

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE & SMALL BUSINE

Held in Room 423-S, at the Statehouse at 10:00 a.m. a. m./p. m.,
on Monday, March 2, 1981, 19 .

All members were present ~~except~~

The next meeting of the Committee will be held at 10:00 a.m. a. m./p. m.,
on Tuesday, March 3, 1981, 19 .

These minutes of the meeting held on Monday, March 2, 1981, 19 were
considered, corrected and approved.



Chairman

The conferees appearing before the Committee were: None

Senator Kerr called the meeting to order. Senator Norvell moved, seconded by Senator Arasmith, that the minutes of the February 26, 1981, meeting be approved. Motion carried.

Senator Thiessen moved, Senator Karr seconded, that the minutes of the February 27, 1981, meeting be approved. Motion carried.

Senate Bill 298 was further discussed. (See Attachment "A" to the original minutes--Revisor's proposed amendments drafted after the February 26, 1981 committee meeting.) Senator Kerr stated the committee would consider the feedlot exemption at a future meeting.

Senator Arasmith moved and Senator Allen seconded that the language following "1981" in line 0126 and all language in line 0127 and line 0128 be stricken. The motion further proposed that the language in line 0130 following "1981" and all the language in line 0131 be stricken. Motion adopted.

Senator Arasmith offered a conceptual motion, seconded by Senator Gannon, that the language in Sec. 2 (a) (7) (line 0125), be clarified so that corporations holding agricultural land in accordance with K.S.A. 17-5901 on the enacting date of this act would be the ones being grandfathered in. The motion was adopted. It was explained that the adoption of the preceding motion would avoid rewarding those who were in open violation of K.S.A. 17-5901.

Senator Doyen moved, seconded by Senator Thiessen, that the February 17, 1981, date in lines 0126 and 0129 be changed to the effective date of the act. Motion adopted.

Senator Norvell proposed a conceptual motion, seconded by Senator Thiessen, that the language in the penalty section (lines 0137-0147) be changed so that the penalty would be civil in nature, not a mix of civil and criminal penalties as is now in the bill. Motion adopted.

Senator Karr brought up a suggestion presented by Keith Meyer as to the advisability of introducing the bill with a statement of the purpose of the bill or let the law speak for itself. The committee felt such a statement should not be put into the bill.

(MORE)

CONTINUATION SHEET -2-

Minutes of the SENATE Committee on Monday, March 2, 1981, 19

Senator Montgomery asked if anyone knew how much land we are talking about in nonprofit exemption in the bill. Avis Souders stated that information could be obtained from the reporting forms sent to the Secretary of State. Raney Gilliland, Research Department, stated his figures included acreage held by nonprofit corporations but perhaps that figure could be broken down with further study.

Ron Gaches, of KACI, asked that he be given the opportunity of stating he questioned the language in the proposed amendment beginning on Line 0113. He felt it was not clear nor in exact agreement with their proposed amendment. Revisor Souders was asked to look into this discrepancy.

Senator Kerr asked if there were any further questions regarding Senate Bill 31 relative to the Missouri River Compact. (See proposed amendments (Attachment "B" to original minutes) to this bill as prepared by the Revisor's office as conceptually adopted in previous meetings of the committee). Raney Gilliland stated this language was somewhat similar to that proposed by Iowa and Missouri and he and Revisor Souders felt would be in compliance and uniform.

Senator Warren moved, seconded by Senator Reilly, that Senate Bill 31 be reported favorably as amended. Motion adopted.

Meeting adjourned.

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(ATTACHMENT "A" 3/2/81)

SENATE BILL No. 298

By Committee on Agriculture and Small Business

2-17

0017 AN ACT concerning agricultural land; relating to the acquisition
0018 and use thereof; repealing K.S.A. 17-5901.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. As used in this act:

0021 (a) "Corporation" means a domestic or foreign corporation
0022 and includes a nonprofit corporation.

0023 (b) "Nonprofit corporation" means a corporation organized
0024 not for profit.

