

SENATE BILL REPORT

SHB 1355

As of March 16, 2021

Title: An act relating to noxious weeds.

Brief Description: Concerning noxious weeds.

Sponsors: House Committee on Rural Development, Agriculture & Natural Resources (originally sponsored by Representatives Dent, Chandler, Boehnke, Lovick, Dye, Fitzgibbon, Klippert, Jacobsen and Schmick).

Brief History: Passed House: 3/2/21, 97-0.

Committee Activity: Agriculture, Water, Natural Resources & Parks: 3/16/21.

Brief Summary of Bill

- Makes changes to the Washington State Noxious Weed Control Board and county noxious weed control board provisions.
- Requires the county legislative authority in counties with a noxious weed assessment to determine the amount of assessment to which state-managed land, state-owned land, or a state right-of-way would be liable if the land were in private ownership and requires payment from state agencies for those assessments.
- Requires forestland owners to control and prevent the spread of Class C noxious weeds within specified distances of adjacent lands, roads, navigable rivers, and certain other areas.
- Adds county noxious weed control boards and weed districts to the class of assessing districts may levy assessments and charges on state lands.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

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

Staff: Karen Epps (786-7424)

Background: Noxious Weeds. Class A weeds are noxious weeds not native to Washington and of limited distribution, or are unrecorded in Washington yet could cause a serious threat if established. Class B weeds are non-native plants of limited distribution in a region of the state, but could cause a serious threat in that region. Class C weeds are all other noxious weeds. Noxious weeds are identified and listed by the Washington State Noxious Weed Control Board (board).

Washington State Noxious Weed Control Board. The board is comprised of nine voting members and three nonvoting members. Four of the voting members must be elected by the members of county noxious weed boards (county board), two members must be from the westside and two from the eastside of the state. One member must be elected by the directors of weed districts. The director of the Department of Agriculture (WSDA) and member of a county legislative authority also serve on the board. WSDA appoints two members of the public and three nonvoting members representing scientific disciplines related to weed control. Board members serve for three years.

WSDA, with the advice of the board, has the power to:

- require a county or county board to report on its noxious weeds;
- employ staff, including a state noxious weed control board executive secretary;
- adopt rules and do administrative functions as needed;
- require a county or county board to respond to complaints within 45 days with a plan for controlling the noxious weeds under the complaint;
- order the county or county board to take immediate action to eradicate or control the noxious weed infestation;
- in counties without a county board, enter property, issue notices and citations, and take necessary action to control noxious weeds, as well as hold hearings, issue civil infractions, and place a lien on property; and
- adopt a list of noxious weed seeds and toxic weeds which must be controlled.

The board must adopt a statewide noxious weed list at least once a year following a public hearing. Once a state noxious weed list is adopted, county boards must select weeds identified on the state list for inclusion on the local noxious weed list for that county. Each county is empowered to have a county board within its jurisdiction.

County Noxious Weed Control Boards. A county board consists of five voting members appointed by the county legislative authority, representing the geographic area of the county, with at least four in agriculture. The chair of the county extension office is a nonvoting member. Each county board must employ a weed coordinator. A county board may be deactivated if a county legislative authority determines no need exists for a county board. If the board receives a petition from at least 100 registered voters in a county requesting a weed be listed or where an adjacent county board alleges its noxious weed control program is being hampered by a county not including the weed on its noxious weed

list, the board may, following a hearing, order the county board to include the noxious weed on its list.

Weed Districts. Each county has the authority to activate a weed district. A weed district may be activated to serve an entire county or to serve only a portion of a county. Weed districts were created by legislation enacted several decades prior to the enactment of the legislation that created county boards. Weed districts in existence at the time of the enactment of the county board legislation were authorized to continue as weed districts or to dissolve and be replaced by a county board.

Noxious Weed Control. Once a weed is included on a county's weed list, certain responsibilities apply to landowners within that county. Landowners are responsible for eradicating all Class A weeds as well as controlling the spread of Class B and Class C weeds listed on the county list. Forestland owners must also eradicate all Class A weeds, control and prevent the spread of Class B weeds on the county list, and control Class C weeds on the county list within a 1000 foot buffer strip of adjacent land and for a five-year period following harvesting the trees. The enforcement of violations of these duties is the responsibility of the county weed boards.

State agencies must control noxious weeds on lands they own, lease, or otherwise control through integrated pest management practices. Open areas subject to the spread of noxious weeds are subject to regulation by county boards in the same manner and to the same extent as all other lands.

