

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 7, 1995, in Room 423-S of the Capitol.

All members were present except: Representative Lloyd - Excused
Representative Sloan - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:
Dennis Peterson, Director, Riley County Weed Department

Others attending: See attached list

Chairperson Flower asked the committee to review the minutes of February 17, 21, 23, and 24. If there are corrections or additions to notify the secretary before 5:00 or they will stand approved as presented.

Hearing on SB 205 - County weed supervisor submits annual report February 15 and other reports as established by rules and regulations; publication of general notice of noxious weed infestation

Chairperson Flower opened the hearing on **SB 205** by asking Raney Gilliland, Legislative Research Department, to brief the committee on the bill. **SB 205** would make several changes in the noxious weed law. On lines 22 and 23 of page 1, language to require cooperation with the county assessor and deputy assessor in locating infestations of noxious weeds is deleted. Line 43 of page 1 changes the date of the annual report from January 15 to February 15. Page 2, lines 3 and 4, clarifies that additional noxious weed reports could be required through rules and regulations. Lines 8 and 9 of page 2 amends current law so that landowners may be notified of a noxious weed problem either through publication of a general notice in the newspaper or official notice by mail. New section on lines 22-29 of page 2 details the procedure for publication in the newspaper. Page 3, lines 23-26, states that the owner or operator must be notified by telephone call, personal contact, or first class mail of the noxious weed infestation prior to issuing any legal notice. Lines 34 and 40 on page 2 would make sending a legal notice optional. Page 3, line 16, would make it optional, rather than mandatory; for the county to enter and treat the noxious weed infestation. On lines 10-13 of page 3, the legal notice must state a specific time for the completion of treatment of the noxious weed infestation, but shall not be less than five days after mailing of the notice. A new subsection (7) on lines 20-22 of page 3, provides for penalty of noncompliance.

Dennis Peterson, Director, Riley County Weed Department, and Past President of the County Weed Directors' Association of Kansas, appeared in support of **SB 205**. This bill was introduced in the Senate at the request of their organization. It was felt that if county weed supervisors' annual reports were not due until February 15, their financial statements for the year could be balanced with the county clerk's office. Their organization supported any additional reports being established through rules and regulations as they felt that they would have some input into the reporting requirements. Notifying landowners of noxious weed infestations through publication in the newspaper or by mail would allow them more flexibility. Under current law if the landowner fails to satisfactorily treat the noxious weeds after receiving legal notice, the county must enter the infested land and control the noxious weed infestation. This bill would make this an option, not a mandatory requirement. The matter could be turned over to the county attorney for prosecution. (Attachment 1)

Rebecca Johnson-McNichols, Jewell County Noxious Weed Director, provided written testimony in support of **SB 205**. She stated that the option to publish a general notice in the newspaper would be a significant

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 7, 1995.

saving of time in situations where swift timing was important. She usually receives complaints when weeds are at a growth stage necessitating immediate treatment. Due to lack of funds, she stated that it was almost impossible for her county to prosecute through legal notice when treatment of the noxious weeds by the county was required. **SB 205** would allow the counties the option to treat and/or prosecute as a follow up to legal notice. (Attachment 2)

Also distributed was a chart comparing the procedures that must be followed when the county weed director has knowledge of a noxious weed infestation in the county under **SB 205** and under current law. (Attachment 3)

This concluded the hearing on **SB 205**.

The meeting adjourned at 9:50 a.m. The next meeting is scheduled for March 8, 1995.

COUNTY WEED DIRECTOR'S ASSOCIATION OF KANSAS

HOUSE COMMITTEE ON AGRICULTURE

RE: S.B. 205 - An act relating to noxious weeds; relating to county weed supervisors' annual report; allowing publication of a general notice of noxious weed infestation.

**March 7, 1995
Topeka, Kansas**

**Presented by:
Dennis Peterson, Past President
County Weed Director's Association of Kansas**

Chairperson Flower and members of the Committee:

My name is Dennis Peterson. I am past president of the County Weed Director's Association of Kansas and director of the Riley County Weed Department. We appreciate the opportunity to express our support on Senate Bill 205.

Senate Bill 205 deals with reports made by the county weed supervisors to the State Department of Agriculture. Currently, we are required to submit an annual report by January 15 of each year. Most counties cannot produce a financial statement for the year and balance with the county clerk's office until the end of January. The financial statement is a major part of the annual report; therefore, counties are forced to send in an incomplete report or request an extension from the Department of Agriculture. This occurs often enough that the KDA staff has developed a policy allowing for a thirty-day extension upon

*House Agriculture
Attachment 1
3-7-95*

receiving a written request from the county weed supervisor. We are asking for a change to February 15 for the annual report due date which would eliminate the unnecessary paper work needed to comply with the reporting requirements required by law.

