

NOXIOUS WEED CONTROL ACT

Administration: This Act generally pertains to the control of noxious weeds. The Nebraska Department of Agriculture, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509, telephone: (402) 471-2394, has certain duties under this Act.

Revisions: This Act was last revised during the 2016 session of the Legislature.

Rules: A regulation has been promulgated under this Act, known as Title 25, Chapter 10, Nebraska Administrative Code - Noxious Weed Regulations.

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2-945.01. Act, how cited.

Sections 2-945.01 to 2-970 shall be known and may be cited as the Noxious Weed Control Act.

Source: Laws 1989, LB 49, § 1; Laws 1994, LB 76, § 450; Laws 2004, LB 869, § 1; Laws 2006, LB 1226, § 2; Laws 2007, LB701, § 3; Laws 2016, LB1038, § 1.

2-945.02. Legislative findings and declarations.

The Legislature finds and declares that:

(1) The failure to control noxious weeds on lands in this state is a serious problem which is detrimental to the production of crops and livestock and to the welfare of residents of this state and which may devalue land and reduce tax revenue;

(2) It is the purpose of the Noxious Weed Control Act to establish a workable framework, delineate responsibilities, encourage education of the public concerning noxious weeds, and provide the necessary authority to effectively control noxious weeds;

(3) It is the duty of each person who owns or controls land to effectively control noxious weeds on such land. County boards or control authorities are responsible for administration of noxious weed control laws at the county level;

(4) The Department of Agriculture should have responsibility for (a) establishing basic standards such as designating which plants are to be considered noxious weeds and which control measures are to be used in particular situations and (b) monitoring implementation of the act by the control authorities; and

(5) A state noxious weed advisory committee shall be convened by the director with broad representation to advise the director.

Source: Laws 1989, LB 49, § 2.

2-946. Repealed. Laws 1965, c. 8, § 58.

2-946.01. Counties; appropriate funds.

Counties may appropriate and expend funds for the purchase of materials, machinery and equipment to assist the districts organized under this section and section 2-946.02. Cities or villages may appropriate and expend funds for the purchase of materials, machinery and equipment to assist districts organized within their corporate limits.

Source: Laws 1945, c. 2, § 22, p. 66.

2-946.02. Noxious weed control; cities and villages; provide funds.

All cities and villages in this state shall provide for the control of noxious weeds within their jurisdiction and may appropriate money for and make the necessary expenditures for noxious weed control. The director shall advise cities and villages concerning noxious weed control.

Source: Laws 1945, c. 2, § 23, p. 66; Laws 1975, LB 14, § 1; Laws 1987, LB 138, § 1; Laws 1989, LB 49, § 3.

2-947. Repealed. Laws 1965, c. 7, § 15.

2-948. Repealed. Laws 1965, c. 7, § 15.

2-949. Repealed. Laws 1965, c. 7, § 15.

2-950. Repealed. Laws 1965, c. 7, § 15.

2-951. Repealed. Laws 1965, c. 7, § 15.

2-952. Methods.

It shall be the duty of every person to control the spread of noxious weeds on lands owned or controlled by him or her and to use such methods for that purpose as are specified in rules and regulations adopted and promulgated by the director.

Source: Laws 1965, c. 7, § 1, p. 78; Laws 1975, LB 14, § 2; Laws 1987, LB 138, § 2; Laws 1989, LB 49, § 4.

2-953. Terms, defined.

For purposes of the Noxious Weed Control Act:

(1) Person means any individual, partnership, firm, limited liability company, corporation, company, society, or association, the state or any department, agency, or subdivision thereof, or any other public or private entity;

(2)(a) Control, with respect to land, means the authority to operate, manage, supervise, or exercise jurisdiction over or any similar power. The state or federal government or a political subdivision shall not be deemed to control land on which it has an easement as long as it does not otherwise operate, manage, supervise, or exercise jurisdiction over the land; and

(b) Control, with respect to weeds, means the prevention, suppression, or limitation of the growth, spread, propagation, or development or the eradication of weeds;

(3) County board means the county board of commissioners or supervisors;

(4) Noxious weeds means and includes any weeds designated and listed as noxious in rules and regulations adopted and promulgated by the director;

(5) Control authority means the county weed district board or the county board if it is designated as the control authority pursuant to section 2-953.01, which board shall represent all rural areas and cities, villages, and townships within the county boundaries;

(6) Director means the Director of Agriculture or his or her designated representative; and

(7) Weed management entity means an entity recognized by the director as being established by and consisting of local stakeholders, including tribal governments, for the purpose of controlling or eradicating harmful, invasive weeds and increasing public knowledge and education concerning the need to control or eradicate harmful, invasive weeds.

