Chapter 452

1959 REPLACEMENT PART

Insect Control; Ragweed Control

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VECTOR CONTROL DISTRICTS

452.010 Definitions. As used in ORS 452.020 to 452.590, unless the context requires otherwise:

(1) "Board" means the board of trustees of a vector control district.

(2) "County court" includes board of county commissioners.

(3) "District" means a vector control district established for the control of public health vectors.

(4) "Health officer" means the secretary of a board of health provided for under ORS 431.410 or 431.500, or a district health officer appointed under ORS 431.640.

(5) "Public health vectors" means mosquitoes and flies existing in such numbers as to be detrimental to human health and well-being. [Amended by 1959 c.600 §1]

452.020 Formation of districts. One or more districts may be formed in any county. The entire county may be included within a district or any portion of the entire county may be included. The district may include all or part of any incorporated cities in the county. [Amended by 1959 c.600 §2]

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 to include all territory which may be benefited by being included within the boundaries of the proposed district, but shall not modify boundaries so as to exclude any land which would be benefited by the formation of the proposed district. 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 "vector control district." [Amended by 1959 c.600 §3]

452.060 [Repealed by 1959 c.600 §4]

452.061 Election. (1) Not more than five days after the hearing held under ORS 452.050, the county court shall provide by order for the holding of a special election and the submission to the qualified voters within the proposed district of the question of forming the district. The order shall set forth the boundaries of the proposed district as described in the petition or as modified by the order of the county court. The ballot title to be used at the election shall be as follows:

Shall that portion of the State of Oregon, described as _____ (insert description) and not now included in a vector control district under the laws of Oregon, be formed into a vector control district?
Yes_____
No_____

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(2) The judges and clerks of the election for the formation of a district shall return the canvass of the vote together with the ballots cast to the county clerk of the county in which the proposed district, or the largest area thereof, is situated is held. As soon as practicable thereafter the county court of such county shall order a special session and proceed to canvass the vote. If upon the canvass, it appears that the majority of the votes cast at the election is in favor of the formation of a vector control district, the county court shall have entered upon its journal a proclamation substantially as follows:

Whereas at an election duly and regularly held on the _____ day of _____, 19____, within that portion of the State of Oregon, described as (insert description) there was submitted to the qualified voters thereof the question whether all that portion of the State of Oregon, as above described, shall be formed into a vector control district under the provisions of the laws of Oregon; and

Whereas at the election so held _____ votes were cast in favor of formation of a vector control district and _____ votes were cast against such formation; and

Whereas formation of a vector control district received the affirmative vote of the majority votes cast at that election;

Now, therefore, the county court (or board of county commissioners) of _____ County, Oregon, proclaims and declares that all that part of the State of Oregon, as above described, has been duly and legally formed into a vector control district under the name of _____, pursuant to and with the powers vested in such district by virtue of the laws of Oregon.

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(3) The county court shall cause a copy of the proclamation set forth in subsection (2) of this section to be filed with the county clerk of each county in which any portion of the district is situated.

(4) Except as otherwise provided in this chapter, all elections held under this chapter shall be conducted as nearly as practicable in accordance with the general election laws of the state.

(5) The county clerks of each county in which the district or proposed district is situated shall cooperate and assist in holding any election held under this chapter. [1959 c.600 §3a]

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. (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 four years and until their successors are appointed and qualified, except that for each new board of five trustees one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years and two for a term of four years.

(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 a president, a secretary and a treasurer at the first meeting of each calendar year. Officers shall serve for one calendar year.

(5) The trutees shall serve without compensation. The trustees shall be reimbursed for ordinary and necessary expenses incurred in conducting the business of the district.

(6) All health officers with offices in

the district shall be ex officio members of the board without vote.

(7) The president, secretary and treasurer of the board shall each post bond in the penal sum of $10,000 conditioned upon the faithful performance of their duties. [Amended by 1959 c.600 §5]

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 public health vectors within the district. Prior to taking such measures the board shall consider technical information available to it for the purpose of determining the need for control measures and the need for specific actions.

