

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 14, 1995, in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Jill Wolters, Revisor of Statutes
Kay Scarlett, Committee Secretary

Conferees appearing before the committee: Senator Ben Vidricksen

Others attending: See attached list

Chairperson Flower asked the committee to review the minutes of March 10. If there are corrections or additions to notify the secretary by 5:00 or they would stand approved as presented.

Hearing and action on SB 255 - Dairy advisory board members not to be subject to confirmation

Chairperson Flower opened the hearing on **SB 255**.

Senator Ben Vidricksen addressed the committee in support of **SB 255** stating that the purpose of this bill was to correct an oversight. Dairy Marketing Advisory Board members should not be subject to Senate confirmation as they serve only in an advisory capacity to the Marketing Division of the Kansas Department of Agriculture. The confirmation process should examine only policy making positions.

Senator Vidricksen explained that a 1981 Interim Committee had reviewed the statutes pertaining to executive appointments and nominations. The committee developed several criteria to be used in deciding whether or not a particular position should be subject to Senate confirmation. The committee did not believe relatively minor administrative positions or appointments to advisory boards should be subject to Senate confirmation. Legislation was passed in the 1982 Legislative session to adopt the recommendations of the Interim Committee. (Attachment 1)

Representative Lloyd moved to pass SB 255 out favorably with the recommendation that it be put on the consent calendar. Representative Weiland seconded the motion. The motion passed unanimously.

Discussion and action on SB 206 - Giving the county weed directors the power to seize noxious weed seeds or plants; amending the penalty section; unpaid labor costs collected as other taxes

Chairperson Flower reopened discussion on the prepared amendment to **SB 206** by Representative Sloan. (Attachment 2, March 10, 1995) Representative Sloan explained that in response to committee concerns and a letter from Forrest E. St. Aubin, Director, Division of Plant Health with the Kansas Department of Agriculture, (Attachment 2) he had changed the language in the amendment on line 7 of the new section 1 from "may seize" to "may restrict movement." The words "pursuant to law" would remain on line 9 of the new section 1. (Attachment 3) Mr. St. Aubin and Rodney Biesenthal, Pottawatomie County Weed Department, answered committee questions concerning the amendment.

Representative Sloan moved to adopt his amendment to SB 206 giving local noxious weed supervisors the power to restrict movement of noxious weed seeds or plants. Representative Weiland seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 14, 1995.

Representative Sloan moved to pass **SB 206** out favorably as amended. The motion was seconded by Representative Powers. Motion carried.

The committee reviewed the status of the legislation concerning the reorganization of the state board of agriculture. On Monday the Senate Agriculture Committee successfully amended their proposal into the House bill. This legislation must still pass the full Senate before coming back to the House. Assuming that the House will nonconcur, this bill will go to a conference committee.

The meeting adjourned at 9:50 a.m. The next meeting is scheduled for March 15, 1995.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: March 14, 1995

NAME	REPRESENTING
Alvin Holmes	Division of Budget
Rodney Biesenthal	Pott Co Noxious Weed
JOHN KABUS	SNCO. NOXIOUS WEED DEPT.
FORREST E. ST. AUBIN	KS DEP'T OF AGRIC.
Kenneth M. Wilke	" " " "
Mike Bean	KS LIVESTOCK ASSN.
Anne Spiran	KS Assoc. of Counties

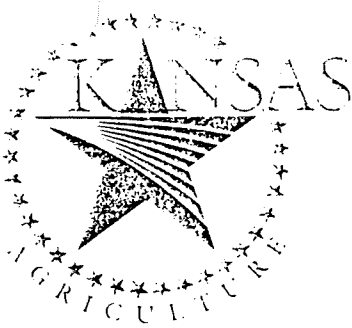
If the Senate votes on the question of confirmation and the appointment is not confirmed, the appointing authority may not subsequently appoint the same person to the same office. The bill also provides that, if a particular appointment is subject to Senate confirmation, any appointment to fill a vacancy in an unexpired term of that office will also be subject to Senate confirmation.

