

priated, to pay Poole's Seed & Implement Company for material supplied and freight paid by it for the Western Washington Hospital for the Insane.

SEC. 2. That the state auditor is hereby authorized to draw a warrant on the state treasurer for the said sum in favor of Poole's Seed & Implement Company, and said treasurer is hereby directed to pay said sum out of any funds in the state treasury not otherwise appropriated. Warrant.

Passed the House February 4, 1913.

Passed the Senate March 11, 1913.

Approved by the Governor March 18, 1913.

CHAPTER 106.

[H. B. 93.]

RELATING TO NOXIOUS WEEDS.

AN ACT to prevent the spreading of noxious weeds, relating to the duties of owners, lessees, mortgagees, occupiers and agents of lands and of district road supervisors, prosecuting attorneys, county commissioners, county auditors, county treasurers and superior courts, providing a penalty for the violation thereof, providing for appeals to the superior court and supreme court, and amending sections 3038, 3039, 3040, 3041 of Remington & Ballinger's Annotated Codes and Statutes of Washington, as amended by chapter 60 of the Session Laws of 1911, and section 3042 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That section 3038 of Remington & Ballinger's Annotated Codes and Statutes of Washington, as amended by chapter 60 of the Session Laws of 1911, be amended to read as follows:

[Amends Rem.-Bal., § 3038 as amended by ch. 60, L. '11; Pierce's Code, 1912, 9 § 71.]

Section 3038. It shall be the duty of every owner, lessee, occupant or agent thereof, or of any person having the care and charge of any land or lands, improved or unimproved, enclosed or unenclosed, in this state, to cut down or otherwise destroy all noxious weeds growing thereon or on any road, street or highway to the center thereof

Duty of owner.

bordering on any such land or lands, so often in each and every year as shall be certain to prevent them from going to seed: *Provided*, That this shall not apply to timber lands, brush lands or logged-off lands.

[Amends Rem.-Bal., § 3039 as amended by ch. 60, L. '11; Pierce's Code, 1912, 9 § 73.]

SEC. 2. That section 3039 of Remington & Ballinger's Annotated Codes and Statutes of Washington, as amended by chapter 60 of the Session Laws of 1911, be amended to read as follows:

Misdemeanor.

Section 3039. If any owner, lessee, occupant, agent or person having the care or charge of any such land or lands shall knowingly suffer any noxious weeds to grow thereon, and shall permit the seeds of any such noxious weeds to ripen, he shall be guilty of a misdemeanor: *Provided*, That this section shall not apply to what is commonly known as "bull thistle", on lands known as "logged-off, or cut over lands" outside of cities and towns.

[Amends Rem.-Bal., § 3040 as amended by ch. 60, L. '11; Pierce's Code, 1912, 9 § 75.]

SEC. 3. That section 3040 of Remington & Ballinger's Annotated Codes and Statutes of Washington, as amended by chapter 60 of the Session Laws of 1911, be amended to read as follows:

Duty of road supervisor.

Section 3040. It shall be the duty of each road supervisor in each road district in this state to see that the provisions of this act are carried out within his district, and he shall file with the prosecuting attorney of the county lists of lands within his district upon which any noxious weeds may be growing, giving a description of the kinds and character of weeds growing thereon, together with a statement of the approximate time within which said weeds must be destroyed in order to prevent their going to seed.

Auditor and treasurer to furnish lists.

Upon receipt of such lists it shall be the duty of the prosecuting attorney to demand from the county auditor and county treasurer lists giving the names of any and all owners, lessees, mortgagees and occupants of the lands to be affected, together with their places of residence or address so far as may be shown by the public records of said county or of said offices or be known to said officers,

and it shall be the duty of said auditor and said treasurer to furnish such information.

