

Second Regular Session

Sixty-second General Assembly

LLS NO. 00-0637.01 Pam Cybyske

HOUSE BILL 00-1332

STATE OF COLORADO

BY REPRESENTATIVE Larson;
also SENATOR Dyer.

REENGROSSED

A BILL FOR AN ACT

101 CONCERNING THE AUTHORITY OF A LOCAL GOVERNING BODY TO PLACE A
102 WEED ASSESSMENT UPON PRIVATE LANDS TO MANAGE NOXIOUS
103 WEEDS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes a local governing body to assess a penalty against a landowner of a lot or tract of land if the landowner or occupant fails to comply with the notice to manage noxious weeds or implement a plan developed by an arbitration panel.

Requires a local governing body to establish a penalty schedule by resolution or ordinance after a public hearing that states the amount of the penalties that may be assessed against a landowner.

Allows a local governing body to collect the penalty by placing a lien against the lot or tract of land until paid. Gives such a lien priority over all other liens except general taxes and prior special assessments and may be collected in the same manner as provided for the collection of taxes.

Gives the landowner of a lot or tract of land that is zoned for agricultural use one year from the date the landowner or occupant receives the notice to manage noxious weeds or implement a plan developed by an arbitration panel to comply with such notice before the local governing body may assess a penalty against such landowner.

1 *Be it enacted by the General Assembly of the State of Colorado:*

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 22, 2000

HOUSE
Amended 2nd Reading
February 21, 2000

1 **SECTION 1.** 35-5.5-109 (5), Colorado Revised Statutes, is
2 amended to read:

3 **35-5.5-109. Private lands - management of noxious weeds -**
4 **charges.** (5) (a) In the event the landowner or occupant fails to comply
5 with the notice to manage the identified noxious weeds or implement the
6 plan developed by the arbitration panel, the local governing body has the
7 authority to:

8 (I) Provide for and compel the management of such noxious
9 weeds at such time, upon such notice, and in such manner as the local
10 governing body shall prescribe by ordinance or resolution; and

11 (II) Assess the whole cost thereof, including up to twenty percent
12 for inspection and other incidental costs in connection therewith, upon
13 the lot or tract of land where the noxious weeds are located; except that
14 no local governing body shall levy a tax lien against land it administers
15 as part of a public right-of-way OR ASSESS THE COST OF PROVIDING FOR
16 OR COMPELLING THE MANAGEMENT OF NOXIOUS WEEDS ON PRIVATE
17 PROPERTY UNTIL THE LEVEL OF MANAGEMENT CALLED FOR IN THE NOTICE
18 OR THE MANAGEMENT PLAN DEVELOPED BY THE ARBITRATION PANEL HAS
19 BEEN SUCCESSFULLY ACHIEVED. Such assessment shall be a lien against
20 each lot or tract of land until paid and shall have priority over all other
21 liens except general taxes and prior special assessments. Such assessment
22 may be certified to the county treasurer of the county in which the
23 property is located and collected and paid over in the same manner as
24 provided for the collection of taxes. Any ~~funds~~ MONEYS collected
25 pursuant to this section shall be deposited in the local governing body's
26 weed fund or any similar fund FOR USE BY THE LOCAL GOVERNING BODY

1 TO MITIGATE NOXIOUS WEEDS.

2 (b) (I) A LOCAL GOVERNING BODY MAY, AS AN ALTERNATIVE TO
3 THE PROCEDURE SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (5),
4 ESTABLISH A WEED ASSESSMENT PENALTY AGAINST A LANDOWNER IN THE
5 EVENT A LANDOWNER OR OCCUPANT FAILS TO COMPLY WITH THE NOTICE
6 TO MANAGE THE NOXIOUS WEEDS OR IMPLEMENT THE PLAN DEVELOPED BY
7 THE ARBITRATION PANEL. THE SCHEDULE OF SUCH WEED ASSESSMENT
8 PENALTIES SHALL BE ESTABLISHED BY RESOLUTION OR ORDINANCE OF
9 SUCH LOCAL GOVERNING BODY AFTER PUBLIC HEARING; EXCEPT THAT IN
10 NO EVENT SHALL SUCH PENALTY EXCEED TEN THOUSAND DOLLARS PER
11 YEAR. SUCH PENALTY MAY BE COLLECTED IN THE MANNER SET FORTH IN
12 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (5). ANY
13 MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (b) SHALL BE
14 DEPOSITED IN THE LOCAL GOVERNING BODY'S WEED FUND OR ANY SIMILAR
15 FUND FOR USE BY THE LOCAL GOVERNING BODY TO MITIGATE NOXIOUS
16 WEEDS.

17 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH
18 (b), NO PENALTY SHALL BE ASSESSED PURSUANT TO THIS PARAGRAPH (b)
19 AGAINST PROPERTY THAT IS CLASSIFIED UNDER AGRICULTURAL TAX
20 STATUS UNTIL ONE YEAR AFTER THE LANDOWNER OR OCCUPANT RECEIVES
21 THE NOTICE TO MANAGE THE IDENTIFIED NOXIOUS WEEDS FROM THE LOCAL
22 GOVERNING BODY, AND FAILS TO COMPLY WITH THE MANAGEMENT PLAN
23 DEVELOPED BY THE ARBITRATION PANEL. NOTHING IN THIS SECTION
24 SHALL AFFECT THE ABILITY OF THE LOCAL GOVERNING BODY TO
25 IMMEDIATELY MANAGE OR MITIGATE THE NOXIOUS WEEDS OR IMPLEMENT
26 THE MANAGEMENT PLAN DEVELOPED BY THE ARBITRATION PANEL AND

1 ASSESS THE COSTS OF SUCH ACTION, PLUS UP TO TWENTY PERCENT OF
2 SUCH COSTS FOR INSPECTION AND OTHER INCIDENTAL COSTS IN
3 CONNECTION THEREWITH, FOR SUCH MANAGEMENT OR MITIGATION.

4 (b) (c) No local governing body shall provide for or compel the
5 management of noxious weeds on private property pursuant to this
6 subsection (5) without first applying the same or greater management
7 measures to any land or rights-of-way owned or administered by the local
8 governing body that are adjacent to the private property.

9 ~~(c) No local governing body shall assess the cost of providing for~~
10 ~~or compelling the management of noxious weeds on private property until~~
11 ~~the level of management called for in the notice or the management plan~~
12 ~~developed by the arbitration panel has been successfully achieved.~~

13 **SECTION 2. Effective date.** This act shall take effect at 12:01
14 a.m. on the day following the expiration of the ninety-day period after
15 final adjournment of the general assembly that is allowed for submitting
16 a referendum petition pursuant to article V, section 1 (3) of the state
17 constitution; except that, if a referendum petition is filed against this act
18 or an item, section, or part of this act within such period, then the act,
19 item, section, or part, if approved by the people, shall take effect on the
20 date of the official declaration of the vote thereon by proclamation of the
21 governor.