

MEMORANDUM

To: Chairman Love, and members of the Senate Committee on Agriculture

From: David Wiese, Assistant Revisor

Date: 2/10/15

Subject: SB 134; Amendments to the Kansas Noxious Weed Law

Senate Bill No. 134 makes several amendments to the current noxious weed law and adds five new sections to the noxious weed law. SB 134:

- Names the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated and new sections 1 through 5 of the bill the “noxious weed act.”
- Provides definitions for the noxious weed act. “Secretary” means the secretary of agriculture. “Noxious weed” means any species of plant that the secretary shall determine to be a noxious weed in rules and regulations adopted and promulgated by the secretary.
- Provides for an emergency declaration of noxious weeds by the secretary of agriculture and establishes the requirements for such emergency declaration.
- Establishes the state noxious weed advisory committee or the “state advisory committee and sets out the membership, terms of office and duties of the state advisory committee.
- Describes unlawful practices relating to noxious weeds and provides exceptions for research sanctioned by a state or federal agency or an accredited university or college or activities specifically permitted by the secretary.

- o Requires that all alfalfa, grass, hay or other forage, straw or mulch carried onto or used for any purpose with the boundaries of any lands owned or managed by the state and its agencies must be certified noxious weed free.

- o Sunsets the current statutory list of noxious weeds found in K.S.A. 2-1314 and 2-1314b on July 1, 2016, and would require the secretary to adopt rules and regulations to declare the weeds of the state that are noxious weeds. The secretary shall not declare any species to be a noxious weed without the recommendation of the state advisory committee, except under an emergency declaration. It also allows a board of county commissioners, with the approval of the secretary, to publish a list of the species of weeds to be controlled in the county, in addition to those declared by the secretary to be noxious weeds. The bill also requires the board of county commissioners to submit to the secretary for approval official methods for the control and eradication of such species. If a species listed by the board of county commissioners is later declared a noxious weed by the secretary, the official methods adopted by the secretary for the control and eradication of such species shall control over any methods approved by the county commissioners. Cost share chemicals shall be made available.

- o Strikes language which allows the secretary to designate any county as a sericea lespedeza disaster area to provide for the control and eradication of sericea lespedeza within such county after consultation with the board of county commissioners of such county.

- o Places the responsibility for the enforcement of the act in the board of county commissioners as to lands within the boundaries of such county. Cities and townships may enter into an agreement with the board of county commissioners to take upon themselves the responsibility of enforcement of this act.

- o Changes the procedure by which a county weed supervisor makes a survey of the infestations of noxious weeds. The bill requires the weed supervisor to make an annual survey of weed infestations and ascertain the approximate amount land and highways infested with each kind of noxious weed not later than October 31 of each year. The weed supervisor shall compile data on area eradicated and under treatment and other data as the secretary deems necessary and submit, by March 15 of each year, an annual weed eradication progress report to the board of county commissioners for their signatures and then to the secretary. The weed supervisor shall also prepare and submit a management plan for the coming year.

- o Allows each county, city or township to either make a tax levy or set aside a portion of the county general fund equivalent to pay the cost of control and eradication of noxious weeds. The bill also requires that all records relating to funds received into and spent from both the noxious weed eradication fund and the noxious weed capital outlay fund be retained by the county for not fewer than five years and shall be made available to the Kansas department of agriculture upon request.

- o Strikes current law requiring the county commissioners and the governing body of cities to report to the secretary as to the extent and the official method of control and eradication of noxious weeds to be undertaken in any one season in their jurisdiction, subject to approval of the secretary.

- o Increases fines for violations of the act from \$100 per day and a maximum fine of \$1,500 to \$200 per day for each violation and no maximum.

- o Amends the current statutory legal notice requirements to the owner and operator or supervising agent of noxious weed infested land and would require the secretary to adopt rules and regulations defining the legal notice to be given to the owner and operator or supervising agent of the land. Prior to issuing any legal notice, the bill also allows the weed supervisor to notify the owner, operator or supervising agent by electronic means of the noxious weed infestation in addition

to the current authorized notifications of telephone call, personal contact or first class mail.

- o Allows counties greater flexibility in financing their noxious weed programs. If the program is funded primarily through the county general fund, counties may accept payments into such fund and make payments out of such fund and if the program is funded from more than more source, all moneys collected shall be paid from each source in proportion to which it contributes to the noxious weed program.
- o Allows counties to either collect up to 50% of the cost of treatment from a landowner or establish a payment plan with the landowner for payment of the full amount of the lien over time.

SB 134 would become effective upon publication in the statute book.