

Approved March 5, 1986
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Allen at
Chairperson

10:09 a.m./~~p.m.~~ on February 28, 1986 in room 423-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Arden Ensley, Revisor of Statutes
Fred Carman, Revisor's Office (excused)
Raney Gilliland, Research Department

Conferees appearing before the committee:

Leo Williams, Osage County Noxious Weed Officer
Beverly Bradley, Kansas Association of Counties
Kenneth Wilke, Chief Counsel, Kansas State Board of Agriculture
Gerald L. Crathorne, Hutchinson, Board of Agriculture

Senator Allen called the Committee to order and called attention to Committee minutes for approval.

Senator Arasmith made a motion the minutes of the February 25 Committee meeting be approved. Senator Gordon seconded the motion. Motion carried.

Senator Allen called on Senator Karr to explain SB 596, the bill which the Committee was meeting to hear.

Senator Karr explained he had requested the bill at the request of some individuals because of concerns about noxious weeds on federal owned land that are not being controlled. Senator Karr called on Leo Williams to discuss the problems.

Mr. Williams explained that some land around Kansas lakes that is controlled by the Corp of Engineers and the Fish and Game Commission is often rented to farmers. The farmer then carries the noxious weed seeds to other areas with his farm trucks; also the tilled soil allows the noxious weed seeds to wash into other areas when it rains. The most troublesome weeds are musk thistle, Johnson grass and bindweed. Mr. Williams stated the owner of the land is responsible for getting rid of the noxious weeds, but the Corp of Engineers does little about controlling the weeds.

In answer to Committee questions, Mr. Williams said the Corp was willing to pay the County to spray noxious weeds on the Corp land but the Corp wanted the County to find the places that need spraying. He also said some of the spraying around the lake areas requires aerial spraying.

The Chairman thanked Mr. Williams and called on Beverly Bradley to testify.

Ms. Bradley gave copies of her testimony to the Committee (attachment 1). Ms. Bradley expressed support for the bill but was concerned about whether the counties are equiped to do more work with noxious weeds.

In answer to Committee questions Ms. Bradley said that in her experience in Douglas that she knew of no instance the county sprayed noxious weeds on federal land and then sent a bill to federal government.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,
room 423-S, Statehouse, at 10:09 a.m. ~~pm~~ on February 28, 1986

She said the Fish and Game Commission was cooperative in working with the County to eradicate noxious weeds but that the Corp of Engineers did not cooperate.

The Chairman thanked Ms. Bradley and called on Kenneth Wilke to testify.

Mr. Wilke gave copies of his testimony to the Committee (attachment 2). Mr. Wilke stated the Plant Health Department looks with favor on this bill which clarifies existing statutes. He stated he felt the word "legal" should remain in lines 43, 49 and 51.

A concern was expressed about how to determine who is responsible for weed control on federally owned leased land and lands on an Indian Reservation. Another question was asked about how the weeds on Kansas highways are treated. Gerald Crathorne with the Board of Agriculture stated that all counties in the state have the option of controlling the weeds with their own Noxious Weed Department and then being paid for the state highway portion of their work by the state. All but 7 or 8 counties work under that plan. A concern was expressed that about all that was done along the state highways was a few mowings.

The Chairman declared the hearing closed on SB 596; he then turned the Committees' attention to SB 518 for further discussion.

It was requested that the motion and the second on the motion that was pending at adjournment the day before be withdrawn.

Mr. Ensley gave copies of a balloon draft of the SB 518 showing the Committee action of the day before (attachment 3). He then explained the change on page 3 was nullified by the motion of the last meeting being withdrawn.

Senator Arasmith made a motion the Committee recommend SB 518 favorable for passage as amended. Senator Karr seconded the motion Motion carried.

The Chairman announced that the Committee meeting on Monday would be for Committee discussion on SB 403 and SB 544.

The Chairman adjourned the Committee at 10:52 a.m.

Kansas Association of Counties

Serving Kansas Counties

Suite D, 112 West Seventh Street, Topeka, Kansas 66603

Phone 913 233-2271

February 28, 1986

To: Senator Jim Allen, Chairman
Members Senate Agriculture Committee

From: Beverly Bradley, Legislative Coordinator
Kansas Association of Counties

Re: SB-596

Good Morning, I am Beverly Bradley, Legislative Coordinator, Kansas Association of Counties. Thank you for allowing me to appear today in support of SB-596.

