

funds: PROVIDED, That if such moneys are commingled in a common investment portfolio, all income derived therefrom shall be apportioned among the various participating funds in direct proportion to the amount of money invested by each.

Any excess or inactive funds on hand in the city treasury not otherwise invested for the specific benefit of any particular fund, may be invested by the city treasurer in United States government bonds, notes, bills ((or)), certificates of indebtedness, or interim financing warrants of a local improvement district which is within the protection of the local improvement guaranty fund law for the benefit of the general or current expense fund.

NEW SECTION. Sec. 3. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 14, 1975.

Passed the House April 21, 1975.

Approved by the Governor April 28, 1975.

Filed in Office of Secretary of State April 28, 1975.

CHAPTER 12

[Engrossed Senate Bill No. 2402]
PORT DISTRICT COMMISSIONS—
DELEGATION OF AUTHORITY

AN ACT Relating to port districts; and adding a new section to chapter 53.12 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 53.12 RCW a new section to read as follows:

The commission may delegate to the managing official of a port district such administrative powers and duties of the commission as it may deem proper for the efficient and proper management of port district operations. Any such delegation shall be authorized by appropriate resolution of the commission, which resolution must also establish guidelines and procedures for the managing official to follow.

Passed the Senate March 14, 1975.

Passed the House April 21, 1975.

Approved by the Governor April 28, 1975.

Filed in Office of Secretary of State April 28, 1975.

CHAPTER 13

[Substitute House Bill No. 87]
NOXIOUS WEEDS—CONTROL

AN ACT Relating to control of noxious weeds; amending section 1, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.010; amending section 4, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.040; amending section 5, chapter 113, Laws of 1969 ex. sess. as amended by section 1, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.050; amending section 7, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.070; amending section 8, chapter 113, Laws of 1969 ex. sess. and RCW

17.10.080; amending section 11, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.110; amending section 15, chapter 113, Laws of 1969 ex. sess. as amended by section 2, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.150; amending section 17, chapter 113, Laws of 1969 ex. sess. as amended by section 3, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.170; amending section 19, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.190; amending section 24, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.240; amending section 25, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.250; amending section 26, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.900; and adding new sections to chapter 17.10 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.010 are each amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Noxious weed" means any plant growing in a county which is determined by the state noxious weed control board to be injurious to crops, livestock, or other property and which is included for purpose of control on such county's noxious weed list.

(2) "Person" means any individual, partnership, corporation, firm, the state or any department, agency, or subdivision thereof, or any other entity.

(3) "Owner" means the person in actual control of property, or his agent, whether such control is based on legal or equitable title or on any other interest entitling the holder to possession and, for purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means the possessor of legal or equitable title or the possessor of an easement: PROVIDED, That when the possessor of an easement has the right to control or limit the growth of vegetation within the boundaries of an easement, only the possessor of such easement shall be deemed, for the purpose of this chapter, an "owner" of the property within the boundaries of such easement.

(4) As pertains to the duty of an owner, the word "control" and the term "prevent the spread of noxious weeds" shall mean conforming to the standards of noxious weed control or prevention adopted by rule or regulation by an activated county noxious weed control board.

(5) "Agent" means any occupant or any other person acting for the owner and working or in charge of the land.

(6) "Agricultural purposes" are those which are intended to provide for the growth and harvest of food and fiber.

Sec. 2. Section 4, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.040 are each amended to read as follows:

An inactive county noxious weed control board may be activated by any one of the following methods:

(1) Either ~~((upon))~~ within sixty days after a petition is filed by one hundred landowners each owning one acre or more of land within the county or, on its own motion, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall hold a hearing to determine whether there is a need, due to a damaging infestation of noxious weeds, to activate the county noxious weed control board. If such a need is found to exist, then the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall, in the manner provided by RCW 17.10.050, appoint five persons to hold seats on the county's noxious weed control board.

(2) If the county's noxious weed control board is not activated within one year following a hearing by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority to determine the need for activation, then upon the filing with the state noxious weed control board of a petition comprised either of the signatures of at least two hundred owners, each owning one acre of land or more within the county, or of the signatures of a majority of an adjacent county's noxious weed control board, the state board shall, within six months of the date of such filing, hold a hearing in the county to determine the need for activation. If a need for activation is found to exist, then the state board shall order the ~~((board of))~~ county ~~((commissioners))~~ legislative authority to activate the county's noxious weed control board and to appoint members to such board in the manner provided by RCW 17.10.050.

