

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND LIVESTOCK

Held in Room 423-S, at the Statehouse at 9:00 a. m./p. m., on March 31, 1981.

All members were present except:

The next meeting of the Committee will be held at _____ a. m./p. m., on _____, 19____.

These minutes of the meeting held on March 31, 1981 were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Rep. Waggener

Chairman Beezley called the meeting to order. He explained that HB 2584, a Ways and Means Committee bill, had been assigned to the Agriculture and Livestock Committee and could be acted upon. This act concerns the state board of agriculture; relating to certain fees and taxes. Chairman Beezley asked for a motion on this bill. Rep. Smith moved that HB 2584 be passed out of committee favorably. Rep. Fuller gave a second to the motion. The motion carried.

SB 298 - Agriculture land, relating to the acquisition and use thereof. Subcommittee Chairman Rep. Waggener thanked the subcommittee members, Representatives Hinshaw, Hagerman, Knopp and Schmidt for their time and input. He also thanked Raney Gilliland, Research for his work on the bill. Rep. Waggener went through the definitions section and the restrictions section of the bill. (See Attachment I). The entire hour was taken up by the presentation and questions asked by committee members. Rep. Bussman moved to hold the bill in committee for interim study. Rep. Hagerman gave a second to the motion. Vice Chairperson Aylward made a substitute motion to pass the bill out favorably as amended. Rep. Apt gave a second to the motion. On a show of hands, the motion lost. Rep. Polson made a substitute motion to recess until noon. Rep. Fuller gave a second to the motion. The motion carried. The minutes were approved and the meeting adjourned until noon.

MARCH 31 12:30 p.m.

Vice Chairperson Aylward called the meeting to order. Rep. Bussman moved that the bill be held in committee for an interim study and also the reporting bill, SB 396. Rep. Hamm gave a second to the motion.

Rep. Leach made a substitute motion to amend line 68 to read, after the amendment, "if such stockholder has an ownership interest in the majority of the voting stock as provided for in provision (1). Rep. Knopp gave a second to the motion. After discussion, the amendment was adopted.

Rep. Knopp moved to adopt the amendments proposed by the subcommittee. Rep. Apt gave a second to the motion. The motion carried.

Rep. Crowell moved to amend line 39 to add, "not to exceed 5,000 acres." Rep. Leach gave a second to the motion. The motion lost.

CONTINUATION SHEET

Minutes of the HOUSE

Committee on

AGRICULTURE AND LIVESTOCK

19⁸¹

Rep. Crowell moved to amend the grandfather clause conceptually by stating that everyone be in compliance within a ten year period. Rep. Hagerman gave a second to the motion. The motion failed.

Rep. Hinshaw moved that SB 298 be passed favorably as amended. Rep. Apt gave a second to the motion. The motion carried.

Vice Chairperson Aylward said that the Speaker had given the Committee permission to meet tomorrow if needed.

The meeting was adjourned.

Name
 Tom Decker
 Becca Dowd
 Wayne Humphrey
 Hill Liles
 Dave Downing
 Al Rush
 John Smith
 John Miller
 Tom Josseland
 Keith Meyer
 Michael Sherman
 Joan W. Wyatt
 John Stetz

Town
 Topeka
 Lawrence
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 Mpherson
 KC Mo

Representing
 KACI
 Atty General
 ACE
 KCA
 KCTGII
 KAWC
 KS Dept of Ag, In
 Committee of the Home Organizations
 Secy of State
 Kansas Railroad Association
 Kansas Farmers Union
 Catholic Rural Life

SENATE BILL No. 298

By Committee on Agriculture and Small Business

2-17

0018 AN ACT concerning agricultural land; relating to the acquisition
0019 and use thereof; repealing K.S.A. 17-5901.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. As used in this act:

0022 (a) "Corporation" means a domestic or foreign corporation
0023 ~~and includes a nonprofit corporation.~~

organized for profit or nonprofit.

