

# HOUSE BILL REPORT

## HB 2697

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**As Reported by House Committee On:**  
Rural Development, Agriculture, & Natural Resources

**Title:** An act relating to noxious weeds.

**Brief Description:** Concerning noxious weeds.

**Sponsors:** Representatives Dent, Blake, Dye, Springer, Boehnke, Callan and Chandler.

**Brief History:**

**Committee Activity:**

Rural Development, Agriculture, & Natural Resources: 2/4/20, 2/7/20 [DPS].

### Brief Summary of Substitute Bill

- Makes various changes to the Washington State Noxious Weed Control Board composition and term of office.
- Makes various changes to county noxious weed board provisions.
- Requires the county treasurer in counties with a noxious weed assessment to forward to state agencies for payment a statement showing the amount of the assessment to which state-managed land or state-owned land would be liable if the land was in private ownership.
- 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.

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### HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Dye, Fitzgibbon, Kretz, Lekanoff, Pettigrew, Ramos, Schmick, Springer and Walsh.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Chapman.

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*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.*

**Minority Report:** Do not pass. Signed by 1 member: Representative Orcutt.

**Staff:** Rebecca Lewis (786-7339).

**Background:**

Noxious Weeds.

Class A noxious weeds are noxious weeds not native to Washington and of limited distribution, or are unrecorded in Washington, but could cause a serious threat if established. Class B noxious weeds are nonnative plants of limited distribution in a region of the state that 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 (State Board).

State Noxious Weed Control Board.

The State 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 control boards (county board), two members must be from the west side of the state and two from the east side of the state. One member must be elected by the directors of weed districts. The Director of the Department of Agriculture (WSDA) and a member of a county legislative authority also serve on the State Board. The WSDA also appoints two members of the public and three nonvoting members representing scientific disciplines related to weed control. State Board members serve for three-year terms. The WSDA, with the advice of the State Board, has the power to:

- require a county or county board to report on its noxious weeds;
- employ staff, 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 State 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.

County Noxious Control Weed Boards.

Each county may activate a county board within its jurisdiction. 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 engaged in primary production of agricultural products. 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 that no need exists for a county board. If the State 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 that its noxious weed control program is being hampered by a county not including the weed on its noxious weed list, the State Board may, following a hearing, order the county board to include the noxious weed on its list.

#### Noxious Weed Control.

Once a weed is included on a county's noxious 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 1,000 foot buffer strip of adjacent land and for a five-year period following harvest. 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.

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#### **Summary of Substitute Bill:**

##### State Noxious Weed Control Board.

A statewide association representing county noxious weed coordinators may appoint a nonvoting technical advisory member to the State Noxious Weed Control Board (State Board). The term of office for members of the State Board is changed from three years to four years. The State Board may employ an educational specialist.

With advice of the State Board, the 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 State Board must hold, rather than may hold, hearings under certain circumstances, including:

- where the State Board receives a petition from at least 100 registered voters within the county requesting that the weed be listed; and

- where the State 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 that 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.

A county legislative authority must consult with the respective county noxious weed control board (county board) in appointing the five voting members. At least three, instead of at least four, voting members must be engaged in the primary production of agricultural products. The director, rather than chair, of the county extension office is a nonvoting member. The names of nominees must be posted in the county courthouse or on the county website. The county legislative authority must make an appointment within 30 days of receiving the list of nominees. If the county legislative authority fails to appoint a nominee within that time, the county board must appoint a nominee. A weed coordinator employed by a county board must obtain licensure consistent with the WSDA's pesticide license rules. County boards or weed districts may request that the WSDA inspect products, screenings, articles, or feed 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.

### Noxious Weed Control.

Every forestland owner who owns forestlands used solely for growing and harvesting trees must control and prevent the spread of all Class C noxious weeds on the county list within 1,000 feet of adjacent land uses and within 50 feet of all privately owned nonabandoned roads, and within 200 feet of navigable rivers, gravel pits, log yards, and staging areas, except when not allowed under state or federal regulations. 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.

State agencies must appoint a liaison to develop plans in cooperation with county noxious weed control boards for the control of noxious weeds. In counties with a noxious weed assessment, the county treasurer must forward a statement to agencies for payment showing the amount of the assessment to which state-managed and state-owned land would be liable if the land was in private ownership. Open areas subject to the spread of noxious weeds are subject to regulation in the same manner and to the same extent as all other lands. The provision providing that if no benefits are found to accrue to a class of land a zero assessment may be levied, is removed.

### **Substitute Bill Compared to Original Bill:**

The substitute bill removes state rights-of-way from the definition of parcels subject to the noxious weed control provisions and assessment, and makes the following changes to the provisions related to control of noxious weeds on forestlands:

- Forestland owners must control weeds within 50 feet of all privately owned, nonabandoned roads, instead of within 200 feet of all nonabandoned roads.

- Forestland owners must control noxious weeds within 200 feet of navigable rivers, gravel pits, log yards, and staging areas except when not allowed under state or federal regulations.
  - Forestland owners must control noxious weeds within harvested areas, instead of on all property, for a single five-year period following product harvest.
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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) There is a need to update the statutes governing noxious weed control. Noxious weeds can impact the value of crops, such as Timothy hay, and have been growing and spreading along Interstate 90. The intent is to protect state agricultural production. Recently a landowner got into some trouble by taking the matter into their own hands and sprayed weeds on someone else's property. Some noxious weeds, including shiny geranium and tansy ragwort, have seeds that are very easily spread. The State Noxious Weed Control Board (State Board) originally recommended larger spray distances along roads, but after speaking with stakeholders reduced the required spray distances in the bill. Not every right-of-way would be subject to the assessment, as some counties have not elected to collect an assessment. Noxious weeds do not know boundaries, and impact forestlands as well as agricultural lands. Recently, an ivy infestation weakened trees, causing them to fall. Some changes in the bill will help county weed control coordinators do a better job on the ground. The Washington Forest Protection Association is generally supportive of the goal of the bill, and sees the State Board taking their responsibilities seriously. Forestland owners are mostly supportive of the bill but are leery of having responsibilities on which they are unable to deliver. There are already requirements addressing riparian areas in the Forest Practices Act.

(Opposed) While it is good to clean up the outdated statutes, county legislative authorities are rarely contacted when there are changes to weed rules.

(Other) There would be a significant fiscal impact to the Department of Natural Resources (DNR). The DNR offered proposed language to reduce the 200-foot spray distance requirement to 20 feet, which would require much less expensive equipment to maintain. The Department of Transportation (WSDOT) supports the intent of the bill but has concerns about the assessment for rights-of-way. The WSDOT relies on the support of state and county weed boards. Counties appreciate requiring state properties to be subject to noxious weed assessments. It does not make sense to hold government lands to a different standard than other lands. There is concern that the 30-day window to appoint nominees to county boards may be used as leverage.

**Persons Testifying:** (In support) Representative Dent, prime sponsor; Mary Fee, Washington State Noxious Weed Control Board; Dana Coggon, Kitsap County Noxious Weed Control Board; and Jason Callahan, Washington Forest Protection Association.

(Opposed) Jim Potts, Stevens County.

(Other) Alex Nagygyor, Department of Natural Resources; James Morin, Department of Transportation; and Paul Jewell, Washington State Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.