

Approved: 2.20.95  
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on February 15, 1995 in Room 423-S of the Capitol.

All members were present except: Quorum was present.

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

Conferees appearing before the committee:  
Dennis Peterson, President, County Weed Director's Association of Kansas  
and Director of Riley County Weed Department  
Bill Scott, Kansas Department of Agriculture

Others attending: See attached list

The minutes of the February 14 meeting were distributed. Senator Clark moved to adopt the minutes. Senator Sallee seconded the motion. The motion carried.

Chairperson Corbin opened the hearing on **SB 205 - relating to noxious weeds; relating to county weed directors annual report; and publications of a general notice of noxious weed infestation.**

Dennis Peterson testified in support of **SB 205**, as he believes it would strengthen and expedite the enforcement of the noxious weed law and make the law more uniform across the state (Attachment 1). Also, included with Mr. Peterson testimony was a flow chart showing the procedure that would be in place under **SB 205**. He responded to questions regarding the notification procedure.

Written testimony supporting **SB 205** from Rebecca Johnson-McNichols was distributed (Attachment 2). Ms. Johnson-McNichols was unable to attend due to the weather.

The Chairman closed the hearing on **SB 205** and the discussion was opened. Several members of the committee thought the notification procedure was too restrictive. Senator Morris moved to amend SB 205 to include a official notice prior to the legal notice. Senator Clark seconded the motion. The motion carried. The bill was conceptually amended on page 3. Senator Sallee moved to report SB 205 as amended favorable for passage. Senator Morris seconded the motion. The motion carried.

Chairperson Corbin opened the hearing on **SB 206 - Relating to noxious weeds; giving the county weed directors the power to seize noxious weed seeds and plants; amending the penalty section; unpaid costs collected as other taxes.**

Dennis Peterson testified in support of **SB 206**. He said the bill had been introduced to strengthen the noxious weed law. The bill would allow them to seize infested material, and it would increase the penalties and would allow for counties to collect the entire amount that is due them when they are forced to do treatment (Attachment 3). He responded to questions.

Bill Scott commented on two cases where the crop had been seized, and the proposed legislation is to ensure that the weed seed is not spread.

Written testimony supporting **SB 206** from Rebecca Johnson-McNichols was distributed (Attachment 4).

Chairperson Corbin called for discussion on **SB 206**. Committee action was deferred to another day.

Chairperson Corbin referred to **SB 47 - concerning exotic animals and inherently dangerous**

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on February 15, 1995.

animals. He said concern had been expressed with some areas of the bill, therefore he thought perhaps the Committee might want to recommend the bill for a summer interim study. A motion was made by Senator Tillotson to recommend **SB 47** for an interim study. The motion was seconded by Senator Sallee. The motion carried.

The meeting adjourned at 11:00 .a.m.

The next meeting is scheduled for February 20, 1995.



# COUNTY WEED DIRECTOR'S ASSOCIATION OF KANSAS

## SENATE 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.**

**February 15, 1995  
Topeka, Kansas**

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

**Chairman Corbin and members of the Committee:**

My name is Dennis Peterson. I am the 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 receiving a written request from the county weed supervisor. We are asking for a

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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 fulfils 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