0024 (b) "Nonprofit corporation" means a corporation organized
0025 not for profit and which qualifies under title 26, section 501, "c"
0026 3 of the United States code.

0027 (c) "Limited corporate partnership" means a limited partner-
0028 ship, as defined in K.S.A. 56-122, which has as a member or
0029 members, whether as general or limited partners, one or more
0030 corporations.

0031 (d) "Corporate partnership" means a partnership, as defined
0032 in K.S.A. 56-306, which has within the association one or more
0033 corporations.

0034 (e) "Feedlot" means a lot, yard, corral, or other area in which
0035 livestock fed for slaughter are confined. The term includes within
0036 its meaning agricultural land ~~which is used for the raising of~~
0037 ~~crops or other vegetation and land upon which livestock fed for~~
0038 ~~slaughter are allowed to graze or feed in such acreage as is~~
0039 ~~reasonably necessary for the operation of the feedlot.~~

0040 (f) "Agricultural land" means land suitable for use in farm-
0041 ing.

0042 (g) "Farming" means the cultivation of land for the produc-
0043 tion of agricultural crops, the raising of poultry, the production of
0044 eggs, the production of milk, the production of fruit or other
0045 horticultural crops, ~~the production of seed, including grass seed,~~

Strike.

0046 grazing or the production of livestock. Farming does not include
0047 the production of timber, forest products, nursery products, or
0048 sod, and farming does not include a contract ~~where a processor or~~
0049 ~~distributor of farm products or supplies provides~~ spraying, har-
0050 vesting or other farm services.

to provide

0051 (h) "Fiduciary capacity" means an undertaking to act as ex-
0052 ecutor, administrator, ~~personal representative~~, guardian, conser-
0053 vator ~~or receiver or trustee in bankruptcy.~~

trustee for a family trust, authorized trust or testamentary
trust, or

0054 (i) "Family farm corporation" means a corporation:

0055 (1) Founded for the purpose of farming and the ownership of
0056 agricultural land in which the majority of the voting stock is held
0057 by and the majority of the stockholders are persons related to each
0058 other as ~~spouse, parent, grandparent, lineal ascendants of grand-~~
0059 ~~parents or their spouses and other lineal descendants of the~~
0060 ~~grandparents or their, all of whom have a common ancestor~~
0061 ~~within the third degree of relationship, by blood or by adoption,~~
0062 ~~or the spouses of any such persons, or persons acting in a~~
0063 fiduciary capacity for persons so related;

or the step-children

0064 (2) all of its stockholders are natural persons or persons acting
0065 in a fiduciary capacity for the benefit of natural persons; and

0066 (3) at least one of the stockholders is a person residing on the
0067 farm or actively engaged in the ~~day-to-day~~ labor or management
0068 of the farming operation. ~~If only one stockholder is meeting the~~
0069 ~~requirement of this provision and such stockholder dies, the~~
0070 ~~requirement of this provision does not apply for the period of~~
0071 ~~time that the stockholder's estate is being administered in any~~
0072 ~~district court in Kansas.~~

A stockholder who is an officer of any corporation referred to in
this subsection shall be deemed to be actively engaged in the manage-
ment of the farming corporation.

0073 (j) "Authorized farm corporation" means a corporation other
0074 than a family farm corporation founded for the purpose of farm-
0075 ing and the ownership of agricultural land in which:

0076 (1) ~~The Subject to provision (4), the~~ stockholders do not
0077 exceed ~~five~~ 15 in number;

Strike.

