

# HOUSE BILL REPORT

## SHB 1355

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**As Passed House:**

March 2, 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:**

**Committee Activity:**

Rural Development, Agriculture & Natural Resources: 2/2/21, 2/9/21 [DPS];  
Appropriations: 2/17/21, 2/18/21 [DPS(RDAN)].

**Floor Activity:**

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

**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 control 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 were 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.
- Adds weed boards and weed districts to the class of assessing districts

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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 part of the legislation nor does it constitute a statement of legislative intent.*

that may levy assessments and charges on state lands.

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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 15 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

**Staff:** Robert Hatfield (786-7117).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Rural Development, Agriculture & Natural Resources be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

**Staff:** Dan Jones (786-7118).

### **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 non-native 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).

#### Washington 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 Washington State 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 the 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 Weed Control 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 in Washington has chosen to activate a County Board.

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.

#### Weed Control Districts.

Each county has the authority to activate a Weed Control District. A Weed Control District may be activated to serve an entire county or may be activated to serve only a portion of a county. Weed Control Districts were created by legislation enacted several decades prior to the enactment of the legislation that created County Boards. Weed Control Districts in

existence at the time of the enactment of the County Board legislation were authorized to continue as Weed Control Districts or to dissolve and be replaced by a County Board. There are approximately 12 Weed Control Districts in operation, primarily in south-central Washington.

#### 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 spreading 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 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 Substitute Bill:**

##### Washington State Noxious Weed Control Board.

A statewide association representing county noxious weed coordinators may appoint a nonvoting technical advisory member to the Washington State Noxious Weed Control Board (State Board). The number of nonvoting technical advisory members on the State Board is changed from three to four. 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 in addition to an executive secretary.

With advice of the State Board, the Washington State Department of Agriculture (WSDA) must take, rather than may take, certain actions, including:

- requiring a county or county noxious weed control board (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 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 60 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 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 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.

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 in order to fund County Boards.

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.

#### County Noxious Weed Control Boards—Definitions.

"Assessment" means a special assessment levied by a county legislative authority pursuant to RCW 17.10.240.

"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 Control Districts—Special Assessments.

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 in order 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 1,000 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 whose duties include serving as a common point of contact for all weed boards and developing and implementing noxious weed control plans.

#### Assessing Districts.

County Boards and weed districts are added to the class of assessing districts that may levy assessments and charges on state lands.

**Appropriation:** None.

**Fiscal Note:** Available.

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

#### **Staff Summary of Public Testimony (Rural Development, Agriculture & Natural Resources):**

(In support) The purpose of weed boards and weed districts is to protect Washington's agricultural and natural resources from the impacts of noxious weeds. Noxious weeds can

degrade salmon habitat. Human and livestock deaths can ensue from noxious weeds. Some weeds retain their toxic properties even when dried and baled into hay. The State Noxious Weed Control Board updates the noxious weed list annually. One agency has stopped paying weed control assessments. The bill clarifies the authority for special assessments and the requirement for state agencies to pay the assessment. The bill offers much needed technical updates.

County noxious weed control boards provide local oversight on important issues related to noxious weeds. The bill will allow counties to more effectively carry out the protection of natural resources. The state's noxious weed law is critical to supporting native plants and habitats. The only agency to challenge the weed board assessment is the Washington State Department of Transportation (WSDOT). The bill would clarify that the WSDOT is responsible for paying its weed assessment.

(Opposed) None.

(Other) There is support for the intent of the bill. The WSDOT relies on the work of county weed boards to be effective at controlling weeds. The WSDOT has worked to address issues of assessing unparcelled parcels, like rights of way. There are two concerns with the bill: first, it would take significant staff time to work with counties on assessments in each county, but that work would take place within existing staffing levels. Also, significant staff time may also be required to ensure proper assessment rates in each of the counties. There is a conflict in the current language of the bill; it should be specified that it is an assessment, not a tax.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The changes are primarily technical in nature, with some clarifications. Twenty-six counties currently opt to fund their county weed boards through assessments. Most state agencies pay their noxious weed assessments. The bill clarifies the responsibility of state agencies to pay those assessments; these are not new assessments, just a clarification of the responsibility to pay. Under the bill, state agencies will appoint liaisons to facilitate communications between agencies and county weed boards. The bill adds a requirement to control certain additional classes of weed species in key areas like log yards, along navigable rivers, and at staging areas. The cost of noxious weed control is far less than the detriment noxious weeds can cause to livestock and human health.

(Opposed) None.

**Persons Testifying (Rural Development, Agriculture & Natural Resources):** (In support) Representative Dent, prime sponsor; Mary Tallman Fee, Washington State Noxious Weed Control Board; Rebecca Chaney, King County Noxious Weed Control Board; and Jeff Chapman, Jefferson County Assessor.

(Other) James Morin and Randy Johnson, Washington State Department of Transportation.

**Persons Testifying (Appropriations):** Representative Dent, prime sponsor; and Mary Tallman Fee, Washington State Noxious Weed Control Board.

**Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture & Natural Resources):** None.

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