

the application of the provision to other persons or circumstances is not affected.

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CHAPTER 438

[Engrossed Substitute House Bill No. 648]

NOXIOUS WEED CONTROL

AN ACT Relating to noxious weed control; amending RCW 17.10.010, 17.10.030, 17.10.040, 17.10.050, 17.10.060, 17.10.070, 17.10.080, 17.10.090, 17.10.100, 17.10.110, 17.10.120, 17.10.130, 17.10.150, 17.10.160, 17.10.170, 17.10.180, 17.10.190, 17.10.200, 17.10.210, 17.10.230, 17.10.235, 17.10.240, 17.10.250, 17.10.260, 17.10.270, 17.10.280, 17.10.290, 17.10.900, and 43.51.407; adding new sections to chapter 17.10 RCW; repealing RCW 17.08.010, 17.08.020, 17.08.050, 17.08.060, 17.08.070, 17.08.080, 17.08.090, 17.08.100, 17.08.110, 17.08.120, 17.08.130, 17.08.140, 17.08.150, and 17.10.220; and prescribing penalties.

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

Sec. 1. Section 1, chapter 113, Laws of 1969 ex. sess. as amended by section 1, chapter 13, Laws of 1975 1st 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))~~ which when established is highly destructive, competitive, or difficult to control by cultural or chemical practices.

(2) "State noxious weed list" means a list of noxious weeds adopted by the state noxious weed control board which list is divided into three classes:

(a) Class A shall consist of those noxious weeds not native to the state that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state;

(b) Class B shall consist of those noxious weeds not native to the state that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region;

(c) Class C shall consist of any other noxious weeds.

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

~~((3))~~ (4) "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))~~ (5) As pertains to the duty of an owner, the words "control", "contain", "eradicate", 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 the state noxious weed control board and an activated county noxious weed control board.

~~((5))~~ (6) "Agent" means any occupant or any other person acting for the owner and working or in charge of the land.

~~((6))~~ (7) "Agricultural purposes" are those which are intended to provide for the growth and harvest of food and fiber.

(8) "Director" means the director of the department of agriculture or the director's appointed representative.

(9) "Weed district" means a weed district as defined in chapters 17.04 and 17.06 RCW.

Sec. 2. Section 3, chapter 113, Laws of 1969 ex. sess. as amended by section 23, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 17.10.030 are each amended to read as follows:

There is hereby created a state noxious weed control board which shall be comprised of ~~((six))~~ nine voting members~~((,-three to))~~. Four of the members shall be elected by the members of the various activated county noxious weed control boards~~((,-Three of the members of such board))~~, shall be residents of a county in which a county noxious weed control board has been activated and a member of said board, ~~((and be engaged in primary agricultural production at the time of their election))~~ and ~~((such))~~ those qualifications shall continue through their term of office. ~~((One))~~ Two such ~~((primary agricultural producer))~~ members shall be elected from the west side of the state, the crest of the Cascades being the dividing line, and two from the east side of the state. The director of agriculture ~~((shall be a member of the board, and the director of the agricultural extension service))~~ shall be a ~~((nonvoting))~~ member of the board. ~~((The elected members of the board shall appoint one member of the board who may be an expert in the field of weed control.))~~ One member shall be elected by the directors of the various active weed districts formed under chapter 17.04 or 17.06 RCW. The Washington state association of counties shall appoint one voting member who shall be a member of a county legislative authority. The director shall appoint three nonvoting members representing scientific disciplines relating to weed control. The director shall also appoint two voting members to represent the public interest, one from the west side and one from the east side of the state. The term of office for all ~~((elected members~~

~~and the appointed)) members of the board shall be three years from ((their)) the date of election or appointment.~~

~~((The director of agriculture shall provide for an election of the first members of the state noxious weed control board. Such election shall not take place sooner than six months nor later than twelve months after one county noxious weed control board has been activated on the west side of the Cascade mountains and two such county noxious weed boards have been activated on the east side of the Cascade mountains. The first board members elected to the state noxious weed control board shall serve staggered terms as follows:~~

~~(1) The board member representing the west side of the state on the activated county noxious weed control board as primary agricultural producer, shall be appointed for a term of one year and shall be designated "Position No. 1".~~

~~(2) The two board members representing the east side of the state shall be appointed to terms of two and three years and shall be designated respectively as positions "No. 2" and "No. 3".~~

~~(3) The member of the board subsequently appointed by the elected members shall be appointed for a three year term and shall be designated "Position No. 4".~~

~~(4) The director of agriculture and the director of agricultural extension service shall serve so long as they are vested with their respective titular positions, and their positions shall be "No. 5" and "No. 6" respectively.))~~
The board, by rule, shall establish a position number for each elected position of the board and shall designate which county noxious weed control board members are eligible to vote for each elected position. The elected members shall serve staggered terms.

Elections for the elected members of the board shall be held thirty days prior to the expiration date of their respective terms.

Nominations and elections shall be by mail and conducted by the ~~((director of agriculture))~~ board.