0078 (2) the stockholders are all natural persons ~~or~~ persons acting
0079 in a fiduciary capacity for the benefit of natural persons or
0080 nonprofit corporations; and

0081 (3) at least ~~a majority~~ of the stockholders ~~are persons~~ residing
0082 on the farm or actively engaged in the ~~day-to-day~~ labor or man-

one
is a person

0083 agement of the farming operation. ~~If only [a simple majority] of~~ one
 0084 ~~the stockholders [are] meeting the requirement of this provision,~~ is
 0085 ~~and [one of] such stockholders dies, the requirement of this pro-~~ Strike!
 0086 ~~vision does not apply for the period of time that the stock-~~
 0087 ~~holder's estate is being administered in any district court in~~
 0088 ~~Kansas.~~

0089 (4) If more than one person receives stock by bequest from a
 0090 deceased stockholder, all of such persons, collectively, shall be
 0091 deemed to be one stockholder. A husband and wife, and their
 0092 estates, collectively, shall be deemed to be one stockholder.

0093 (k) "Trust" means a fiduciary relationship with respect to
 0094 property, subjecting the person by whom the property is held to
 0095 equitable duties to deal with the property for the benefit of
 0096 another person, which arises as a result of a manifestation of an
 0097 intention to create it. ~~[Trust does not include a person acting in a~~
 0098 ~~fiduciary capacity.] A trust includes a legal entity holding prop-~~ Strike
 0099 ~~erty as trustee, agent, escrow agent, attorney-in-fact, and in any~~
 0100 ~~similar capacity.~~

0101 (l) "Family trust" means a trust in which:

0102 (1) A majority ~~equitable~~ interest in the trust is held by and the ~~of the~~
 0103 majority of the beneficiaries are persons related to each other ~~as~~
 0104 ~~spouse, parent, grandparent, lineal ascendants of grandparents or~~
 0105 ~~their spouses and other lineal descendants of the grandparents or~~
 0106 ~~their, all of whom have a common ancestor within the third~~
 0107 ~~degree of relationship, by blood or by adoption, or the spouses of~~
 0108 ~~any such persons, or persons acting in a fiduciary capacity for~~ or the step-children.
 0109 ~~persons so related; and~~

0110 (2) all the beneficiaries are natural persons ~~who are not acting~~ Strike
 0111 ~~as a trustee or in a similar capacity for a trust,] or are persons~~ except as trustee for a trust,
 0112 ~~acting in a fiduciary capacity, or nonprofit corporations.~~ are

0113 (m) "Authorized trust" means a trust other than a family trust
 0114 in which:

0115 (1) ~~The Subject to provision (4), the~~ beneficiaries do not
 0116 ~~exceed five 15~~ in number;

0117 (2) the beneficiaries are all natural persons ~~who are not acting~~ Strike
 0118 ~~as a trustee or in a similar capacity for a trust,] or are persons~~
 0119 ~~acting in a fiduciary capacity, or nonprofit corporations; and~~ are
 except as trustee for a trust

0120 (3) *the gross* income thereof is not exempt from taxation under
0121 the laws of either the United States or the state of Kansas.

0122 (4) *If one of the beneficiaries dies, and more than one person*
0123 *succeeds, by bequest, to the deceased beneficiary's interest in the*
0124 *trust, all of such persons, collectively, shall be deemed to be one*
0125 *beneficiary. A husband and wife, and their estates, collectively,*
0126 *shall be deemed to be one beneficiary.*

0127 (n) "Testamentary trust" means a trust created by devising or
0128 bequeathing property in trust in a will as such terms are used in
0129 the Kansas probate code.

0130 Sec. 2. (a) No corporation, trust, limited corporate partner-
0131 ship or corporate partnership, other than a family farm corpora-
0132 tion, authorized farm corporation, family trust, authorized trust or
0133 testamentary trust shall, either directly or indirectly, ~~acquire or~~ own,
0134 otherwise obtain or lease any agricultural land in this state. The
0135 restrictions provided in this section do not apply to the following:

- 0136 (1) A bona fide encumbrance taken for purposes of security.
- 0137 (2) Agricultural land when acquired as a gift, either by grant
0138 or devise, by an *a bona fide* educational, religious or charitable
0139 nonprofit corporation.