Summary of Bill: Washington State Noxious Weed Control Board. A statewide association representing county noxious weed coordinators may appoint a technical advisor to the board as a nonvoting member. The term of office for board members is changed to four years. The board may employ an educational specialist. With advice from the board, WSDA must take, rather than may take, certain actions, including:

- requiring a county or county board to respond to complaints within 45 days with a plan for controlling the noxious weeds under the complaint;
- ordering the county or county board to take immediate action to eradicate or control the noxious weed infestation;
- entering property, issuing notices and citations, and taking necessary action to control noxious weeds, as well as holding hearings, issuing civil infractions, and placing a lien on property in counties without a county board; and
- adopting a list of noxious weed seeds and toxic weeds which must be controlled.

The board must hold, rather than may hold, hearings under certain circumstances, including:

- when the board receives a petition from at least 100 registered voters within the county requesting the weed be listed; and
- when the Board receives a request from a county board or weed district to add a noxious weed to the list of a neighboring county, and documents its noxious weed control program is being hampered by the failure to include the weed on the

neighboring county's noxious weed list.

County Noxious Weed Control Boards. The county legislative authority must consult with the county board when appointing members to the county board. At least three members of a county board must be engaged in agriculture. The director, rather than chair, of the county extension office is a nonvoting member. The names of nominees to the county board must be posted in the county courthouse or on the county website. The county legislative authority must appoint one of the nominees to the county board within 60 days of receiving the list of nominees. If the county legislative authority fails to appoint a nominee within the 60-day period, the county board must appoint a nominee only in order to meet a quorum, and only until the county legislative authority appoints a nominee to fill the vacant position. No more than three members of a county board may be appointed by the county board.

A weed coordinator employed by a county board must obtain licensure consistent with WSDA pesticide license rules. County boards or weed districts may request WSDA to inspect products, screenings, articles, or feed stuffs to determine the presence of noxious weeds. A county board may only be deactivated if there are no class A or class B noxious weeds in the county.

A county legislative authority may use the following as the basis upon which special assessments are imposed in order to fund county boards: activities and programs to limit economic loss and adverse effects due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state that are declared to be of special benefit, including to lands owned or held by the state.

Whenever there is included within the jurisdiction of any county board, lands owned or held by the state, the county legislative authority must determine the amount of the assessment for which the land would be liable if the land were in private ownership. Assessments on lands owned or held by the state must be presented to the appropriate state agency and must be paid by the appropriate state agency, according to the process set forth in law. The weed board assessment rate for land classified as a right-of-way must be based on centerline miles. "Centerline miles" means the length of any given road right-of-way corridor in miles, along the center line of the overall roadway alignment.

Weed Districts. Activities and programs to limit economic loss and adverse effects due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state are declared to be of special benefit, including to lands owned or held by the state, and may be used as the basis upon which special assessments are imposed by the county legislative authority to fund weed districts, including upon lands owned by the state.

Noxious Weed Control. Every forestland owner that owns forestlands used solely for growing and harvesting trees must control and prevent the spread of all Class B and Class C noxious weeds on the county list within 1000 feet of adjacent land uses, within 25 feet of all

privately owned roads, and within 200 feet of navigable rivers, gravel pits, log yards, and staging areas. The definition of Class C weeds is amended to provide that Class C weeds consist of any other noxious weeds that are not native to Washington.

State agencies must appoint a liaison to serve as a common point of contact for all county boards and must develop and implement noxious weed control plans.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: A large group of stakeholders discussed changes to the noxious weed statutes last interim and this bill is the result of those discussions. Washington is the most trade-dependent state in the nation, and it cannot export agricultural commodities, including timothy hay, if there are noxious weeds in the product. If noxious weed is in a hay bale of timothy hay, then the entire hay bale cannot be exported. There were noxious weeds along I-90 by hay fields and the growers could not take care of the problem because they do not own the land. Previously, state agencies with land in a county paid the county assessment on their parcels, but the Department of Transportation (WSDOT) stopped paying their assessments. The bill provides clear definitions, mandates noxious weed control along corridors that allow for spread, includes much needed technical updates, and meets the needs of the stakeholders.

CON: WSDOT supports the intent of the bill and relies on the cooperation of the state board and county boards to be successful in controlling noxious weeds on its lands. WSDOT is concerned about the significant staff time that will be required to work with 26 counties to establish equitable assessments on all WSDOT rights-of-way, including staff time to attend county assessment hearings and for administrative review to ensure correct assessment of WSDOT's more than 10,000 acres of land. WSDOT will need to perform this work prior to paying the assessment. Additional assessments will result in an increase to the maintenance budget of approximately \$50,000 per year, which will reduce WSDOT's ability to respond to high-priority needs. While the issues may seem minor, they represent significant risk for WSDOT and the agency did not have the opportunity to fully review these issues prior to the introduction of the bill and scheduling of this hearing.

Persons Testifying: PRO: Representative Tom Dent, Prime Sponsor; Mary Tallman Fee, Washington State Noxious Weed Control Board.

CON: Randy Johnson, Washington State Department of Transportation; James Morin, Washington State Department of Transportation.

Persons Signed In To Testify But Not Testifying: No one.