

AMENDMENTS TO LB831

Introduced by Blood, 3.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 2-945.02, Reissue Revised Statutes of Nebraska,
4 is amended to read:

5 2-945.02 The Legislature finds and declares that:

6 (1) The failure to control noxious weeds ~~on lands~~ in this state is a
7 serious problem ~~that~~ ~~which~~ is detrimental to the production of crops and
8 livestock, to the ecology of this state, and to the welfare of the
9 residents of this state, all of ~~and~~ which may devalue land and reduce tax
10 revenue;

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

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

19 (4) The Department of Agriculture has the ~~should have~~ responsibility
20 for (a) ~~establishing basic standards such as~~ designating plant species
21 that are ~~which plants are to be considered~~ noxious weeds and ~~which~~
22 control measures to use ~~are to be used~~ in particular situations and (b)
23 monitoring implementation of the act by the control authorities; and

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

26 Sec. 2. Section 2-954, Reissue Revised Statutes of Nebraska, is
27 amended to read:

1 2-954 (1)(a)(i) ~~(1)(a)~~ The duty of enforcing and carrying out the
2 Noxious Weed Control Act is ~~shall be~~ vested in the director and the
3 control authorities as designated in the Noxious Weed Control Act ~~act~~.

4 (ii) The director shall determine the plant species that are noxious
5 weeds ~~what weeds are noxious~~ for purposes of the Noxious Weed Control Act
6 ~~act~~.

7 (iii) A plant species may be designated as a noxious weed due to the
8 detrimental effect of the species on crops, livestock, the ecology of
9 this state, or the welfare of the residents of this state. A list of such
10 noxious weeds shall be included in the rules and regulations adopted and
11 promulgated by the director. The director shall prepare, publish, and
12 revise as necessary a list of noxious weeds. The list shall be
13 distributed to the public by the director, the Cooperative Extension
14 Service, the control authorities, and any other body the director deems
15 appropriate.

16 (iv) The director shall, from time to time, adopt and promulgate
17 rules and regulations on methods for control of noxious weeds and adopt
18 and promulgate such rules and regulations as are necessary to carry out
19 the act.

20 (v) Whenever special weed control problems exist in a county
21 involving weeds not included in the rules and regulations, the control
22 authority may petition the director to bring such weeds under the county
23 control program. The petition shall contain the approval of the county
24 board. Prior to petitioning the director, the control authority, in
25 cooperation with the county board, shall hold a public hearing and take
26 testimony upon the petition. Such hearing and the notice thereof shall be
27 in the manner prescribed by the Administrative Procedure Act. A copy of
28 the transcript of the public hearing shall accompany the petition filed
29 with the director. The director may approve or disapprove the request. If
30 approval is granted, the control authority may proceed under the forced
31 control provisions of sections 2-953 to 2-955 and 2-958.

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

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

31 (d) When the director determines that a control authority has

1 substantively failed to carry out its duties and responsibilities as a
2 control authority or has substantively failed to implement a county weed
3 control program, he or she shall instruct the control authority regarding
4 the measures necessary to fulfill such duties and responsibilities. The
5 director shall establish a reasonable date by which the control authority
6 shall fulfill such duties and responsibilities. If the control authority
7 fails or refuses to comply with instructions by such date, the Attorney
8 General shall file an action as provided by law against the control
9 authority for such failure or refusal.

10 (2)(a) Each control authority shall carry out the duties and
11 responsibilities vested in it under the act with respect to land under
12 its jurisdiction in accordance with rules and regulations adopted and
13 promulgated by the director. Such duties shall include the establishment
14 of a coordinated program for control of noxious weeds within the county.

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

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

28 (b) Under the direction of the control authority, it shall be the
29 duty of every weed control superintendent to examine all land under the
30 jurisdiction of the control authority for the purpose of determining
31 whether the Noxious Weed Control Act and the rules and regulations

1 adopted and promulgated by the director have been complied with. The weed
2 control superintendent shall: (i) Compile such data on infested areas and
3 controlled areas and such other reports as the director or the control
4 authority may require; (ii) consult and advise upon matters pertaining to
5 the best and most practical methods of noxious weed control and render
6 assistance and direction for the most effective control; (iii)
7 investigate or aid in the investigation and prosecution of any violation
8 of the act; and (iv) perform such other duties as required by the control
9 authority in the performance of its duties. Weed control superintendents
10 shall cooperate and assist one another to the extent practicable and
11 shall supervise the carrying out of the coordinated control program
12 within the county.

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

20 Sec. 3. Section 2-1081, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 2-1081 Nuisance plant shall mean any plant not economically
23 essential to the welfare of the people of Nebraska, as determined by the
24 department, and which may serve as a favorable host of plant pests or may
25 be detrimental to the agricultural or ecological interests of the State
26 of Nebraska.

27 Sec. 4. Original sections 2-945.02, 2-954, and 2-1081, Reissue
28 Revised Statutes of Nebraska, are repealed.