

## Chapter 452

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**MOSQUITO CONTROL DISTRICTS**

**452.010 Definitions.** As used in ORS 452.020 to 452.170, unless the context requires otherwise, "county court" includes board of county commissioners.

**452.020 Incorporation of districts.** In any county having a population of 100,000 or more, one or more municipal corporations, whether including incorporated municipalities or not, to be known as mosquito control districts may be incorporated, organized and managed by proceedings provided in ORS 452.030 to 452.170 with rights, privileges and powers granted expressly or necessarily implied by those statutes.

**452.030 Petition.** (1) A petition containing the signatures of not less than 25 taxpayers of the proposed district, may be presented at a regular meeting of the county court of the county in which the proposed control district is located.

(2) The petition shall set forth and describe the boundaries of the district and request that the territory therein described be created and organized into a control district under ORS 452.020 to 452.170.

**452.040 Notice of hearing.** (1) The county court shall, upon presentation of the petition, fix a time and place for hearing the petition not less than 30 nor more than 60 days from the date of the presentation of the petition.

(2) The county clerk shall thereupon publish a notice in a newspaper published and of general circulation in the county for four successive weeks before the hearing. Notice shall also be posted in 10 public places in the proposed district for 30 days prior to the hearing.

(3) The notices shall set out the boundaries of the district, as described in the petition, the time and place of the hearing, and give notice that all persons interested may have an opportunity to appear and be heard for or against the creation of the control district.

(4) If the county court is of the opinion that sufficient notice has not been given to the property owners, it may require additional notice and postpone hearing for a period of 30 days.

**452.050 Hearing; order.** (1) At the time and place fixed, the county court shall hear the petition and all persons appearing and all objections made.

(2) At the hearing, the county court may make such alterations and changes in the boundaries of the district as it deems advisable and shall define and establish the district boundaries as finally settled. However, if the county court includes any territory additional to that described in the petition, it shall first cause notice of its intention to be sent by mail to each owner of real property in the additional territory, describing the territory to be added, and giving the date when all persons interested may appear and be heard.

(3) Upon the final hearing, the county court shall determine whether the public necessity or welfare of the proposed territory and of its inhabitants requires the formation of a control district.

(4) For that purpose the county court may hear all relevant and competent testimony offered in support of or against the formation of the district.

(5) If it appears to the county court that the public necessity or welfare requires the formation of a district, it shall so find and order that the district be created.

(6) The order shall describe the boundaries of the district and designate the district by a suitable name which shall contain the words "mosquito control district."

(7) The findings of the county court shall be final and conclusive.

**452.060 Recording order; effective date of incorporation.** The county clerk shall immediately file and record the order establishing a district. Thereupon, the district named in the order shall be deemed incorporated as a mosquito control district.

**452.070 Substantial compliance suffices.** No defect in the contents of the petition or notice or proceedings shall vitiate the validity of the proceedings, if the petition contains a sufficient number of qualified signatures and describes the territory proposed as a district with reasonable certainty and the published notice describes the territory and states the date and place of the hearing.

**452.080 Board of trustees; appointment; qualifications; term; oath; chairman; compensation.** (1) The county court of the county in which the district is situated shall forthwith appoint a governing board of five trustees each of whom shall be a resident and elector of the district.

(2) The trustees shall hold office for

two years and until their successors are appointed and qualified.

(3) Each trustee shall take an oath to faithfully perform the duties of his office. The oath shall be filed with the county clerk.

(4) The board of trustees shall elect one of its members chairman.

(5) The trustees shall serve without compensation.

**452.090 Filling vacancies; removal.** (1) In case of the death or disability of any member of the board of trustees, or vacancy caused by resignation or otherwise, the vacancy shall be filled by the county court.

(2) In case of an appointment made to fill a vacancy, the appointee shall serve the balance of the unexpired term.

(3) The county court may remove any district trustee from office for cause.

**452.100 Meetings of board.** (1) The board of trustees shall provide for the time and place of holding and the manner of calling its meetings, and may establish rules for the proceedings.

(2) All sessions of the board shall be held within the district.