0025 (c) "Limited corporate partnership" means a limited partner-
0026 ship, as defined in K.S.A. 56-122, which has as a member or
0027 members, whether as general or limited partners, one or more
0028 corporations.

0029 (d) "Corporate partnership" means a partnership, as defined
0030 in K.S.A. 56-306, which has within the association one or more
0031 corporations.

0032 (e) "Feedlot" means a lot, yard, corral, or other area in which
0033 livestock fed for slaughter are confined. The term includes within
0034 its meaning land which is used for the raising of crops or other
0035 vegetation and land upon which livestock fed for slaughter are
0036 allowed to graze or feed.

0037 (f) "Agricultural land" means land suitable for use in farm-
0038 ing.

0039 (g) "Farming" means the cultivation of land for the produc-
0040 tion of agricultural crops, the raising of poultry, the production of
0041 eggs, the production of milk, the production of fruit or other
0042 horticultural crops, the production of seed, including grass seed,
0043 grazing or the production of livestock. Farming does not include
the production of timber, forest products, nursery products, or
sod, and farming does not include a contract where a processor or

and which qualifies
under title 26, section 501, "c" 3 of the United States code

distributor of farm products or supplies provides spraying, harvesting or other farm services.

0048 (h) "Fiduciary capacity" means an undertaking to act as ex-
0049 ecutor, administrator, ~~personal representative~~, guardian, conser-
0050 vator or receiver.

0051 (i) "Family farm corporation" means a corporation:

0052 (1) Founded for the purpose of farming and the ownership of
0053 agricultural land in which the majority of the voting stock is held
0054 by and the majority of the stockholders are persons related to each
0055 other as ~~spouse, parent, grandparent, lineal ascendants of grand-~~
0056 ~~parents or their spouses and other lineal descendants of the~~
0057 ~~grandparents or their spouses~~, or persons acting in a fiduciary
0058 capacity for persons so related;

0059 (2) all of its stockholders are natural persons or persons acting
0060 in a fiduciary capacity for the benefit of natural persons; and

0061 (3) at least one of the stockholders is a person residing on the
0062 farm or actively engaged in the ~~day-to-day~~ labor or management
0063 of the farming operation.

0064 (j) "Authorized farm corporation" means a corporation other
0065 than a family farm corporation founded for the purpose of farm-
0066 ing and the ownership of agricultural land in which:

0067 (1) The stockholders do not exceed five in number; 15

0068 (2) the stockholders are all natural persons or persons acting
0069 in a fiduciary capacity for the benefit of natural persons or
0070 nonprofit corporations; and

0071 (3) at least a majority of the stockholders are persons residing
0072 on the farm or actively engaged in the ~~day-to-day~~ labor or man-
0073 agement of the farming operation.

0074 (k) "Trust" means a fiduciary relationship with respect to
0075 property, subjecting the person by whom the property is held to
0076 equitable duties to deal with the property for the benefit of
0077 another person, which arises as a result of a manifestation of an
0078 intention to create it. Trust does not include a person acting in a
0079 fiduciary capacity. A trust includes a legal entity holding prop-
0080 erty as trustee, agent, escrow agent, attorney-in-fact, and in any
0081 similar capacity.

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

or trustee in bankruptcy

, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the

of any such persons

If only one stockholder is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

Subject to provision (4), the

If only a simple majority of the stockholders are meeting the requirement of this provision, and one of such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

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

equitable

, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the

of any such persons

are

Subject to provision (4), the

15

are

the gross

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

in such acreage as is reasonably necessary for the operation of a nonfarming business. Such land may not be used for farming except under lease to an unincorporated farming unit owned by one or more natural persons residing on or actively engaged in the labor or management of the farming operation, a family farm corporation or an authorized farm corporation. The corporation shall not engage, either directly or indirectly, in the farming operation and shall not receive any direct financial benefit, other than rent, from the farming operation

(1) A majority interest in the trust is held by and the majority of the beneficiaries are persons related to each other as spouse, parent, grandparent, lineal descendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related; and

(2) all the beneficiaries are natural persons, who are not acting as a trustee or in a similar capacity for a trust, or persons acting in a fiduciary capacity, or nonprofit corporations.