Source: Laws 1965, c. 7, § 2, p. 78; Laws 1969, c. 13, § 1, p. 151; Laws 1975, LB 14, § 3; Laws 1981, LB 204, § 2; Laws 1987, LB 1, § 1; Laws 1987, LB 138, § 3; Laws 1989, LB 49, § 5; Laws 1993, LB 121, § 61; Laws 1994, LB 76, § 453; Laws 2004, LB 869, § 2.

2-953.01. County weed district board; elections; membership.

The county board may, following an election in which a majority of the votes cast are in favor of such action, function as and exercise the authority and carry out the duties of the county weed district board. To initiate such an election, the county board may, by resolution, require the county clerk of such county to have placed upon the ballot at the election next following such resolution, the question, Shall the county weed district board be dissolved and its duties and authority be exercised by the county board?

Yes No

If a majority of the votes cast on this question are opposed to dissolution of the county weed district board, the county shall remain subject to the direction and authority of the elected county weed district board. If a majority of the votes cast on this question are in favor of the dissolution of the county weed district board, the county board shall function as and exercise the authority and carry out the duties of the county weed district board. If, at any time following the dissolution of the county weed district board, county residents, representing at least ten percent of the votes cast in the preceding general election in such county, submit a petition to the county clerk for reestablishment

of the county weed district board as an independent elected body, the clerk shall place the following question on the next general election ballot: Shall the county weed district board be reestablished and elected independent of other county officials?

Yes No

If a majority of the ballots favor reestablishment of the independent board, the county board shall appoint an initial county weed district board and thereafter the county weed district board members shall be elected in conformity with section 32-531.

When the county board does not function as the county weed district board, such board shall be composed of five members, three of whom shall be from rural areas and two of whom shall be from cities, villages, or townships.

Source: Laws 1994, LB 76, § 451.

Cross References

- **Election of county weed district board members**, see section 32-531.

2-953.02. County weed district board; per diem; expenses; ex officio member; appointment; when.

The members of the county weed district board shall be paid a per diem of not less than twelve dollars for each day actually and necessarily engaged in the performance of their official duties as members of such board and shall be allowed mileage reimbursement on the same basis as provided in section 81-1176. The chairperson of the county board may appoint one additional member from the county board to serve as an ex officio member of the county weed district board to provide coordination between such boards, except that the county board member or commissioner so appointed shall not be entitled to the expense reimbursement allowed county weed district board members. The ex officio member shall possess the same authority as other members, including the right to vote.

Source: Laws 1994, LB 76, § 452; Laws 1996, LB 1011, § 1.

2-954. Act; enforcement; director, control authorities, and superintendents; powers and duties; expenses.

(1)(a) The duty of enforcing and carrying out the Noxious Weed Control Act shall be vested in the director and the control authorities as designated in the act. The director shall determine what weeds are noxious for purposes of the act. A list of such noxious weeds shall be included in the rules and regulations adopted and promulgated by the director. The director shall prepare, publish, and revise as necessary a list of noxious weeds. The list shall be distributed to the public by the director, the Cooperative Extension Service, the control authorities, and any other body the director deems appropriate. The director shall, from time to time, adopt and promulgate rules and

regulations on methods for control of noxious weeds and adopt and promulgate such rules and regulations as are necessary to carry out the act. Whenever special weed control problems exist in a county involving weeds not included in the rules and regulations, the control authority may petition the director to bring such weeds under the county control program. The petition shall contain the approval of the county board. Prior to petitioning the director, the control authority, in cooperation with the county board, shall hold a public hearing and take testimony upon the petition. Such hearing and the notice thereof shall be in the manner prescribed by the Administrative Procedure Act. A copy of the transcript of the public hearing shall accompany the petition filed with the director. The director may approve or disapprove the request. If approval is granted, the control authority may proceed under the forced control provisions of sections 2-953 to 2-955 and 2-958.

(b) The director shall (i) investigate the subject of noxious weeds, (ii) require information and reports from any control authority as to the presence of noxious weeds and other information relative to noxious weeds and the control thereof in localities where such control authority has jurisdiction, (iii) cooperate with control authorities in carrying out other laws administered by him or her, (iv) cooperate with agencies of federal and state governments and other persons in carrying out his or her duties under the Noxious Weed Control Act, (v) with the consent of the Governor, conduct investigations outside this state to protect the interest of the agricultural industry of this state from noxious weeds not generally distributed therein, (vi) with the consent of the federal agency involved, control noxious weeds on federal lands within this state, with reimbursement, when deemed by the director to be necessary to an effective weed control program, (vii) advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control thereof, (viii) call and attend meetings and conferences dealing with the subject of noxious weeds, (ix) disseminate information and conduct educational campaigns with respect to control of noxious weeds, (x) procure materials and equipment and employ personnel necessary to carry out the director's duties and responsibilities, and (xi) perform such other acts as may be necessary or appropriate to the administration of the act.