Positions Subject to Confirmation. The Special Committee reviewed the statutes pertaining to executive appointments and nominations. The Committee developed several criteria to be used in deciding whether or not a particular position should be subject to Senate confirmation. The Committee believes that the following types of appointments should be subject to Senate confirmation:

1. appointments to agencies handling large amounts of state monies;
2. agencies operating in sensitive areas of high social concern;
3. key cabinet-level positions;
4. major policymaking positions;
5. regulatory agencies;
6. financial regulatory agencies; and
7. fee agencies with regulatory powers.

The Committee does not believe relatively minor administrative positions or appointments to advisory bodies should be subject to Senate confirmation. Using these criteria, the draft legislation makes several changes in existing statutes which concern positions now subject or not subject to confirmation. These policy changes contained in the bill are noted below, as well as the Committee's rationale for recommending the change.

*House Agriculture
Attachment 1
3-14-95*



[Redacted]
Donald L. Jacka, Assistant Secretary of Agriculture

Bill Graves, Governor of Kansas
Alice A. Devine, Secretary of Agriculture

901 S. Kansas Ave.,
Topeka, KS 66612

March 10, 1995

Representative Thomas Sloan
Kansas House of Representatives
State Capitol Building
Topeka, Kansas

Dear Representative Sloan:

This is in response to your request of this morning. It concerns proposed amendments to SB 206.

In your proposed new Section 1, the language reads, "...the county weed supervisor,... may seize, treat or otherwise dispose of such infestation or infested material...".

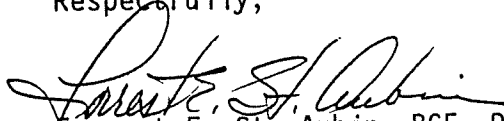
We understand that some concern and reservation has been expressed over the "seizure" aspect of the language. First of all, it is our belief that no county would wish to "seize" and take title to the infested material and that this measure would only be used as a means to stop the transport of infested material to another area until such time that a proper determination could be made concerning treatment or destruction. The other option, as you indicate, would be for the county weed supervisor to order the owner or agent to so treat or dispose of the infested material. It seems to us that the question of taking the material without proper compensation is not at issue, concerning the rest of the language in the current law.

Perhaps better language than "sieve" would be "restrict movement".

There is another point that I would like to clear up. Your committee may be under the impression that this language would benefit the KS Department of Agriculture. This is not at issue and is not the case. What it does do is to permit decision-making and action as close to home as possible -- by those who are closest to the situation.

I hope that this will allay some concerns. Certainly, if you have any other questions, I will be happy to answer them.

Respectfully,


Forrest E. St. Aubin, BCE, Director
Division of Plant Health

cc: Members, House Agriculture Committee.

*House Agriculture
Attachment 2*

As Amended by Senate Committee

Session of 1995

SENATE BILL No. 206

By Committee on Agriculture

2-6

10 AN ACT concerning agriculture; relating to noxious weeds; amending
11 K.S.A. 2-1323 and K.S.A. 1994 Supp. 2-1320 and 2-1332 and repealing
12 the existing sections *section*.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1: (a) Wherever the county weed supervisor finds nox-
16 ious weed seeds or noxious weed plants that exist on any premises in the
17 county or is in transit in the county, the county weed supervisor, upon
18 giving notice to the owner or operating agent in possession thereof, may
19 seize, treat or otherwise dispose of such infestation or infested material
20 in such manner as the county weed supervisor deems necessary to sup-
21 press, control, eradicate, prevent or retard the spread of the noxious
22 weed; or the county weed supervisor may order such owner or agent to
23 so treat or otherwise dispose of such noxious weed seed or noxious weed
24 plant.

25 (b) Any owner or operating agent may challenge the action taken in
26 subsection (a) by filing a protest with the board of county commissioners
27 within 10 days of such action. The board of county commissioners shall
28 hold a hearing and affirm or deny such action. If any person is dissatisfied
29 with the decision rendered by the board, such person within 30 days shall
30 file a written notice of appeal with the clerk of the district court. Such
31 appeal shall be docketed in the district court and tried the same as other
32 actions.

