-member Washington State Noxious Weed Control Board (State Board) has the power to disseminate information to and coordinate educational and weed control efforts by county and regional noxious weed control boards and weed districts. At least once annually, the State Board must conduct a hearing and adopt a list of noxious weeds in rule. The State Board's list determines which plants will be considered noxious weeds and where in the state eradication, control, or prevention of specific noxious weeds will be required.
- Regional noxious weed control boards may be created covering two or more counties.
- Five-member county noxious weed control boards (county boards) have jurisdictional boundaries that are coterminous with the county's borders. County boards enforce property owners' duties to control certain weeds. County boards employ or provide a weed coordinator who inspects land to determine the presence of noxious weeds, offers technical assistance and education, and develops a program to achieve compliance with weed law. Each county board is inactive until activated through one of the following means:
 - Upon petition by county voters or on its own motion, the county legislative authority holds a hearing to determine if there is a need to activate a county board, due to a damaging infestation of noxious weeds. If a need is found, then the county legislative authority appoints the county board.
 - If a county board is not activated within a year of such a hearing, upon petition of county voters or signatures of a majority of an adjacent county board, the State Board shall hold a hearing in the county to determine need for activation. If the need is

found, the State Board will order the county legislative authority to activate the county board and appoint members.

- Upon request of the State Board, the Director of the Department of Agriculture (Department) shall order the county legislative authority to activate the county board immediately if an infestation of a Class A noxious weed or Class B noxious weed designated for control on the State Noxious Weed List is confirmed in the county. As an alternative to activating the county board, the county legislative authority has the option of combating the class A or B weed with county resources and personnel. However, no county may continue for a second consecutive year without activating a county board if the Class A or B weed has not been eradicated.

Currently, 38 of the state's 39 counties have activated county noxious weed control boards.

The Director of the Department, with the advice of the State Board, has the power to require county legislative authorities, county noxious weed control boards, and weed districts to report information, respond to complaints with plans for control, and take immediate action to eradicate or control an infestation.

Summary of Second Engrossed Bill:

Beginning on January 1, 2009, and thereafter, each county must have a county board in place, appointed in the manner prescribed in law. Existing statutory provisions for the activation and deactivation of county noxious weed control boards are repealed. The power of the Department of Agriculture director to take action to control noxious weeds and enforce the law in counties without an activated noxious weed control board ends on January 1, 2009.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) I have had a couple of experiences on my own property that made me appreciate the functioning noxious weed control board in our county. I received a good education on what negative impacts noxious weeds have on the ecosystem and was able to use bio-controls successfully on musk-thistle. Douglas County is the only county in our state without an activated noxious weed control board. People from Douglas County are coming to Okanogan for technical assistance on weed control, and we are glad to help, however the Okanogan Board is funded by assessments on landowners in our county. I mostly like what I see in the bill but until the "may" on page 8, section 15, changes to "shall", the bill still leaves it up to the Department to carry through with getting the board running. The Washington State

Noxious Weed Control Board has surveyed Douglas county four times since 1990 and found Class B designate weeds each time. All four surrounding counties have filed official complaints with the Department, yet Douglas County still has no board. The State Noxious Weed Board does not have the staff or resources to manage the county's program. It is imperative to treat all counties equally in the enforcement of law. County boards can adapt their programs to suit landowners' needs. County boards are the enforcement arm for the state law.

(Opposed) Douglas County is not sitting still. The Foster Creek Conservation District (Conservation District) has led a biological weed control program since 1999 and has had a cost-share on herbicide treatments. We have worked with landowners successfully on a voluntary, non-confrontative, non-assessment basis. We provide training, information, pesticide recertification, and outreach. We are now looking at forming a coordinated weed management area which is nonregulatory alignment of state, local, and federal weed control. The county supervisors and landowners have a concern about instituting an assessment on land to pay for a county control board. The Conservation District has no enforcement authority. If there is a "bad actor" that refuses to deal with noxious weed infestation, instead of using enforcement mechanisms there are contractual obligations that under the Conservation Reserve Program the United States Department of Agriculture can use to force landowners to control weeds or lose their contracts. Douglas County has answered the complaint letters from neighboring counties by going to the landowners who had weeds and they each cleaned theirs up. One size does not fit all. Weed boards are politically unpopular and seen as frivolous spending of taxpayer money. We don't want to add a burden to overtaxed farmers.

Persons Testifying: (In support) Representative Kretz, prime sponsor; Ray Fann, Washington State Noxious Weed Control Board; Anna Lyon, Okanogan County Noxious Weed Board; and Bob Gish, Backcountry Horseman of Washington.

(Opposed) Mary Hunt, Douglas County Commission; Britt Dudek, Foster Creek Conservation District; Paul Malone; Margaret Viebrock, Washington State University Extension; and Rusty Hunt.

Persons Signed In To Testify But Not Testifying: Tony Viebrock.