The board shall conduct its first meeting within thirty days after all its members have been elected. The board shall elect from its members a chairman and such other officers as may be necessary. 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 members of the board shall serve without salary, but shall be reimbursed for travel expenses incurred in the performance of their duties under this chapter in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 3. Section 4, chapter 113, Laws of 1969 ex. sess. as amended by section 2, chapter 13, Laws of 1975 1st 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 within sixty days after a petition is filed by one hundred ~~((landowners each owning one acre or more of land))~~ registered voters within the county or, on its own motion, the county 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 county 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 county 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))~~ registered voters 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 county 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.

(3) The director, with notice to the state noxious weed control board, may order a county legislative authority to activate the noxious weed control board immediately if an infestation of a class A noxious weed or class B noxious weed designated for control within the region wherein the county lies as defined in RCW 17.10.080 is confirmed in that county. The county legislative authority may, as an alternative to activating the noxious weed board, combat the class A noxious weed or class B noxious weed with county resources and personnel operating with the authorities and responsibilities imposed by this chapter on a county noxious weed control board. No county may continue without a noxious weed control board for a second consecutive year if the class A noxious weed or class B noxious weed designated for control within the region wherein the county lies has not been eradicated.

Sec. 4. Section 5, chapter 113, Laws of 1969 ex. sess. as last amended by section 1, chapter 95, Laws of 1980 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 county legislative authority ~~((and elected thereafter by the property owners subject to the board))~~. In appointing such voting members, the county 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))~~ the 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 an extension agent appointed by the chief county extension agent. Each voting member of the board shall serve a term of ~~((two))~~ four years, except that ~~((+))~~ the county legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of ~~((one))~~ two years~~((; (2) the terms of incumbent board members may be shortened or extended by the board if the board, in order to provide for a more convenient election date, makes a substantial change in the date for elections and if the board obtains the prior approval of the state noxious weed control board for the changes in election dates and in the terms of incumbent board members))~~. 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))~~ voting members of the board shall represent the same ~~((districts))~~ sections designated by the county legislative authority in appointing members to the board at its inception and shall serve until their replacements are appointed. New members of the board shall be ~~((elected))~~ appointed 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. PROVIDED, That such nominations and elections may be held in another section of the county at the request of the county board and subject to approval by the state weed board. 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))~~ expiration of a term of office shall be published at least twice in a weekly or daily newspaper of general circulation in said section with last publication occurring at least ten days prior to the ~~((meeting))~~ nomination. All persons interested in appointment to the board and residing in the section with a pending nomination shall make a written application that includes the signatures of at least ten registered voters residing in the section supporting the nomination to the county noxious weed control board. After nominations close, the county noxious weed control board shall, after a hearing, send the applications to the county legislative authority recommending the names of the most qualified candidates, and shall post the names of those nominees in the county courthouse and in three places in the section. The county legislative

authority, within ten days of receiving the list of nominees, shall appoint one of those nominees to the county noxious weed control board to represent that section during that term of office.

(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))~~ chairperson and such other officers as may be necessary.

(4) In case of a vacancy occurring in any ~~((elected))~~ voting position on a county noxious weed control board, the county 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. 5. Section 6, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.060 are each amended to read as follows:

(1) Each activated county noxious weed control board may employ a weed ~~((inspector))~~ coordinator whose duties shall be fixed by the board but which shall include inspecting land to determine the presence of noxious weeds. Within sixty days from initial employment the weed coordinator shall obtain a pest control consultant license, a pesticide operator license, and the necessary endorsements on the licenses as required by law. Each board may purchase, rent or lease such equipment, facilities or products and may hire such additional persons as it deems necessary for the administration of the county's noxious weed control program.

(2) Each activated county noxious weed control board shall have the power to adopt such rules and regulations, subject to notice and hearing as provided in chapters 42.30 and 42.32 RCW as now or hereafter amended, as are necessary for an effective county weed control or eradication program.

Sec. 6. Section 7, chapter 113, Laws of 1969 ex. sess. as amended by section 4, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.070 are each amended to read as follows:

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

~~((3) Do such things as may be necessary and incidental to the administration of its functions pursuant to this chapter))~~ (b) Adopt, amend, change, or repeal such rules, pursuant to the administrative procedure act, chapter 34.04 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

(2) The state noxious weed control board shall provide a written report before January 1 of each odd-numbered year to the governor, the legislature, the county noxious weed control boards, and the weed districts showing the funds disbursed by the department to each noxious weed control board or district, specifically how the funds were spent, and recommendations for the continued best use of state funds for noxious weed control. The report shall include recommendations as to the long-term needs regarding weed control.

NEW SECTION. Sec. 7. A new section is added to chapter 17.10 RCW to read as follows:

(1) In addition to the powers conferred on the director under other provisions of this chapter, the director shall, with the advice of the state noxious weed control board, have power to:

(a) Require the county legislative authority or the noxious weed control board of any county or any weed district to report to it concerning the presence, absence, or estimated amount of noxious weeds and measures, if any, taken or planned for the control thereof;

(b) Employ such staff as may be necessary in the administration of this chapter;

(c) Adopt, amend, change, or repeal such rules, pursuant to the administrative procedure act, chapter 34.04 RCW, as may be necessary to carry out this chapter;

(d) Do such things as may be necessary and incidental to the administration of its functions pursuant to this chapter including but not limited to surveying for and detecting noxious weed infestations;