33 See. 2: K.S.A. 1994 Supp. 2-1320 is hereby amended to read as fol-
34 lows: 2-1320. In case the county weed supervisor or city weed supervisor
35 enters upon land or furnishes weed control materials pursuant to a con-
36 tract or an agreement with an owner, operator or supervising agent of
37 noxious weed infested land for the control of such noxious weeds and, as
38 a result of such weed control methods, there are any unpaid accounts
39 outstanding by December 31 of each year, the county commissioners or
40 governing body of the city shall immediately notify or cause to be notified,
41 such owner with an itemized statement as to the cost of material, labor
42 and use of equipment and further stating that if the amount of such
43 statement is not paid to the county or city treasurer wherein such real

*House Agriculture
Attachment 3
3-14-95*

1 estate is located within 30 days from the date of such notice, a penalty
 2 charge of 10% of the amount remaining unpaid shall be added to the
 3 account and the total amount thereof shall become a lien upon such real
 4 estate. The unpaid balance of such account and such penalty charge shall
 5 draw interest from the date of entering into such contract at the rate
 6 prescribed for delinquent taxes pursuant to K.S.A. 70-2004, and amend-
 7 ments thereto. A copy of the statement, together with proof of notifica-
 8 tion, shall at the same time be filed with the register of deeds in such
 9 county and the county or city clerk, as the case may be, and if such amount
 10 is not paid within the next 30 days the county or city clerk, as the case
 11 may be, shall spread the amount of such statement upon the tax roll
 12 prepared by the clerk and such amount shall become a lien against the
 13 entire contiguous tract of land owned by such person or persons of which
 14 the portion so treated is all or a part, and shall be collected as other taxes
 15 are collected, and all moneys so collected shall be paid into the noxious
 16 weed eradication fund, except that not more than 5% of the assessed
 17 valuation of the entire contiguous tract of land of which the portion so
 18 treated is all or a part shall be spread on the tax rolls against such land in
 19 any one year. If any land subject to a lien imposed under this section is
 20 sold or transferred, the entire remaining unpaid balance of such account
 21 plus any accrued interest and penalties shall become due and payable
 22 prior to the sale or transfer of ownership of the property, and upon col-
 23 lection shall be paid to the noxious weed eradication fund.

24 See: *3. Section 1.* K.S.A. 2-1323 is hereby amended to read as fol-
 25 lows: 2-1323. Any person, association of persons, corporation, county or
 26 city or other official who shall violate or fail to comply with any of the
 27 provisions of this act and acts amendatory thereof or supplemental thereto
 28 shall be guilty of a misdemeanor and shall be punished upon conviction
 29 thereof by a fine of not less than fifty dollars (\$50) nor more than five
 30 hundred dollars (\$500) for each count \$100 per day for each day of non-
 31 compliance up to a maximum fine of \$1,500.

32 See: *4.* K.S.A. 1004 Supp. 2-1332 is hereby amended to read as fol-
 33 lows: 2-1332. In the event the county weed supervisor enters or causes
 34 entry upon land to control any noxious weed infestation, after service of
 35 legal notice, such supervisor shall immediately notify or cause to be no-
 36 tified, by certified mail, the owner of such land with an itemized statement
 37 of the costs of treatment. Such costs of treatment shall include the total
 38 cost of material, labor and use of equipment. Such statement shall include
 39 a penalty charge of 10% of the total amount of treatment costs. The
 40 unpaid balance of any such treatment costs including such penalty charge
 41 shall draw interest from the date of treatment at the rate prescribed for
 42 delinquent taxes pursuant to K.S.A. 70-2004, and amendments thereto.
 43 A copy of such statement, together with proof of notification, shall at the

3-2

New Section 1. (a) Wherever the county weed supervisor finds noxious weed seeds or noxious weed plants that exist on any premises in the county or is in transit in the county, the county weed supervisor, upon giving notice to the owner or operating agent in possession thereof, may restrict movement, treat or otherwise dispose of such infestation or infested material pursuant to law as the county weed supervisor deems necessary to suppress, control, eradicate, prevent or retard the spread of the noxious weed, or the county weed supervisor may order such owner or agent to so treat or otherwise dispose of such noxious weed seed or noxious weed plant.

(b) Any owner or operating agent may challenge the action taken in subsection (a) by filing a protest with the board of county commissioners within 10 days of such action. The board of county commissioners shall hold a hearing and affirm or deny such action. If any person is dissatisfied with the decision rendered by the board, such person within 30 days shall file a written notice of appeal with the clerk of the district court. Such appeal shall be docketed in the district court and tried the same as other actions.

And by renumbering sections accordingly