The second point we would like to address concerning reporting requirements deals with reports being established by rules and regulations of the State Board of Agriculture.

During 1994, a committee made up of three county weed supervisors and two KDA staff members reviewed the statutory requirements for reporting by counties and developed a new reporting system that fulfills the needs of KDA and also produces a report that the counties can utilize. We are concerned that future administrators may decide to overhaul the reporting system again without our input. Requiring that reports be established by rules and regulations would guarantee that our association will have input in future reporting requirements.

Senate Bill 205 also deals with the county weed supervisor's responsibility for notifying landowners of noxious weeds on their property.

Currently, KSA 2-1331 requires county weed supervisors to annually notify all landowners by mail of any noxious weeds on their property. Our association is asking for some flexibility in the notification process by allowing the option of notification by publication of a general notice in the official county newspaper. This procedure is currently being utilized in Nebraska and is working extremely well in raising awareness of the statute and allowing for more timely action when noxious weeds are found.

The final point we would like to address deals with issuing legal notices for treatment of noxious weeds.

KSA 2-1331 requires the county weed supervisor to send a legal notice by certified mail when satisfactory treatment progress has not been made. If after

receiving a legal notice, the landowner fails to control their noxious weeds, the county is required by law to enter upon the noxious weed infested land and control the noxious weed infestation. Many counties are reluctant to issue legal notices because of the potential liability of using herbicides on private property without permission of the landowner. We feel that we should have more flexibility when enforcing the noxious weed law and have treatment by the county be an option, not a mandate.

The addition of statement number seven at the end of Senate Bill 205 which reads, "A statement to inform the owner, operator or supervising agent that they may be prosecuted pursuant to KSA 2-1323, and amendments thereto, and if convicted, fined as established by law," would give the county an option to either enter and treat the noxious weeds or turn the matter over to the county attorney for prosecution.

When issuing a legal notice, a specified time must be set in which the noxious weeds must be controlled. In many cases, noxious weed infestations are becoming mature and ready to produce seed and fifteen (15) days is too long a time period to wait for treatment. Our association feels that a specified time of not less than five days after the mailing of the notice within which noxious weed control methods are required to be completed is a reasonable time frame.

The ultimate responsibility to control noxious weeds falls on the shoulders of the landowner, not the noxious weed department. Our association feels that these changes will strengthen and expedite the enforcement of the noxious weed law and make the law more uniform across the state.

Again, I would like to thank you for this opportunity to express our support of Senate Bill 205.

S.B. 205 - An act concerning agriculture; relating to noxious weeds; relating to county weed supervisors annual report; allowing publication of a general notice of noxious weed infestation; amending K.S.A. 2-1316 and 2-1331 and repealing existing sections.

Testimony presented to the
House Committee on Agriculture
March 7, 1995
Topeka, Kansas

by
Rebecca Johnson-McNichols
Jewell County Noxious Weed Director

Chm. Flower and members of the Committee:

Thank you for the opportunity to speak in support of Senate Bill 205. My name is Rebecca Johnson-McNichols and I am representing Jewell County, where I have been the Weed Director for the past seven years.

Jewell County's valuation is among the lowest 25% of Kansas counties, yet our county has had an outstanding history of noxious weed enforcement over the past twenty years. As I review these proposed changes to the Noxious Weed Law, I do so from the perspective of one who has worked diligently to enforce the law, but has struggled with insufficient resources to utilize the law to its maximum benefit.

My methods of enforcement would be greatly enhanced by the changes proposed in Section 2, K.S.A. 2-1331. One principal improvement is the option to publish a general notice in the county newspaper. This option produces a significant time savings in situations where swift timing is crucial. Jewell County lies adjacent to Nebraska. I have frequent contact with Nebraska Weed Law enforcers and the Nebraska Department of Agriculture. This public notice has been a very beneficial tool in the timely enforcement of their Noxious Weed Law.

