

**MONTANA DEPARTMENT OF AGRICULTURE
AGRICULTURAL SCIENCES DIVISION
HELENA, MONTANA**

**TITLE 7, CHAPTER 22
PART 21**

COUNTY WEED CONTROL ACT

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**TITLE 7, CHAPTER 22
WEED AND PEST CONTROL**

**PART 21
COUNTY WEED CONTROL**

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**TITLE 7. LOCAL GOVERNMENT
CHAPTER 22. WEED AND PEST CONTROL**

Part 21. County Weed Control

7-22-2101. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

- (1) "Board" means a district weed board created under 7-22-2103.
- (2) "Commissioners" means the board of county commissioners.
- (3) "Coordinator" means the person employed by the board to conduct the district noxious weed management program and supervise other district employees.
- (4) "Department" means the department of agriculture provided for in 2-15-3001.
- (5) "District" means a weed management district organized under 7-22-2102.
- (6) "Native plant" means a plant indigenous to the state of Montana.
- (7) "Native plant community" means an assemblage of native plants occurring in a natural habitat.

(8) (a) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated:

- (i) as a statewide noxious weed by rule of the department; or
 - (ii) as a district noxious weed by a board, following public notice of intent and a public hearing.
- (b) A weed designated by rule of the department as a statewide noxious weed must be considered noxious in every district of the state.

(9) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.

(10) "Weed management" or "control" means the planning and implementation of a coordinated program for the containment, suppression, and, where possible, eradication of noxious weeds.

History: (1), (2), (4), (5)En. Sec. 1, Ch. 195, L. 1939; Secs. 16-1702, 16-1703, 16-1704, 16-1705, R.C.M. 1947; (3)En. Sec. 1, Ch. 195, L. 1939; amd. Sec. 1, Ch. 360, L. 1974; Sec. 16-1701, R.C.M. 1947; R.C.M. 1947, 16-1701(part), 16-1702(part), 16-1703, 16-1704, 16-1705; amd. Sec. 13, Ch. 249, L. 1979; amd. Sec. 1, Ch. 607, L. 1985; amd. Sec. 1, Ch. 303, L. 1991; amd. Sec. 4, Ch. 407, L. 2001; amd. Sec. 1, Ch. 98, L. 2003.

7-22-2102. Weed management districts established. A weed management district shall be formed in every county of this state and shall include all the land within the boundaries of the county, except that a weed management district may include

more than one county through agreement of the commissioners of the affected counties.

History: En. 16-1709.1 by Sec. 1, Ch. 185, L. 1969; amd. Sec. 2, Ch. 360, L. 1974; R.C.M. 1947, 16-1709.1; amd. Sec. 2, Ch. 607, L. 1985.

7-22-2103. District weed board. (1) The commissioners shall appoint a district weed board subject to the provisions of 7-1-201 through 7-1-203.

(2) The board may call upon the county attorney for legal advice and services as it may require.

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part); amd. Sec. 14, Ch. 249, L. 1979; amd. Sec. 3, Ch. 607, L. 1985; amd. Sec. 2, Ch. 52, L. 1989; amd. Sec. 5, Ch. 681, L. 1991; amd. Sec. 17, Ch. 543, L. 1995.

7-22-2104. Repealed. Sec. 8, Ch. 681, L. 1991.

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part); amd. Sec. 15, Ch. 249, L. 1979; amd. Sec. 4, Ch. 607, L. 1985.

7-22-2105. Repealed. Sec. 25, Ch. 543, L. 1995.

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part); amd. Sec. 5, Ch. 607, L. 1985.

7-22-2106. Renumbered by Code Commissioner, 1985.

7-22-2107. Renumbered by Code Commissioner, 1985.

7-22-2108. Renumbered by Code Commissioner, 1985.

7-22-2109. Powers and duties of board -- use of inmates in county jail work program. (1) In addition to any powers or duties established in the resolution creating a district weed board, the board may:

(a) employ a coordinator and other employees as necessary and provide for their compensation;

(b) purchase chemicals, materials, and equipment and pay other operational costs that it determines necessary for implementing an effective noxious weed management program. The costs must be paid from the noxious weed fund.

(c) determine what chemicals, materials, or equipment may be made available to persons controlling weeds on their own land. The cost for the chemicals, materials, or equipment must be paid by the person and collected as provided in this part.

(d) enter into agreements with the department for the control and eradication of

any new exotic plant species not previously established in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if the plant species spreads or threatens to spread into the state;

(e) enter into agreements with the county sheriff for the use of inmate labor for weed management under this part through a county jail work program that is authorized under 7-32-2225 through 7-32-2227;

(f) enter into cost-share agreements for noxious weed management;

(g) enter into agreements with commercial applicators, as defined in 80-8-102, for the control of noxious weeds; and

(h) perform other activities relating to weed management.

