
HOUSE BILL 1743

State of Washington 60th Legislature 2007 Regular Session

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

Read first time 01/26/2007. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to noxious weed control boards; amending RCW
2 17.10.010, 17.10.020, 17.10.030, 17.10.040, 17.10.050, 17.10.060,
3 17.10.074, 17.10.080, 17.10.190, 17.10.205, 17.10.240, 17.10.250,
4 17.10.280, and 17.10.890; adding a new section to chapter 17.10 RCW;
5 and recodifying RCW 17.10.890.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 17.10.010 and 1997 c 353 s 2 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise:

11 (1) "Noxious weed" means a plant that when established is highly
12 destructive, competitive, or difficult to control by cultural or
13 chemical practices.

14 (2) "State noxious weed list" means a list of noxious weeds adopted
15 by the state noxious weed control board. The list is divided into
16 three classes:

17 (a) Class A consists of those noxious weeds not native to the state
18 that are of limited distribution or are unrecorded in the state and
19 that pose a serious threat to the state;

1 (b) Class B consists of those noxious weeds not native to the state
2 that are of limited distribution or are unrecorded in a region of the
3 state and that pose a serious threat to that region;

4 (c) Class C consists of any other noxious weeds.

5 (3) "Person" means any individual, partnership, corporation, firm,
6 the state or any department, agency, or subdivision thereof, or any
7 other entity.

8 (4) "Owner" means the person in actual control of property, or his
9 or her agent, whether the control is based on legal or equitable title
10 or on any other interest entitling the holder to possession and, for
11 purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means
12 the possessor of legal or equitable title or the possessor of an
13 easement: PROVIDED, That when the possessor of an easement has the
14 right to control or limit the growth of vegetation within the
15 boundaries of an easement, only the possessor of the easement is
16 deemed, for the purpose of this chapter, an "owner" of the property
17 within the boundaries of the easement.

18 (5) As pertains to the duty of an owner, the words "control",
19 "contain", "eradicate", and the term "prevent the spread of noxious
20 weeds" means conforming to the standards of noxious weed control or
21 prevention in this chapter or as adopted by rule in chapter 16-750 WAC
22 by the state noxious weed control board and (~~an activated~~) a county
23 noxious weed control board.

24 (6) "Agent" means any occupant or any other person acting for the
25 owner and working or in charge of the land.

26 (7) "Agricultural purposes" are those that are intended to provide
27 for the growth and harvest of food and fiber.

28 (8) "Director" means the director of the department of agriculture
29 or the director's appointed representative.

30 (9) "Weed district" means a weed district as defined in chapters
31 17.04 and 17.06 RCW.

32 (10) "Aquatic noxious weed" means an aquatic plant species that is
33 listed on the state weed list under RCW 17.10.080.

34 (11) "Screenings" means a mixture of mill or elevator run mixture
35 or a combination of varying amounts of materials obtained in the
36 process of cleaning either grain or seeds, or both, such as light or
37 broken grain or seed, weed seeds, hulls, chaff, joints, straw, elevator
38 dust, floor sweepings, sand, and dirt.

1 position. The elected members serve staggered terms. Elections for
2 the elected members of the board shall be held thirty days prior to the
3 expiration date of their respective terms. Nominations and elections
4 shall be by mail and conducted by the board.

5 The board shall conduct its first meeting within thirty days after
6 all its members have been elected. The board shall elect from its
7 members a chair and other officers as may be necessary. A majority of
8 the voting members of the board constitutes a quorum for the
9 transaction of business and is necessary for any action taken by the
10 board. The members of the board serve without salary, but shall be
11 reimbursed for travel expenses incurred in the performance of their
12 duties under this chapter in accordance with RCW 43.03.050 and
13 43.03.060.