It shall be the duty of such prosecuting attorney to issue and subscribe notices directed to each and all of said owners, lessees, mortgagees and occupants which said notices shall require the persons therein named to cause said noxious weeds to be cut down and destroyed within ten days from the time of serving, mailing or posting said notices as in this act provided and said notices shall be served or given in the following manner: On all residents of the county within which the lands affected are situated, by serving the same personally in the same manner as provided by law for the service of a summons in the superior court; on all non-residents of the county whose address or place of residence is shown by the records or is known, by mailing a copy of said notice by registered mail; and in all cases where the address or place of residence is unknown, by posting a copy of said notice in a conspicuous place on the land and in full view of the traveling public. In case of a return of not found as to any of such persons whose address or place of residence is unknown, posting of the notices as herein provided shall be a sufficient service thereof.

It shall be the duty of the county auditor to keep a record book in which he shall cause to be entered the names, addresses or places of residence of any person, firm or corporation who may notify such officer of their desire to be registered therein and of their desire to be notified by registered mail at the place of residence or address given of any proceedings had under this act affecting any lands of which they may be the owners, lessees, mortgagees or occupants; and the sending by registered mail of any notice or statement provided for under this act to said person or persons, firm or corporation at the place of residence or address given shall constitute a sufficient service under this act.

All returns of not found shall be made by the sheriff of the county or his deputies, and all returns not found,

proofs of service, mailing or posting shall be filed forthwith in the office of the auditor of the county where the land is situated.

Service on
railroad
company.

Where noxious weeds are growing on the right-of-way of any railroad within any road district, said notice may be served on the foreman in charge of that portion of the right-of-way passing through such district, or such notice may be served on such railway corporation by delivering a copy thereof to any agent of said corporation within the state personally.

Road
supervisor
to cut
weeds.

In case the persons named in said notice fail, refuse or neglect to cut down and destroy said noxious weeds within ten days after the date of serving, mailing or posting said notices as in this act provided, then such road supervisor shall take the necessary assistance and enter upon said lands and cause said noxious weeds to be destroyed with as little damage to growing crops as may be.

Supervisor
liable, when.

If any such road supervisor shall fail or refuse to perform or cause to be performed any of the duties or services enumerated in this act, he shall be deemed guilty of a misdemeanor.

[Amends
Rem.-Bal.,
§ 3041 as
amended by
ch. 60, L. '11;
Pierce's
Code, 1912,
9 § 77.]

SEC. 4. That section 3041 of Remington & Ballinger's Annotated Codes and Statutes of Washington, as amended by chapter 60 of the Session Laws of 1911, be amended to read as follows:

Supervisor
to keep
account with
each parcel
of land.

Section 3041. Each road supervisor shall keep an accurate account of the expenses incurred by him in carrying out the provisions of this act with respect to each parcel of land entered upon therefor and the prosecuting attorney of the county shall cause to be served, mailed or posted in the same manner as is provided in this act for giving notice to destroy noxious weeds a statement of such expense, including description of the land verified by oath of the road supervisor, to the owner, lessee, mortgagee, occupant or agent or person having charge of said land, and coupled with such statement shall be a notice subscribed by said prosecuting attorney and naming a time and place when and where said matter will be brought be-

Hearing
before
board
county com-
missioners.

fore the board of county commissioners for hearing and determination, said statement and notice to be served, mailed or posted, as the case may be, at least ten days before the time for such hearing. At the time of such hearing or at such other time to which the same may be continued or adjourned by said county commissioners, the board shall proceed to examine said claim, hear testimony if offered and shall make and enter an order upon the minutes of said meeting that said claim, or so much thereof as shall be deemed just and proper, shall be paid out of the road and bridge fund of said county. Costs of serving, mailing and posting shall be added to any amount so found to be due and shall be collected at the same time and in the same manner as other charges under this act.

Paid out of
road and
bridge fund.

Costs.

SEC. 5. That section 3042 of Remington & Ballinger's Annotated Codes and Statutes of Washington be amended to read as follows:

[Amends
Rem.-Bal.,
§ 3042;
Pierce's
Code, 1912,
9 § 79.]