(2) Enter upon any land, public or private, within the district at any reasonable time to inspect for or to control public health vectors and their breeding places.

(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) Employ labor and services and fix the compensation and prescribe the duties of all employes, agents and servants.

(6) Acquire by gift or purchase, hold, manage and dispose of real and personal property in the name of the district in the furtherance of the purposes for which the district is established.

(7) Work cooperatively with irrigation and drainage districts, municipal corporations or other public agencies, and use funds of the district to assist such other agencies for the construction, improvement, repair and maintenance of ditches, and for the purpose of assisting such other agencies in abatement practices for the control of public health vectors.

(8) Generally do all things necessary or incident to the powers granted and to carry out the objects specified in this section. [Amended by 1959 c.600 §6]

452.120 Duties of county court. The county court shall:

(1) Call special meetings of the board of the district for the purposes of investigation and supervision of its affairs. At least one meeting shall be called annually for the purpose of reviewing the activities of the district.

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

(3) Require the board to furnish by February 1 of each year a proposed annual work program which shall include an estimate of funds required for the next year and a description of the work contemplated and the methods to be employed by the district.

(4) Approve, after consultation with the health officers, the annual work program of the district before any work contracts or operations are entered into by the board.

(5) Require the board to furnish by February 1 of each year an annual report covering moneys expended, methods employed and work accomplished during the past year. [Amended by 1959 c.600 §7]

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 vectors by spreading chemicals; consent of game commission needed. The board of trustees of a district:

(1) Shall not apply insecticides or oil or other chemicals to waters in the district which are frequented by waterfowl or which

contain any game fish without first obtaining the approval of the State Game Commission.

(2) Shall not spread poisons for public health vectors without first obtaining approval of the State Game Commission. [Amended by 1959 c.600 §8]

452.150 [Repealed by 1959 c.600 §9 (ORS 452.151 enacted in lieu of ORS 452.150)]

452.151 Technical advice. The board may request technical advice and information from the Oregon Agricultural Experiment Station and the State Board of Health regarding methods and chemicals to be used in the control and extermination of public health vectors. [1959 c.600 §10 (enacted in lieu of ORS 452.150)]

452.160 Budget estimates; tax rate limitations; tax levy; deposit and disbursement. (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 be greater than enough to raise the amount determined by the board of trustees and approved by the county court and the health officers on the board. The tax levied shall not exceed one and one-half mills on every dollar of assessed valuation within the district.

(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. Such funds may be withdrawn only upon warrants issued by the proper authorities of the district. [Amended by 1959 c.600 §11]

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 president of the board, and countersigned by the secretary of the board. [Amended by 1959 c.600 §12]

452.180 to 452.200 [Reserved for expansion]

CONTROL OF VECTORS BY COUNTIES

452.210 Counties may contract with cities, vector control districts or other counties on vector control. Any county court may contract with any incorporated city, any vector control district, or with the county court of any other county on any matter incident to the eradication, prevention and control of public health vectors and for the supervision of such work by county employes. [Amended by 1959 c.600 §13]

452.220 Budgeting of expenses. Any expenses incurred by virtue of ORS 452.210 in connection with eradication, prevention and control of public health vectors is deemed incurred for the public health and welfare and may be budgeted as an expense incident to the general government of the county. [Amended by 1959 c.600 §14]

452.230 Rights under contract. The officers and agents of such other county, vector control district 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 public health vectors. [Amended by 1959 c.600 §15]

452.240 Powers of county regarding vector control. Any county court may:

(1) Take all necessary or proper steps and measures for the control or extermination of public health vectors either in the county or in territory located in any city or county in the state so situated with respect to such county that public health vectors therefrom are likely to migrate into

the county seeking to control or exterminate such vectors.

(2) Abate as nuisances all places where public health vectors 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 proper chemicals places where public health vectors 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. [Amended by 1959 c.600 §16]

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 public health vectors or their larvae. [Amended by 1959 c.600 §17]

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 artemisifolia 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 de-

partment 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 superseding 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 November 1, 1959.

Sam R. Haley
Legislative Counsel