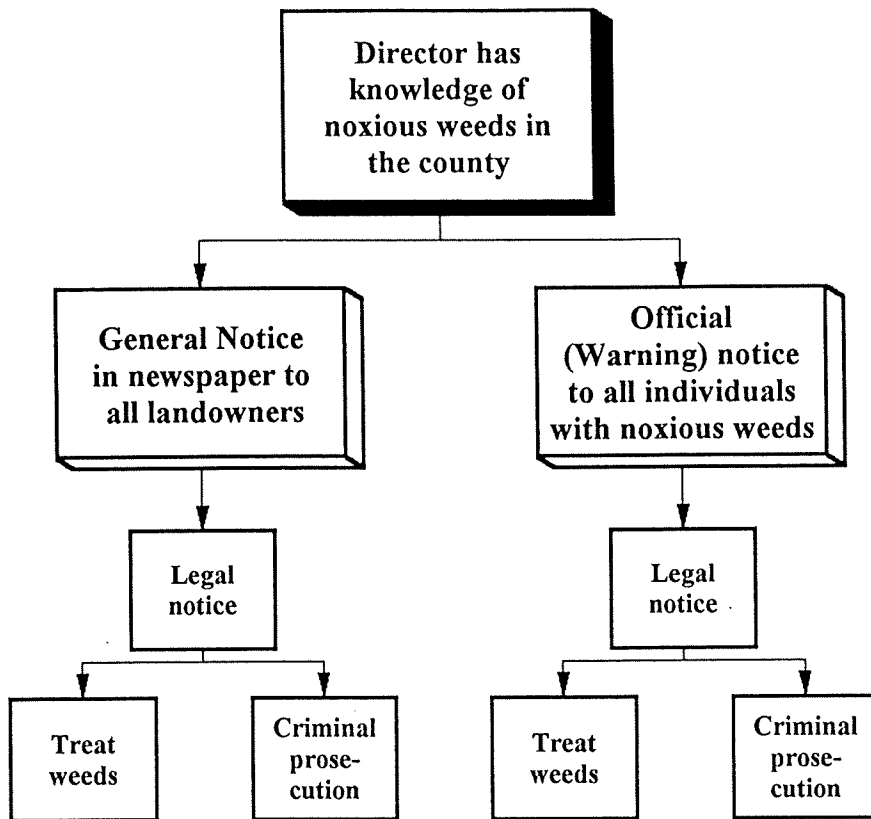
county is required by law to enter upon the noxious weed infested land and control the noxious weed infestation. Many counties are reluctant to issue legal notices because of the potential liability of using herbicides on private property without permission of the landowner. We feel that we should have 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  
Senate Committee on Agriculture  
February 15, 1995  
Topeka, Kansas

by  
Rebecca Johnson-McNichols  
Jewell County Noxious Weed Director

*Chairman Corbin 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 eight years.

Jewell County's valuation is among the lowest 25% of Kansas counties, yet our county has had one of the most outstanding histories 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 time and money 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

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Official Warning Notice must first be issued, followed by a Legal Notice - each requiring a 5-15 day period for the landowner to comply. At 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 control 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. Needless to say, there are no excess funds available to tie up in private land treatments, which generally 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 insufficient funds and inefficient regulations, all residents suffer. The more effectively we can enforce the law, the more benefits will be felt by all landowners.

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

# COUNTY WEED DIRECTOR'S ASSOCIATION OF KANSAS

## SENATE COMMITTEE ON AGRICULTURE

**RE: S.B. 206 - An act relating to noxious weeds; 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**

**February 16, 1995  
Topeka, Kansas**

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

**Chairman Corbin and members of the Committee:**

My name is Dennis Peterson. I am 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 206.

Senate Bill 206 deals with three (3) areas of the Noxious Weed Law that our association would like to see strengthened.

The first item concerns whether the county weed supervisors should be able to seize, treat, or otherwise dispose of noxious weed infested material. Presently, when a county weed supervisor has knowledge that materials contain noxious weed seed, the procedure is to advise the owner that to move or sell the material would be a violation of the Noxious Weed Law. If the owner ignores the order, noxious weed seeds are spread when the material is moved. The county attorney

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can then proceed with prosecution; but, the damage of spreading noxious weed seed has already been done.

Therefore, our association is asking for the same authority given to the Kansas Department of Agriculture Plant Protection field staff under the Plant Pest Act. This would allow the county to seize, treat, or otherwise dispose of infested material under the supervision of the county weed supervisor. We feel that this will put some teeth in the Noxious Weed Law and help prevent the spread of noxious weed seed in Kansas.

The second item we would like to discuss is the penalty for violations of the Noxious Weed Law. The current fine of \$50-\$500 per violation has been in effect for over thirty (30) years. At the time this penalty was initiated, it was a substantial penalty. Today, it is not a very effective deterrent to violating the Noxious Weed Law. We are asking for the penalty to be increased to \$100 per day for each day of noncompliance up to a maximum fine of \$1,500.

The Nebraska Department of Agriculture implemented the same procedure several years ago and has been very successful in achieving landowner compliance. Our ultimate goal is to obtain compliance of the Noxious Weed Law and bring noxious weeds under control. We feel our goals will be achieved if the penalties are increased.