Sec. 3. Section 5, chapter 113, Laws of 1969 ex. sess. as amended by section 1, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.050 are each amended to read as follows:

(1) Each activated county noxious weed control board shall consist of five voting members who shall, at the board's inception, be appointed by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority and elected thereafter by the property owners subject to the board. In appointing such voting members, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall divide the county into five sections, none of which shall overlap and each of which shall be of the same approximate area, and shall appoint a voting member from each section. At least four of such voting members shall be engaged in the primary production of agricultural products. There shall be one nonvoting member on such board who shall be the chief county extension agent or ~~((a county))~~ an extension agent appointed by the chief county extension agent. Each voting member of the board shall serve a term of two years, except that the ~~((board of))~~ county ~~((commissioners))~~ legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of one year. The board members shall not receive a salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(2) The elected members of the board shall represent the same districts designated by the county ~~((commissioners))~~ legislative authority in appointing members to the board at its inception. Members of the board shall be elected at least thirty days prior to the expiration of any board member's term of office.

The nomination and election of elected board members shall be conducted by the board at a public meeting held in the section where board memberships are about to expire. Elections at such meetings shall be by secret ballot, cast by the landowners residing in the section where an election for a board member is being conducted. The nominee receiving the majority of votes cast shall be deemed elected, and if there is only one nomination, said nominee shall be deemed elected unanimously.

Notice of such nomination and election meeting shall be mailed to all affected landowners thirty days prior to such meeting. Notice shall be published at least twice in a weekly or daily newspaper of general circulation in said section: PROVIDED, That mailed notice shall not be required if assessments provided for in

~~((section 4 of this 1974 amendatory act))~~ RCW 17.10.240 as now or hereafter amended are not invoked.

(3) Within thirty days after all the members have been appointed, the board shall conduct its first meeting. A majority of the voting members of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chairman and such other officers as may be necessary.

(4) In case of a vacancy occurring in any elected position on a county noxious weed control board, the county ~~((commissioners))~~ legislative authority of the county in which such board is located shall appoint a qualified person to fill the vacancy for the unexpired term.

Sec. 4. Section 7, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.070 are each amended to read as follows:

In addition to the powers conferred on the state noxious weed control board under other provisions of this chapter, it shall have power to:

(1) Require the ~~((board of))~~ county ~~((commissioners))~~ legislative authority or the noxious weed control board of any county to report to it concerning the presence of noxious weeds and measures, if any, taken or planned for the control thereof;

(2) Employ a state weed supervisor who shall act as executive secretary of the board and who shall disseminate information relating to noxious weeds to county noxious weed control boards and who shall work to coordinate the efforts of the various county and regional noxious weed control boards;

(3) Do such things as may be necessary and incidental to the administration of its functions pursuant to this chapter.

Sec. 5. Section 8, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.080 are each amended to read as follows:

The state noxious weed control board shall each year or more often, following a hearing, adopt a list comprising the names of those plants which it finds to be injurious to crops, livestock or other property. At such hearing any county noxious weed control board may request the inclusion of any plant to the list to be adopted by the state board.

Such list when adopted shall be designated as the "proposed noxious weed list", and the state board shall send a copy of the same to each activated county noxious weed control board, to each regional noxious weed control board, and to the ~~((board of))~~ county ~~((commissioners))~~ legislative authority of each county with an inactive noxious weed control board.

Sec. 6. Section 11, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.110 are each amended to read as follows:

A regional noxious weed control board comprising the area of two or more counties may be created as follows:

Either each ~~((board of))~~ county ~~((commissioners))~~ legislative authority or each noxious weed control board of two or more counties may, upon a determination that the purpose of this chapter will be served by the creation of a regional noxious weed control board, adopt a resolution providing for a limited merger of the

functions of their respective counties noxious weed control boards. Such resolution shall become effective only when a similar resolution is adopted by the other county or counties comprising the proposed regional board.