(e) Upon receipt of a complaint signed by a majority of the members of an adjacent county noxious weed control board or weed district, require the county legislative authority or noxious weed control board of the county or weed district that is the subject of the complaint to respond to the complaint within forty-five days with a plan for the control of the noxious weeds cited in the complaint;

(f) If the complaint in subsection (e) of this section involves a class A or class B noxious weed, order the county legislative authority, noxious weed control board, or weed district to take immediate action to eradicate or control the noxious weed infestation. If the county or the weed district does not take action to control the noxious weed infestation in accordance with the order, the director may control it or cause it to be controlled. The county or weed district shall be liable for payment of the expense of the

control work including necessary costs and expenses for attorneys' fees incurred by the director in securing payment from the county or weed district;

(g) In counties which have not activated their noxious weed control board, enter upon any property as provided for in RCW 17.10.160, issue or cause to be issued notices and citations and take the necessary action to control noxious weeds as provided in RCW 17.10.170, hold hearings on any charge or cost of control action taken as provided for in RCW 17.10.180, issue a notice of civil infraction as provided for in sections 23 through 28 of this 1987 act, and place a lien on any property pursuant to RCW 17.10.280, 17.10.290, and 17.10.300 with the same authorities and responsibilities imposed by these sections on county noxious weed control boards;

(h) Adopt a list of noxious weed seeds and toxic weeds which shall be controlled in designated articles, products, or feed stuffs as provided for in RCW 17.10.235.

(2) The moneys appropriated for noxious weed control to the department shall be used for administration of the state noxious weed control board for determining the economic impact of noxious weeds in the state of Washington, the purchase of materials for controlling, containing, or eradicating noxious weeds, the purchase or collection of biological control agents for controlling noxious weeds, and the contracting for services to carry out the purposes of this chapter. In a county with an activated noxious weed control board, the director shall make every effort to contract with that board for the needed services.

(3) If the director determines the need to reallocate funds previously designated for county use, the director shall convene a meeting of the state noxious weed control board to seek its advice concerning any reallocation.

Sec. 8. Section 8, chapter 113, Laws of 1969 ex. sess. as amended by section 5, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.080 are each amended to read as follows:

(1) The state noxious weed control board shall each year or more often, following a hearing, adopt a state noxious weed list (~~comprising the names of those plants which it finds to be injurious to crops, livestock or other property~~).

(2) At ~~((such))~~ the hearing any ~~((county noxious weed control board))~~ person may request the inclusion of any plant to the lists to be adopted by the state noxious weed control board. Any hearing held pursuant to this section shall conform to the administrative procedure act, chapter 34.04 RCW: PROVIDED, That adding a weed to or deleting a weed from the list shall constitute a substantial change as provided for in RCW 34.04.025(2).

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

control board. The record of hearing shall include the written findings of the board for the inclusion of each plant on the list. Such findings shall be made available upon request to any interested person.

Sec. 9. Section 9, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.090 are each amended to read as follows:

Each county noxious weed control board shall, within thirty days of the receipt of the ~~((proposed))~~ state noxious weed list from the state noxious weed control board and following a hearing, select those weeds from the ~~((proposed))~~ class C list and those weeds from the class B list not designated for control in the noxious weed control region in which the county lies which it finds necessary to be controlled in the county. The weeds thus selected and all class A weeds and those class B weeds that have been designated for control in the noxious weed control region in which the county lies shall be classified within ~~((this))~~ that county as noxious weeds, and ~~((such))~~ those weeds shall comprise the county noxious weed list.

Sec. 10. Section 10, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.100 are each amended to read as follows:

Where any of the following occur, the state noxious weed control board may, following a hearing, order any county noxious weed control board or weed district to include a ~~((proposed))~~ noxious weed from the state board's list in the county's noxious weed list:

(1) Where the state noxious weed control board receives a petition from at least one hundred ~~((landowners owning one acre or more of land))~~ registered voters within the county requesting that ~~((such))~~ the weed be listed.

(2) Where the state noxious weed control board receives a request for such inclusion from an adjacent county's noxious weed control board or weed district, which board or district has included ~~((such))~~ that weed in the county list and which board or weed district alleges that its noxious weed control program is being hampered by the failure to include ~~((such))~~ the weed on the county's noxious weed list.

Sec. 11. Section 11, chapter 113, Laws of 1969 ex. sess. as amended by section 6, chapter 13, Laws of 1975 1st 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))~~ The county legislative authority and/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. 12. Section 12, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.120 are each amended to read as follows:

In any case where a regional noxious weed control board is created, the county noxious weed control boards comprising the regional board shall still remain in existence and shall retain all powers and duties provided for such boards under this chapter (~~except for the powers and duties described in RCW 17.10.090~~).

The regional noxious weed control board shall be comprised of the voting members and the nonvoting members of the component counties noxious weed control boards or county legislative authorities who shall, respectively, be the voting and nonvoting members of the regional board; PROVIDED, That each county shall have an equal number of voting members. The board may appoint other nonvoting members as deemed necessary. 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 a (~~chairman~~) chairperson from its members and such other officers as may be necessary. Members of the regional board shall serve without salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

Sec. 13. Section 13, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.130 are each amended to read as follows:

The powers and duties of a regional noxious weed control board are as follows:

(1) The regional board shall, within (~~forty~~) thirty days of the receipt of the (~~proposed~~) state noxious weed list from the state noxious weed control board and following a hearing, select those weeds from the (~~proposed~~) state list which it finds necessary to be controlled (~~in the region~~) on a regional basis. The weeds thus selected shall (~~comprise~~) also be contained in the county noxious weed list of each county in the region.

