HOUSE BILL NO. 620

INTRODUCED BY GIACOMETTO

IN THE HOUSE

FEBRUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.				
FEBRUARY 13, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.				
FEBRUARY 14, 1987	PRINTING REPORT.				
FEBRUARY 16, 1987	SECOND READING, DO PASS.				
FEBRUARY 17, 1987	ENGROSSING REPORT.				
	THIRD READING, PASSED. AYES, 86; NOES, 8.				
	TRANSMITTED TO SENATE.				
IN THE SENATE					
FEBRUARY 19, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.				
MARCH 5, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.				
MARCH 9, 1987	SECOND READING, CONCURRED IN.				
MARCH 11, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.				
	RETURNED TO HOUSE.				
	IN THE HOUSE				

RECEIVED FROM SENATE.

SENT TO ENROLLING.

MARCH 12, 1987

1	House BILL NO. 620
2	INTRODUCED BY
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A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE NOTICE OF A
LANDOWNER'S RIGHT TO A HEARING IN A DISPUTE OVER WEED
CONTROL RESPONSIBILITY; TO PREVENT IMPLEMENTATION OF WEED
CONTROL MEASURES BY THE COUNTY WEED BOARD IN SUCH A CASE,
EXCEPT IN AN EMERGENCY; TO PROVIDE FOR DETERMINATION OF
LIABILITY FOR THE COST OF EMERGENCY MEASURES; AND AMENDING
SECTIONS 7-22-2123 AND 7-22-2124, MCA."

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-22-2123, MCA, is amended to read:
"7-22-2123. Procedure in case of noncompliance. (1)
Where complaint has been made or the board has reason to believe that noxious weeds described in this part are present upon a person's land within the district in violation of the law, that person must be notified by mail or telephone of the complaint and the board may request inspection of such land. The board or its authorized agent and the landowner or his representative shall inspect the land at an agreeable time, within 10 days of notification of the landowner. If after reasonable effort the board is unable to gain cooperation of the person, the board or its authorized agent may enter and inspect the land to determine

if the complaint is valid.

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(2) If noxious weeds are found, the board or supervisor shall notify the person or his representative and seek voluntary compliance with the district weed control program. If voluntary compliance is not possible, notice of noncompliance must be sent to the person by certified mail.

- 7 (3) The notice must specify:
 - (a) the basis for the determination of noncompliance;
- 9 (b) the geographic location of the area of 10 noncompliance, by legal description or other reasonably 11 identifiable description;
- 12 (c) measures to be undertaken in order to comply with
 13 the district's management criteria; and
- 14 (d) a reasonable period of time, not less than 10
 15 days, in which compliance measures must be initiated; and
- 16 (e) the right of the person to request, within the
 17 time specified in subsection (3)(d), an administrative
 18 hearing as provided by 7-22-2110.
 - and the board accepts a proposal to undertake specified control measures and is in compliance for so long as he performs according to the terms of the proposal. If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

(4) A person is considered in compliance if he submits



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(5) In accepting or rejecting a proposal, the board shall consider the economic impact on the person and his neighbors, practical biological and environmental limitations, and alternative control methods to be used."

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- Section 2. Section 7-22-2124, MCA, is amended to read:

 "7-22-2124. Destruction of weeds by board. (1) If corrective action is not taken and no proposal is made and accepted or no request for an administrative hearing is made within the time specified in the notice, the board may forthwith enter upon the person's land and institute appropriate control measures. In such case the board shall submit a bill to the person, itemizing man-hours of labor, material, and equipment time, together with a penalty not exceeding 10% of the total cost incurred. Labor and equipment must be valued at the current rate paid for commercial management operations in the district. The bill must specify and order a payment due date of 30 days from the date the bill is sent.
- (2) A copy of the bill must also be submitted by theboard to the county clerk and recorder.
- 21 (3) If a person receiving an order to take corrective
 22 action requests an administrative hearing, the board may not
 23 institute control measures until the matter is finally
 24 resolved, except in case of an emergency. In such a case,
 25 the person is liable for costs as provided in subsection (1)

- only to the extent determined appropriate by the board,
- 2 commissioners, or court that finally resolves the matter."
 -End-