Sec. 7. Section 15, chapter 113, Laws of 1969 ex. sess. as amended by section 2, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.150 are each amended to read as follows:

(1) The ~~((board of))~~ county ~~((commissioners))~~ noxious weed control board in each county may classify lands for the purposes of this chapter. In regard to any land which is classified by the county noxious weed control board as not being used for agricultural purposes, the owner thereof shall have the following limited duty to control noxious weeds present on such land:

(a) The owner shall control and prevent the spread of noxious weeds on any portion of such land which is within the buffer strip around land used for agricultural purposes. ~~((For lands east of the crest of the Cascade mountain range;))~~ The buffer strip shall be land which is within ~~((two hundred))~~ one thousand feet of land used for agricultural purposes. ~~((For lands west of the crest of the Cascade mountain range, the buffer strip shall be land which is within one thousand feet of land used for agricultural purposes;))~~

(b) In any case of a serious infestation of a particular noxious weed, which infestation exists within the buffer strip of land described in paragraph (a) of subsection (1) of this section, and which extends beyond said buffer strip of land, the county noxious weed control board may require that the owner of such buffer strip of land take such measures, both within said buffer zone of land as well as on other land owned by said owner contiguous to said buffer strip of land on which such serious infestation has spread, as are necessary to control and prevent the spread of such particular noxious weed.

For purposes of this subsection, land shall not be classified as or considered as being used for agricultural purposes when the sole reason for classifying or considering it as such is that it is being used for the growing, planting or harvesting of trees for timber.

(2) In regard to any land which is classified by the county noxious weed control board as scab or range land, the board may limit the duty of the owner thereof to control noxious weeds present on such land. The board may share the cost of controlling such weeds, may provide for a buffer strip around the perimeter of such land or may take any other reasonable measures to control noxious weeds on such land at an equitable cost to the owner. The board shall classify as range or scab land all that land within the county for which the board finds ~~((to be of a relatively low value per acre, and on which))~~ that the cost of controlling all of the noxious weeds present would be disproportionately high when compared to the ~~((value per acre of))~~ benefits derived from noxious weed control on such land.

Sec. 8. Section 17, chapter 113, Laws of 1969 ex. sess. as amended by section 3, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.170 are each amended to read as follows:

(1) Whenever the county noxious weed control board finds that noxious weeds are present on any parcel of land, and that the owner thereof is not taking prompt

and sufficient action to control the same, pursuant to the provisions of RCW 17.10.140, it shall notify such owner that a violation of this chapter exists. Such notice shall be in writing, identify the noxious weeds found to be present, order prompt control action, and specify the time within which the prescribed action must be taken.

(2) If the owner does not take action to control the noxious weeds in accordance with the notice, the county board (~~shall~~) may control them, or cause their being controlled, at the expense of the owner. The amount of such expense shall constitute a lien against the property and may be enforced by proceedings on such lien except as provided for by RCW 79.44.060. The owner shall be liable for payment of the expense, and nothing in this chapter shall be construed to prevent collection of any judgment on account thereof by any means available pursuant to law, in substitution for enforcement of the lien. Funds received in payment for the expense of controlling noxious weeds shall be transferred to the county noxious weed control board to be expended as required to carry out the purposes of this chapter.

(3) The county auditor shall record in his office any lien created under this (~~section~~) chapter, and any such lien shall bear interest at the rate of eight percent per annum from the date on which the county noxious weed control board approves the amount expended in controlling such weeds.

(4) As an alternative to the enforcement of any lien created under subsection (2) of this section, the (~~board of~~) county (~~commissioners~~) legislative authority may by resolution or ordinance require that each such lien created shall be collected by the treasurer in the same manner as a delinquent real property tax, if within thirty days from the date the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180. Liens treated as delinquent taxes shall bear interest at the same rate as delinquent real property taxes and such interest shall accrue as of the date notice of the lien is sent to the owner: PROVIDED, That any collections for such lien shall not be considered as tax.

Sec. 9. Section 19, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.190 are each amended to read as follows:

Each activated county noxious weed control board shall cause to be published in at least one newspaper of general circulation within its area a general notice during the month of March and at such other times as may be appropriate. Such notice shall direct attention to the need for noxious weed control and shall give such other information with respect thereto as may be appropriate, or shall indicate where such information may be secured. In addition to the general notice required hereby, the county noxious weed control board may use (~~such~~) any appropriate media for the dissemination of information to the public as may be calculated to bring the need for noxious weed control to the attention of owners. The board may consult with individual owners concerning their problems of noxious weed control and may provide them with information and advice, including giving specific instructions and methods when and how certain named weeds are to be controlled. Such methods may include definite systems of tillage, cropping, management, and use of livestock. Publication of a notice as required by this section shall not be a condition precedent to the enforcement of this chapter.

