

Chapter 452

1957 REPLACEMENT PART

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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 employes, 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 employes.

(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 employes 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 employes, 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 [1953 c.666 §2; repealed by 1957 c.450 §13]

452.320 [1953 c.666 §1; repealed by 1957 c.450 §13]

452.330 [1953 c.666 §3; repealed by 1957 c.450 §13]

452.340 [1953 c.666 §5; repealed by 1957 c.450 §13]

452.350 [1953 c.666 §6; repealed by 1957 c.450 §13]

452.360 [1953 c.666 §7; repealed by 1957 c.450 §13]

452.370 [1953 c.666 §8; repealed by 1957 c.450 §13]

452.380 [1953 c.666 §9; repealed by 1957 c.450 §13]

452.390 [1953 c.666 §10; repealed by 1957 c.450 §13]

452.400 [1953 c.666 §11; repealed by 1957 c.450 §13]

452.410 [1953 c.666 §12; repealed by 1957 c.450 §13]

452.420 [1953 c.666 §4; repealed by 1957 c.450 §13]

452.430 to 452.500 [Reserved for expansion]

452.510 Definitions. As used in ORS 452.510 to 452.590:

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

(2) "Ragweed" means the plants listed in subsections (1) and (2) of ORS 452.520.

(3) "Ragweed control area" includes the counties of Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington and Yamhill. [1957 c.450 §1]

452.520 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 in certain areas of this state, the following plants are declared to be a public nuisance, and shall be detected, controlled and destroyed in the ragweed control area:

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

(2) Giant ragweed (*Ambrosia trifida* L.). [1957 c.450 §2]

452.530 Administration and enforcement; dissemination of information. (1) Notwithstanding any other provisions of law the department shall administer and enforce the provisions of ORS 452.510 to 452.590.

(2) The department may make all rules and regulations for the administration of ORS 452.510 to 452.590, and provide the necessary forms to carry those sections into effect. This includes the authority necessary to promulgate regulations affecting persons and property before, during or after the department has detected, controlled or destroyed ragweed and to prevent the spreading or regrowth of the weed.

(3) The department may cooperate with federal agencies, the Oregon State College, extension service, the State Board of Health and all other public and private agencies or organizations in the administration of ORS 452.510 to 452.590. The department shall publish and furnish information and advice concerning the control of ragweed, the injurious consequences of ragweed pollen and the necessity of preventing the further spread of this obnoxious weed. [1957 c.450 §§3, 4, 9]

452.540 Access to land within control area; interference with department prohibited. (1) Any authorized officer, employe or inspector of the department in carrying out the provisions of ORS 452.510 to 452.590, shall have access to the land within the ragweed control area.

(2) No person shall interfere in any way with any officer or employe charged with the enforcement of the provisions of ORS 452.510 to 452.590, while the department is engaged in the performance of its duties. [1957 c.450 §8]

452.550 Action by department in detecting, controlling and destroying ragweed. The department shall detect, control and destroy ragweed in the ragweed control area

and as otherwise provided for in ORS 452.510 to 452.590, and may:

(1) Use herbicides or any other process, procedure or operation.

(2) Purchase and use equipment and materials.

(3) Employ additional necessary personnel.

(4) Enter into a written contract with any person whereby he will detect, control or destroy ragweed. The department is authorized to pay for services, materials or labor as provided in the contract.

(5) Enter into a written contract with any public body including but not limited to federal or state agencies, county courts, board of county commissioners or municipalities, whereby they will detect, control and destroy ragweed on property other than that owned by them. The department is authorized to pay for services, materials and labor as provided for in such contract. If the contractor or other party is a public body then its officers and employes, subject to approval by the department, shall have the same authority, concurrent with but not superceding the authority of the department, in carrying out the terms of the contract and where the terms are not inconsistent with the provisions of ORS 452.510 to 452.590.

(6) Require a contractor or person to furnish a bond or liability policy for the protection of persons or property that could be subjected to damages as a result of the operations or work performed under the contract. Nothing in ORS 452.510 to 452.590 shall be construed as a waiver by the State of Oregon of any immunity against suit. [1957 c.450 §5]

452.560 Destruction and control of ragweed on lands owned by public bodies; failure to act; remedy. (1) Within the ragweed control area, all public bodies including but not limited to federal and state agencies, board of county commissioners or county courts, municipalities, school districts, water districts, irrigation districts, reclamation districts or drainage districts shall destroy and control ragweed at their own expense, under the supervision of, and 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, drainage or irrigation ditch, park, easement or other public right in property under their respective jurisdiction.

(2) Upon the failure or refusal of any person, agency, public body or municipality named in subsection (1) of this section, to control and destroy ragweed, the department may give written notice by certified or registered mail at the last known address as shown on the tax roll of the county assessor. The notice shall advise as to the presence of ragweed, shall direct that he control or destroy the ragweed in accordance with method prescribed by the department, and designate the time within which control and destruction shall be completed, which time shall be reasonable, considering weather and crop conditions, with a minimum period of 15 days after mailing of notice.

(3) If a person, agency, public body or municipality named in subsection (1) of this section fails or refuses to control or destroy the ragweed as directed in the notice, the department may, by its own personnel or by other procedures authorized by ORS 452.510 to 452.590, enter upon the land and control and destroy the ragweed. The department may maintain a suit in the circuit court of the county or counties in which the work was performed against the person, public body, agency or municipality for recovery of the reasonable worth of the services, labor and materials furnished. The Attorney General or the district attorney shall represent the department in such action. [1957 c.450 §6]

452.570 Detection, control and destruction of ragweed outside control area. The department may, in its discretion, detect, control and destroy ragweed and carry out the provisions of ORS 452.510 to 452.590 on any land located outside of the ragweed control area, in Oregon, where a request is made by or approval is obtained from the landowner. Such work shall only be undertaken when it is apparent that there are adequate personnel and funds available and where the program in the ragweed control area will not be handicapped thereby. [1957 c.450 §7]

452.580 Disposition of moneys collected or received by department. All charges, fees, costs or other moneys collected or received by the department, resulting from the operation or enforcement of ORS 452.510 to 452.590, shall be paid to the State Treasurer, to be deposited in the General Fund to the credit of the Department of Agriculture Account. All sums so received are continuously

appropriated to the department for use in the administration of ORS 452.510 to 452.590. [1957 c.450 §10]

452.590 Injunction proceedings; jurisdiction; suits and actions by department. The circuit court is vested with jurisdiction to restrain any violations, or threatened violations, or to issue any order necessary for the department in carrying out the provisions of ORS 452.510 to 452.590, upon suit or action by the department. In any such suit or action, the district attorney of the

county where such action is instituted, or the Attorney General shall represent the department. [1957 c.450 §11]

452.600 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.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 2, 1957.

Sam R. Haley
Legislative Counsel