

SENATE BILL REPORT

SB 6401

As of February 2, 2020

Title: An act relating to noxious weeds.

Brief Description: Concerning noxious weeds.

Sponsors: Senators Warnick and Saldaña.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/30/20.

Brief Summary of Bill

- Makes various changes to the Washington State Noxious Weed Control Board composition and term of office.
- Makes various changes to the 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, state-owned land, or a state right-of-way would be liable if the land was in private ownership.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Staff: Karen Epps (786-7424)

Background: 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).

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

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.

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 also 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, 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.

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 that 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 that 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.

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 spreading 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: 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 of 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:

- where the Board receives a petition from at least 100 registered voters within the county requesting that the weed be listed; and
- where 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 that its noxious weed control program is being hampered by the failure to include the weed on the neighboring county's noxious weed list.

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 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 30 days of receiving the list of nominees. If the county legislative authority fails to appoint a nominee within the 30-day period, the nominee must be appointed by the county board. A weed coordinator employed by a county board must obtain licensure consistent with WSDA pesticide license rules.

Every forestland owner that 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 1000 feet of adjacent land uses and within 200 feet of all roads, along navigable rivers, gravel pits, log yards, and staging areas. The definition of Class C weeds is amended to provide that Class C weeds consists of any other nonnative to Washington state noxious weeds.

All state agencies must appoint a liaison to develop plans in cooperation with the county board. The county treasurer in counties with a noxious weed assessment must forward to state agencies for payment a statement showing the amount of the assessment to which state-managed land, state-owned land, or a state right-of-way 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.

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.

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: The bill updates the noxious weed provisions that establish responsibilities for the state and county noxious weed boards, the Department of Agriculture, and county legislative authorities related to noxious weeds. The changes in this bill are primarily technical changes and clarifications. The Board's legislative committee made these recommendations, taking into account input from the county noxious weed boards, state agencies, the Forest Protection Association landowners, land managers, and other stakeholders. This bill will positively impact each county noxious weed control program to more adequately serve their constituents. This bill allows noxious weed laws to come into alignment with the needs of the on-the-ground programs. This bill provides for the much-needed evolution of the laws to keep up with the evolution of the plants. Landowners are partners with weed boards and part of the community that the county boards serve. Landowners want to be good stewards of the land, but they do not want to commit to a requirement that they cannot fulfill.

CON: There was a lack of coordination with the county legislative authorities which would have been helpful since the bill references the county legislative authorities many times. There is no coordination between the county legislative authority and the Board and that is the biggest concern.

OTHER: The Department of Transportation supports the intent of the bill and relies on the support and the coordination of state and county weed boards to be successful to control noxious weeds. There is a need for equitable assessment of state parcels, but there are concerns about right of ways as a new classification because they are not currently parceled. It would be helpful to remove right of ways from the bill to provide stakeholders time to resolve these issues. This bill has significant fiscal impacts to the Department of Natural Resources but a change in the bill to the buffers along roads will reduce the fiscal impact, while effectively controlling noxious weeds along roadways and minimizing the spread of noxious weeds from vehicles.

Persons Testifying: PRO: Senator Judy Warnick, Prime Sponsor; Jason Callahan, Washington Forest Protection Association; Mary Tallman Fee, Executive Secretary, Washington State Noxious Weed Control Board; Dana Coggon, Kitsap County Noxious Weed Control Board.

CON: Jim Potts, Rural Counties.

OTHER: Alex Nagygyor, Department of Natural Resources; James Morin, WSDOT Maintenance Operations Branch Manager.

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