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HEALTH AND SAFETY CODE - HSC

DIVISION 3. PEST ABATEMENT [2000 - 2910] (*Heading of Division 3 amended by Stats. 1957, Ch. 205.*)

CHAPTER 8. Pest Abatement Districts [2800 - 2910] (*Chapter 8 enacted by Stats. 1939, Ch. 60.*)

ARTICLE 3.5. District Powers [2855 - 2868] (*Article 3.5 added by Stats. 1974, Ch. 465.*)

[2855.](#) The district board may do all of the following:

- (a) Purchase supplies and other personal property.
- (b) Employ necessary labor.
- (c) Acquire by purchase, condemnation, or otherwise, in the name of the district, any lands, rights-of-way, easements, or other real property necessary for the district.
- (d) Sell or lease any lands, rights-of-way, easements, material, or other property, real or personal, acquired by the district.
- (e) Make contracts to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this chapter or of powers incident to those powers.
- (f) Sue and be sued.
- (g) Enter upon, without hindrance or notice, any property, either within the district or so reasonably adjacent that pests may disperse into the district, for any of the following purposes:
 - (1) To inspect to ascertain the presence of pests or their breeding places.
 - (2) To abate public nuisances in accordance with this article through direct control or through notice to the property owner to abate the public nuisance.
 - (3) To ascertain if a notice to abate a public nuisance has been complied with.
 - (4) To treat the property with any physical, chemical, or biological control measures deemed appropriate by the district board.
- (h) Assess civil penalties, as determined in the discretion of the district board, but not to exceed five hundred dollars (\$500) per day for each day that a notice or hearing order to abate a nuisance has not been complied with.
- (i) Exercise the powers authorized by Section 2270 if the pests the district is empowered to control fall within the meaning of "vector," as defined in subdivision (f) of Section 2200.
- (j) Do everything necessary to carry out the powers conferred by this chapter and carry out the objects of the formation of the district.

(Amended by Stats. 1984, Ch. 911, Sec. 50. Effective September 7, 1984.)

[2855.3.](#) Every sale of real property made pursuant to subdivision (d) of Section 2855 shall be made at such place within the district as the district board shall specify, and such real property shall be sold to the highest bidder at public auction, after notice of sale is published once a week for two successive weeks in a newspaper of general circulation published in the district or county. If a newspaper of general circulation is not printed and published within such district or county, public notice of the sale shall be given for at least two weeks by notices posted in three public places in the district.

(Added by Stats. 1974, Ch. 465.)

[2855.7.](#) The district board may borrow money in any fiscal year, which shall not exceed the anticipated revenue of that fiscal year and which shall be repaid in the same fiscal year. Such money shall be borrowed upon such other terms as the board shall fix; provided, that interest shall not exceed 6 percent, computed annually or semiannually.

The district board may also issue warrants payable upon a future date in the same fiscal year as issued, which shall be evidentiary of the obligation to repay the money so borrowed and interest thereon, and for that purpose such warrant may bear such interest as is fixed by the terms of the agreement to repay.

(Added by Stats. 1974, Ch. 465.)

2856. Any nuisance may be abated in any action or proceeding by any remedy provided by this article or any other law.

(Added by Stats. 1974, Ch. 465.)

2857. Whenever a nuisance exists upon any property, either in the district or in territory not in the district but so situated with respect to the district that pests from the territory migrate into, or otherwise encroach upon, the district, the district board may notify in writing the owner or party in possession, or the agent of either, of the existence of the nuisance. The contents of the written notice shall conform to the requirements of Section 2858.

(Amended by Stats. 1984, Ch. 911, Sec. 51. Effective September 7, 1984.)

2858. The notice required by Section 2857 shall include all of the following:

- (a) State the finding of the district that a public nuisance exists on the property and the location of the nuisance on the property.
- (b) Direct the owner or party in possession to abate the nuisance within a specified time by destroying the pests which are present.
- (c) Direct the owner or party in possession to perform, within a specified time, any work necessary to prevent the recurrence of the pests in the places specified in the notice.
- (d) Inform the owner or party in possession that failure to comply with the requirements of subdivision (b) shall subject the owner or party in possession to civil penalties of not more than five hundred dollars (\$500) per day for each day the nuisance continues after the time specified for the abatement of the nuisance in the notice.
- (e) Inform the owner or party in possession that before complying with the requirements of the notice, the owner or party in possession may appear at a hearing before the district board at a time and place stated in the notice.

The notice shall be served upon the owner of record and the person having charge or possession, if other than the owner of record, of the property upon which the nuisance exists, and may be served by any person authorized by the district board in the same manner as a summons in a civil action.

(Amended by Stats. 1984, Ch. 911, Sec. 52. Effective September 7, 1984.)

2860. If the property is owned by a person who is not a resident of the district, and is not in charge or possession of any person, and there is no tenant or agent of the owner upon whom service can be made, who can after diligent search be found; or if the owner of record of the property cannot after diligent search be found, the notice may be served by posting a copy in a conspicuous place upon the property for a period of 10 days, and by mailing a copy to the owner of record addressed to his address as given on the last completed assessment roll of the county in which the property is situated, or, in the absence of an address on the roll, to his last known address.

(Added by Stats. 1974, Ch. 465.)