14 **Sec. 4.** RCW 17.10.040 and 1997 c 353 s 5 are each amended to read
15 as follows:

16 ~~((An inactive county noxious weed control board may be activated by
17 any one of the following methods:~~

18 ~~(1) Either within sixty days after a petition is filed by one
19 hundred registered voters within the county or, on its own motion, the
20 county legislative authority shall hold a hearing to determine whether
21 there is a need, due to a damaging infestation of noxious weeds, to
22 activate the county noxious weed control board. If such a need is
23 found to exist, then the county legislative authority shall, in the
24 manner provided by RCW 17.10.050, appoint five persons to the county's
25 noxious weed control board.~~

26 ~~(2) If the county's noxious weed control board is not activated
27 within one year following a hearing by the county legislative authority
28 to determine the need for activation, then upon the filing with the
29 state noxious weed control board of a petition comprised either of the
30 signatures of at least two hundred registered voters within the county,
31 or of the signatures of a majority of an adjacent county's noxious weed
32 control board, the state board shall, within six months of the date of
33 the filing, hold a hearing in the county to determine the need for
34 activation. If a need for activation is found to exist, then the state
35 board shall order the county legislative authority to activate the
36 county's noxious weed control board and to appoint members to the board
37 in the manner provided by RCW 17.10.050.~~

1 ~~(3) The director, upon request of the state noxious weed control~~
2 ~~board, shall order a county legislative authority to activate the~~
3 ~~noxious weed control board immediately if an infestation of a class A~~
4 ~~noxious weed or class B noxious weed designated for control on the~~
5 ~~state noxious weed list is confirmed in that county. The county~~
6 ~~legislative authority may, as an alternative to activating the noxious~~
7 ~~weed board, combat the class A noxious weed or class B noxious weed~~
8 ~~with county resources and personnel operating with the authorities and~~
9 ~~responsibilities imposed by this chapter on a county noxious weed~~
10 ~~control board. No county may continue without a noxious weed control~~
11 ~~board for a second consecutive year if the class A noxious weed or~~
12 ~~class B noxious weed has not been eradicated.))~~ (1) Beginning January
13 1, 2008, and thereafter, each county must have a noxious weed control
14 board in place, appointed in the manner provided in section 5 of this
15 act. If any county legislative authority fails to make the
16 appointments by January 1, 2008, the director and the state noxious
17 weed control board shall jointly appoint the county noxious weed
18 control board and manage its operations until such time that the county
19 legislative authority assumes the responsibility. The county shall be
20 held liable for payment of the state's expenses of appointing and
21 operating the county noxious weed control board. The director may
22 bring a civil action in a court of competent jurisdiction to collect
23 the expenses.

24 (2) A county noxious weed control board may be deactivated in
25 accordance with RCW 17.10.890 (as recodified by this act).

26 **Sec. 5.** RCW 17.10.050 and 1997 c 353 s 6 are each amended to read
27 as follows:

28 (1) Each ~~((activated))~~ county noxious weed control board consists
29 of five voting members appointed by the county legislative authority.
30 In appointing the voting members, the county legislative authority
31 shall divide the county into five geographical areas that best
32 represent the county's interests, and appoint a voting member from each
33 geographical area. At least four of the voting members shall be
34 engaged in the primary production of agricultural products. There is
35 one nonvoting member on the board who is the chair of the county
36 extension office or an extension agent appointed by the chair of the
37 county extension office. Each voting member of the board serves a term

1 of four years, except that the county legislative authority shall, when
2 a board is first (~~activated~~) appointed under this chapter, designate
3 two voting members to serve terms of two years. The board members
4 shall not receive a salary but shall be compensated for actual and
5 necessary expenses incurred in the performance of their official
6 duties.

7 (2)(a) The voting members of the board serve until their
8 replacements are appointed. New members of the board shall be
9 appointed at least thirty days prior to the expiration of any board
10 member's term of office.