(2) The regional board shall (~~render such advice~~) take such action as may be necessary to coordinate the noxious weed control programs of (~~the counties within~~) the region and (~~the regional board~~) shall adopt a regional plan for the control of noxious weeds.

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

Obligations or liabilities incurred by any county or regional noxious weed control board or any claims against a county or regional noxious weed control board shall be governed by chapter 4.96 RCW or RCW 4.08.120: PROVIDED, That individual members or employees of a county noxious

weed control board shall be personally immune from civil liability for damages arising from actions performed within the scope of their official duties or employment.

Sec. 15. Section 15, chapter 113, Laws of 1969 ex. sess. as last amended by section 7, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.150 are each amended to read as follows:

(1) The county 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 eradicate all class A noxious weeds, and shall control and prevent the spread of class B noxious weeds designated for control within the region in which such land lies. The owner shall also control and prevent the spread of class C noxious weeds on any portion of such land which is within the buffer strip around land used for agricultural purposes. The buffer strip shall be all 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))~~ strip 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.))~~

(c) Forest lands classified pursuant to RCW 17.10.240(3) shall be subject to the weed control requirements established in subsection (1) (a) and (b) of this section at all times whether such lands are used for agricultural purposes or are not used for such purposes. In addition, forest lands shall be subject to RCW 17.10.140 and all other provisions of this chapter for a single five-year period designated by the county noxious weed control board following the 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 class C 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 or contain 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 that the cost of controlling all of the noxious weeds present would be disproportionately high when compared to the benefits derived from noxious weed control on such land.

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

It is recognized that the prevention, control, and eradication of noxious weeds presents a problem for immediate as well as for future action. It is further recognized that immediate prevention, control, and eradication is practicable on some lands and that prevention, control, and eradication on other lands should be extended over a period of time. Therefore, it is the intent of this chapter that county noxious weed control boards may use their discretion and, by agreement with the owners of land, may propose and accept plans for prevention, control, and eradication which may be extended over a period of years. The county noxious weed control board may make an agreement with the owner of any parcel of land by contract between the landowner and the respective county noxious weed control board, and the board shall enforce the terms of any agreement. The county noxious weed control board may make any terms which will best serve the interests of the owners of the parcel of land and the common welfare which comply with this chapter and the rules adopted thereunder.

Sec. 17. Section 16, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.160 are each amended to read as follows:

Any authorized agent or employee of the county noxious weed control board or of the state noxious weed control board or of the department of agriculture where not otherwise proscribed by law may enter upon any property for the purpose of administering this chapter and any power exercisable pursuant thereto, including the taking of specimens of weeds or other materials, general inspection, and the performance of eradication or control work. ~~((Such entry may be made without the consent of the owner: PROVIDED, That the consent of the owner of any land shall be obtained where, due to fire danger, the owner or any state agency has either closed the land to public entry. PROVIDED FURTHER, That))~~ Prior to carrying out the purposes for which the entry is made, the official making such entry or someone in his or her behalf, shall have first made a reasonable attempt to notify the owner of the property as to the purpose and need for the entry.

(1) When there is probable cause to believe that there is property within this state not otherwise exempt from process or execution upon which noxious weeds are standing or growing and the owner thereof refuses permission to inspect the property, a judge of the superior court or district court in the county in which such property is located may, upon the request

of the county noxious weed control board or its agent, issue a warrant directed to such board or agent authorizing the search for the noxious weeds described in the request for the warrant.

(2) Application for issuance and execution and return of the warrant authorized by this section shall be in accordance with the applicable rules of the superior court or the district courts.

(3) Nothing in this section requires the application for and issuance of any warrant not otherwise required by law: PROVIDED ((FURTHER)), That civil liability for negligence shall lie in any case in which entry and any of the activities connected therewith are not undertaken with reasonable care.

(4) Any person who improperly prevents or threatens to prevent entry upon land as authorized in this section or any person who interferes with the carrying out of this chapter shall be upon conviction guilty of a misdemeanor.

Sec. 18. Section 17, chapter 113, Laws of 1969 ex. sess. as last amended by section 1, chapter 118, Laws of 1979 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 and 17.10.150, it shall notify ((such)) the owner that a violation of this chapter exists. ((Such)) The notice shall be in writing(;) and sent by certified mail, and shall identify the noxious weeds found to be present, order prompt control action, and specify the time, of at least ten days from issuance of the notice, within which the prescribed action must be taken. Upon deposit of the certified letter of notice, the noxious weed control authority shall make an affidavit of mailing which shall be prima facie evidence that proper notice was given. If seed dispersion is imminent, immediate control action may be taken forty-eight hours following the time that notification is reasonably expected to have been received by the owner or agent by certified mail or personal service.

(2) The county noxious weed control board or its authorized agents may ((cause citations to be issued)) issue a notice of civil infraction as provided for in sections 23 through 28 of this 1987 act to owners who do not take action to control ((tansy ragwort)) noxious weeds in accordance with the notice.

