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MEMORANDUM

To: House Committee on Agriculture
From: Kyle Hamilton, Assistant Revisor of Statutes
Date: February 7, 2017
Subject: Bill Brief on HB 2246

House Bill No. 2246 would make several amendments to the current noxious weed law and add five new sections to the noxious weed law.

New Section 1 would name 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.” It would also provide definitions for the noxious weed act. "Noxious weed" would mean any species of plant that the secretary of the Kansas department of agriculture shall determine to be a noxious weed in rules and regulations adopted and promulgated by the secretary.

New Section 2 would allow for an emergency declaration of noxious weeds by the secretary of agriculture and establish the requirements for such emergency declaration.

New Section 3 would establish the state noxious weed advisory committee and set out the membership, terms of office and duties of the state advisory committee.

New Section 4 would describe practices relating to noxious weeds that would be unlawful and would provide exceptions for research sanctioned by a state or federal agency or an accredited university or college or activities specifically permitted by the secretary.

New Section 5 would require that all alfalfa, grass, hay or other forage, straw or mulch carried onto or used for any purpose within the boundaries of any lands owned or managed by the state and its agencies must be certified noxious weed free.

Sections 6 and 7 would sunset the current statutory list of noxious weeds found in K.S.A. 2-1314 and 2-1314b on December 31, 2019, and would require the secretary to adopt rules and regulations to declare the weeds of the state that are noxious weeds. Once a weed has been declared to be a noxious weed, it would be considered a noxious weed in every county of the state. The secretary could not declare any species to be a noxious weed without the recommendation of the state advisory committee, except under an emergency declaration. It also would allow 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 would also require 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 would control over any methods approved by the county commissioners. Cost share chemicals would be required to be made available by county commissioners for the eradication of any species.

Section 8 would strike language which allows the secretary to designate any county as a sericea lespedeza disaster area.

Section 9 would place the responsibility for the enforcement of the act in the board of county commissioners as to lands within the boundaries of its county. Cities and townships could enter into an agreement with the board of county commissioners to take the responsibility of enforcement of this act upon themselves.

Section 9(e) would change the procedure by which a county weed supervisor makes a survey of the infestations of noxious weeds. The bill would require the weed supervisor to make an annual survey of weed infestations and ascertain the approximate amount of land and highways infested with each kind of noxious weed not later than October 31 of each year. The weed supervisor would compile data on the 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 would also prepare and submit a management plan for the coming year.

Section 10 would strike current law requiring the county commissioners and the governing body of cities to report to the secretary the extent and the official method of control and eradication of noxious weeds to be undertaken.

Section 11 would allow each county, city or township to either make a tax levy or set aside a portion of the county general fund equivalent to the budget of the county's weed program. 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 be made available to the Kansas department of agriculture upon request.

Section 15 would increase 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.

Section 16 would make a small technical change.

Section 17(e) and (f) would amend 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 would also allow 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.

Section 18 would allow 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.

Sections 9(d), 12(b), 13, 14(f), 17(b) and 18 would allow counties greater flexibility in financing their noxious weed programs. If the program is funded primarily through the county general fund, counties could accept payments into such fund and make payments out of such fund; and if the program is funded from more than one source, all moneys collected would be paid from each source in proportion to the amount it contributes to the noxious weed program.

The bill would also repeal K.S.A. 2-1316a, 2-1325, 2-1326, 2-1327, 2-1328, 2-1329 and 2-1334.

HB 2246 would become effective upon publication in the statute book.