11 (b) Notice of expiration of a term of office shall be published at
12 least twice in a weekly or daily newspaper of general circulation in
13 the (~~section [geographical area]~~) geographical area with last
14 publication occurring at least ten days prior to the nomination. All
15 persons interested in appointment to the board and residing in the
16 geographical area with a pending nomination shall make a written
17 application that includes the signatures of at least ten registered
18 voters residing in the geographical area supporting the nomination to
19 the county noxious weed control board. After nominations close, the
20 county noxious weed control board shall, after a hearing, send the
21 applications to the county legislative authority recommending the names
22 of the most qualified candidates, and post the names of those nominees
23 in the county courthouse and publish in at least one newspaper of
24 general circulation in the county. The county legislative authority,
25 within ten days of receiving the list of nominees, shall appoint one of
26 those nominees to the county noxious weed control board to represent
27 that geographical area during that term of office.

28 (3) Within thirty days after all the members have been appointed,
29 the board shall conduct its first meeting. A majority of the voting
30 members of the board constitutes a quorum for the transaction of
31 business and is necessary for any action taken by the board. The board
32 shall elect from its members a chair and other officers as may be
33 necessary.

34 (4) In case of a vacancy occurring in any voting position on a
35 county noxious weed control board, the county legislative authority of
36 the county in which the board is located shall appoint a qualified
37 person to fill the vacancy for the unexpired term.

1 **Sec. 6.** RCW 17.10.060 and 1997 c 353 s 7 are each amended to read
2 as follows:

3 (1) Each (~~activated~~) county noxious weed control board shall
4 employ or otherwise provide a weed coordinator whose duties are fixed
5 by the board but which shall include inspecting land to determine the
6 presence of noxious weeds, offering technical assistance and education,
7 and developing a program to achieve compliance with the weed law. The
8 weed coordinator may be employed full time, part time, or seasonally by
9 the county noxious weed control board. County weed board employment
10 practices shall comply with county personnel policies. Within sixty
11 days from initial employment the weed coordinator shall obtain a pest
12 control consultant license, a pesticide operator license, and the
13 necessary endorsements on the licenses as required by law. Each board
14 may purchase, rent, or lease equipment, facilities, or products and may
15 hire additional persons as it deems necessary for the administration of
16 the county's noxious weed control program.

17 (2) Each (~~activated~~) county noxious weed control board has the
18 power to adopt rules and regulations, subject to notice and hearing as
19 provided in chapters 42.30 and 42.32 RCW, as are necessary for an
20 effective county weed control or eradication program.

21 (3) Each (~~activated~~) county noxious weed control board shall meet
22 with a quorum at least quarterly.

23 **Sec. 7.** RCW 17.10.074 and 1997 c 353 s 9 are each amended to read
24 as follows:

25 (1) In addition to the powers conferred on the director under other
26 provisions of this chapter, the director, with the advice of the state
27 noxious weed control board, has power to:

28 (a) Require the county legislative authority or the noxious weed
29 control board of any county or any weed district to report to it
30 concerning the presence, absence, or estimated amount of noxious weeds
31 and measures, if any, taken or planned for the control thereof;

32 (b) Employ staff as may be necessary in the administration of this
33 chapter;

34 (c) Adopt, amend, or repeal rules, pursuant to the administrative
35 procedure act, chapter 34.05 RCW, as may be necessary to carry out this
36 chapter;

1 (d) Do such things as may be necessary and incidental to the
2 administration of its functions pursuant to this chapter including but
3 not limited to surveying for and detecting noxious weed infestations;

4 (e) Upon receipt of a complaint signed by a majority of the members
5 of an adjacent county noxious weed control board or weed district, or
6 by one hundred registered voters that are land owners within the
7 county, require the county legislative authority or noxious weed
8 control board of the county or weed district that is the subject of the
9 complaint to respond to the complaint within forty-five days with a
10 plan for the control of the noxious weeds cited in the complaint;