You may know that I was a Douglas County Commissioner for 8 years. During that time Douglas County spent a great deal of time and money in the control of noxious weeds. We developed a weed department of which we were proud, but it could not be totally successful.

Clinton reservoir is in Douglas County and there are lots of musk thistles on the area around the lake which is controlled by the Corp of Engineers or the State Fish & Game Department. Our weed director would send notice to a farmer if he had not successfully controlled musk thistles, and many times we were told he could not be successful in his control efforts because of the reseeding from the Corp or Fish & Game land.

I understand this bill does not guarantee control, but at least it would be possible to officially notify the agency of the problem.

Under step 6 on the 2nd page I am somewhat concerned that county weed departments may not be staffed or equipped to the extent necessary to eradicate or control all noxious weeds on these government controlled tracts if that should become necessary.. I had wondered if line 0071 might better read "may" instead of "will". After talking to a county weed supervisor, he specified that it should be left "will" if there is any hope of getting the weeds cleared up.

Thank you for your time, I will be happy to stand for questions if that's appropriate.

*attachment 1
2/28/86 Sen. Ag.*

*2015
copy
2-28*

T E S T I M O N Y

SENATE BILL NO. 596

PRESENTED TO

SENATE COMMITTEE ON AGRICULTURE

by

Kenneth Wilke, Chief Counsel
Kansas State Board of Agriculture

February, 1986

attachment 2
2-28-86 Sen. Ag.

SENATE BILL NO. 596

PROPOSED AMENDMENTS TO THE
KANSAS NOXIOUS WEED LAW

February, 1986

Senate Bill No. 596 amends the Kansas Noxious Weed Law (K.S.A. Article 13, Chapter 2-1314 to K.S.A. 2-1332 so amended) to clarify the meaning of the term "governmental agency" as used in the current law and to indicate the intent that noxious weed suppression is necessary, even upon federally owned properties. In general terms, the Plant Health Division tends to look favorably upon any amendment which serves to clarify existing statutes. We feel no different with this bill in that respect. Clarity is an aid to enforcement, education and to those who are otherwise affected by the statute.

Regarding noxious weed control on federal reservations, the agency visited each federal reservoirs and reservations during the mid 1970's to solicit cooperation in controlling noxious weeds. During each visitation one-half day was spent surveying the degree of infestation at reservoirs and the other half was spent in discussing methods of eradication and control. Copies of a handbook which had been prepared were left at each reservoir. In 1984 similar contacts were made. Copies of the "Kansas Noxious Weed Manual" were left at each reservoir after discussing noxious weed control. Once a reservoir's managing official was contacted they agreed to cooperate subject to the needs of the federal programs and availability of funds. Usually high visibility sites, such as roadsides and picnic areas, received first priority. In many instances, where federal land was leased for farming, weed control was made the leasing farmer's responsibility. Generally, cooperation has been good.

In 1984, the Noxious Weed Division also surveyed federal reservoirs to determine the numbers of infested acres and the number of acres treated. From the information supplied for 1983, sixty-four (64) acres of field bindweed were

discovered and treated; ten and one-half (10.5) acres of musk thistle were discovered and treated; and two-hundred ninety and one-half (290.5) acres of Johnsongrass were discovered with only forty-four and one-fourth (44.25) acres being treated. There were no statistics reported on the other noxious weeds.

Throughout the years federal agencies have tried to work with local weed departments and the Board of Agriculture to control the spread of noxious weeds.

The agency agrees with any legislation which will further cooperation between federal and state agencies to control and eradicate noxious weeds which cripple a farmer's productivity.

SENATE BILL No. 518

By Committee on Agriculture

1-30

0017 AN ACT concerning public warehouse storage of grain; surety
0018 bonds of licensees; limitation of liability on bond; amending
0019 K.S.A. 1985 Supp. 34-229 and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 1985 Supp. 34-229 is hereby amended to
0022 read as follows: 34-229. (a) Every applicant for a public ware-
0023 house license shall promptly, upon notification by the director of
0024 the amount of bond required, file with the director a bond with
0025 good corporate surety qualified under the laws of the state of
0026 Kansas in a sum computed by adding together: (1) The amount,
0027 up to \$200,000, obtained by multiplying the closing cash grain
0028 price per bushel, less \$.25, of No. 2 hard ordinary wheat in
0029 Kansas City on the first Monday in April of each year times 15%
0030 of the warehouse capacity; and (2) the amount obtained by
0031 multiplying that cash grain price per bushel less \$.25 times 1% of
0032 the warehouse capacity in excess of that capacity used to com-
0033 pute the first \$200,000 of the amount of the bond. In no event
0034 shall the bond be for an amount less than \$10,000.