(2) The board shall:

(a) administer the district's noxious weed management program;

(b) establish management criteria for noxious weeds on all land within the district;

and

(c) make all reasonable efforts to develop and implement a noxious weed management program covering all land within the district owned or administered by a federal agency.

History: En. Sec. 6, Ch. 607, L. 1985; amd. Sec. 18, Ch. 543, L. 1995; amd. Sec. 1, Ch. 203, L. 2001; amd. Sec. 5, Ch. 407, L. 2001.

7-22-2110. Administrative hearing -- appeals. (1) A person adversely affected by any notice, action, or order of the board may request an administrative hearing before the commissioners. The commissioners shall hold a hearing within 30 days of the request. Participants may be represented by legal counsel. The commissioners shall make a record of the proceeding and enter its order and findings within 7 days after the hearing.

(2) Within 30 days after the commissioners render their order and findings, the person adversely affected may file a petition in district court requesting that the order and findings of the commissioners be set aside or modified. The court may affirm, modify, or set aside the order complained of, in whole or in part.

History: En. Sec. 15, Ch. 607, L. 1985; amd. Sec. 6, Ch. 407, L. 2001.

7-22-2111. Liability restrictions. A district is liable for damages caused by its use of herbicides only for an act or omission that constitutes gross negligence. The provisions of 2-9-305 apply to board members, coordinators, and employees of a district.

History: En. Sec. 1, Ch. 516, L. 1987; amd. Sec. 7, Ch. 407, L. 2001.

7-22-2112. Information on herbicide use. The district must provide information on protective clothing, health hazards, and proper application techniques to mixers, loaders, and applicators of herbicides and make the information available for review by the public at the district office.

History: En. Sec. 2, Ch. 516, L. 1987.

7-22-2113 through 7-22-2114 reserved.

7-22-2115. Noxious weeds and seeds declared nuisance. Noxious weeds and the seed of any noxious weed are hereby declared a common nuisance.

History: Ap. p. Sec. 1, Ch. 195, L. 1939; Sec. 16-1702, R.C.M. 1947; Ap. p. Sec. 1, Ch. 195, L. 1939; amd. Sec. 1, Ch. 360, L. 1974; Sec. 16-1701, R.C.M. 1947; R.C.M. 1947, 16-1701(part), 16-1702(part); Sec. , MCA 1983; redes. by Code Commissioner, 1985.

7-22-2116. Unlawful to permit noxious weeds to propagate -- notice required in sale. (1) It is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with this section.

(2) When property is offered for sale, the person who owns the property shall notify the owner's agent and the purchaser of the existence or potential existence of noxious weeds on the property offered for sale.

History: En. Sec. 2, Ch. 195, L. 1939; amd. Sec. 1, Ch. 11, L. 1961; R.C.M. 1947, 16-1706; amd. Sec. 7, Ch. 607, L. 1985; Sec. , MCA 1983; redes. by Code Commissioner, 1985; amd. Sec. 8, Ch. 407, L. 2001.

7-22-2117. Violations. (1) Any person who in any manner interferes with the board or its authorized agent in carrying out the provisions of this part or who refuses to obey an order or notice of the board is liable for a civil penalty in the amount of the actual cost to the board or the estimated cost of removing the noxious weeds from the impacted property in addition to any penalty imposed under 7-22-2124.

(2) All fines, bonds, and penalties collected under the provisions of this part must be paid to the county treasurer of each county and placed by the county treasurer into a fund to be known as the noxious weed fund.

History: En. Sec. 18, Ch. 195, L. 1939; R.C.M. 1947, 16-1722; amd. Sec. 16, Ch. 249, L. 1979; amd. Sec. 8, Ch. 607, L. 1985; Sec. , MCA 1983; redes. by Code Commissioner, 1985; amd. Sec. 4, Ch. 557, L. 1987; amd. Sec. 9, Ch. 407, L. 2001.

7-22-2118 through 7-22-2119 reserved.

7-22-2120. Funding -- reporting requirements -- emergency exemption.

(1) (a) Before a district is eligible to receive from the state any state funding or federal funding, the district shall provide the department with a comprehensive weed management plan, as provided in 7-22-2121.

(b) Upon receipt of the district's comprehensive weed management plan by the department, the district may apply for and receive state funding.

(c) A district's comprehensive weed management plan must be updated and

submitted to the department every 2 years.

(d) The department may adopt rules and procedures necessary to implement this section. The rules may not impair the ability of the district to meet its responsibilities.