(3) In all cases a majority of the appointed members of the board shall constitute a quorum for the transaction of business. At any meeting the decision of a majority of the trustees present and voting shall be valid as a corporate act.

**452.110 Powers of the board.** The board of trustees of a control district may:

(1) Take all necessary and proper steps and measures for the eradication of mosquitoes within the district.

(2) Abate as nuisances all stagnant pools of water or other breeding places of mosquitoes within the district.

(3) Purchase all needed equipment, supplies and materials.

(4) Employ such labor and service as may be proper or necessary in the furtherance of the objects of ORS 452.020 to 452.170.

(5) Fix the compensation and prescribe the duties of all employees, agents and servants.

(6) Enter all places in the district breeding mosquitoes, whether on privately owned land or not.

(7) Treat with proper means all breeding places wherever situated, doing no unnecessary damage.

(8) Generally do all things necessary or

incident to the powers granted and to carry out the objects specified in this section.

**452.120 Special meetings and hearings.** The county court may at any time:

(1) Call special meetings of the board of trustees of the district for the purposes of investigation and supervision of its affairs.

(2) Hold hearings of complaints of other interested persons.

**452.130 District to pay for expenses of control.** All work performed under ORS 452.110 shall be paid for by the control district and not by the individual.

**452.140 Destroying mosquitoes by spreading larvicide; consent of game commission needed.** (1) The board of trustees of any control district:

(a) Shall destroy all mosquito larvae within the district at such times as will most effectively prevent the emergence of adult mosquitoes.

(b) May spread oil, larvicide or other material fit and suitable for the destruction of mosquito larvae, on any waters of the district in which such larvae may be breeding, and treat any breeding places in such manner as to destroy and kill the larvae.

(2) However, before spreading any oil, larvicide or other material fit and suitable for the destruction of mosquito larvae on any waters of the state frequented by waterfowl or game fish, the board of trustees shall obtain the consent of the Oregon State Game Commission.

**452.150 Director of experiment station as member; technical advice.** (1) The director of the Oregon Agricultural Experiment Station or his authorized representative, shall be ex officio a member of the board of trustees of any control district.

(2) It shall be the duty of the board of trustees to request technical advice and information of the Oregon Agricultural Experiment Station regarding methods to be pursued in the control and eradication of any mosquitoes.

**452.160 Budget estimates; tax rate limitations; tax levy.** (1) The board of trustees of any district shall, at the times and in the manner provided by law for public corporations, furnish to the county court and county auditor an estimate and statement, made pursuant to the budget laws of the state, of the amount of money necessary for all purposes required under ORS 452.020 to 452.170 during the next ensuing fiscal year. The

county court shall include the amount of the estimate so made in the annual tax budget of the county; provided, in no one year shall the amount so raised exceed the sum of one twenty-fifth of one mill on every dollar of assessed valuation.

(2) The county court shall thereafter at the time and in the manner of levying taxes for state and county purposes, levy a tax on all the taxable property in the district sufficient to raise the amount of the estimate made by the board of trustees of the district.

(3) All taxes levied under this section shall be computed and entered on the assessment and tax rolls of the county and collected at the same time and in the same manner as state and county taxes. When collected, the taxes shall be paid into the county treasury for the use of the district.

**452.170 Deposit and disbursement of moneys collected.** All money received from taxes collected for the use of any control district shall be paid to the county treasurer of the county in which the district is situated. The county treasurer shall keep the moneys in a separate fund to the credit of the district and disburse them upon the warrant of the district signed by the chairman of the board of trustees, and countersigned by the secretary of the district.

**452.180 to 452.200** [Reserved for expansion]

## CONTROL OF INSECTS BY COUNTIES

**452.210 Counties may contract with cities or other counties on mosquito control.** Any county court or board of county commissioners may contract with the governing agency of any incorporated city or with the county court of any other county with relation to any matter incident to the eradication, prevention and control of mosquitoes.

**452.220 Budgeting of expenses.** Any expenses incurred by virtue of ORS 452.210 in connection with eradication, prevention and control of mosquitoes is deemed incurred for the public health and welfare and may be budgeted as an expense incident to the general government of the county.