(c) The director may (i) temporarily designate a weed as a noxious weed for up to eighteen months if the director, in consultation with the advisory committee created under section 2-965.01, has adopted criteria for making temporary designations and (ii) apply for and accept any gift, grant, contract, or other funds or grants-in-aid from the federal government or other public and private sources for noxious weed control purposes and account for such funds as prescribed by the Auditor of Public Accounts.

(d) When the director determines that a control authority has substantively failed to carry out its duties and responsibilities as a control authority or has substantively failed to implement a county weed control program, he or she shall instruct the control authority regarding the measures necessary to fulfill such duties and responsibilities. The director shall establish a reasonable date by which the control authority shall fulfill such duties and responsibilities. If the control authority fails or refuses to comply with instructions by such date, the Attorney General shall file an action as provided by law against the control authority for such failure or refusal.

(2)(a) Each control authority shall carry out the duties and responsibilities vested in it under the act with respect to land under its jurisdiction in accordance with rules and regulations adopted and

promulgated by the director. Such duties shall include the establishment of a coordinated program for control of noxious weeds within the county.

(b) A control authority may cooperate with any person in carrying out its duties and responsibilities under the act.

(3)(a) Each county board shall employ one or more weed control superintendents. Each such superintendent shall, as a condition precedent to employment, be certified in writing by the federal Environmental Protection Agency as a commercial applicator under the Federal Insecticide, Fungicide, and Rodenticide Act. Each superintendent shall be bonded for such sum as the county board shall prescribe. The same person may be a weed control superintendent for more than one county. Such employment may be for such tenure and at such rates of compensation and reimbursement for travel expenses as the county board may prescribe. Such superintendent shall be reimbursed for mileage at a rate equal to or greater than the rate provided in section 81-1176.

(b) Under the direction of the control authority, it shall be the duty of every weed control superintendent to examine all land under the jurisdiction of the control authority for the purpose of determining whether the Noxious Weed Control Act and the rules and regulations adopted and promulgated by the director have been complied with. The weed control superintendent shall: (i) Compile such data on infested areas and controlled areas and such other reports as the director or the control authority may require; (ii) consult and advise upon matters pertaining to the best and most practical methods of noxious weed control and render assistance and direction for the most effective control; (iii) investigate or aid in the investigation and prosecution of any violation of the act; and (iv) perform such other duties as required by the control authority in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable and shall supervise the carrying out of the coordinated control program within the county.

(c) In cases involving counties in which municipalities have ordinances for weed control, the control authority may enter into agreements with municipal authorities for the enforcement of local weed ordinances and may follow collection procedures established by such ordinances. All money received shall be deposited in the noxious weed control fund or, if no noxious weed control fund exists, in the county general fund.

Source: Laws 1965, c. 7, § 3, p. 79; Laws 1969, c. 13, § 2, p. 153; Laws 1975, LB 14, § 4; Laws 1981, LB 204, § 3; Laws 1987, LB 1, § 2; Laws 1987, LB 138, § 4; Laws 1988, LB 807, § 1; Laws 1989, LB 49, § 6; Laws 1991, LB 663, § 24; Laws 1996, LB 1011, § 2; Laws 2004, LB 869, § 3; Laws 2010, LB731, § 1.

Cross References

- **Administrative Procedure Act**, see section 84-920.

2-954.01. Repealed. Laws 1975, LB 14, § 13.

2-954.02. Superintendent; continuing education.

Beginning January 1, 1988, each county weed control superintendent shall be required to complete twenty hours of annual continuing education. The cost of continuing education shall be included in the annual budget of the weed control authority. Such continuing education shall focus on the use of equipment, drift control, calibration, proper selection of pesticides, legal responsibilities, and duties of office. Any statewide association of county weed control superintendents or of local governments responsible for weed control may sponsor the required continuing education program. All continuing education programs shall be submitted to the director for review and approval. The sponsoring organization shall maintain records of attendance and notify each county board of the hours completed by its weed control superintendent by January 1 of each year. Failure to complete the required number of hours of continuing education shall subject such weed control superintendent to removal from office by the county board.