(2) The department may exempt a district from the requirements of subsection (1) if a noxious weed emergency is declared by the governor as provided in 80-7-815.

History: En. Sec. 1, Ch. 407, L. 2001.

7-22-2121. Weed management program. (1) The noxious weed management program must be based on a plan approved by the board.

(2) The noxious weed management plan must:

(a) specify the goals and priorities of the program;

(b) review the distribution and abundance of each noxious weed species known to occur within the district and specify the locations of new infestations and areas particularly susceptible to new infestations;

(c) specify pesticide management goals and procedures, including but not limited to water quality protection, public and worker safety, equipment selection and maintenance, and pesticide selection, application, mixing, loading, storage, and disposal; and

(d) estimate the personnel, operations, and equipment costs of the proposed program.

(3) The board shall provide for the management of noxious weeds on all land or rights-of-way owned or controlled by a county or municipality within the confines of the district. It shall take particular precautions while managing the noxious weeds to preserve beneficial vegetation and wildlife habitat. Where at all possible, methods for such control shall include cultural, chemical, and biological methods.

(4) The board may establish special management zones within the district. The management criteria in such zones may be more or less stringent than the general management criteria for the district.

History: En. Sec. 15, Ch. 195, L. 1939; amd. Sec. 5, Ch. 90, L. 1941; amd. Sec. 6, Ch. 228, L. 1947; amd. Sec. 1, Ch. 68, L. 1973; amd. Sec. 4, Ch. 360, L. 1974; R.C.M. 1947, 16-1719(part); amd. Sec. 9, Ch. 607, L. 1985; amd. Sec. 2, Ch. 530, L. 1991.

7-22-2122. Repealed. Sec. 32, Ch. 607, L. 1985.

History: En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; R.C.M. 1947, 16-1713(part).

7-22-2123. Procedure in case of noncompliance. (1) When a complaint has been made or the board has reason to believe that noxious weeds described in this part are present upon a person's land within the district in violation of the law, that person must be notified by mail or telephone of the complaint and the board may request inspection of the land. The board or its authorized agent and the landowner or the landowner's representative shall inspect the land at an agreeable time, within 10 days of notification of the landowner. If after reasonable effort the board is unable to gain

cooperation of the person, the board or its authorized agent may enter and inspect the land to determine if the complaint is valid.

(2) If noxious weeds are found, the board or coordinator shall notify the person or the person's representative and seek voluntary compliance with the district noxious weed management program. If voluntary compliance is not possible, notice of noncompliance must be sent to the person by certified mail.

(3) The notice must specify:

(a) the basis for the determination of noncompliance;

(b) the geographic location of the area of noncompliance, by legal description or other reasonably identifiable description;

(c) measures to be undertaken in order to comply with the district's management criteria;

(d) a reasonable period of time, not less than 10 days, in which compliance measures must be initiated; and

(e) the right of the person to request, within the time specified in subsection (3)(d), an administrative hearing as provided by 7-22-2110.

(4) A person is considered in compliance if the person submits and the board accepts a proposal to undertake specified control measures and is in compliance as long as the person performs according to the terms of the proposal. If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

(5) In accepting or rejecting a proposal, the board shall consider the economic impact on the person and the person's neighbors, practical biological and environmental limitations, and alternative control methods to be used.

History: (1)En. Sec. 9, Ch. 195, L. 1939; amd. Sec. 1, Ch. 90, L. 1941; amd. Sec. 2, Ch. 228, L. 1947; amd. Sec. 1, Ch. 51, L. 1961; amd. Sec. 1, Ch. 64, L. 1965; amd. Sec. 2, Ch. 185, L. 1969; amd. Sec. 3, Ch. 360, L. 1974; Sec. 16-1713, R.C.M. 1947; (2)En. Sec. 10, Ch. 195, L. 1939; amd. Sec. 2, Ch. 90, L. 1941; Sec. 16-1714, R.C.M. 1947; R.C.M. 1947, 16-1713(part), 16-1714; amd. Sec. 13, Ch. 607, L. 1985; amd. Sec. 1, Ch. 141, L. 1987; amd. Sec. 10, Ch. 407, L. 2001.

7-22-2124. Destruction of weeds by board. (1) If corrective action is not taken and a proposal is not made and accepted or a request for an administrative hearing is not made within the time specified in the notice, the board may enter upon the person's land and institute appropriate control measures. In that case, the board shall submit a bill to the person, itemizing hours of labor, material, and equipment time, together with a penalty not exceeding 50% of the total cost incurred. Labor and equipment must be valued at the current rate paid for commercial management operations in the district. The bill must specify and order a payment due date of 30 days from the date the bill is sent. The board may enter into an agreement with a commercial applicator, as defined in 80-8-102, to destroy the weeds. The commercial applicator shall agree to carry any insurance required by the board.

