

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Agriculture
From: Kyle Hamilton, Assistant Revisor of Statutes
Date: February 8, 2018
Subject: Bill Brief on HB 2583

HB 2583 would create and amend statutory provisions related to the control and eradication of noxious weeds in the state of Kansas.

New Section 1 is the definitions section and contains key terms that appear throughout the rest of the bill. The definition for “person” and “state noxious weed advisory committee” are new additions from last session’s version.

New Section 2 would allow the secretary of the department of agriculture, by order, to declare an emergency declaration of noxious weeds in certain circumstances. The declaration would remain in effect for the earlier of 18 months or until the secretary rescinds the declaration.

New Section 3 would establish the state noxious weed advisory committee. The authorities of the committee are listed in subsection (e), and would include, in paragraph (2), recommending the designation and classification of noxious weeds in the state through the use of a risk assessment designated by the secretary and, in paragraph (4), review the official methods for the control and eradication for each species of plant declared a noxious weed and recommend changes to the secretary.

New Section 4 lists actions considered unlawful under the Kansas pest law. Subsection (b) states that the section shall not apply to “research sanctioned by a state or federal agency or an accredited university or college; or activities specifically permitted by order of the secretary”. This section should be read in conjunction in Section 15 of the bill, which states that any

violation or failure to comply with the act is a class C nonperson misdemeanor punishable by a fine of \$200 per day for each day of noncompliance or each violation.

New Section 5 would require all alfalfa, grass, hay or other forage, stray or mulch within any lands owned or managed by the state and its agencies to be certified weed free.

Section 6 would require the secretary to adopt rules and regulations to declare species of plants as noxious weeds in the state. The secretary would not be able to declare any species of plant to be a noxious weed without the recommendation of the state advisory committee, unless an emergency declaration is made. Subsection (b), which contains the state's current list of noxious weeds, would expire on December 31, 2020. Subsection (c) would state that before the secretary can declare noxious weeds through rules and regulations that would change the official list promulgated by the secretary, the secretary must prepare a report discussing the proposed changes to the official list of noxious weeds and must submit such report to the legislature prior to adopting such rules and regulations. Subsection (d) would allow a board of county commissioners, with the approval of the secretary, to publish a list of the species of plants to be controlled in the county. Any species listed by the county would be considered a noxious weed within the boundaries of that county. The secretary would have to approve methods used to eradicate any county-specific weed. If the county-specific weed is later declared a noxious weed statewide by the secretary through rules and regulations, official methods of eradication adopted by the secretary would control over any methods that had been used by the county.

The provisions in Section 7 would expire on December 1, 2020. The provisions concern the process counties can take to declare the multiflora rose and bull thistle to be noxious weeds. Because of the process laid out in Section 6, subsection (d), these provisions would no longer be needed.

Language in Section 8 concerning the secretary's authority to designate a county as a sericea lespedeza disaster area would be stricken.

Section 9 would lay out the structure of the enforcement of the act. Responsibility for enforcement would be primarily vested in the board of county commissioners of each county. Counties could enter into agreements to allow cities and townships to enforce the act within their

own borders. Counties, cities and townships could hire a weed supervisor to coordinate with the secretary in eradicating noxious weeds within their borders. Under subsection (e), any employed weed supervisor would be required to make annual surveys of noxious weed infestations and compile the resulting data by October 31st of each year. Data of areas being treated would be collected by March 15 of each year. An annual progress report concerning the previous calendar year would be sent to the board of county of commissioners for approval and then to the secretary for review.

Section 10 cleans up some language and concerns how a weed supervisor and the secretary would confer with different entities, like school boards and railroad companies on how to eradicate weeds on their lands.

In Section 11, a county, township or city would fund weed control by either making a tax levy each year to pay for the cost of eradicating weeds or by setting aside a portion of the county general fund equivalent to the budget of their noxious weed program.

Section 12 concerns the source of weed control funding of various types of land. It also states that if any political subdivision of a county that fails to control weeds after 15 days' notice of the need for the weeds to be eradicated, the county shall eradicate the weeds and seek payment. Such payments would be paid into the appropriate county fund. Most of the language stricken in subsection (d) has been transferred to Section 14.

Section 13 concerns payments to a county from a landowner who has had noxious weeds eradicated on such landowner's land. The section updates language relating to which county funds such collected money goes to.

Section 14 concerns the process by which counties purchase and use chemical materials to eradicate noxious weeds. The new language in subsection (c) was transferred from Section 12, subsection (d). It states that counties may sell chemical materials to landowners who are assessed a county tax at not less than 50% nor more than 75% of the total cost of incurred by the county in purchasing, storing and handling the chemicals. But once a county has appropriated a budget equivalent to 1.5 mills or more, the range is equal to 75% but not more than 100% of the cost.

As discussed above, Section 15 concerns the penalties for non-compliance with the act.

Section 16 states that weed supervisors or any city, township, county or state employee so authorized shall at all reasonable times have access to enter upon a premises without interference or obstruction to inspect property, in connection with the act. New language has been added to say entry upon such premises in accordance with the act shall not be deemed a trespass.

Section 17 concerns how notice would be given to a person or entity of a noxious weed infestation on their land. In subsection (e), the current statutory standards for legal notice would be stricken and replaced with language stating that the secretary shall adopt rules and regulations establishing requirements for legal notice.

Section 18 concerns notice of costs and payment for any weed supervisor who completes a noxious weed control operation on someone's land. New language in the section would allow a county to either collect up to 50 percent of the cost of involuntary weed control per year via tax rolls or enter into a payment plan with the landowner.

The bill would also repeal K.S.A. 2-1316a, 2-1325, 2-1326, 2-1328 and 2-1329 and K.S.A. 2017 Supp. 2-1327 and 2-1334. Those statutes concern unlawful activities, funding for weed supervisors, and control of sericea lespedeza; all of which are incorporated or dealt in the new language added to the bill.

HB 2583 would become effective upon publication in the statute book.