0035 (b) If an applicant for a license or a licensee at any time does
0036 not have the total net worth required by K.S.A. 34-228 and
0037 amendments thereto, an amount equal to the deficiency shall be
0038 added to the amount of the bond required by subsection (a).

0039 (c) The bond shall be in favor of the state of Kansas for the
0040 benefit of all persons interested, their legal representatives,
0041 attorneys or assigns and shall be conditioned on the faithful
0042 performance of all the licensee's duties as a public warehouse-
0043 man and such additional obligations as assumed by the ware-
0044 houseman under contracts with a federal agency relating to
0045 storage of grain in each warehouse. Any person injured by the

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copy

Attachment 3
2/28/86 Sen. Ag.

0037 breach of any obligation of the warehouseman may commence
 0048 suit on the bond in any court of competent jurisdiction to recover
 0049 damages that the person has sustained, but any suit commenced
 0050 shall either be a class action or shall join as parties plaintiff or
 0051 parties defendant or other persons who may be affected by such
 0052 suit on the bond. *The liability of the surety on the bond shall not*
 0053 *accumulate for each successive license period the bond covers.*
 0054 *The total liability of the surety shall be limited to the amount*
 0055 *stated on the bond or ~~as charged by~~ an appropriate rider or*
 0056 *endorsement to the bond.*

0056 (d) If a person applies for licenses for two or more separate
 0057 public warehouses in this state, the person may give a single
 0058 bond covering all the applications, and the amount of the bond
 0059 shall be the total amounts which would be required for the
 0060 applications if separate bonds were given. In computing the
 0061 amount of the single bond the warehouseman may add together
 0062 the capacity of all warehouses to be covered by the bond and use
 0063 the aggregate capacity for the purpose of computing the bond. If
 0064 a warehouseman elects to provide a single bond for a number of
 0065 warehouses, the total assets of all the warehouses shall be sub-
 0066 ject to liabilities of each individual warehouse.

0067 (e) Whenever the director determines that any bond given by
 0068 any warehouseman is inadequate and insufficient security
 0069 against any loss that might arise under the terms of the bond, the
 0070 director shall require any additional bond that the director con-
 0071 siders necessary to provide adequate security. If the director
 0072 considers the financial condition of the surety upon any ware-
 0073 houseman and the warehouseman's bond to be impaired, the
 0074 director shall require any substituted or additional bond that the
 0075 director considers necessary.

0076 (f) In all actions hereafter commenced in which judgment is
 0077 rendered against any surety company on any surety bond fur-
 0078 nished under the provisions of this section, if it appears from the
 0079 evidence that the surety company has refused without just cause
 0080 to pay the loss upon demand, the court shall allow the plaintiff a
 0081 reasonable sum as attorney fees to be recovered and collected as
 0082 a part of the costs. When a tender is made by the surety company

No bond shall be cancelled by the surety on less than 60 days' notice by mail to the director and the principal except that no such notice shall be required for cancellation of any bond by reason of nonpayment of the premium thereon.

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before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of the tender, no such costs shall be allowed.

(g) Each licensed public warehouseman shall obtain a certificate setting forth the amount and terms of the bond filed with the director pursuant to this section, the name of the corporate surety therefor and such other information as the director may prescribe by rules and regulations. The certificate of bond information shall be posted in a conspicuous place in the office room of the licensed warehouse, adjacent to the license posted as required by K.S.A. 34-230 and amendments thereto, at all times during the operation of the warehouse.

(h) Transaction of any public warehouse business at any public warehouse without having the certificate of bond information displayed in the office room of the public warehouse as required by this section is a class C misdemeanor.

Sec. 2. K.S.A. 1985 Supp. 34-229 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

(i) In lieu of the bond required by subsection (a), an applicant may submit and file with the director an irrevocable letter of credit in the amount required by this section. Such letter of credit shall contain provisions and be in the form required by the director.