(2) A copy of the bill must also be submitted by the board to the county clerk and recorder.

(3) If a person receiving an order to take corrective action requests an administrative hearing, the board may not institute control measures until the matter is

finally resolved, except in case of an emergency. In that case, the person is liable for costs as provided in subsection (1) only to the extent determined appropriate by the board, commissioners, or court that finally resolves the matter.

History: En. Sec. 11, Ch. 195, L. 1939; amd. Sec. 3, Ch. 90, L. 1941; amd. Sec. 3, Ch. 228, L. 1947; R.C.M. 1947, 16-1715(part); amd. Sec. 14, Ch. 607, L. 1985; amd. Sec. 2, Ch. 141, L. 1987; amd. Sec. 11, Ch. 407, L. 2001.

7-22-2125. Repealed. Sec. 32, Ch. 607, L. 1985.

History: En. Sec. 12, Ch. 195, L. 1939; amd. Sec. 4, Ch. 228, L. 1947; R.C.M. 1947, 16-1716.

7-22-2126. Embargo. (1) The board may establish voluntary embargo programs to reduce the spread of noxious weeds within the district or the introduction of noxious weeds into the district.

(2) The board shall establish a special embargo program for the movement of forage, as defined in 80-7-903, into or out of the county. The board may implement an embargo upon confirmation of a violation, based upon complaint investigations, requests for investigation by the department, or through county investigations, if the forage has not been certified by the state and is being sold as noxious weed seed free, as defined in 80-7-903.

(3) A person in possession of the forage that is not in compliance with Title 80, chapter 7, part 9, may not move or dispose of the forage as noxious weed seed free that is subject to embargo until written permission is obtained from the board. If the forage that is subject to embargo is found to have met all of the requirements of the state certification program and the department verifies compliance with the program, the board shall release the embargo. The board may also release the forage under the following conditions:

(a) verification of guaranteed delivery back to the original producer, as defined in 80-7-903;

(b) burning or disposal of the forage in a manner acceptable to the board; or

(c) other alternatives approved by the board.

(4) The board shall report all embargoes issued and the final resolution of an embargo imposed pursuant to a violation of Title 80, chapter 7, part 9, to the department within 48 hours.

(5) The person in possession of forage subject to embargo shall comply with the conditions approved by the board within 30 days. If resolution is not accomplished, the board may condemn the forage and implement through its employees any of the conditions set forth in this section. If the board proceeds with correction of these conditions after 30 days, all actual expenses incurred and documented by the board are payable by the producer unless the person in possession of the forage also has an interest in the forage.

History: En. Sec. 3, Ch. 195, L. 1939; R.C.M. 1947, 16-1707; amd. Sec. 16, Ch. 607, L. 1985; amd. Sec. 17, Ch. 521, L. 1995.

7-22-2127. Repealed. Sec. 32, Ch. 607, L. 1985.

History: En. Sec. 14, Ch. 195, L. 1939; amd. Sec. 5, Ch. 228, L. 1947; R.C.M. 1947, 16-1718.

7-22-2128 through 7-22-2129 reserved.

7-22-2130. Weed district coordinator training. Within the limitations of available funds, the board shall ensure that the weed district coordinator obtains training to properly implement the noxious weed management program described in 7-22-2121. The department shall specify through rulemaking the level and type of training necessary to fulfill this requirement.

History: En. Sec. 1, Ch. 530, L. 1991; amd. Sec. 12, Ch. 407, L. 2001.

7-22-2131 through 7-22-2140 reserved.

7-22-2141. Noxious weed fund authorized. (1) The commissioners of each county in this state shall create a noxious weed management fund, to be designated the "noxious weed fund".

(2) This fund shall be kept separate and distinct by the county treasurer.

History: En. Sec. 13, Ch. 195, L. 1939; amd. Sec. 4, Ch. 90, L. 1941; amd. Sec. 7, Ch. 228, L. 1947; amd. Sec. 1, Ch. 63, L. 1955; R.C.M. 1947, 16-1717(part); amd. Sec. 17, Ch. 607, L. 1985.

7-22-2142. Sources of money for noxious weed fund. (1) The commissioners may create a noxious weed fund to enable the board to fulfill its duties as specified in 7-22-2109.