0140 (3) Agricultural land acquired by a corporation for immediate
0141 or planned use in nonfarming purposes in such acreage as is
0142 reasonably necessary for the operation of a nonfarming business.
0143 Such land may not be used for farming except under lease to one
0144 or more natural persons, a family farm corporation, authorized
0145 farm corporation, family trust, authorized trust or testamentary
0146 trust. The corporation shall not engage, either directly or indi-
0147 rectly, in the farming operation and shall not receive any direct
0148 financial benefit, other than rent, from the farming operation.

0149 (4) Agricultural land acquired by a corporation by process of
0150 law in the collection of debts, or pursuant to a contract for deed
0151 executed prior to February 17, 1981 the effective date of this act,
0152 or by any procedure for the enforcement of a lien or claim
0153 thereon, whether created by mortgage or otherwise,

0154 (5) A municipal corporation.

0155 (6) Agricultural land which is acquired by a trust company or
0156 bank in a fiduciary capacity or as a trustee ~~for a family trust,~~

, if such corporation divests itself of any such agricultural land with ten years.

Strike

0157 ~~authorized trust or testamentary trust or~~ for a nonprofit corpora-
0158 tion.

Strike.

0159 (7) Agricultural land held or leased by a corporation on Feb-
0160 ~~ruary 17, 1981, as long as the effective date of this act, if~~ the
0161 corporation holding or leasing the land on such date ~~continues to~~
0162 ~~hold or lease such agricultural land was not, prior to the effective~~
0163 ~~date of this act, directly or indirectly engaged in any agricul-~~
0164 ~~tural or horticultural business in violation of the provisions of~~
0165 ~~K.S.A. 17-5901, prior to its repeal by this act, and as long as the~~
0166 ~~corporation holding or leasing such agricultural land is in com-~~
0167 ~~pliance with the provisions of this act.~~

Strike and add: (7) A corporation, corporate partnership, limited corporate partnership, or trust owning or leasing agricultural land on the effective date of this act, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased on the effective date of this act unless such entity qualifies under the provisions of this act.

0168 (8) Agricultural land held or leased by a trust on February 17,
0169 1981, ~~as long as the trust holding or leasing such land on such~~
0170 ~~date continues to hold or lease such agricultural land the effec-~~
0171 ~~tive date of this act.~~

Strike.

0172 [(9)] Agricultural land held or leased by a corporation for use as
0173 a feedlot.

(8)

0174 [(10)] Agricultural land held or leased by a corporation for the
0175 purpose of the production of timber, forest products, nursery
0176 products, or sod.

(9)

(10) Agricultural land used to conduct scientific or experimental farms.

0177 (b) Any corporation, trust, limited corporate partnership or
0178 corporate partnership, other than a family farm corporation, au-
0179 thorized farm corporation, family trust, authorized trust or tes-
0180 tamentary trust, violating the provisions of this section shall ~~upon~~
0181 ~~conviction, be punished by a fine~~ **be subject to a civil penalty of**
0182 **not more than \$50,000 and shall divest itself of any land acquired**
0183 **in violation of this section within one year after conviction**
0184 **judgment is entered in the action.** The district courts of this state
0185 may prevent and restrain violations of this section through the
0186 issuance of an injunction. The attorney general or district or
0187 county attorney shall institute suits on behalf of the state to
0188 ~~prevent and restrain violations~~ **enforce the provisions** of this
0189 section.

(11) Agricultural land used for the growing of crops for seed purposes or for the growing of alfalfa.

(12) Agricultural land owned or leased by a corporate partnership or limited corporate partnership in which the persons associated there- in are qualified, under this act, to engage in farming operations.

(13) Any corporation, either domestic or foreign, organized for coal mining purposes which engages in farming on any tract of land owned by it which has been strip mined for coal.

0190 Sec. 3. K.S.A. 17-5901 is hereby repealed.

0191 Sec. 4. This act shall take effect and be in force from and after
0192 its publication in the statute book.

(c) Civil penalties sued for and recovered by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings were instigated.