Source: Laws 1987, LB 138, § 5.

2-955. Notice; kinds; effect; failure to comply; powers of control authority.

(1) Notices for control of noxious weeds shall consist of two kinds: General notices, as prescribed by rules and regulations adopted and promulgated by the director, which notices shall be on a form prescribed by the director; and individual notices, which notices shall be on a form prescribed by this section. Failure to publish general weed notices or to serve individual notices as provided in this section shall not relieve any person from the necessity of full compliance with the Noxious Weed Control Act and rules and regulations adopted and promulgated pursuant to the act.

(a) General notice shall be published by each control authority, in one or more newspapers of general circulation throughout the area over which the control authority has jurisdiction, on or before May 1 of each year and at such other times as the director may require or the control authority may determine.

(b) Whenever any control authority finds it necessary to secure more prompt or definite control of weeds on particular land than is accomplished by the general published notice, it shall cause to be served individual notice upon the owner of record of such land at his or her last-known address, 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.

Each control authority shall use one or both of the following forms for all individual notices: (i)

..... County Weed Control Authority

OFFICIAL NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the control authority, including an onsite investigation by the county weed control

superintendent or a deputy, indicated the existence of an uncontrolled noxious weed infestation on property owned by you at:

The noxious weed or weeds are The method of control recommended by the control authority is as follows:

Other appropriate control methods are acceptable if approved by the county weed control superintendent.

Because the stage of growth of the noxious weed infestation on the above-specified property warrants immediate control, if such infestation remains uncontrolled after ten days from the date specified at the bottom of this notice, the control authority may enter upon such property for the purpose of taking the appropriate weed control measures. Costs for the control activities of the control authority shall be at the expense of the owner of the property and shall become a lien on the property as a special assessment levied on the date of control.

..... Weed Control Superintendent

Dated.....;

or (ii)

..... County Weed Control Authority

OFFICIAL NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the control authority, including an onsite investigation by the county weed control superintendent or a deputy, indicates the existence of an uncontrolled noxious weed infestation on property owned by you at:

The noxious weed or weeds are The method of control recommended by the control authority is as follows:

Other appropriate control methods are acceptable if approved by the county weed control superintendent. If, within fifteen days from the date specified at the bottom of this notice, the noxious weed infestation on such property, as specified above, has not been brought under control, you may, upon conviction, be subject to a fine of \$100.00 per day for each day of noncompliance beginning on, up to a maximum of fifteen days of noncompliance (maximum \$1,500).

Upon request to the control authority, within fifteen days from the date specified at the bottom of this notice, you are entitled to a hearing before the control authority to challenge the existence of a noxious weed infestation on property owned by you at

..... Weed Control Superintendent

Dated..... .

In all counties having a population of four hundred thousand or more inhabitants as determined by the most recent federal decennial census, the control authority may dispense with the individual notices and may publish general notices if published in one or more newspapers of general circulation throughout the area over which such control authority has jurisdiction. Such notice shall be published weekly for four successive weeks prior to May 1 of each year or at such other times as the control authority deems necessary. In no event shall a fine be assessed against a landowner as prescribed in subdivision (3)(a) of this section unless the control authority has caused individual notice to be served upon the landowner as specified in this subdivision.

(2) At the request of any owner served with an individual notice pursuant to subdivision (1)(b)(ii) of this section, the control authority shall hold an informal public hearing to allow such landowner an opportunity to be heard on the question of the existence of an uncontrolled noxious weed infestation on such landowner's property.

(3) Whenever the owner of the land on which noxious weeds are present has neglected or failed to control them as required pursuant to the act and any notice given pursuant to subsection (1) of this section, the control authority having jurisdiction shall proceed as follows:

(a) If, within fifteen days from the date specified on the notice required by subdivision (1)(b)(ii) of this section, the owner has not taken action to control the noxious weeds on the specified property and has not requested a hearing pursuant to subsection (2) of this section, the control authority shall notify the county attorney who shall proceed against such owner as prescribed in this subdivision. A person who is responsible for an infestation of noxious weeds on particular land under his or her ownership and who refuses or fails to control the weeds on the infested area within the time designated in the notice delivered by the control authority shall, upon conviction, be guilty of an infraction pursuant to sections 29-431 to 29-438, except that the penalty shall be a fine of one hundred dollars per day for each day of violation up to a total of one thousand five hundred dollars for fifteen days of noncompliance; or