(2) The commissioners may provide sufficient money in the noxious weed fund for the board to fulfill its duties, as specified in 7-22-2109, by:

(a) appropriating money from the general fund of the county; and

(b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying a tax of not less than 1.6 mills on the taxable value of all taxable property in the county or by contributing an equivalent amount from another source of not less than the amount received from all county sources in fiscal year 2000 or, for first-class counties, as defined in 7-1-2111, the greater of the amount received from all county sources in fiscal year 2000 or \$100,000. The tax levied under this subsection must be identified on the assessment as the tax that will be used for noxious weed control.

(3) The proceeds of the noxious weed control tax or other contribution must be used solely for the purpose of managing noxious weeds in the county and must be deposited in the noxious weed fund.

(4) Any proceeds from work or chemical sales must revert to the noxious weed fund and must be available for reuse within that fiscal year or any subsequent year.

(5) The commissioners may accept any private, state, or federal gifts, grants, contracts, or other funds to aid in the management of noxious weeds within the district. These funds must be placed in the noxious weed fund.

(6) The commissioners may impose a tax for weed control within a special

management zone as provided in 7-22-2121 (4). For the purposes of imposing the tax, the special management zone boundaries must be established by the board and approved by a majority of the voters within the special management zone. The amount of the tax must be approved by a majority of the voters within the special management zone, and approval of the zone and the tax may occur simultaneously. Revenue received from a special management zone tax must be spent on weed management projects within the boundaries of the special management zone.

History: En. Sec. 13, Ch. 195, L. 1939; amd. Sec. 4, Ch. 90, L. 1941; amd. Sec. 7, Ch. 228, L. 1947; amd. Sec. 1, Ch. 63, L. 1955; R.C.M. 1947, 16-1717(part); amd. Sec. 18, Ch. 607, L. 1985; amd. Sec. 3, Ch. 530, L. 1991; amd. Sec. 64, Ch. 584, L. 1999; amd. Sec. 13, Ch. 407, L. 2001; amd. Sec. 22, Ch. 495, L. 2001; amd. Sec. 72, Ch. 574, L. 2001.

7-22-2143. Determination of cost of weed control program. Based on the board's recommendations, the commissioners shall determine and fix the cost of the control of noxious weeds in the district, whether the same be performed by the individual landowners or by the board.

History: En. Sec. 16, Ch. 195, L. 1939; amd. Sec. 6, Ch. 90, L. 1941; amd. Sec. 8, Ch. 228, L. 1947; R.C.M. 1947, 16-1720(part); amd. Sec. 19, Ch. 607, L. 1985; amd. Sec. 4, Ch. 530, L. 1991.

7-22-2144. Payment of cost of weed control program. The total cost of weed control within the district must be paid from the noxious weed fund. The cost of controlling weeds growing along the right-of-way of a state or federal highway must, upon the presentation by the board of a verified account of the expenses incurred, be paid from the state highway fund in compliance with 7-14-2132 and any agreement between the board and the department of transportation. Costs attributed to other lands within the district must be assessed to and collected from the responsible person as set forth in 7-22-2124.

History: En. Sec. 15, Ch. 195, L. 1939; amd. Sec. 5, Ch. 90, L. 1941; amd. Sec. 6, Ch. 228, L. 1947; amd. Sec. 1, Ch. 68, L. 1973; amd. Sec. 4, Ch. 360, L. 1974; R.C.M. 1947, 16-1719(part); amd. Sec. 20, Ch. 607, L. 1985; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 13, Ch. 51, L. 1999.

7-22-2145. Expenditures from noxious weed fund. (1) The noxious weed fund must be expended by the commissioners at the time and in the manner as is recommended by the board to secure the control of noxious weeds.

(2) Warrants upon the fund must be drawn by the board. Warrants may not be drawn except upon claims duly itemized by the claimant, except payroll claims that must be itemized and certified by the board, and each claim must be presented to the commissioners for approval before the warrant is countersigned by the commissioners.

History: En. Sec. 13, Ch. 195, L. 1939; amd. Sec. 4, Ch. 90, L. 1941; amd. Sec. 7, Ch. 228, L. 1947; amd. Sec. 1, Ch. 63, L. 1955; R.C.M. 1947, 16-1717(part); amd. Sec. 21, Ch. 607, L. 1985; amd. Sec. 5, Ch. 530, L. 1991.

7-22-2146. Financial assistance to persons responsible for weed control.

(1) The commissioners, upon recommendation of the board, may establish a cost-share program for the control of noxious weeds. The board shall develop rules and procedures for the administration of the cost-share program. These procedures may include the cost-share rate or amount and for what purposes cost-share funds may be used.

(2) (a) Any person may voluntarily enter into a cost-share agreement for the management of noxious weeds on the person's property. The coordinator shall draft a cost-share agreement in cooperation with the person. The agreement must, in the board's judgment, provide for effective weed management.