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

(1) The beneficiaries do not exceed five in number;

(2) the beneficiaries are all natural persons, who are not acting as a trustee or in a similar capacity for a trust, or persons acting in a fiduciary capacity, or nonprofit corporations; and

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

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

Sec. 2. (a) No corporation, trust, limited corporate partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust shall, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section do not apply to the following:

(1) A bona fide encumbrance taken for purposes of security.

(2) Agricultural land when acquired as a gift, either by grant or devise, by an educational, religious or charitable nonprofit corporation. *a bonafide*

(3) Agricultural land acquired by a corporation ~~for immediate or planned use in nonfarming purposes.~~

(4) Agricultural land acquired by a corporation by process of law in the collection of debts, or pursuant to a contract for deed executed prior to February 17, 1981, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

(5) A municipal corporation.

0122 (6) Agricultural land which is acquired by a trust company or
0123 bank in a fiduciary capacity or as a trustee for a family trust,
0124 authorized trust or testamentary trust or for a nonprofit corpora-
0125 tion.

0126 (7) Agricultural land held or leased by a corporation on Feb-
0127 ruary 17, 1981, as long as the corporation holding or leasing the
0128 land on such date continues to hold or lease such agricultural
0129 land.

0130 (8) Agricultural land held or leased by a trust on February 17,
0131 1981, as long as the trust holding or leasing such land on such
0132 date continues to hold or lease such agricultural land.

0133 (9) Agricultural land held or leased by a corporation for use as
0134 a feedlot.

0135 (10) Agricultural land held or leased by a corporation for the
0136 purpose of the production of timber, forest products, nursery
0137 products, or sod.

0138 (b) Any corporation, trust, limited corporate partnership or
0139 corporate partnership, other than a family farm corporation, au-
0140 thorized farm corporation, family trust, authorized trust or tes-
0141 tamentary trust, violating the provisions of this section shall upon
0142 conviction, be punished by a fine of not more than \$50,000 and
0143 shall divest itself of any land acquired in violation of this section
0144 within one year after conviction. The district courts of this state
0145 may prevent and restrain violations of this section through the
0146 issuance of an injunction. The attorney general or district or
0147 county attorney shall institute suits on behalf of the state to
0148 prevent and restrain violations of this section.

0149 Sec. 3. K.S.A. 17-5901 is hereby repealed.

0150 Sec. 4. This act shall take effect and be in force from and after
its publication in the statute book.

PROPOSED AMENDMENT TO SENATE BILL NO. 31

Be amended:

On page 2, in line 60, after the period, by inserting a new sentence as follows: "The enactment into law of this compact shall not require the state of Kansas to enact any other law or to appropriate funds for implementation of the compact."; following line 63, by inserting a new article as follows:

"ARTICLE VI

"Any party state may withdraw from this compact by enacting a law repealing the same, but no such withdrawal shall take effect until one year after the official or agency of the withdrawing state, who is charged by such state with accomplishing the purposes of this compact, has given notice in writing of the withdrawal to the like official or agency of all other party states. No withdrawal shall affect any liability already incurred^{by}/or chargeable to a party state prior to the time of such withdrawal."

2. Aug. 4
Business
Plan, 3/2/18.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your committee on Agriculture and Small Business

Recommends that Senate Bill No. 31

"AN ACT enacting the Missouri River Compact; relating to the development and promotion of barge traffic on the Missouri River."

Be amended:

On page 2, in line 60, after the period, by inserting a new sentence as follows: "The enactment into law of this compact shall not require the state of Kansas to enact any other law or to appropriate funds for implementation of the compact."; following line 63, by inserting a new article as follows:

"ARTICLE VI

"Any party state may withdraw from this compact by enacting a law repealing the same, but no such withdrawal shall take effect until one year after the official or agency of the withdrawing state, who is charged by such state with accomplishing the purposes of this compact, has given notice in writing of the withdrawal to the like official or agency of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal."

And the bill be passed as amended.

Fred A. Kern Chairperson