**452.230 Contracts with counties and municipalities for insect control.** (1) Any county court or board of county commis-

sioners may contract with any other county or municipality for insect control in furtherance of the objects of ORS 452.240 and for the supervision of such work by county employees.

(2) The officers and agents of such other county or municipality acting by authority of such contract shall have the same right of entry, inspection and treatment as the agents and employees of the county seeking to control the insects.

**452.240 Powers of county regarding mosquito control.** Any county court or board of county commissioners may:

(1) Take all necessary or proper steps and measures for the control or extermination of mosquitoes, flies and other insect pests either in the county or in territory located in any city or county in the state so situated with respect to such county that flies, mosquitoes or other insect pests therefrom are likely to migrate into the county seeking to control or exterminate such pests.

(2) Abate as nuisances all places where mosquitoes, flies or other insect pests within the county may breed.

(3) Purchase such supplies and materials and employ or contract for such labor as may be necessary or proper in furtherance of control or extermination.

(4) Fix the compensation and prescribe the duties of all employees, agents and servants.

(5) Enter upon all places within the county and adjacent thereto for the purpose of carrying out this section.

(6) Cut or remove such shrubbery or undergrowth as is necessary or proper in order to carry out this section.

(7) Treat with oil or other insecticide or larvicide any and all places where mosquitoes, flies or other insect pests, their larvae or pupae are found or are likely to exist.

(8) Generally do any and all things necessary or incident to the powers granted in ORS 452.230 to 452.250 and to carry out the objects specified in this section.

**452.250 Interference prohibited.** No person shall knowingly or wilfully hinder or interfere with or prevent the exercise of any powers conferred under ORS 452.230 to 452.250 or do or perform any act or thing which will destroy or impair the efficiency of any device or means used for the control

or extermination of mosquitoes, flies or other insect pests or their larvae.

**452.260 to 452.300** [Reserved for expansion]

### RAGWEED CONTROL

**452.310 Definitions.** As used in ORS 452.310 to 452.420:

(1) "Department" means the Department of Agriculture or any of its authorized representatives.

(2) "Eradication" means the control of ragweed by herbicides in any manner determined to be most effective in eradication and prescribed by the rules and regulations of the department.

(3) "Landowner" means any public or private owner of land, as shown by the current assessment roll of the county in which the land is situated, or a contract purchaser under a duly recorded land sale contract of purchase.

(4) "Ragweed" means the plants listed in subsections (1) and (2) of ORS 452.320. [1953 c.666 §2]

**452.320 Ragweed plants declared public nuisances.** In the exercise of the police power of the State of Oregon for the purpose of protecting the health and welfare of the people of this state from the injurious consequences of ragweed pollen and to prevent the further spread of ragweed from menacing the health and welfare of the people of this state, the following plants are declared to be a public nuisance and shall be eradicated and abated as provided in ORS 452.310 to 452.420:

(1) Common ragweed (*Ambrosia artemisiifolia* L.)

(2) Giant ragweed (*Ambrosia trifida* L.) [1953 c.666 §1]

**452.330 Eradication of ragweed by landowner.** Any landowner who discovers or receives notice of the existence on his land of ragweed growth shall, within a period of time specified by the department, eradicate the ragweed by a method approved by the department. [1953 c.666 §3]

**452.340 Ragweed detection program.** For the purpose of detection of ragweed, the department may cooperate with the State Board of Health and the State Highway Commission, or any other public or private agency or person. The department shall initiate such detection program as, in the

opinion of the director of the department, would be best adapted to bring about the most effective detection of ragweed. [1953 c.666 §5]

**452.350 Notice to department of existence of ragweed; request for advice; action by department.** Any person may give notice to the department of the existence of ragweed on his land or on the land of any other person or on public lands and may request advice or such information as may be made available by the department concerning the control of ragweed. Upon receiving notice of the existence of ragweed, the department may take any steps necessary within the scope of its powers as provided in ORS 452.310 to 452.420. [1953 c.666 §6]

**452.360 Notice to landowner to eradicate ragweed.** (1) Whenever the department ascertains the existence of ragweed on the property of any landowner, it shall give written notice of the presence thereof. Such notice shall be in writing and served upon the landowner personally, or mailed to him by registered mail at the last-known address as shown on the tax roll of the county assessor, with a return receipt requested.