The final item we would like to address in amending the Noxious Weed Law is to delete the percentage of the assessed value of land that can be applied against a noxious weed lien when unpaid accounts are added to the tax rolls.

Presently, when an account is not paid by December 31 of each year, the account is added to the tax rolls for collection. No more than five (5) percent of the assessed value of the land can be collected against the account each year. The exception is collecting against an account which occurred as a result of a

legal notice being issued at which time the county may collect no more than ten (10) percent of the assessed value of the land in any one year.

Many counties cannot afford to serve legal notices knowing that if a landowner does not treat his own weeds and the county does a forced treatment, the landowner is not likely to pay the bill. Consequently, it may take several years to collect the unpaid account. In 1993, fifty-two (52) accounts were added to the tax rolls in Kansas.

In this time of tax lids and tight budgets, counties cannot afford to carry these accounts. Weed departments are government agencies enforcing a state law; they are not lending institutions. We ask that you allow the counties to collect the entire amount that is due in one year.

Our association feels these changes will strengthen the Kansas Noxious Weed Law and help us reach our goal of controlling noxious weeds in Kansas.

Again, I would like to thank you for this opportunity to express our support of Senate Bill 206.

**S.B. 206 - An act concerning agriculture; relating to noxious weeds; amending K.S.A. 2-1323 and K.S.A. 1994 Supp. 2-1320 and 2-1332 and repealing the existing sections.**

Testimony presented to the  
Senate Committee on Agriculture  
February 16, 1995  
Topeka, Kansas

by  
Rebecca Johnson-McNichols  
Jewell County Noxious Weed Director

*Chairman Corbin and members of the Committee:*

My name is Rebecca Johnson-McNichols. I am the Director of the Noxious Weed Department in Jewell County. I would like to testify in support of Senate Bill 206 and appreciate the opportunity to do so.

Senate Bill 206 represents some practical and long overdue changes to the Kansas Noxious Weed Law which add a new dimension to enforcement.

As I outlined in my testimony for S.B. 205, Jewell County has been restricted in its enforcement of the Noxious Weed Law by very limited financial resources. Rather than utilizing the option to treat an infested piece of property through the current Legal Notice procedures, we have been limited to utilizing the fine system or diversion agreements. The changes proposed in S.B. 206 would allow my county greater flexibility and effectiveness in enforcement and eradication of noxious weeds.

Our current fine system of \$50.00-\$500.00 per count is no incentive to control noxious weeds - particularly for large landowners. Five hundred dollars may have been a deterrent thirty years ago, when the cost of treatment was under \$1.00 per acre. Treatments costs today have rocketed up to \$5.00-\$20.00 per acre. In many cases it is cheaper for the landowner to pay \$500.00 than to invest in treatment. And a \$50.00 "penalty" is almost not worth the effort it takes to run through the hurdles necessary to prosecute. Additionally, administering fines only temporarily addresses a problem which will reoccur if not treated. Raising the fine to \$100.00 per day up to \$1500.00 would finally give this penalty the weight necessary to prevent landowners from paying a fine as

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an "easy way out". I believe it is a necessary incentive many landowners need to treat their problems without being forced to do so.

As I stated earlier, the Legal Notice to treat has not been a viable enforcement option for Jewell County under the current statutes. Currently, no more than 10% of the assessed property value may be charged against the taxes on unpaid bills. It may take years for the charges to be reimbursed, depleting the county of vital operational funds.

Immediate treatment is the most practical and economical means of eradicating noxious weeds and preventing their spread. Jewell County would utilize the option to treat violations if we had the assurance of collecting of the costs in a timely manner. By eliminating the 5% and 10% limits outlined in Sec. 2, K.S.A. 2-1320 and Sec. 4, K.S.A. 2-1332, our capabilities to eradicate noxious weed infestations and uphold the law would be greatly enhanced.

I have persevered over the past eight years to enforce the Kansas Noxious Weed Law with limited resources. The changes proposed in S.B. 206 would finally allow county Weed Directors to quickly and effectively address violations and reduce acreages of noxious weeds more rapidly than ever before.

I believe the Weed Directors and County Commissioners across Kansas would appreciate your support of Senate Bill 206. As a farmer and landowner myself, I feel that these changes are long overdue for the beautification and increased value of our land.

Thank you for your consideration and opportunity to speak in support of S.B. 206.