Generally, I receive complaints when weeds are at a growth stage necessitating immediate treatment. As a rule, the more mature the weed, the greater the cost and less effective the control. In order to enforce violations under the current regulations, an

*House Agriculture
Attachment 2
3-7-95*

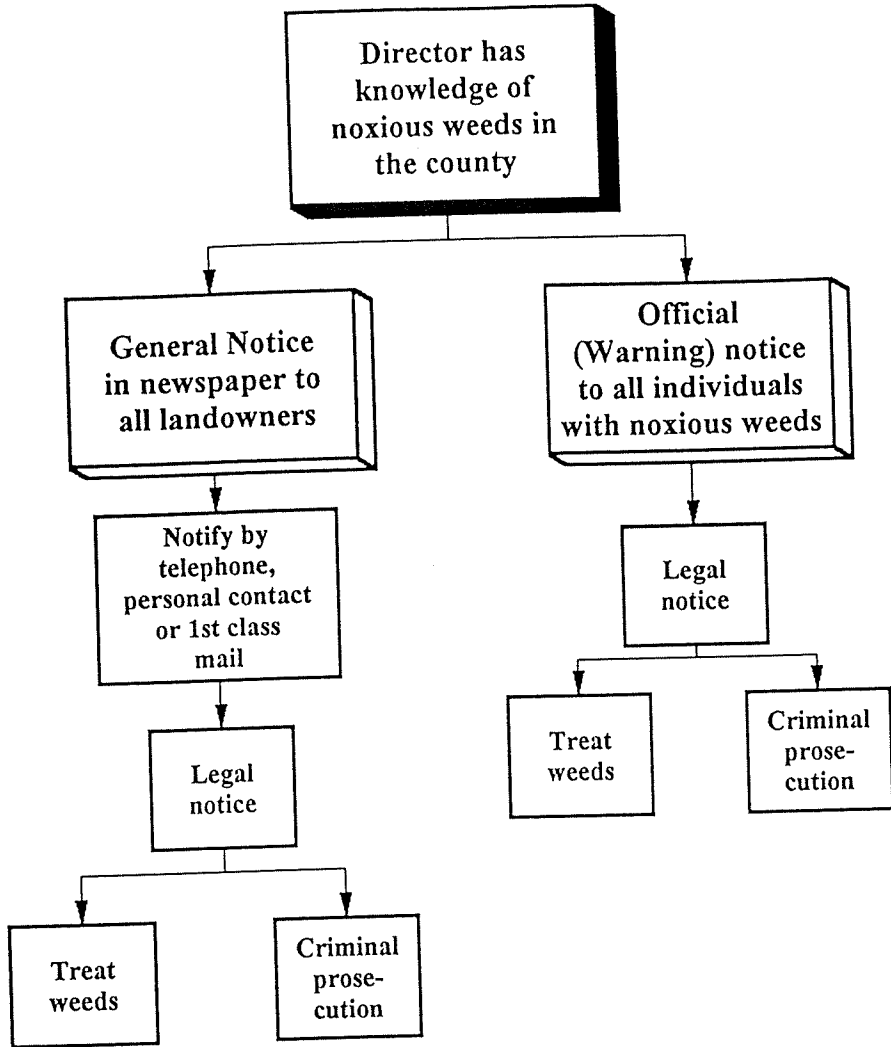
Official Warning Notice must first be issued, followed by a Legal Notice - each requiring a 5-15 day period for the landowner to comply. By this time, it is often too late for effective treatment. Allowing counties the option of publishing the first notice as a general notice pertaining to all landowners will greatly aid in efficiency and cost-effective control. It would reduce the time to achieve results and save both the county and the landowner money.

Although Jewell County has been active in enforcement, the Legal Notice for treatment - the most effective enforcement tool under the current law - is virtually impossible for us to use. Jewell County has a valuation of \$26,000,000.00. At the maximum mil levy allowed to my department, we receive under \$40,000.00 in tax monies annually to cover all salaries, operational costs, weed treatments on county lands, and enforcement procedures. There are no excess funds available to tie up in private land forced treatments, which often remain unpaid. Therefore, it has been impractical for my county to use the Legal Notice, which currently requires treatment by the county, as a means of enforcement.

The proposed changes in S.B. 205 allow counties the option to treat and/or prosecute as a follow-up to the Legal Notice. This provides one more step of flexibility and streamlined operation to the current cumbersome system.

These improvements, along with those proposed in Senate Bill 206, would allow counties with limited resources, such as my own, to freely administer the Noxious Weed Law without the time and financial constraints now limiting us. When my ability to enforce the law (the primary requirement of my job) becomes limited by inefficient regulations, all residents suffer. S.B. 205 allows for more streamlined enforcement, benefitting all landowners.

Please consider these perspectives when reviewing Senate Bill 205. Thank you for your time.



*House Agriculture
Attachment 3
3-7-95*