11 (f) If the complaint in (e) of this subsection involves a class A
12 or class B noxious weed, order the county legislative authority,
13 noxious weed control board, or weed district to take immediate action
14 to eradicate or control the noxious weed infestation. If the county or
15 the weed district does not take action to control the noxious weed
16 infestation in accordance with the order, the director may control it
17 or cause it to be controlled. The county or weed district is liable
18 for payment of the expense of the control work including necessary
19 costs and expenses for attorneys' fees incurred by the director in
20 securing payment from the county or weed district. The director may
21 bring a civil action in a court of competent jurisdiction to collect
22 the expenses of the control work, costs, and attorneys' fees;

23 (g) In counties without an (~~activated~~) existing noxious weed
24 control board, enter upon any property as provided for in RCW
25 17.10.160, issue or cause to be issued notices and citations and take
26 the necessary action to control noxious weeds as provided in RCW
27 17.10.170, hold hearings on any charge or cost of control action taken
28 as provided for in RCW 17.10.180, issue a notice of civil infraction as
29 provided for in RCW 17.10.230 and 17.10.310 through (~~and~~) and
30 17.10.350, and place a lien on any property pursuant to RCW 17.10.280,
31 17.10.290, and 17.10.300 with the same authorities and responsibilities
32 imposed by these sections on county noxious weed control boards;

33 (h) Adopt a list of noxious weed seeds and toxic weeds which shall
34 be controlled in designated articles, products, or feed stuffs as
35 provided for in RCW 17.10.235.

36 (2) The moneys appropriated for noxious weed control to the
37 department shall be used for administration of the state noxious weed
38 control board, the administration of the director's powers under this

1 chapter, the purchase of materials for controlling, containing, or
2 eradicating noxious weeds, the purchase or collection of biological
3 control agents for controlling noxious weeds, and the contracting for
4 services to carry out the purposes of this chapter. (~~In a county with~~
5 ~~an activated noxious weed control board,~~) The director shall make
6 every effort to contract with (~~that~~) county noxious weed control
7 boards for the needed services.

8 (3) If the director determines the need to reallocate funds
9 previously designated for county use, the director shall convene a
10 meeting of the state noxious weed control board to seek its advice
11 concerning any reallocation.

12 **Sec. 8.** RCW 17.10.080 and 1997 c 353 s 10 are each amended to read
13 as follows:

14 (1) The state noxious weed control board shall each year or more
15 often, following a hearing, adopt a state noxious weed list.

16 (2) Any person may request during a comment period established by
17 the state weed board the inclusion, deletion, or designation change of
18 any plant to the state noxious weed list.

19 (3) The state noxious weed control board shall send a copy of the
20 list to each (~~activated~~) county noxious weed control board, to each
21 weed district, and to the county legislative authority (~~of each county~~
22 ~~with an inactive noxious weed control board~~)).

23 (4) The record of rule making must include the written findings of
24 the board for the inclusion of each plant on the list. The findings
25 shall be made available upon request to any interested person.

26 **Sec. 9.** RCW 17.10.190 and 1997 c 353 s 23 are each amended to read
27 as follows:

28 Each (~~activated~~) county noxious weed control board must publish
29 annually, and at other times as may be appropriate, in at least one
30 newspaper of general circulation within its area, a general notice.
31 The notice shall direct attention to the need for noxious weed control
32 and give other information concerning noxious weed control requirements
33 as may be appropriate, or indicate where such information may be
34 secured. In addition to the general notice required, the county
35 noxious weed control board may use any appropriate media for the
36 dissemination of information to the public as may be calculated to

1 bring the need for noxious weed control to the attention of owners.
2 The board may consult with individual owners concerning their problems
3 of noxious weed control and may provide them with information and
4 advice, including giving specific instructions and methods when and how
5 certain named weeds are to be controlled. The methods may include some
6 combination of physical, mechanical, cultural, chemical, and/or
7 biological methods, including livestock. Publication of a notice as
8 required by this section is not a condition precedent to the
9 enforcement of this chapter.

