

ANALYSIS OF ESSB 5281

House Agriculture & Ecology Committee

March 20, 1997

BACKGROUND:

The State Noxious Weed Control Board is responsible for preparing an annual listing of noxious weeds based upon the amount of threat that they pose in the state. The board also provides assistance to county noxious weed control boards and weed districts. County noxious weed control boards identify noxious weed infestations, provide technical assistance to landowners, and enforce the noxious weed control laws on private property.

The director of the Department of Agriculture is required to adopt rules with the advice of the State Noxious Weed Control Board which designate noxious weed seeds which must be controlled in products or articles to help prevent the spread of noxious weeds. The rules include the maximum amount of the noxious weed seeds that are permitted in the product or article. Similar rules must be adopted to control toxic weeds in feed stuffs for animals.

The noxious weed community has identified a number of recommended changes to existing statutes.

SUMMARY:

The purpose of the law is to protect all agricultural, natural resources, and human resources from economic loss and adverse affects, due to noxious weeds for both land and aquatic areas.

The director of the Department of Agriculture is required to order a county to activate a county noxious weed control board upon the request of the state board if an infestation of Class A or B noxious weeds occurs in the county.

The requirement that the board members' districts be of roughly equal area is changed so that the county legislative authority may divide the county into five areas that best represent the county's interests. An activated county weed board must meet with a quorum at least quarterly. In counties where spartina has been designated as a noxious weed, the member of the country weed board must have knowledge of spartina control.

Each county weed board is required to hire or otherwise provide a weed coordinator. The weed coordinator may be employed on a full-time, part-time, or seasonal basis. The duties of a weed coordinator are fixed by the board but must include offering technical assistance and

education, and developing a program to achieve compliance with the weed laws. The board must comply with county personnel policies.

If the director receives a complaint about a county weed board, weed district, or county legislative authority from 500 registered voters that are landowners within the county, the director may order it to respond to the complaint within 45 days with a plan for the control of the noxious weeds cited in the complaint. If the complaint is about Class A or B noxious weeds and the county legislative authority, county weed board, or weed district does not take action, the director can control the infestation and bring a civil action to recover the expenses of the control work, costs, and attorneys' fees.

Changes are made to the process by which the state board adopts its state noxious weed list. Any person may request the inclusion, deletion, or designation change for any plant during the comment period. The addition or deletion of a weed from the list no longer constitutes a substantial change in a proposed rule-making that requires a new publication of notice and hearing.

The amount of time in which a county weed board must adopt the state noxious weed list and select those weeds from the Class B and C lists for control is extended from 30 days to 90 days. Similarly, the amount of time in which a regional noxious weed control board must adopt the state noxious weed list and select weeds for regional control is extended from 30 days to 90 days.

Landowner responsibilities are clarified to require the landowner to eradicate all Class A noxious weeds, control and prevent the spread of all Class B noxious weeds designated for control in the area, and control and prevent the spread of all Class B and C noxious weeds on the county weed list as locally mandated as control priorities. If the land is forest land, the owner is only required to control and prevent the spread of Class C noxious weeds within a 1000 foot buffer strip of adjacent land uses. Forest land owners are only responsible for weed control of Class C weeds for a single 5-year period after harvesting the trees. If the land is farm land, the owner is only required to eradicate class A weeds and control Class B weeds designated for control in the region.

State agencies are required to develop their plans to control noxious weeds in cooperation with county weed boards.

When a property owner refuses permission for an authorized agent or employee of a weed board to inspect the property, a judge may issue a warrant to take specimens of weeds or other materials, conduct a general inspection, and perform eradication or control work.

If a property owner receives notice of a violation from the weed board in a prior growing season, and another violation is occurring, the county weed board may require destruction of all above ground plant parts at the most effective point in the growing season.

If an infestation is so serious that a quarantine of the land is required, a legal action for the collection of the costs for control work may be instituted against the property owner.

The director of Agriculture is required to adopt rules with the advice of the state board which

designates noxious weed seeds which must be controlled in screenings. Screenings– are defined as a mixture of mill or elevator-run mixture or a combination of varying amounts of materials obtained in the process of cleaning either grain or seeds. Anyone who knowingly or negligently sells or distributes a product, article, screenings, or feed stuff designated by rule containing weed seeds or toxic weeds in an amount exceeding the allowed amount is guilty of a misdemeanor.

A county weed board may only be deactivated by the county legislative authority if they find that there are no Class A or B noxious weeds designated for control in the area. If a weed district is dissolved, any district assessment funds may be transferred to the county weed board.

The state board is directed to work with various federal and tribal agencies to coordinate state and federal weed control. Federal agencies may be billed for costs of noxious weed control on federal land.

Civil infraction provisions are clarified. Other technical changes are made.