

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairperson Sharon Schwartz at 3:30pm on Wednesday, February 17, 2016, 346-S of the Capitol.

All members were present except:

Representative Joe Seiwert – Excused

Committee staff present:

Joanna Dolan, Legislative Research Department

David Wiese, Office of Revisor of Statutes

Natalie Scott, Office of Revisor of Statutes

Raney Gilliland, Legislative Research Department

Shirley Jepson, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Lane Letourneau, Department of Agriculture

Representative Russell Jennings

Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3

Kent Askren, Kansas Farm Bureau

John Donley, Kansas Corn Growers Association

Aaron Popelka, Vice-president of Legal and Governmental Affairs, Kansas Livestock Association

Others in attendance:

[See Attached List](#)

Approval of Minutes

Representative Sloan moved to approve the minutes of February 11 and February 15. Motion seconded by Representative Victors. Motion carried on a voice vote.

Subcommittee reports on: HB2491 — Creating a penalty for failure to report annual water use.

Chair Schwartz opened the discussion on the Sub-Committee report on **HB2491**.

Natalie Scott, Revisor, explained the proposed amendment to **HB2491**. Ms. Scott noted that language has been added to page 1, line 18, to indicate that the \$1,000 fine is per water right; language added to page 1, line 30 to "suspend the water right indefinitely, or require use of telemetry"; and further add new section (e) after line 36 ([Attachment 1](#)) .

*Representative Thimesch moved to recommend **HB2491** favorable for passage. Motion seconded by Representative Clark.*

*Representative Thimesch moved to adopt the amendment to **HB2491**. Motion seconded by*

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Representative Dierks. Motion carried.

Responding to a question from the Committee, the revisor stated that it would be up to the Chief Engineer to impose the penalty. The Committee voiced some concern as to who is responsible for filing the report if the actual owner does not live or operate the land.

Lane Letourneau, Department of Agriculture, responded that if a landowner provided a notarized statement giving responsibility for the water right to a tenant and files this with the Department of Agriculture, then the tenant is responsible for filing the report on water usage. Additionally, the Department makes an effort to notify the owner if a tenant continues to fail to file the report.

*Representative Thimesch moved to recommend **HB2491** as amended favorable for passage. Motion seconded by Representative Clark. Motion carried on a voice vote.*

Hearing on: HB2245 — Amending procedure for cases involving groundwater.

Chair Schwartz opened the hearing on **HB2245**.

Natalie Scott, Revisor, explained that **HB2245** would amend the Water Appropriation Act administered by the Department of Agriculture; any person seeking a temporary injunction would need to show proof that the party has violated the water right operating requirements. In addition, no person would be able to receive a permanent injunction until the party could prove that the well and pump system is operating properly.

Representative Russell Jennings appeared before the Committee in support of **HB2245** ([Attachment 2](#)). Representative Jennings stated that the legislation is an effort to foster a uniform and orderly administration of water rights in Kansas. Representative Jennings indicated that this bill is an effort to get the Court system out of the "impairment" business when the interested parties are using water in conformity to an authorized permit from the Division of Water Resources. The Representative also indicated that presently there is not a clear definition of "impairment" and this bill is an effort to provide a definition.

Mark Rude, Executive Director, Southwest Kansas Groundwater Management District No. 3, appeared before the Committee in support of **HB2245** ([Attachment 3](#)). Mr. Rude explained that **HB2245** was crafted to address some specific concerns out of an ongoing water right impairment court case in southwest Kansas. Mr. Rude further explained that although the Management District supports the bill, they have identified some needed reform to the piece of legislation as outlined in their written testimony.

Written testimony in support of **HB2245** was received from Kirk Heger, President of the Southwest Kansas Irrigation Association (SWKIA) ([Attachment 4](#)).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Lane Letourneau, Water Appropriation Program Manager, Department of Agriculture, presented testimony on **HB2245** as neutral ([Attachment 5](#)). Mr. Letourneau stated that the department wants to work toward a solution to protect water rights as the aquifer is declining so that any change in statute will not impair water rights. Mr. Letourneau noted the importance of avoiding court actions; indicating that the Department has put together a group of appropriate people to review current practices and find a solution.

Kent Askren, Kansas Farm Bureau (KFB), presented testimony on **HB2245** as neutral ([Attachment 6](#)). Mr. Askren stated that KFB support policy to protect, develop and administer water rights consistent with their priority. Mr. Askren noted that as presently written, **HB2245** only addresses groundwater; indicating that although KFB supports the efforts of the bill, there are a number of issues that should be further addressed.

John Donley, Kansas Corn Growers Association, presented testimony on **HB2245** as neutral ([Attachment 7](#)). Mr. Donley stated that conversation is needed and this is a start to the process. He also noted the importance of establishing a definition of "impairment".

Written testimony in a neutral position on **HB2245** was received from Tracy Streeter, Director, Kansas Water Office ([Attachment 8](#)).

Aaron Popelka, Vice-President of Legal and Governmental Affairs, Kansas Livestock Association, presented opposition testimony on **HB2245** ([Attachment 9](#)). Mr. Popelka stated that KLA feels that **HB2245** would inhibit the ability of a senior water right owner to protect its real property right against injury by a junior water right and it would substantially devalue the senior water right. Mr. Popelka indicated that KLA is currently engaged with other agricultural stakeholders who are examining whether some procedural changes could be made in the impairment process to resolve disputes more efficiently.

Mr. Popelka responded to questions from the Committee.

The hearing on **HB2245** was closed.

Adjournment

The meeting was adjourned at 4:40 pm. The next meeting of the Committee is "on call of the chair".