(3) If the owner does not take action to control the noxious weeds in accordance with the notice, the county board 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. Necessary costs and expenses including reasonable attorneys' fees incurred by the county noxious weed control board in carrying out this section may be recovered at the same time as a part of the action filed under this section. 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.

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

(5) As an alternative to the enforcement of any lien created under subsection (3) of this section, the county 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 rate of twelve percent per annum 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. 19. Section 18, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.180 are each amended to read as follows:

Any owner, upon request pursuant to the rules and regulation of the county noxious weed control board, shall be entitled to a hearing before the board on any charge or cost for which ((such)) the owner is alleged to be liable pursuant to RCW 17.10.170 or 17.10.210. The board shall send notice by certified mail within thirty days, to each owner ((residing within the county)) at ((his)) the owner's last known address, as to any such charge or cost and as to his right of a hearing. ((If the owner does not reside within the county, such notice shall be sent by certified mail.)) The hearing shall be scheduled within forty-five days of notification. Any determination or final action by the board shall be subject to judicial review by a proceeding in the superior court in the county in which the property is located, and such court shall have original jurisdiction to determine any suit brought by the owner to recover damages allegedly suffered on account of control work negligently performed: PROVIDED, That no stay or injunction shall lie to delay any such control work subsequent to notice given pursuant to RCW 17.10.160 or pursuant to an order under RCW 17.10.210.

Sec. 20. Section 19, chapter 113, Laws of 1969 ex. sess. as amended by section 9, chapter 13, Laws of 1975 1st 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 annually and at such other times as may be appropriate 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). The 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 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)~~ or 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. 21. Section 20, chapter 113, Laws of 1969 ex. sess. as amended by section 3, chapter 118, Laws of 1979 and RCW 17.10.200 are each amended to read as follows:

(1) In the case of land owned by the United States on which control measures of a type and extent required pursuant to this chapter have not been taken, the ~~((county))~~ local noxious weed control ~~((board))~~ authority, with the approval of both the director of the department of agriculture and the appropriate federal agency, may perform, or cause to be performed, such work. The cost thereof, if not paid by the agency managing the land, ~~((shall be a state charge and))~~ may be paid from any funds available to the department of agriculture or the local noxious weed control authority for the administration of this chapter.

(2) The county noxious weed control board is authorized to enter into any reasonable agreement with the appropriate authorities for the control of noxious weeds on Indian or federal lands.

(3) The state shall make all possible efforts to obtain reimbursement from the federal government for costs incurred under this section: PROVIDED, That the state shall actively seek to inform the federal government of the need for noxious weed control on federally owned land where the presence of noxious weeds adversely affects local control efforts: PROVIDED FURTHER, That the state shall actively seek adequate federal funding for noxious weed control on Indian or federally owned land.

Sec. 22. Section 21, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.210 are each amended to read as follows:

(1) Whenever the director or the county noxious weed control board or a weed district finds that a parcel of land is so seriously infested with class A or class B noxious weeds that control measures cannot be undertaken thereon without quarantining the land and restricting or denying access

thereto or use thereof, the director or the county noxious weed control board or weed district, with the approval of the director of the department of agriculture, may issue an order for such quarantine and restriction or denial of access or use. Upon issuance of the order, the director or the county noxious weed control board ((promptly)) or weed district shall commence necessary control measures and shall prosecute them with due diligence.

(2) An order of quarantine shall be served, by any method sufficient for the service of civil process, on all persons known to qualify as owners of the land within the meaning of this chapter.

(3) The director shall, with the advice of the state noxious weed control board, determine how the expense of control work undertaken pursuant to this section, and the cost of any quarantine in connection therewith, shall be ~~((borne as follows: One-third by the owner, one-third by the county noxious weed control board, and one-third by the department of agriculture))~~ apportioned.

Sec. 23. Section 23, chapter 113, Laws of 1969 ex. sess. as amended by section 2, chapter 118, Laws of 1979 and RCW 17.10.230 are each amended to read as follows:

Any owner knowing of the existence of any noxious weeds on ~~((his))~~ the owner's land who fails to control such weeds in accordance with this chapter and rules and regulations in force pursuant thereto; or any person who enters upon any land in violation of an order in force pursuant to RCW 17.10.210; ~~((any person who prevents or threatens to prevent entry upon land as authorized in RCW 17.10.160;))~~ or any person who interferes with the carrying out of the provisions of this chapter ~~((, shall be, upon conviction, guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars on account of each violation or, in the case of failure to control tansy ragwort in accordance with the provisions of RCW 17.10.170; by a fine not to exceed five hundred dollars on account of each violation))~~ has committed a civil infraction.

NEW SECTION. Sec. 24. A new section is added to chapter 17.10 RCW to read as follows:

The county noxious weed control board may issue a notice of civil infraction if after investigation it has reasonable cause to believe an infraction has been committed. It shall be a misdemeanor for any person to refuse to identify himself or herself properly for the purpose of issuance of a notice of infraction. Any person wilfully violating a written and signed promise to respond to a notice of infraction shall be guilty of a misdemeanor regardless of the disposition of the notice of infraction.

NEW SECTION. Sec. 25. A new section is added to chapter 17.10 RCW to read as follows:

(1) A person who receives a notice of infraction shall respond to the notice as provided for in this section within fifteen days of the date on the notice.

