

SESSION OF 2016

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2479

As Amended by House Committee on
Agriculture and Natural Resources

Brief*

HB 2479 would make changes to statutes dealing with noxious weeds and formally name the statutes as the Noxious Weed Act.

The bill would require the Secretary of Agriculture (Secretary) to adopt rules and regulations declaring which weeds of the State are to be considered noxious weeds. Once weeds are declared noxious by the Secretary, they would be considered to be noxious in every county of the State. The Secretary could not declare any weed to be noxious without the recommendation of the State Noxious Weed Advisory Committee (Committee), which would be created by the bill, except under new emergency declaration authority granted to the Secretary in the bill. The Board of County Commissioners, with approval of the Secretary, could list additional noxious weeds to be controlled in the county.

The bill would permit the Secretary to name a noxious weed by emergency declaration under certain conditions. The bill would prohibit the Secretary from making an emergency declaration for the same weed more than once without the recommendation of the Committee. The emergency declaration would remain in effect for 18 months or until action could be taken by the Secretary to declare the species noxious by rules and regulations, whichever is earlier. Within 90 days of an emergency declaration, the Secretary would be required to call a meeting of the Committee to approve the declaration. If the Committee did not approve the declaration, the declaration would no longer remain in effect.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would create the state Noxious Weed Advisory Committee, composed of 13 voting members representing different geographic areas of the State, as much as possible, and appointed to four-year terms by the Secretary, as follows:

- One member to represent a natural resource management professional from the Kansas Department of Wildlife, Parks and Tourism;
- Two members to represent weed specialists from Kansas State University appointed upon recommendation of the Dean of Agriculture;
- One member to be a county commissioner appointed upon recommendation of the Kansas Association of Counties;
- Three members who are private landowners;
- Two members to represent county weed directors appointed upon the recommendation of the Board of Directors of the County Weed Directors Association of Kansas;
- One member to represent the agricultural industries appointed upon the recommendation of the board of directors of the Kansas Agribusiness Retailers Association;
- One member appointed upon the recommendation of the board of directors of the Kansas Cooperative Council;
- One member to represent a natural resource management professional from the Kansas Biological Survey appointed upon the recommendation of the director of the Kansas Biological Survey; and

- One member to represent the Kansas Pest Control Association appointed by the President of the Kansas Pest Control Association.

The bill would establish a number of duties of the Committee, including reviewing the state weed management plan every five years and recommending the designation and classification of noxious weeds through the use of a science-based risk assessment. The Committee would be required to conduct this assessment considering the impact on the natural and agricultural environment, the invasiveness of the species under consideration, and the potential for infestation. The Committee would be required to meet at least quarterly. The Secretary would serve as an *ex officio*, non-voting member of the Committee.

The bill would:

- Place the definitions for the terms of the Act in one section of law;
- Make it unlawful to allow noxious weeds or their seeds to be disseminated in a variety of ways outlined in new provisions;
- Restrict the use of grass, hay, straw, or similar material within the boundaries of land owned by the State and require such material to be certified as noxious weed free;
- Make the expiration date on the current statutory list of noxious weeds December 31, 2017;
- Require, beginning December 31, 2017, and on that date every four years, the Secretary to report to the Chairperson of the House Committee on Agriculture and Natural Resources and the Chairperson of the Senate Committee on Agriculture a list of the weeds considered noxious by rules and regulations;

- Vest the responsibility for the enforcement of the Act in the board of county commissioners, with authority for cities and townships to enter into agreements with county boards of commissioners;
- Require county noxious weed supervisors to consult and cooperate with the Secretary in matters pertaining to the best and most practical methods for noxious weed control and eradication;
- Require weed supervisors to make annual surveys of infestations and approximate the amount of land and highways infested with each kind of noxious weed and its location in the county not later than October 31 of each year;
- Mandate that the Secretary collect information from each county regarding county weed budgets and expenditures and provide this information to the Legislature annually;
- Require records relating to funds received and spent dealing with noxious weeds be retained by the counties for at least five years;
- Increase the fine from \$100 to \$200 per day for each day of noncompliance, with a maximum of \$2,500 (was \$1,500);
- Require the Secretary to adopt rules and regulations defining the legal notice that must be given to landowners and operators of any noxious weed infested land;
- Allow a board of county commissioners to develop a plan for the repayment of the costs for treating noxious weeds when the county has treated noxious weeds and placed a lien on the land for repayment; and

- Restore language found in current law related to sources from which county weed supervisors' salaries are paid.

Background

This bill was introduced at the request of a spokesperson from the Kansas Department of Agriculture (KDA). At the hearing on the bill before the House Committee on Agriculture and Natural Resources, proponents included representatives of the KDA, Kansas Association of Counties, the County Weed Director's Association of Kansas, the Kansas Cooperative Council and the Kansas Agribusiness Retailers Association, and the Kansas Livestock Association.

Opponents included a representative of the Kansas Farmers Union, the Kansas Rural Center, and the Kansas Sierra Club. Written testimony in opposition to the bill was received from three individuals.

The House Committee on Agriculture and Natural Resources amended the bill to:

- Provide within 90 days after the Secretary makes an emergency declaration that a weed is noxious, the Committee would meet to review and approve the emergency declaration;
- Increase the membership of the Committee to 13 by including a member from the Kansas Biological Survey and a representative of the Kansas Pest Control Association;
- Clarify that the risk assessment made by the Committee recommending a weed be declared noxious is science-based and provide factors the assessment should consider;
- Require that every four years the Secretary is to report to the Senate Committee on Agriculture and the House Committee on Agriculture and Natural

Resources on the list of weeds considered noxious;

- Require the Secretary to collect information from each county regarding county weed budgets and expenditures made in controlling noxious weeds and require this information to be provided to the Legislature annually by the Secretary; and
- Change the maximum fine from \$1,500 for each violation to \$2,500.

The fiscal note on the original bill, provided by the Department of the Budget, states that, while the Kansas Department of Agriculture estimates enactment of the bill would result in an increased demand for weed-free forage certification inspections that are provided as a fee-based service of the Plant Protection and Weed Control Program, the agency is unable to determine what effect that increase would have on agency revenue. The note states that because the Program is already in place and operating, additional expenditures should be minimal. Expenditures associated with the cost of the Committee are expected to be approximately \$4,000, assuming four meetings per year and an average of seven members claiming *per diem* and travel costs of approximately \$142 per person per meeting.

The note goes on to state the regulatory authority for noxious weed control is assigned to counties; thus, the agency states counties would have an increase in revenue due to the increase in fines, but could also have an increase in expenditures because of the increase in regulatory weed control conducted by county weed departments. The note also states the increase in expenditures should, however, be offset by the counties' ability to collect the cost of weed control. The Kansas Association of Counties did not respond to a request for information on a fiscal effect of enactment of this bill. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.