Sec. 10. Section 24, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.240 are each amended to read as follows:

(1) The activated county weed control boards of each county shall annually submit a budget to the ~~((board of))~~ county ~~((commissioners))~~ legislative authority for the operating cost of the county's weed program for the ensuing fiscal year. Control of weeds ~~((are))~~ is a special benefit to the lands within any such district. The ~~((board of))~~ county ~~((commissioners))~~ legislative authority may, in lieu of a tax, levy an assessment against the land for this purpose. Prior to the levying of an assessment the county weed control board shall hold a public hearing at which it shall gather information to serve as a basis for classification and shall then classify the lands into suitable classifications(~~(, and assess))~~). The board shall develop and forward to the county legislative authority, as a proposed level of assessment for each class, such an amount as shall seem just, but which shall be uniform per acre in its respective class: PROVIDED, That if no special benefits should be found to accrue to a class of land, a zero assessment may be levied. The legislative authority, upon receipt of the proposed levels of assessment from the board, after a hearing, shall accept, modify, or refer back to the board for their reconsideration all or any portion of the proposed levels of assessment. The findings by the ~~((board))~~ county legislative authority of such special benefits, when so declared by resolution and spread upon the minutes of ~~((the board))~~ said authority shall be conclusive ~~((that))~~ as to whether or not the same ~~((is of))~~ constitutes a special benefit to the lands within the district.

(2) In addition, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority may appropriate money from the county general fund necessary for the administration of the county noxious weed control program. In addition the ~~((board of))~~ county ~~((commissioners))~~ legislative authority may make emergency appropriations as it deems necessary for the implementation of this chapter.

(3) Neither the legislative authority of a county nor the county weed control board activated in a county shall expend money from the county general fund or assessments levied for the operation of such activated county weed control board on any lands within the boundaries of any Indian reservation unless the tribal council of such reservation contracts with the legislative authority of the county and its activated weed control board to carry out its program on such reservation lands: PROVIDED, That the fees charged any Indian reservation for services rendered by the weed control board in controlling weeds on Indian reservation lands shall be no less than the fees assessed land owners of similar lands within the county jurisdiction of such activated weed control board.

Sec. 11. Section 25, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.250 are each amended to read as follows:

The ~~((board of county commissioners))~~ legislative authority of any county with an activated noxious weed control board may apply to the state noxious weed control board for state financial aid in an amount not to exceed fifty percent of the locally funded portion of the annual operating cost of such noxious weed control board. Any such aid shall be expended from the general fund from such appropriation as the legislature may provide for this purpose.

Sec. 12. Section 26, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.900 are each amended to read as follows:

Any weed district formed under chapter 17.04 or 17.06 RCW prior to the enactment of this chapter, shall continue to operate under the provisions of the chapter under which it was formed: PROVIDED, That if ten percent of the land-owners subject to any such weed district, and the county weed board upon its own motion, petition the county ((commissioners)) legislative authority for a dissolution of the weed district, the county ((commissioners)) legislative authority shall provide for an election to be conducted in the same manner as required for the election of directors under the provisions of chapter 17.04 RCW, to determine by majority vote of those casting votes, if such weed district shall continue to operate under the act it was formed. The land area of any dissolved weed district shall forthwith become subject to the provisions of this chapter.

NEW SECTION. Sec. 13. There is added to chapter 17.10 RCW a new section to read as follows:

Every activated county noxious weed board performing labor upon, furnishing material, or renting, leasing or otherwise supplying equipment, to be used in the control of noxious weeds, or in causing control of noxious weeds upon any property pursuant to the provisions of chapter 17.10 RCW has a lien upon such property for the labor performed, material furnished, or equipment supplied whether performed, furnished, or supplied with the consent of the owner, or his agent, of such property, or without the consent of said owner or agent.