(b) If, within ten days from the date specified in the notice required by subdivision (1)(b)(i) of this section, the owner has not taken action to control the noxious weeds on the specified property and the stage of growth of such noxious weeds warrants immediate control to prevent spread of the infestation to neighboring property, the control authority may cause proper control methods to be used on such infested land, including necessary destruction of growing crops, and shall advise the record owner of the cost incurred in connection with such operation. The cost of any such control shall be at the expense of the owner. In addition the control authority shall immediately cause notice to be filed of possible unpaid weed control assessments against the property upon which the control measures were used in the register of deeds office in the county where the property is located. If unpaid for two months, the control authority shall certify to the county treasurer the amount of such expense and such expense shall become a lien on the property upon which the control measures were taken as a special assessment levied on the date of control. The county treasurer shall add such expense to and it shall become and form a part of the taxes upon such land and shall bear interest at the same rate as taxes.

Nothing contained in this section shall be construed to limit satisfaction of the obligation imposed hereby in whole or in part by tax foreclosure proceedings. The expense may be collected by suit instituted for that purpose as a debt due the county or by any other or additional remedy otherwise available. Amounts collected under subdivision (3)(b) of this section shall be deposited to the noxious weed control fund of the control authority or, if no noxious weed control fund exists, to the county general fund.

Source: Laws 1965, c. 7, § 4, p. 82; Laws 1969, c. 13, § 4, p. 158; Laws 1974, LB 694, § 1; Laws 1975, LB 14, § 5; Laws 1983, LB 154, § 1; Laws 1987, LB 1, § 3; Laws 1987, LB 138, § 6; Laws 1989, LB 49, § 7; Laws 1995, LB 589, § 1; Laws 2010, LB731, § 2; Laws 2016, LB742, § 1.

Annotations

- Pursuant to subsection (3)(a) of this section, proof of proper notice is an element of the State's prima facie case. Pursuant to subsection (3)(a) of this section, in order to prove notice, it must be shown that the county control authority made a finding of uncontrolled noxious weeds and issued proper notice to defendant or delegated its statutory duty to the weed control superintendent to make such findings and to give such notice. *State v. Beethe*, 249 Neb. 743, 545 N.W.2d 108 (1996); *State v. Brozovsky*, 249 Neb. 723, 545 N.W.2d 98 (1996).
- A court may not impose probation upon a defendant convicted under subsection (3)(a) of this section. *State v. Martin*, 3 Neb. App. 555, 529 N.W.2d 545 (1995).

2-956. Public lands; cost of control.

The cost of controlling noxious weeds on all land, including highways, roadways, streets, alleys, and rights-of-way, owned or controlled by a state department, agency, commission, or board or a political subdivision shall be paid by the state department, agency, commission, or board in control thereof or the political subdivision out of funds appropriated to the state department, agency, commission, or board or budgeted by the political subdivision for its use.

Source: Laws 1965, c. 7, § 5, p. 84; Laws 1975, LB 14, § 6; Laws 1989, LB 49, § 8.

2-957. List; publication; equipment; treatment; disposition; violation; penalty.

To prevent the dissemination of noxious weeds through any article, including machinery, equipment, plants, materials, and other things, the director shall, from time to time, adopt and promulgate rules and regulations which shall include a list of noxious weeds which may be disseminated through articles and a list of articles capable of disseminating such weeds and shall designate in such rules and regulations treatment of such articles as, in the director's opinion, would prevent such dissemination. Until any such article is treated in accordance with the applicable rules and regulations, it shall not be moved from such premises except under and in accordance with the written permission of the control authority having jurisdiction of the area in which such article is located, and the control authority may hold or prevent its movement from such premises. The movement of any such article which has not been so decontaminated, except in accordance with

such written permission, may be stopped by the control authority having jurisdiction over the place in which such movement is taking place and further movement and disposition shall only be in accordance with such control authority's direction. Any further movement of any such article not in accordance with the control authority's direction shall constitute a Class IV misdemeanor.

Source: Laws 1965, c. 7, § 6, p. 84; Laws 1987, LB 138, § 7; Laws 1989, LB 49, § 9.

2-958. Noxious weed control fund; authorized; Noxious Weed Cash Fund; created; use; investment.

(1) A noxious weed control fund may be established for each control authority, which fund shall be available for expenses authorized to be paid from such fund, including necessary expenses of the control authority in carrying out its duties and responsibilities under the Noxious Weed Control Act. The weed control superintendent within the county shall (a) ascertain and tabulate each year the approximate amount of land infested with noxious weeds and its location in the county, (b) ascertain and prepare all information required by the county board in the preparation of the county budget, including actual and expected revenue from all sources, cash balances, expenditures, amounts proposed to be expended during the year, and working capital, and (c) transmit such information tabulated by the control authority to the county board not later than June 1 of each year.