(b) The agreement must specify:

(i) costs that must be paid from the noxious weed fund;

(ii) costs that must be paid by the person;

(iii) a location-specific weed management plan that must be followed by the person; and

(iv) reporting requirements of the person to the board.

(c) The cost-share agreement must be signed by the person and, upon approval of the board, by the presiding officer.

(3) The agreement must contain a statement disclaiming any liability of the board for any injuries or losses suffered by the person in managing noxious weeds under a cost-share agreement. If the board later finds that the person has failed to abide by the terms of the agreement, all cost-share payments and agreements must be canceled and the provisions of 7-22-2124 apply to that person.

(4) (a) When under the terms of any voluntary agreement, whether entered into pursuant to 7-22-2123 or otherwise, or under any cost-share agreement entered pursuant to this section a person incurs any obligation for materials or services provided by the board, the board shall submit a bill to the person, itemizing hours of labor, material, and equipment time. The bill must specify and order a payment due date not less than 30 days from the date the bill is sent.

(b) A copy of the bill must be submitted by the board to the county clerk and recorder. If the sum to be repaid by the person billed is not repaid on or before the date due, the county clerk and recorder shall certify the amount not repaid, with the description of the land to be charged, and shall enter the sum on the assessment list as a special tax on the land, to be collected in the manner provided in 7-22-2148.

History: En. Sec. 16, Ch. 195, L. 1939; amd. Sec. 6, Ch. 90, L. 1941; amd. Sec. 8, Ch. 228, L. 1947; R.C.M. 1947, 16-1720(part); amd. Sec. 22, Ch. 607, L. 1985; amd. Sec. 14, Ch. 407, L. 2001.

7-22-2147. Repealed. Sec. 32, Ch. 607, L. 1985.

History: En. Sec. 16, Ch. 195, L. 1939; amd. Sec. 6, Ch. 90, L. 1941; amd. Sec. 8, Ch. 228, L. 1947; R.C.M. 1947, 16-1720(part).

7-22-2148. Tax liability for payment of weed control expenses. (1) The expenses referred to in 7-22-2124 shall be paid by the county out of the noxious weed fund, and unless the sum to be repaid by the person billed under 7-22-2124 is repaid on

or before the date due, the county clerk shall certify the amount thereof, with the description of the land to be charged, and shall enter the same on the assessment list of the county as a special tax on the land. If the land for any reason is exempt from general taxation, the amount of such charge may be recovered by direct claim against the lessee and collected in the same manner as personal taxes. When such charges are collected, they shall be credited to the noxious weed fund.

(2) In determining what lands are included as land covered by the special tax and are described in the certificate of the county clerk, it is presumed that all work done upon any of the land of any one landowner is for the benefit of all of the land within the district belonging to the owner, together with the parcel upon which the work was done, and the amount certified becomes a tax upon the whole thereof.

History: En. Sec. 11, Ch. 195, L. 1939; amd. Sec. 3, Ch. 90, L. 1941; amd. Sec. 3, Ch. 228, L. 1947; R.C.M. 1947, 16-1715(part); amd. Sec. 17, Ch. 249, L. 1979; amd. Sec. 23, Ch. 607, L. 1985; amd. Sec. 6, Ch. 530, L. 1991

7-22-2149. Responsibility for assessments and taxes for weed control levied on leased state lands. The lessee of agricultural state land is responsible for assessments and taxes levied by the board of county commissioners for the district as provided in 77-6-114.

History: En. Sec. 11, Ch. 195, L. 1939; amd. Sec. 3, Ch. 90, L. 1941; amd. Sec. 3, Ch. 228, L. 1947; R.C.M. 1947, 16-1715(part).

7-22-2150. Cooperation with state and federal-aid programs. The board may cooperate with any state or federal-aid program that becomes available if the district complies with 7-22-2120. Under a plan of cooperation, the direction of the program must be under the direct supervision of the board of the district in which the program operates.

History: En. Sec. 17, Ch. 195, L. 1939; amd. Sec. 9, Ch. 228, L. 1947; R.C.M. 1947, 16-1721; amd. Sec. 24, Ch. 607, L. 1985; amd. Sec. 15, Ch. 407, L. 2001.