Section 3042. At the time when the board of county commissioners pays the claim for cutting said weeds as in section 3041 provided it shall make an order that the amount paid be a tax on the land on which said work was done after the expiration of ten days from the date of the entry of said order, unless an appeal be taken as in this act provided in which event the same shall become a tax at the time the amount to be paid shall be determined by the court, and the county treasurer shall enter the same on the tax rolls against the land for the current year and collect it together with penalty and interest as other taxes are collected, and when so collected, the same shall be credited to the county road and bridge fund: *Provided*, That a failure to serve, mail or post any of the notices or statements provided for in this act shall not invalidate said tax but in case of such failure, the lien of such tax shall be subordinate and inferior to the interests of any mortgagee to whom notice has not been given in accordance with the provisions of this act.

Tax on land.

Extended on
tax rolls.

Technicalities
not to
defeat tax.

SEC. 6. *Appeals to Superior Court.*

Any interested party may appeal from the decision and order of said county commissioners to the superior court

Appeals to
superior
court.

of said county by serving written notice of appeal on the county auditor and by filing in the office of the clerk of the superior court a copy of said notice of appeal with proof of service attached, together with a good and sufficient cost bond in the sum of \$200.00, said cost bond to run to the county and in all other respects to comply with the laws relating to cost bonds required of non-resident plaintiffs in the superior court. Said notice of appeal must be served and filed within ten days from the date of the decision and order of the county commissioners and said cost bond must be filed within five days from the filing of said notice of appeal.

Bond.

Whenever notice of appeal and cost bond shall have been filed with the clerk of the superior court, that officer shall notify the county auditor thereof forthwith and the auditor shall certify immediately to said court all notices and records in said matter, together with proofs of service, and a true copy of the order and decision pertaining thereto made by the county commissioners. If no appeal be perfected within ten days from the decision and order of the county commissioners the same shall be deemed confirmed and the auditor shall certify the amount of such charges to the county treasurer who shall enter same on the tax rolls against the land; when an appeal is perfected the matter shall be heard in the superior court *de novo* and the court's decision shall be conclusive on all persons properly served under this act: *Provided*, That an appeal may be taken to the supreme court from the order or decision of the superior court in the manner provided by existing laws, and upon the conclusion of such appeals the amount of charges and costs adjudged to be paid shall be certified by the clerk of the superior court to the county treasurer and said treasurer shall proceed to enter the same on his rolls against the land affected.

Record.

Time of appeal.

Appeals to supreme court.

Certain territory may be exempted.

SEC. 7. The board of county commissioners of any county in this state shall have the power to designate by an order, to be made and entered in the manner hereinafter, certain territory which may be excepted from the

provisions of this act. Whenever a petition signed by ten or more residents of any road district shall be filed with the county auditor praying that certain contiguous territory therein bounded and described and lying wholly within said road district be excepted from the provisions of this act for the reasons set forth in said petition, said auditor shall cause a notice to be published for two successive weeks in the newspaper doing the county printing, which said notice shall set forth the boundaries of the tracts to be excepted and shall name the time and place for a hearing by the board of county commissioners on said petition, the first publication of said notice to be at least fifteen days prior to the time of said hearing: *Provided*, That the person or persons filing said petition shall pay in advance to the county auditor the costs of the publication of such notice.

Petition.

Notice of petition.

Costs of publication.

At the time of said hearing the board of county commissioners shall hear all persons interested in the matter presented by said petition and, by an order made and entered in the record of their proceedings, shall determine whether said territory shall be excepted from the provisions of this act, giving the reasons for their decision, and in case the prayer of such petition is granted such order shall describe the boundaries of the territory within said road district to which such exception shall be applied: *Provided*, That any order thus made excepting any territory from the provisions of this act shall not be in force for a longer period than twelve months from the date of the entry of such order, unless a new petition be filed, new notice given and another hearing be had as in this act provided.

Hearing on exemption of territory

Exemption not to exceed one year.

Passed the House February 4, 1913.

Passed the Senate February 17, 1913.

Approved by the Governor March 18, 1913.