(2) The Noxious Weed Cash Fund is created. The fund shall consist of proceeds raised from fees imposed for the registration of pesticides and earmarked for the fund pursuant to section 2-2634, funds credited or transferred pursuant to sections 81-201 and 81-201.05, any gifts, grants, or donations from any source, and any reimbursement funds for control work done pursuant to subdivision (1)(b)(vi) of section 2-954. An amount from the General Fund may be appropriated annually for the Noxious Weed Control Act. The fund shall be administered and used by the director to maintain the noxious weed control program and for expenses directly related to the program. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1965, c. 7, § 7, p. 84; Laws 1969, c. 13, § 5, p. 159; Laws 1969, c. 145, § 11, p. 675; Laws 1987, LB 1, § 4; Laws 1987, LB 138, § 8; Laws 1989, LB 49, § 10; Laws 1993, LB 588, § 35; Laws 1994, LB 1066, § 2; Laws 1996, LB 1114, § 11; Laws 1997, LB 269, § 1; Laws 2001, LB 541, § 1; Laws 2004, LB 869, § 6.

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

2-958.01. Noxious Weed and Invasive Plant Species Assistance Fund; created; use; investment.

The Noxious Weed and Invasive Plant Species Assistance Fund is created. The fund may be used to carry out the purposes of section 2-958.02. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants or other private or public funds obtained for the purposes set forth in section 2-958.02. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 2004, LB 869, § 4; Laws 2008, LB961, § 1; Laws 2009, LB98, § 1.

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.

2-958.02. Grant program; applications; selection; considerations; priority; section, how construed; director; duties.

(1) From funds available in the Noxious Weed and Invasive Plant Species Assistance Fund, the director may administer a grant program to assist local control authorities and other weed management entities in the cost of implementing and maintaining noxious weed control programs and in addressing special weed control problems as provided in this section.

(2) The director shall receive applications by local control authorities and weed management entities for assistance under this subsection and, in consultation with the advisory committee created under section 2-965.01, award grants for any of the following eligible purposes:

- (a) To conduct applied research to solve locally significant weed management problems;
- (b) To demonstrate innovative control methods or land management practices which have the potential to reduce landowner costs to control noxious weeds or improve the effectiveness of noxious weed control;
- (c) To encourage the formation of weed management entities;
- (d) To respond to introductions or infestations of invasive plants that threaten or potentially threaten the productivity of cropland and rangeland over a wide area;
- (e) To respond to introductions and infestations of invasive plant species that threaten or potentially threaten the productivity and biodiversity of wildlife and fishery habitats on public and private lands;

(f) To respond to special weed control problems involving weeds not included in the list of noxious weeds promulgated by rule and regulation of the director if the director has approved a petition to bring such weeds under the county control program;

(g) To conduct monitoring or surveillance activities to detect, map, or determine the distribution of invasive plant species and to determine susceptible locations for the introduction or spread of invasive plant species; and

(h) To conduct educational activities.

(3) The director shall select and prioritize applications for assistance under subsection (2) of this section based on the following considerations:

(a) The seriousness of the noxious weed or invasive plant problem or potential problem addressed by the project;

(b) The ability of the project to provide timely intervention to save current and future costs of control and eradication;

(c) The likelihood that the project will prevent or resolve the problem or increase knowledge about resolving similar problems in the future;

(d) The extent to which the project will leverage federal funds and other nonstate funds;

(e) The extent to which the applicant has made progress in addressing noxious weed or invasive plant problems;

(f) The extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds or invasive plant species as identified and listed by the Nebraska Invasive Species Council;

(g) The extent to which the project will reduce the total population or area of infestation of a noxious weed or invasive plant species as identified and listed by the Nebraska Invasive Species Council;

(h) The extent to which the project uses the principles of integrated vegetation management and sound science; and

(i) Such other factors that the director determines to be relevant.

(4) The director shall receive applications for grants under this subsection and shall award grants to recipients and programs eligible under this subsection. Priority shall be given to grant applicants whose proposed programs are consistent with vegetation management goals and priorities and plans and policies of the Riparian Vegetation Management Task Force established under section 2-970. Beginning in fiscal year 2016-17, it is the intent of the Legislature to appropriate one million dollars annually for the management of vegetation within the banks of a

natural stream or within one hundred feet of the banks of a channel of any natural stream. Such funds shall only be used to pay for activities and equipment as part of vegetation management programs that have as their primary objective improving conveyance of streamflow in natural streams. Grants from funds appropriated as provided in this subsection shall be disbursed only to weed management entities, local weed control authorities, and natural resources districts whose territory includes river basins, with priority given to river basins that are the subject of an interstate compact or decree. The Game and Parks Commission shall assist grant recipients in implementing grant projects under this subsection, and interlocal agreements under the Interlocal Cooperation Act or the Joint Public Agency Act shall be utilized whenever possible in carrying out the grant projects.