7-22-2151. Cooperative agreements. (1) A state agency that controls land within a district, including the department of transportation; the department of fish, wildlife, and parks; the department of corrections; the department of natural resources and conservation; and the university system, shall enter into a written agreement with the board. The agreement must specify mutual responsibilities for integrated noxious weed management on state-owned or state-controlled land within the district. The agreement must include the following:

(a) a 6-year integrated noxious weed management plan, which must be updated biennially;

(b) a noxious weed management goals statement;

(c) a specific plan of operations for the biennium, including a budget to implement the plan; and

(d) a provision requiring a biennial performance report by the board to the state weed coordinator in the department of agriculture, on a form to be provided by the state

weed coordinator, regarding the success of the plan.

(2) The board and the governing body of each incorporated municipality within the district shall enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries of the municipality by January 1, 2002. The board may implement management procedures described in the plan within the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.

(3) A board may develop and carry out its noxious weed management program in cooperation with boards of other districts, with state and federal governments and their agencies, or with any person within the district. The board may enter into cooperative agreements with any of these parties.

(4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all noxious weed actions that are subject to the agreement required under subsection (1) to the state weed coordinator and shall post a copy of the statement or summary on a state electronic access system.

History: En. Sec. 10, Ch. 607, L. 1985; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 31, Ch. 418, L. 1995; amd. Sec. 1, Ch. 519, L. 1995; amd. Sec. 30, Ch. 546, L. 1995; amd. Sec. 16, Ch. 407, L. 2001.

7-22-2152. Revegetation of rights-of-way and areas that have potential for noxious weed infestation. (1) Any person or state agency proposing a mine, a major facility under Title 75, chapter 20, an electric, communication, gas, or liquid transmission line, a solid waste facility, a highway or road, a subdivision, a commercial, industrial, or government development, or any other development that needs state or local approval and that results in the potential for noxious weed infestation within a district shall notify the board at least 15 days prior to the activity.

(2) Whenever any person or agency constructs a road, an irrigation or drainage ditch, a pipeline, an electric, communication, gas, or liquid transmission line, or any other development on an easement or right-of-way, the board shall require that the areas be seeded, planted, or otherwise managed to reestablish a cover of beneficial plants.

(3) (a) The person or agency committing the action shall submit to the board a written plan specifying the methods to be used to accomplish revegetation at least 15 days prior to the activity. The plan must describe the time and method of seeding, fertilization practices, recommended plant species, use of weed-free seed, and the weed management procedures to be used.

(b) The plan is subject to approval by the board, which may require revisions to bring the revegetation plan into compliance with the district weed management plan. The activity for which notice is given may not occur until the plan is approved by the board and signed by the presiding officer of the board and by the person or a representative of the agency responsible for the action. The signed plan constitutes a binding agreement between the board and the person or agency. The plan must be approved, with revisions if necessary, within 10 days of receipt by the board.

History: En. Sec. 11, Ch. 607, L. 1985; amd. Sec. 17, Ch. 407, L. 2001.

7-22-2153. Voluntary agreements for control of noxious weeds along roads—liability of landowner who objects to weed district control measures—penalties.

(1) Any person may voluntarily seek to enter into an agreement for the management of noxious weeds along a state or county highway or road bordering or running through the person's land. The coordinator may draft a voluntary agreement upon the request of and in cooperation with the person. However, the agreement must, in the board's judgment, provide for effective weed management. The weed management agreement must be signed by the person and, upon approval of the board, by the presiding officer. An agreement involving a state highway right-of-way must also be signed by a representative of the department of transportation.

(2) The agreement must contain a statement disclaiming any liability of the board and, if applicable, the department of transportation for any injuries or losses suffered by the person in managing noxious weeds on the state or county highway right-of-way. The signed agreement transfers responsibility for managing noxious weeds on the specified section of right-of-way from the board to the person signing the agreement. If the board later finds that the person has failed to adhere to the agreement, the board shall issue an order informing the person that the agreement will be void and that responsibility for the management of noxious weeds on the right-of-way will revert to the board unless the person complies with the provisions of the agreement within a specified time period.

(3) (a) If a person objects to weed control measures bordering a state or county highway right-of-way and does not enter a voluntary agreement pursuant to subsections (1) and (2) and if the board finds that the person has failed to provide alternative weed control, the board shall issue an order informing the person that the management of noxious weeds on the right-of-way will be undertaken by the board unless the person provides alternative weed control within 30 days.

(b) A person who does not provide alternative weed control within the time specified in subsection (3)(a) is guilty of a misdemeanor and, upon conviction, shall be sentenced pursuant to 46-18-212 and assessed the costs of weed control provided by the board. A second or subsequent conviction is punishable by a fine of not less than \$500 or more than \$2,000, plus the costs of weed control provided by the board.

History: En. Sec. 12, Ch. 607, L. 1985; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 433, L. 1999; amd. Sec. 18, Ch. 407, L. 2001.

