

SESSION OF 2016

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2479**

As Recommended by Senate Committee on
Natural Resources

Brief*

Senate Sub. for HB 2479 would amend law regarding noxious weeds.

The bill would provide that if the Kansas Department of Agriculture (KDA) determines that noxious weeds are not being properly controlled in a county by the board of county commissioners (board), the KDA could request the board to take action to control the noxious weeds. If the board would not act upon the KDA's request, the bill would allow the KDA to take necessary action to control the noxious weeds and could request reimbursement for the cost of doing so. The county would be required to reimburse the KDA upon request.

The bill also would add "rights-of-way" to the areas where noxious weeds would be controlled and eradicated, with the cost of doing so paid from funds appropriated for that purpose.

If any state agency, department, or commission (agency) would fail to control or submit a plan to the board to control noxious weeds after 15 days' notice by the board directing the agency to do so, the bill would authorize the board to proceed to have proper control and eradication methods used upon the lands and notify the agency by certified mail. The agency would be required to pay 100 percent of the cost within 30 days after receiving the notification. If the agency does not pay the cost within 30

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

days, the county would be allowed to levy an additional fine of up to 25 percent of the total cost for every 30 days that costs are not paid by the agency.

Background

The bill was introduced at the request of a spokesperson from the KDA. At the hearing on the bill before the House Committee on Agriculture and Natural Resources, proponents included representatives of the KDA, the Kansas Association of Counties, the County Weed Director's Association of Kansas, the Kansas Cooperative Council and the Kansas Agribusiness Retailers Association, and the Kansas Livestock Association.

Opponents included a representative of the Kansas Farmers Union, the Kansas Rural Center, and the Kansas Sierra Club. Written testimony in opposition to the bill was received from three individuals.

The House Committee on Agriculture and Natural Resources amended the bill to:

- Provide within 90 days after the Secretary makes an emergency declaration that a weed is noxious, the Committee would meet to review and approve the emergency declaration;
- Increase the membership of the Committee to 13 by including a member from the Kansas Biological Survey and a representative of the Kansas Pest Control Association;
- Clarify that the risk assessment made by the Committee recommending a weed be declared noxious is science-based and provide factors the assessment should consider;

- Require that every four years the Secretary is to report to the Senate Committee on Agriculture and the House Committee on Agriculture and Natural Resources on the list of weeds considered noxious;
- Require the Secretary to collect information from each county regarding county weed budgets and expenditures made in controlling noxious weeds and require this information to be provided to the Legislature annually by the Secretary; and
- Change the maximum fine from \$1,500 for each violation to \$2,500.

At the Senate Committee on Natural Resources hearing, additional written opponent testimony was submitted by representatives of the Kansas Natural Resources Council and the Kansas Organic Producers Marketing Cooperative.

The Senate Committee amended the bill by:

- Striking most of the language added by the House Committee;
- Adding language that if KDA determines noxious weeds are not being controlled by the board and the board does not take action, then KDA could take action to control the noxious weeds and the county would have to reimburse KDA for doing so;
- Adding “rights-of-way” to the places where controlling and eradicating noxious weeds will be paid for by respective funding; and
- Adding language regarding the board controlling noxious weeds on lands, highways, or rights-of-way owned or supervised by a state agency, department, or commission, when the agency fails

to do so and how the county would be reimbursed for the costs.

The fiscal note prepared by the Division of the Budget on the original version of the bill states that while the KDA estimates enactment of the bill would result in an increased demand for weed-free forage certification inspections that are provided as a fee-based service of the Plant Protection and Weed Control Program, the agency is unable to determine what effect that increase would have on agency revenue. The note states that because the Program is already in place and operating, additional expenditures should be minimal. Expenditures associated with the cost of the State Noxious Weed Advisory Committee are expected to be approximately \$4,000, assuming four meetings per year and an average of seven members claiming *per diem* and travel costs of approximately \$142 per person per meeting.

The fiscal note goes on to state the regulatory authority for noxious weed control is assigned to counties; thus, the agency states counties would have an increase in revenue due to the increase in fines, but also could have an increase in expenditures because of the increase in regulatory weed control conducted by county weed departments. The note also states the increase in expenditures should, however, be offset by the counties' ability to collect the cost of weed control. The Kansas Association of Counties did not respond to a request for information on a fiscal effect of enactment of this bill. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.

No updated fiscal note was available when the Senate Committee took action.