(5) Nothing in this section shall be construed to relieve control authorities of their duties and responsibilities under the Noxious Weed Control Act or the duty of a person to control the spread of noxious weeds on lands owned and controlled by him or her.

(6) The Department of Agriculture may adopt and promulgate necessary rules and regulations to carry out this section.

(7) The director may annually apply for conservation funding from the Natural Resources Conservation Service of the United States Department of Agriculture.

Source: Laws 2004, LB 869, § 5; Laws 2007, LB701, § 4; Laws 2009, LB98, § 2; Laws 2016, LB1038, § 2.

Cross References

- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.

2-959. Control authorities; equipment and machinery; purchase; use; record.

Control authorities, independently or in combination, may purchase or provide for needed or necessary equipment for the control of weeds, whether or not declared noxious, on land under their jurisdiction and may make available the use of machinery and other equipment and operators at such cost as may be deemed sufficient to cover the actual cost of operations, including depreciation, of such machinery and equipment. All funds so received shall be deposited to the noxious weed control fund or, if no noxious weed control fund exists, to the county general fund. Each control authority shall keep a record showing the procurement and rental of equipment, which record shall be open to inspection by citizens of this state.

Source: Laws 1965, c. 7, § 8, p. 85; Laws 1975, LB 14, § 7; Laws 2010, LB731, § 3.

2-960. Charges; protest; hearing; appeal.

If any person is dissatisfied with the amount of any charge made against him or her by a control authority for control work or for the purchase of materials or use of equipment, he or she may, within fifteen days after being advised of the amount of the charge, file a protest with the county board. The county board shall hold a hearing to determine whether the charges were appropriate, taking into consideration whether the control measures were conducted in a timely fashion. Following the hearing, the county board shall have the power to adjust or affirm such charge. If any person is dissatisfied with the decision of the county board or with charges made by the county board for control work performed, such person may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1965, c. 7, § 9, p. 85; Laws 1975, LB 14, § 8; Laws 1982, LB 697, § 1; Laws 1987, LB 138, § 9; Laws 1988, LB 352, § 2.

Cross References

- **Administrative Procedure Act**, see section 84-920.

2-961. Entry upon land.

The director, any control authority, any weed control superintendent, or anyone authorized thereby may enter upon all land under his, her, or its respective jurisdiction for the purpose of performing the duties and exercising the powers under the rules and regulations adopted and promulgated by the director and the Noxious Weed Control Act, including the taking of specimens of weeds or other materials, without the consent of the person owning or controlling such land and without being subject to any action for trespass or damages, including damages for destruction of growing crops, if reasonable care is exercised.

Source: Laws 1965, c. 7, § 10, p. 86; Laws 1987, LB 1, § 5; Laws 1987, LB 138, § 10; Laws 1989, LB 49, § 11.

2-962. Notices; how served.

All individual notices, service of which is provided for in the Noxious Weed Control Act, shall be in writing. Service of such notices shall be in the same manner as service of a summons in a civil action in the district court or by certified mail to the last-known address to be ascertained, if necessary, from the last tax list.

Source: Laws 1965, c. 7, § 11, p. 86; Laws 1987, LB 1, § 6; Laws 1987, LB 138, § 11; Laws 1989, LB 49, § 12.

2-963. Violations; penalty; county attorney; duties.

(1) Any person who intrudes upon any land under quarantine, who moves or causes to be moved any article covered by section 2-957 except as provided in such section, who prevents or threatens to prevent entry upon land as provided in section 2-961, or who interferes with the carrying out of the Noxious Weed Control Act shall be guilty of a Class IV misdemeanor in addition to any penalty imposed pursuant to section 2-955.

(2) It shall be the duty of the county attorney of the county in which any violation of section 2-955 or this section occurs, when notified of such violation by the county board or control authority, to cause appropriate proceedings to be instituted and pursued in the appropriate court without delay.