APPROVED BY COMMITTEE ON AGRICULTURE LIVESTOCK & IRRIGATION

House BILL NO. 620

2 INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE NOTICE OF A LANDOWNER'S RIGHT TO A HEARING IN A DISPUTE OVER WEED CONTROL RESPONSIBILITY; TO PREVENT IMPLEMENTATION OF WEED CONTROL MEASURES BY THE COUNTY WEED BOARD IN SUCH A CASE, EXCEPT IN AN EMERGENCY; TO PROVIDE FOR DETERMINATION OF LIABILITY FOR THE COST OF EMERGENCY MEASURES; AND AMENDING SECTIONS 7-22-2123 AND 7-22-2124, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-22-2123, MCA, is amended to read:
"7-22-2123. Procedure in case of noncompliance. (1)
Where complaint has been made or the board has reason to
believe that noxious weeds described in this part are
present upon a person's land within the district in
violation of the law, that person must be notified by mail
or telephone of the complaint and the board may request
inspection of such land. The board or its authorized agent
and the landowner or his representative shall inspect the
land at an agreeable time, within 10 days of notification of
the landowner. If after reasonable effort the board is
unable to gain cooperation of the person, the board or its
authorized agent may enter and inspect the land to determine

1 if the complaint is valid.

- (2) If noxious weeds are found, the board or supervisor shall notify the person or his representative and seek voluntary compliance with the district weed control program. If voluntary compliance is not possible, notice of noncompliance must be sent to the person by certified mail.
 - (3) The notice must specify:
 - (a) the basis for the determination of noncompliance;
- 9 (b) the geographic location of the area of 10 noncompliance, by legal description or other reasonably 11 identifiable description;
- (c) measures to be undertaken in order to comply with the district's management criteria: and
- (d) a reasonable period of time, not less than 10days, in which compliance measures must be initiated; and
 - (e) the right of the person to request, within the time specified in subsection (3)(d), an administrative hearing as provided by 7-22-2110.
 - (4) A person is considered in compliance if he submits and the board accepts a proposal to undertake specified control measures and is in compliance for so long as he performs according to the terms of the proposal. If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

(5) In accepting or rejecting a proposal, the board shall consider the economic impact on the person and his neighbors, practical biological and environmental limitations, and alternative control methods to be used."

 Section 2. Section 7-22-2124, MCA, is amended to read:

"7-22-2124. Destruction of weeds by board. (1) If
corrective action is not taken and no proposal is made and
accepted or no request for an administrative hearing is made
within the time specified in the notice, the board may
forthwith enter upon the person's land and institute
appropriate control measures. In such case the board shall
submit a bill to the person, itemizing man-hours of labor,
material, and equipment time, together with a penalty not
exceeding 10% of the total cost incurred. Labor and
equipment must be valued at the current rate paid for
commercial management operations in the district. The bill
must specify and order a payment due date of 30 days from
the date the bill is sent.

- (2) A copy of the bill must also be submitted by the board to the county clerk and recorder.
- 21 (3) If a person receiving an order to take corrective
 22 action requests an administrative hearing, the board may not
 23 institute control measures until the matter is finally
 24 resolved, except in case of an emergency. In such a case,
 25 the person is liable for costs as provided in subsection (1)

only to the extent determined appropriate by the board,

2 commissioners, or court that finally resolves the matter."
-End-

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INTRODUCED BY House BILL NO. 620 1 2

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE NOTICE OF A LANDOWNER'S RIGHT TO A HEARING IN A DISPUTE OVER WEED CONTROL RESPONSIBILITY; TO PREVENT IMPLEMENTATION OF WEED CONTROL MEASURES BY THE COUNTY WEED BOARD IN SUCH A CASE, EXCEPT IN AN EMERGENCY; TO PROVIDE FOR DETERMINATION OF LIABILITY FOR THE COST OF EMERGENCY MEASURES; AND AMENDING SECTIONS 7-22-2123 AND 7-22-2124, MCA."

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- (a) the basis for the determination of noncompliance;
- 9 (b) the geographic location of the 10 noncompliance, by legal description or other reasonably 11 identifiable description;
- 12 (c) measures to be undertaken in order to comply with 13 the district's management criteria; and
 - (d) a reasonable period of time, not less than 10 days, in which compliance measures must be initiated; and
 - (e) the right of the person to request, within the time specified in subsection (3)(d), an administrative hearing as provided by 7-22-2110.
 - (4) A person is considered in compliance if he submits and the board accepts a proposal to undertake specified control measures and is in compliance for so long as he performs according to the terms of the proposal. If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

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- 19 (2) A copy of the bill must also be submitted by the 20 board to the county clerk and recorder.
- (3) If a person receiving an order to take corrective 21 22 action requests an administrative hearing, the board may not institute control measures until the matter is finally resolved, except in case of an emergency. In such a case, the person is liable for costs as provided in subsection (1)

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