10 **Sec. 10.** RCW 17.10.205 and 1997 c 353 s 24 are each amended to
11 read as follows:

12 Open areas subject to the spread of noxious weeds, including but
13 not limited to subdivisions, school grounds, playgrounds, parks, and
14 rights of way shall be subject to regulation by (~~activated~~) county
15 noxious weed control boards in the same manner and to the same extent
16 as is provided for all terrestrial and aquatic lands of the state.

17 **Sec. 11.** RCW 17.10.240 and 1997 c 353 s 27 are each amended to
18 read as follows:

19 (1) (~~The activated~~) Each county noxious weed control board (~~of~~
20 ~~each county~~) shall annually submit a budget to the county legislative
21 authority for the operating cost of the county's weed program for the
22 ensuing fiscal year: PROVIDED, That if the board finds the budget
23 approved by the legislative authority is insufficient for an effective
24 county noxious weed control program it shall petition the county
25 legislative authority to hold a hearing as provided in RCW 17.10.890
26 (as recodified by this act). Control of weeds is a benefit to the
27 lands within any such section. Funding for the budget is derived from
28 any or all of the following:

29 (a) The county legislative authority may, in lieu of a tax, levy an
30 assessment against the land for this purpose. Prior to the levying of
31 an assessment the county noxious weed control board shall hold a public
32 hearing at which it will gather information to serve as a basis for
33 classification and then classify the lands into suitable
34 classifications, including but not limited to dry lands, range lands,
35 irrigated lands, nonuse lands, forest lands, or federal lands. The
36 board shall develop and forward to the county legislative authority, as

1 a proposed level of assessment for each class, an amount as seems just.
2 The assessment rate shall be either uniform per acre in its respective
3 class or a flat rate per parcel rate plus a uniform rate per acre:
4 PROVIDED, That if no benefits are found to accrue to a class of land,
5 a zero assessment may be levied. The county legislative authority,
6 upon receipt of the proposed levels of assessment from the board, after
7 a hearing, shall accept or modify by resolution, or refer back to the
8 board for its reconsideration all or any portion of the proposed levels
9 of assessment. The amount of the assessment constitutes a lien against
10 the property. The county legislative authority may by resolution or
11 ordinance require that notice of the lien be sent to each owner of
12 property for which the assessment has not been paid by the date it was
13 due and that each lien created be collected by the treasurer in the
14 same manner as delinquent real property tax, if within thirty days from
15 the date the owner is sent notice of the lien, including the amount
16 thereof, the lien remains unpaid and an appeal has not been made
17 pursuant to RCW 17.10.180. Liens treated as delinquent taxes bear
18 interest at the rate of twelve percent per annum and the interest
19 accrues as of the date notice of the lien is sent to the owner:
20 PROVIDED FURTHER, That any collections for the lien shall not be
21 considered as tax; or

22 (b) The county legislative authority may appropriate money from the
23 county general fund necessary for the administration of the county
24 noxious weed control program. In addition the county legislative
25 authority may make emergency appropriations as it deems necessary for
26 the implementation of this chapter.

27 (2) Forest lands used solely for the planting, growing, or
28 harvesting of trees and which are typified, except during a single
29 period of five years following clear-cut logging, by canopies so dense
30 as to prohibit growth of an understory may be subject to an annual
31 noxious weed assessment levied by a county legislative authority that
32 does not exceed one-tenth of the weighted average per acre noxious weed
33 assessment levied on all other lands in unincorporated areas within the
34 county that are subject to the weed assessment. This assessment shall
35 be computed in accordance with the formula in subsection (3) of this
36 section.

37 (3) The calculation of the "weighted average per acre noxious weed
38 assessment" is a ratio expressed as follows:

1 (a) The numerator is the total amount of funds estimated to be
2 collected from the per acre assessment on all lands except (i) forest
3 lands as identified in subsection (2) of this section, (ii) lands
4 exempt from the noxious weed assessment, and (iii) lands located in an
5 incorporated area.