**TITLE 7. LOCAL GOVERNMENT
CHAPTER 1. GENERAL PROVISIONS**

Part 2. Boards

7-1-201. Boards. (1) A board of county commissioners may by resolution establish the administrative boards, districts, or commissions allowed by law or required by law to be established pursuant to 7-1-202, 7-1-203, and this section and listed in 7-1-202. The resolution creating an administrative board, district, or commission must specify:

- (a) the number of board, district, or commission members;
- (b) the terms of the members;
- (c) whether members are entitled to mileage, per diem, expenses, and salary;

and

(d) any special qualifications for membership in addition to those established by law.

(2) (a) An administrative board, district, or commission may be assigned responsibility for a department or service district.

(b) An administrative board, district, or commission may:

(i) exercise administrative powers as granted by resolution, except that it may not pledge the credit of the county or impose a tax unless specifically authorized by state law;

(ii) administer programs, establish policy, and adopt administrative and procedural rules.

(c) The resolution creating an administrative board, district, or commission must grant the board, district, or commission all powers necessary and proper to the establishment, operation, improvement, maintenance, and administration of the department or district.

(d) If authorized by resolution, an administrative board, district, or commission may employ personnel to assist in its functions.

(3) (a) Administrative boards, districts, and commissions may be made elective.

(b) If an administrative board is made elective and if the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. A position for which there were no nominees must be filled by appointment by the county commissioners for the same term as if the position were filled by election. If there is only one nominee for a position, the nominee may be declared elected by acclamation.

(4) Administrative boards, districts, and commissions may not sue or be sued independently of the local government unless authorized by state law.

(5) Members must be appointed by the county commissioners. The county commissioners shall post prospective membership vacancies at least 1 month prior to filling the vacancy.

(6) The county commissioners shall maintain a register of appointments,

including:

- (a) the name of the board, district, or commission;
- (b) the date of appointment and confirmation, if any is required;
- (c) the length of term;

(d) the name and term of the presiding officer and other officers of each administrative board, district, or commission; and

- (e) the date, time, and place of regularly scheduled meetings.

(7) Terms of all members, except elected members, may not exceed 4 years.

Unless otherwise provided by resolution, members shall serve terms beginning on July 1 and shall serve at the pleasure of the county commissioners.

(8) An administrative board, district, or commission must consist of a minimum of 3 members and must have an odd number of members.

(9) The resolution creating an administrative board, district, or commission may provide for voting or nonvoting ex officio members.

(10) Two or more local governments may provide for joint boards, districts, or commissions to be established by interlocal agreements.

(11) A majority of members constitutes a quorum for the purposes of conducting business and exercising powers and responsibilities. Action may be taken by a majority vote of members present and voting, unless the resolution creating the board, district, or commission specifies otherwise.

(12) An administrative board, district, or commission shall provide for the keeping of written minutes, including the final vote on all actions and the vote of each member.

(13) An administrative board, district, or commission shall provide by rule for the date, time, and place of regularly scheduled meetings and file the information with the county commissioners.

(14) Unless otherwise provided by law, a person must be a resident of the county to be eligible for appointment to an administrative board, district, or commission. The county commissioners may prescribe by resolution additional qualifications for membership.

(15) A person may be removed from an administrative board, district, or commission for cause by the county commissioners or as provided by resolution.

(16) A resolution creating an administrative board, district, or commission must contain, if applicable, budgeting and accounting requirements for which the board, district, or commission is accountable to the county commissioners.

History: En. Sec. 1, Ch. 543, L. 1995; amd. Sec. 1, Ch. 254, L. 1999.

7-1-202. Creation of new boards. Subject to 7-1-201 and 7-1-203 and in addition to the following, a county may create administrative boards, districts, and commissions that are not otherwise provided for by law:

- (1) county building commission;
- (2) cemetery districts;
- (3) county fair commission;
- (4) mosquito control board;
- (5) museum board;
- (6) board of park commissioners;

- (7) rodent control board;
- (8) television district;
- (10) weed management district.

History: En. Sec. 2, Ch. 543, L. 1995; amd. Sec. 10, Ch. 114, L. 2003.

7-1-203. County commissioners to assume duties of administrative boards, districts, and commissions. (1) If the minimum number of qualified persons is not available for membership on an administrative board, district, or commission, the county commissioners may by resolution, at a public meeting, assume the duties of the administrative board, district, or commission and may act as that board, district, or commission with the same powers and duties as that board, district, or commission.

(2) County commissioners, acting in the capacity of an administrative board, district, or commission may not receive any compensation in addition to their compensation as county commissioners.

History: En. Sec. 3, Ch. 543, L. 1995.