2861. Before complying with the requirements of the notice, the owner or party in possession may appear at a hearing before the board at a time and place fixed by the board and stated in the notice. At the hearing the district board shall determine whether the initial finding as set forth in the notice is correct and shall permit the owner or party in possession to present testimony in his behalf. If, after hearing all the facts, the board makes a determination that a nuisance exists on the property, the board shall order compliance with the requirements of the notice or with alternate instructions issued by the board.

Any failure to comply with any such order of the board issued pursuant to this section shall subject the owner or party in possession, if other than the owner of record, to civil penalties of not to exceed five hundred dollars (\$500) per day for each day such order is not complied with.

(Added by Stats. 1974, Ch. 465.)

2861.5. Any judicial review of administrative procedure provided for in this chapter shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

(Added by Stats. 1974, Ch. 465.)

2861.7. Any recurrence of the nuisance may be deemed to be a continuation of the original nuisance.

(Amended by Stats. 1984, Ch. 911, Sec. 53. Effective September 7, 1984.)

2862. If the nuisance is not abated within the time specified in the notice or an order following the hearing, the district board may abate the nuisance.

(Amended by Stats. 1984, Ch. 911, Sec. 54. Effective September 7, 1984.)

2862.5. The cost of abating a nuisance shall be repaid to the district by the owner of the property. However, the owner shall not be required to pay for the costs unless, either prior to or subsequent to the abatement by the district, a hearing is held by the district board, at which the property owner is afforded an opportunity to be heard, and the district board determines that a nuisance actually exists or that a nuisance existed prior to the abatement by the district.

(Added by Stats. 1984, Ch. 911, Sec. 55. Effective September 7, 1984.)

2863. When any nuisance is found to exist on any property subject to the control of any state or local agency, the district shall notify the state or local agency of the existence of the nuisance. Sections 2858, 2860, 2861, 2861.5, and 2862 shall govern the contents of the notice and the manner of serving it, the right of the state or local agency to a hearing before the board, the hearing before the board, and the power of the district to abate the nuisance if it is not abated by the state or local agency. If the state or local agency determines that the order to prevent recurrence of the breeding specified in the notice to abate the nuisance is excessive or inappropriate for the intended use of the land, or if the state or local agency determines that a nuisance, as specified in Section 2800.5, does not exist, the agency may appeal the decision of the board to the State Director of Health Services within 10 days subsequent to the hearing. The director shall decide the matters on appeal and convey his or her decision to the agency and district within 30 days of the receipt of the appeal. The decision of the director shall be final and conclusive. If the control of the nuisance is performed by the district, the cost for that control is a charge against, and shall be paid from, the maintenance fund or from other funds for the support of the state or local agency.

Any state or local agency and a district may enter into contractual agreements to provide control of nuisances. The authority which is granted by this paragraph is in addition to any other authority which a state or local agency and a district may have to enter into contractual agreements for the control of public nuisances, as defined in Section 2800.5.

As used in this section, "state agency" means an agency defined in Section 11000 of the Government Code, and "local agency" means a city, county, city and county, district, or other public corporation.

(Amended by Stats. 1984, Ch. 911, Sec. 56. Effective September 7, 1984.)

2864. Upon the failure of the property owner or the person in possession of the property to pay the district for all sums expended by the district in abating a nuisance or preventing its recurrence, or upon the failure to pay all civil penalties, the costs or penalties, or both, shall become a lien upon the property on which the nuisance was abated or its recurrence prevented when notice of the lien is filed and recorded. However, if the property has been conveyed prior to the recordation of the lien, the lien shall not attach to the real property, but shall remain the debt of the person who owned the land at the time the costs were incurred, and the debt may be recovered by the district board against the debtor, as provided in Section 2866.

(Repealed and added by Stats. 1984, Ch. 911, Sec. 58. Effective September 7, 1984.)

2864.7. A copy of the filed and recorded lien may be given to the county assessor and tax collector, who, upon receipt of the lien, shall add the amount of the lien to the next regular tax bill levied against the parcel for district purposes.

(Amended by Stats. 1984, Ch. 911, Sec. 59. Effective September 7, 1984.)

2865. If the county assessor and the tax collector assess property and collect taxes for the district, a certified copy of the lien shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

(Amended by Stats. 1984, Ch. 911, Sec. 60. Effective September 7, 1984.)

2865.5. The county auditor shall enter each lien on the county tax roll opposite the parcel of land.

(Amended by Stats. 1984, Ch. 911, Sec. 61. Effective September 7, 1984.)

2866. The amount of the lien shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency, as provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes shall be applicable to the lien, except that if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property, but instead shall be transferred to the unsecured roll for collection.

(Amended by Stats. 1985, Ch. 48, Sec. 4. Effective May 20, 1985.)

2867. The lien provisions of this article do not apply to the property of any county, city, district, or other public corporation. However, the governing body of the county, city, district, or other public corporation shall repay to a district the amount expended by the district upon any of its property under this article upon presentation by the district board of a verified claim or bill.

(Added by Stats. 1974, Ch. 465.)

2868. Any amounts collected by a county on account of a lien authorized by this article, other than the amounts requested to be paid into the county general fund pursuant to Section 29304 of the Government Code, shall be paid to the district.

(Amended by Stats. 1984, Ch. 911, Sec. 63. Effective September 7, 1984.)