(2) Any employee or agent of an owner subject to this chapter may accept a notice of infraction on behalf of the owner. The county noxious weed control board shall also furnish a copy of the notice of infraction to the owner by certified mail within five days of issuance.

(3) If the person determined to have committed the infraction does not contest the determination, that person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction shall be submitted with the response. When a response that does not contest the determination is received, an appropriate order shall be entered into the court's record and a record of the response shall be furnished to the county noxious weed control board.

(4) If a person determined to have committed the infraction wishes to contest the determination, that person shall respond by completing the portion of the notice of the infraction requesting a hearing and submitting it either by mail or in person to the court specified in the notice. The court shall notify the person in writing of the time, place, and date of the hearing which shall not be sooner than fifteen days from the date on the notice, except by agreement.

(5) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it either by mail or in person to the court specified in the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(6) If a person issued a notice of infraction fails to respond to the notice of infraction or fails to appear at the hearing requested pursuant to this section, the court shall enter an appropriate order assessing the monetary penalty prescribed in the schedule of penalties submitted to the court by the state noxious weed control board and shall notify the county noxious weed control board of the failure to respond to the notice of infraction or to appear at a requested hearing.

NEW SECTION. Sec. 26. A new section is added to chapter 17.10 RCW to read as follows:

A hearing held for the purpose of contesting the determination that an infraction has been committed shall be held without jury. The court may consider the notice of infraction and any other written report submitted by the county noxious weed control board. The person named in the notice may

subpoena witnesses and has the right to present evidence and examine witnesses present in court. The burden of proof is upon the county noxious weed control board to establish the commission of the infraction by preponderance of evidence.

After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it is not established that the infraction was committed, an order dismissing the notice shall be entered in the court's record. If it is established that the infraction was committed, an appropriate order shall be entered in the court's record, a copy of which shall be furnished to the county noxious weed control board. Appeal from the court's determination or order shall be to the superior court and must be within ten days of the determination or order. The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the rules of appellate procedure.

NEW SECTION. Sec. 27. A new section is added to chapter 17.10 RCW to read as follows:

A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person named in the notice may not subpoena witnesses. The determination that the infraction has been committed may not be contested at a hearing held for the purpose of explaining circumstances. After the court has heard the explanation of the circumstances surrounding the commission of the infraction, an appropriate order shall be entered in the court's record. A copy of the order shall be furnished to the county noxious weed control board. There may be no appeal from the court's determination or order.

NEW SECTION. Sec. 28. A new section is added to chapter 17.10 RCW to read as follows:

Any person found to have committed a civil infraction under this chapter shall be assessed a monetary penalty. No monetary penalty so assessed may exceed one thousand dollars. The state noxious weed control board shall adopt a schedule of monetary penalties for each violation of this chapter classified as a civil infraction and shall submit the schedule to the appropriate court. If a monetary penalty is imposed by the court, the penalty is immediately due and payable. The court may, at its discretion, grant an extension of time, not to exceed thirty days, in which the penalty must be paid. Failure to pay any monetary penalties imposed under this chapter shall be punishable as a misdemeanor.

***NEW SECTION.** Sec. 29. A new section is added to chapter 17.10 RCW to read as follows:

All civil fines received by the courts as the result of notices of infractions issued by the county noxious weed control board shall be paid to the

county noxious weed control board, less any mandatory court costs and assessments and shall be used solely for the purpose of carrying out the provisions of this chapter and rules adopted under it.

*Sec. 29 was vetoed, see message at end of chapter.

Sec. 30. Section 4, chapter 118, Laws of 1979 and RCW 17.10.235 are each amended to read as follows:

(1) Any person who knowingly or negligently sells ~~((hay))~~ a product, article, or feed stuff designated under subsection (2) of this section containing ~~((viable tansy ragwort seed in sufficient amounts to create a hazard of the spread of tansy ragwort by seed, and any person who knowingly sells hay containing tansy ragwort in sufficient amounts to be injurious to the health of the animal that consumes it;))~~ noxious weed seeds or toxic weeds designated for control under subsection (2) of this section and in an amount greater than the amount established by the director for the seed or weed under subsection (2) of this section is guilty of a misdemeanor.

(2) The director of agriculture shall adopt, with the advice of the state noxious weed control board, rules ~~((establishing the amount of tansy ragwort seed or tansy ragwort in hay that constitutes a violation of subsection (1) of this section))~~ designating noxious weed seeds the presence of which shall be controlled in products or articles to prevent the spread of noxious weeds. The rules shall identify the products and articles in which such seeds must be controlled and the maximum amount of such seed to be permitted in the product or article to avoid a hazard of spreading the noxious weed by seed from the product or article. The director shall also adopt, with the advice of the state board, rules designating toxic weeds the presence of which shall be controlled in feed stuffs to prevent injury to the animal that consumes the feed. The rules shall identify the feed stuffs in which the toxic weeds must be controlled and the maximum amount of the toxic weed to be permitted in such feed.

(3) The department of agriculture shall, upon request of the buyer, inspect ~~((hay))~~ products, articles, or feed stuffs designated under subsection (2) of this section and charge fees, in accordance with chapter 22.09 RCW, to determine the presence of ~~((tansy ragwort))~~ designated noxious weed seeds or toxic weeds.