Source: Laws 1965, c. 7, § 12, p. 86; Laws 1974, LB 694, § 2; Laws 1975, LB 14, § 9; Laws 1977, LB 40, § 5; Laws 1983, LB 154, § 2; Laws 1987, LB 1, § 7; Laws 1987, LB 138, § 12; Laws 1989, LB 49, § 13.

2-964. Repealed. Laws 1987, LB 138, § 14.

2-964.01. Action for failure to comply; authorized.

Any person or public agency may institute legal action for the failure to comply with the Noxious Weed Control Act.

Source: Laws 1989, LB 49, § 14.

2-965. Project of control without individual notice; control authority; powers.

A control authority may direct and carry out projects of control for one or more specific noxious weeds without individual notice as prescribed in section 2-955 if the control authority has caused publication of notices of such project as provided in this section. The notice shall be published in one or more newspapers of general circulation throughout the area over which such control authority has jurisdiction and shall be published weekly for four successive weeks prior to the project commencement date specified in the notice for the control project. Such notice shall state the noxious weed or weeds to be controlled by the project, the date the project will commence, and the approximate period of time when the project will be carried out. In no event shall a fine or lien be assessed against a landowner as prescribed in section 2-955 for a project under this section unless the control authority has caused individual notice to be served upon the landowner as specified in section 2-955.

Source: Laws 2006, LB 1226, § 1.

2-965.01. Advisory committee; membership.

The director shall convene an advisory committee to advise the director concerning his or her responsibilities under the noxious weed control program. Representatives from the Nebraska Weed Control Association, the leafy spurge task force, state or federal agencies actively concerned with

the control of noxious weeds, the University of Nebraska Institute of Agriculture and Natural Resources, and cities and villages of this state, persons actively involved in agriculture, and others in the public and private sector may serve on such committee at the request of the director. If an advisory committee is convened, members shall not receive any reimbursement for expenses.

Source: Laws 1989, LB 49, § 15.

2-966. Certain noxious weed control districts; dissolution; title to real estate.

Title to any real estate standing in the name of any noxious weed control district created under sections 2-910 to 2-951, which district was dissolved by the repeal of such sections by Laws 1965, chapter 7, section 15, is hereby quieted in the county in which such real estate is located. Any such real estate shall be held by the county for the use of the control authority created pursuant to sections 2-952 to 2-963 or may be sold and the proceeds from such sale deposited to the credit of the control authority.

Source: Laws 1969, c. 3, § 1, p. 66; Laws 1975, LB 14, § 11; Laws 1987, LB 1, § 9; Laws 1987, LB 138, § 13.

2-967. Repealed. Laws 2016, LB1038, § 19.

2-968. Repealed. Laws 2016, LB1038, § 19.

2-969. Riparian Vegetation Management Task Force; created; members.

The Riparian Vegetation Management Task Force is created. The Governor shall appoint the members of the task force. The members shall include one surface water project representative from each river basin that has ever been determined to be fully appropriated pursuant to section 46-714 or 46-720 or is designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one surface water project representative from a river basin that has not been determined to be fully appropriated pursuant to section 46-714 or 46-720 or is not designated as overappropriated pursuant to section 46-713 by the Department of Natural Resources; one representative from the Department of Agriculture, the Department of Environmental Quality, the Department of Natural Resources, the office of the State Forester, the Game and Parks Commission, and the University of Nebraska; three representatives selected from a list of at least ten individuals nominated by the Nebraska Association of Resources Districts; two representatives selected from a list of at least five individuals nominated by the Nebraska Weed Control Association; one riparian landowner from each of the state's congressional districts; and one representative from the Nebraska Environmental Trust. In addition to such members, any member of the Legislature may serve as a nonvoting, ex officio member of the task force at his or her option. For administrative and budgetary purposes only, the task force shall be housed within the Department of Agriculture.

Source: Laws 2016, LB1038, § 3.

2-970. Riparian Vegetation Management Task Force; duties; meetings; report.

The Riparian Vegetation Management Task Force, in consultation with appropriate federal agencies, shall develop and prioritize vegetation management goals and objectives, analyze the cost-effectiveness of available vegetation treatment, and develop plans and policies to achieve such goals and objectives. Any plan shall utilize the principles of integrated vegetation management and sound science. The task force shall convene within thirty days after the appointment of the members is complete to elect a chairperson and conduct such other business as deemed necessary. An annual report shall be submitted to the Governor and the Legislature by June 30 each year with the first report due on June 30, 2017. The report submitted to the Legislature shall be submitted electronically. It is the intent of the Legislature that expenses of the task force not exceed twenty-five thousand dollars of the total appropriation to the program per fiscal year.

Source: Laws 2016, LB1038, § 4.