NEW SECTION. Sec. 14. There is added to chapter 17.10 RCW a new section to read as follows:

Every county noxious weed control board furnishing labor, materials, or supplies or renting, leasing, or otherwise supplying equipment to be used in the control of noxious weeds upon any property pursuant to RCW 17.10.160 and 17.10.170 or pursuant to an order under RCW 17.10.210 as now or hereafter amended, shall give to the owner or reputed owner or his agent a notice in writing, within ninety days from the date of the cessation of the performance of such labor, the furnishing of such materials, or the supplying of such equipment, which notice shall cover the labor, material, supplies, or equipment furnished or leased, as well as all subsequent labor, materials, supplies, or equipment furnished or leased, stating in substance and effect that such county noxious weed control board is furnishing or has furnished labor, materials and supplies or equipment for use thereon, with the name of the county noxious weed board ordering the same, and that a lien may be claimed for all materials and supplies or equipment furnished by such county noxious control board for use thereon, which notice shall be given by mailing the same by registered or certified mail in an envelope addressed to the owner at his place of residence or reputed residence.

NEW SECTION. Sec. 15. There is added to chapter 17.10 RCW a new section to read as follows:

No lien created by section 13 of this 1975 amendatory act shall exist, and no action to enforce the same shall be maintained, unless within ninety days from the date of cessation of the performance of such labor, furnishing of materials, or the supplying of such equipment, a claim for such lien shall be filed for record as hereinafter provided, in the office of the county auditor of the county in which the property, or some part thereof to be affected thereby, is situated. Such claim shall

state, as nearly as may be, the time of the commencement and cessation of performing the labor, furnishing the material, or supplying the equipment, the name of the county noxious weed control board which performed the labor, furnished the material, or supplied the equipment, a description of the property to be charged with the lien sufficient for identification, the name of the owner, or reputed owner if known, or his agent, and if the owner is not known, that fact shall be mentioned, the amount for which the lien is claimed, and shall be signed by the county noxious weed control board, and be verified by the oath of the county noxious weed control board, to the effect that the affiant believes that claim to be just; and such claim of lien may be amended in case of action brought to foreclose the same, by order of the court, as pleadings may be, insofar as the interest of third parties shall not be affected by such amendment. A claim or lien substantially in the same form provided by RCW 60.04.060 and not in conflict with this section shall be sufficient.

NEW SECTION. Sec. 16. There is added to chapter 17.10 RCW a new section to read as follows:

Open areas subject to the spread of noxious weeds, other than crop land, including but not limited to subdivisions, school grounds, playgrounds, parks, and rights of way shall be subject to regulation by activated county noxious weed control boards in the same manner and to the same extent as is provided for agricultural lands.

NEW SECTION. Sec. 17. There is added to chapter 17.10 RCW a new section to read as follows:

The purpose of this chapter is to limit economic loss due to the presence and spread of noxious weeds on or near agricultural land.

The intent of the legislature is that this chapter be liberally construed, and that the jurisdiction, powers, and duties granted to the county noxious weed control boards by this chapter are limited only by specific provisions of this chapter or other state and federal law.

Passed the House April 17, 1975.

Passed the Senate April 3, 1975.

Approved by the Governor April 28, 1975.

Filed in Office of Secretary of State April 28, 1975.

CHAPTER 14

[Substitute House Bill No. 208]
RAPE LAWS—REVISIONS

AN ACT Relating to the revision of rape laws; adding new sections to chapter 9.79 RCW; repealing section 33, page 80, Laws of 1854, section 35, page 204, Laws of 1869, section 37, page 187, Laws of 1873, section 812, Code of 1881, section 1, page 84, Laws of 1886, section 1, chapter 19, Laws of 1897, section 183, chapter 249, Laws of 1909, section 122, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.010; and repealing section 33, page 80, Laws of 1854, section 35, page 204, Laws of 1869, section 37, page 187, Laws of 1873, section 814, Code of 1881, section 1, page 84, Laws of 1886, section 1, chapter 19, Laws of 1897, section 184, chapter 249, Laws of 1909, section 1, chapter 132, Laws of 1919, section 1, chapter 74, Laws of 1937, section 1, chapter 112, Laws of 1943, section 123, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.020; repealing section 37, page 187, Laws of 1873, section 185, chapter 249, Laws of 1909 and RCW 9.79.030; defining crimes; and prescribing penalties.