(2) Such notice shall advise the landowner of the presence of ragweed, shall direct that he eradicate the ragweed with the use of suitable herbicides or such other method as will effectively eradicate the ragweed, and designate the time within which the eradication shall be completed, which time shall be reasonable, considering weather and crop conditions, with a minimum period of 15 days after service or mailing of notice. [1953 c.666 §7]

**452.370 Eradication by department if landowner fails to comply with notice; lien of department; foreclosure of lien.** (1) If the landowner fails or refuses to eradicate the ragweed as directed in the notice, the department may, by its own personnel or others, enter upon the land and eradicate the ragweed.

(2) The department shall have a lien upon the land for reasonable worth of the labor and materials furnished. A written statement and notice of such lien, describing the land and stating the itemized amount of said expenditures, shall be certified under oath by the department and filed in the offices of the county clerk of the county in which the land is situated within 90 days

following the completion of the work by the department. Such lien shall be recorded in the same book and in the same manner in which mortgages are recorded, and shall be discharged by the department in a like manner as mortgages are discharged.

(3) No lien provided for in this section shall bind the land for a longer period than one year after the same shall have been filed, unless suit be brought in a proper court within that time to enforce the same.

(4) Suits to enforce the liens created by this section shall be brought in the circuit court, and the pleadings, process, practice and other proceedings shall be, as nearly as possible, made to conform to the proceedings of a foreclosure of a mortgage lien upon real property. In all suits under this section, the court shall, upon entering the judgment for the plaintiff, allow as part of the costs and disbursements all moneys paid for the filing and recording of the lien, and also a reasonable amount as attorney's fees. [1953 c.666 §8]

**452.380 Disposition of funds collected upon payment of lien or judgment.** Upon the payment of the lien or the judgment, as the case may be, the funds so collected shall be remitted to the State Treasurer, who shall deposit said funds in the General Fund to the credit of the department. [1953 c.666 §9]

**452.390 Mandatory injunction requiring landowners to eradicate ragweed.** (1) In addition to the administrative remedies and the penalties provided in ORS 452.310 to 452.420, the department may, in cases of landowners who over a period of two successive years have failed to take the eradication measures required by ORS 452.310 to 452.420, commence a suit in equity for a mandatory injunction, requiring the landowners to eradicate the ragweed in accordance with the rules and regulations of the department.

(2) Failure to obey the order of the court pursuant to an injunction issued under this section shall constitute contempt of court and be punishable as provided in ORS 33.010 to 33.150. [1953 c.666 §10]

**452.400 Eradication of ragweed on land owned by public bodies.** The State Highway Commission and the respective governing bodies of counties, districts, municipalities and other public bodies shall eradicate ragweed in accordance with the methods prescribed by the department on any land owned by them or constituting the right of way for any highway, county road, parks, drainage or irrigation ditch, easement or other public right in property under their respective jurisdiction. [1953 c.666 §11]

**452.410 Application to counties which have established weed control districts.** (1) The provisions of ORS 452.310 to 452.400 shall not apply to any county in which the county court has declared a weed control district pursuant to ORS 570.515, if:

(a) Ragweed is declared and listed as a noxious weed by the county court pursuant to ORS 570.515.

(b) The county court gives a written notice to the department for local control for the weed control district of ragweed eradication.

(2) Upon compliance with subsection (1) of this section, the county court shall have all the powers and duties of the department under ORS 452.310 to 452.420 concerning the enforcement of ragweed control as provided in ORS 452.310 to 452.420. [1953 c.666 §12]

**452.420 Enforcement by department; employment of additional personnel.** The department shall enforce the regulatory provisions of ORS 452.310 to 452.420 and may employ any additional personnel necessary to carry into effect the purposes of ORS 452.310 to 452.420. [1953 c.666 §4]

**452.430 to 452.980** [Reserved for expansion]

## PENALTIES

**452.990 Penalties.** Violation of ORS 452.250 is punishable, upon conviction, by a fine of not more than \$50 or imprisonment for not more than one month, or both.