Sec. 31. Section 24, chapter 113, Laws of 1969 ex. sess. as amended by section 10, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.240 are each amended to read as follows:

~~((+))~~ The activated county noxious weed control board~~((s))~~ of each county shall annually submit a budget to the county legislative authority for the operating cost of the county's weed program for the ensuing fiscal year; PROVIDED, That if the board finds the budget approved by the legislative authority is insufficient for an effective county noxious weed control program it shall petition the county legislative authority to hold a hearing as provided in section 35 of this 1987 act. Control of weeds is a special benefit

to the lands within any such ~~((district:))~~ section. Funding for the budget shall be derived from either or both of the following:

(1) The county 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 noxious 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, including but not limited to dry lands, range lands, irrigated lands, nonuse lands, forest lands, or federal lands. 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)~~). The assessment rate shall be either uniform per acre in its respective class or a flat rate per parcel rate plus a uniform rate per acre: 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))~~ its reconsideration all or any portion of the proposed levels of assessment. The findings by the county legislative authority of such special benefits, when so declared by resolution and spread upon the minutes of said authority shall be conclusive as to whether or not the same constitutes a special benefit to the lands within the ~~((district:))~~ section. The amount of such assessment shall constitute a lien against the property. The county legislative authority may by resolution or ordinance require that notice of the lien be sent to each owner of property for which the assessment has not been paid by the date it was due and that each such lien created shall be collected by the treasurer in the same manner as 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 rate of twelve percent per annum and such interest shall accrue as of the date notice of the lien is sent to the owner: PROVIDED FURTHER, That any collections for such lien shall not be considered as tax; or

(2) ~~((In addition,))~~ The county legislative authority may appropriate money from the county general fund necessary for the administration of the county noxious weed control program. In addition the county 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.))~~ Forest lands used solely for the planting, growing, or harvesting of trees and which are typified, except during a single period of five years following clear-cut logging, by canopies so dense as to prohibit growth of an understory may be subject to an annual noxious weed assessment levied by a county legislative authority that shall not exceed one-tenth of the weighted average per acre noxious weed assessment levied on all other lands in unincorporated areas within the county that are subject to the weed assessment. This assessment shall be computed in accordance with the formula in subsection (4) of this section.

(4) The calculation of the "weighted average per acre noxious weed assessment" shall be a ratio expressed as follows: (a) The numerator shall be the total amount of funds estimated to be collected from the per acre assessment on all lands except (i) forest lands as identified in subsection (3) of this section, (ii) lands exempt from the noxious weed assessment, and (iii) lands located in an incorporated area. (b) The denominator shall be the total acreage from which funds in (a) of this subsection are collected. For lands of less than one acre in size, the denominator calculation may be based on the following assumptions: (i) Unimproved lands shall be calculated as being one-half acre in size on the average, and (ii) improved lands shall be calculated as being one-third acre in size on the average. The county legislative authority may choose to calculate the denominator for lands of less than one acre in size using other assumptions about average parcel size based on local information.

(5) For those counties that levy a per parcel assessment to help fund noxious weed control programs, the per parcel assessment on forest lands as defined in subsection (3) of this section shall not exceed one-tenth of the per parcel assessment on nonforest lands.

Sec. 32. Section 25, chapter 113, Laws of 1969 ex. sess. as amended by section 11, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.250 are each amended to read as follows:

The legislative authority of any county with an activated noxious weed control board or the board of any weed district may apply to the ((state noxious weed control board)) director 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)) noxious weed control funds. Any such applicant must employ adequate administrative personnel to supervise an effective weed control program as determined by the director with advice from the state noxious weed control board. The director with advice from the

state noxious weed control board shall adopt rules on the distribution and use of noxious weed control account funds.

Sec. 33. Section 28, chapter 113, Laws of 1969 ex. sess. and RCW 17.10.260 are each amended to read as follows:

The administrative powers granted under this chapter to the director of the department of agriculture and to the state noxious weed control board shall be exercised in conformity with the provisions of the administrative procedure act, chapter 34.04 RCW, as now or hereafter amended. The use of any substance to control noxious weeds shall be subject to the provisions of the water pollution control act, chapter 90.48 RCW, as now or hereafter amended, the Washington pesticide control act, chapter 15.58 RCW, and the Washington pesticide application act, chapter 17.21 RCW.

Sec. 34. Section 5, chapter 143, Laws of 1974 ex. sess. and RCW 17.10.270 are each amended to read as follows:

Each noxious weed control board may (~~((purchase liability))~~) obtain such insurance or surety bonds, or both with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties.

Sec. 35. Section 13, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.280 are each amended to read as follows:

Every activated county noxious weed control 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.

Sec. 36. Section 14, chapter 13, Laws of 1975 1st ex. sess. and RCW 17.10.290 are each amended 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 control board ordering the same, and that a lien may be claimed for all materials and supplies or equipment furnished by such county noxious weed 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. 37. A new section is added to chapter 17.10 RCW to read as follows:

The following procedures shall be followed to deactivate a county noxious weed control board:

(1) The county legislative authority shall hold a hearing to determine whether there continues to be a need for an activated county noxious weed control board if:

(a) A petition is filed by one hundred registered voters within the county;

(b) A petition is filed by a county noxious weed control board as provided in RCW 17.10.240; or

(c) The county legislative authority passes a motion to hold such a hearing.