6 (b) The denominator is the total acreage from which funds in (a) of
7 this subsection are collected. For lands of less than one acre in
8 size, the denominator calculation may be based on the following
9 assumptions: (i) Unimproved lands are calculated as being one-half
10 acre in size on the average, and (ii) improved lands are calculated as
11 being one-third acre in size on the average. The county legislative
12 authority may choose to calculate the denominator for lands of less
13 than one acre in size using other assumptions about average parcel size
14 based on local information.

15 (4) For those counties that levy a per parcel assessment to help
16 fund noxious weed control programs, the per parcel assessment on forest
17 lands as defined in subsection (2) of this section shall not exceed
18 one-tenth of the per parcel assessment on nonforest lands.

19 **Sec. 12.** RCW 17.10.250 and 1997 c 353 s 28 are each amended to
20 read as follows:

21 The legislative authority of any county with ~~((an activated))~~ a
22 noxious weed control board or the board of any weed district may apply
23 to the director for noxious weed control funds when informed by the
24 director that funds are available. Any applicant must employ adequate
25 administrative personnel to supervise an effective weed control program
26 as determined by the director with advice from the state noxious weed
27 control board. The director with advice from the state noxious weed
28 control board shall adopt rules on the distribution and use of noxious
29 weed control account funds.

30 **Sec. 13.** RCW 17.10.280 and 1987 c 438 s 35 are each amended to
31 read as follows:

32 Every ~~((activated))~~ county noxious weed control board performing
33 labor, furnishing material, or renting, leasing or otherwise supplying
34 equipment, to be used in the control of noxious weeds, or in causing
35 control of noxious weeds, upon any property pursuant to the provisions
36 of chapter 17.10 RCW has a lien upon such property for the labor

1 performed, material furnished, or equipment supplied whether performed,
2 furnished, or supplied with the consent of the owner, or his agent, of
3 such property, or without the consent of said owner or agent.

4 **Sec. 14.** RCW 17.10.890 and 1997 c 353 s 32 are each amended to
5 read as follows:

6 The following procedures shall be followed to deactivate a county
7 noxious weed control board:

8 (1) The county legislative authority holds a hearing to determine
9 whether there continues to be a need for an activated county noxious
10 weed control board if:

11 (a) A petition is filed by one hundred registered voters within the
12 county;

13 (b) A petition is filed by a county noxious weed control board as
14 provided in RCW 17.10.240; or

15 (c) The county legislative authority passes a motion to hold such
16 a hearing.

17 (2) Except as provided in subsection ~~((4))~~ (5) of this section,
18 the hearing shall be held within sixty days of final action taken under
19 subsection (1) of this section.

20 ~~((If, after a hearing, the county legislative authority
21 determines that no need exists for a county noxious weed control board,
22 due to the absence of class A or class B noxious weeds designated for
23 control in the region, the county legislative authority shall
24 deactivate the board))~~ At the public hearing, an official from the
25 state noxious weed control board shall provide written and oral
26 testimony as to the presence or absence of class A or class B noxious
27 weeds designated for control in the region. If testimony of the state
28 noxious weed control board official confirms the absence of such weeds
29 and that there is no need at present to continue the county noxious
30 weed control board, only then may the county legislative authority
31 deactivate the county noxious weed control board.

32 (4) If at any time, class A or class B noxious weeds designated for
33 control in the region are found present in the county, the county
34 legislative authority must activate the county noxious weed control
35 board within thirty days of the finding. If the county legislative
36 authority fails to activate the county noxious weed control board as

1 required under this subsection, the director and the state noxious weed
2 control board shall jointly appoint a county noxious weed control board
3 as provided in RCW 17.10.040.

4 ((+4)) (5) The county legislative authority shall not convene a
5 hearing as provided for in subsection (1) of this section more
6 frequently than once a year.

7 NEW SECTION. Sec. 15. RCW 17.10.890 is recodified as a section in
8 chapter 17.10 RCW to follow RCW 17.10.040.

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