(2) Except as provided in subsection (4) of this section, the hearing shall be held within sixty days of final action taken under subsection (1) of this section.

(3) If, after hearing, the county legislative authority determines that no need exists for a county noxious weed control board, the county legislative authority shall deactivate the board.

(4) The county legislative authority shall not convene a hearing as provided for in subsection (1) of this section more frequently than once a year.

Sec. 38. Section 26, chapter 113, Laws of 1969 ex. sess. as amended by section 12, chapter 13, Laws of 1975 1st 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 landowners subject to any such weed district, and the county noxious weed control board upon its own motion, petition the county legislative authority for a dissolution of the weed district, the county 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.

Sec. 39. Section 3, chapter 174, Laws of 1984 and RCW 43.51.407 are each amended to read as follows:

The state parks and recreation commission shall do the following with respect to the portion of the Milwaukee Road corridor under its control:

(1) Manage the corridor as a recreational trail except when closed under RCW 43.51.409;

(2) Close the corridor to hunting;

(3) Close the corridor to all motorized vehicles except: (a) Emergency or law enforcement vehicles; (b) vehicles necessary for access to utility lines; and (c) vehicles necessary for maintenance of the corridor, or construction of the trail;

(4) Comply with legally enforceable conditions contained in the deeds for the corridor;

(5) Control weeds under the applicable provisions of chapters 17.04, 17.06, (~~17.08;~~) and 17.10 RCW; and

(6) Clean and maintain culverts.

NEW SECTION. Sec. 40. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 194, Laws of 1937, section 1, chapter 89, Laws of 1953 and RCW 17.08.010;

(2) Section 2, chapter 194, Laws of 1937, section 3, chapter 169, Laws of 1977 ex. sess., section 9, chapter 469, Laws of 1985 and RCW 17.08.020;

(3) Section 6, chapter 13, Laws of 1957 and RCW 17.08.050;

(4) Section 7, chapter 13, Laws of 1957 and RCW 17.08.060;

(5) Section 8, chapter 13, Laws of 1957, section 10, chapter 469, Laws of 1985 and RCW 17.08.070;

(6) Section 9, chapter 13, Laws of 1957 and RCW 17.08.080;

(7) Section 10, chapter 13, Laws of 1957 and RCW 17.08.090;

(8) Section 12, chapter 13, Laws of 1957 and RCW 17.08.100;

(9) Section 13, chapter 13, Laws of 1957 and RCW 17.08.110;

(10) Section 5, chapter 194, Laws of 1937, section 3, chapter 89, Laws of 1953, section 8, chapter 205, Laws of 1959 and RCW 17.08.120;

(11) Section 4, chapter 89, Laws of 1953 and RCW 17.08.130;

(12) Section 5, chapter 89, Laws of 1953 and RCW 17.08.140;

(13) Section 6, chapter 89, Laws of 1953 and RCW 17.08.150; and

(14) Section 22, chapter 113, Laws of 1969 ex. sess. and RCW 17.10-.220.

Passed the House March 20, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 18, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 18, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 29, Engrossed Substitute House Bill No. 648, entitled:

"AN ACT Relating to noxious weed control."

Section 29 of this bill would require courts to distribute revenue received as a result of infractions issued by a noxious weed board in a different way than is currently prescribed by statute. As part of the Court Improvement Act of 1984, all court revenue is distributed according to a 68/32% formula between local and state government. The Court Improvement Act did away with an administratively expensive and cumbersome system of separate accounting for numerous small special purpose court collections. The unified and simplified system now in place is vastly superior to its predecessor. The change mandated by this section would be a step backward toward the old system.

With the exception of section 29, Engrossed Substitute House Bill No. 648 is approved."

CHAPTER 439

[Second Substitute Senate Bill No. 5074]

INVOLUNTARY COMMITMENT PROCEDURES REVISED—PILOT PROGRAM ESTABLISHED

AN ACT Relating to mental health; amending RCW 71.05.040, 71.05.210, 71.05.230, 71.05.240, 71.05.250, 71.05.260, 71.05.300, 71.05.310, 71.05.340, 5.60.060, 18.83.110, 70.96A.120, and 70.96A.140; and creating a new section.

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

Sec. 1. Section 9, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 41, chapter 80, Laws of 1977 ex. sess. and RCW 71.05.040 are each amended to read as follows:

Persons who are developmentally disabled, impaired by chronic alcoholism or drug abuse, or senile shall not be detained for evaluation and treatment or judicially committed solely by reason of that condition unless such condition causes a person to be gravely disabled or as a result of a mental disorder such condition exists that constitutes a likelihood of serious harm to self or others(~~(-PROVIDED, That a person shall not be subject to the provisions of this chapter if proceedings have been initiated under the provisions of the Washington Uniform Alcoholism and Intoxication Treatment Act, chapter 70.96A RCW)).~~

Sec. 2. Section 26, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 4, chapter 199, Laws of 1975 1st ex. sess. and RCW 71.05.210 are each amended to read as follows:

Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his or her admission, be examined and evaluated by a licensed physician and a mental health professional as defined in this chapter, and shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a court proceeding, the individual may refuse all but emergency