

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Charlie L. Angell at
Chairperson

8:00 a.m./~~p.m.~~ on Wednesday, January 26, 1983 in room 123-S of the Capitol.

All members were present except:
Senator Paul Hess (Excused)

Committee staff present:

Ramon Powers, Research Department
Don Hayward, Revisor's Office
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee:

Chris McKenzie, League of Kansas Municipalities
William M. Henry, Kansas Engineering Society
Don E. Gerard, Board of Public Utilities of the City of McPherson, and Central Kansas Public
Wholesale Water District

Senator Kerr moved that the minutes of the meeting of January 25, 1983 be approved. Senator Feleciano seconded the motion, and the motion carried.

S.B. 61 - Amending and supplementing the State Water Plan Storage Act.

Chris McKenzie said he was appearing on behalf of the Special Committee on Water Policy of the League of Kansas Municipalities. He read his written statement (Attachment 1). Mr. McKenzie testified that, with the exception of the amendments proposed in the balloon copy of the bill (Attachment 2), the League is in general support of S.B. 61. Mr. McKenzie said the formal position of the League is that the price of water should be based on direct costs and the state should not attempt to make a profit from the sale of water nor should the state necessarily take a loss. They oppose statewide assessments on the sale or use of any water until a comprehensive state water plan has been developed. The League's proposals (set forth in Attachment 2) include adding a definition of replacement cost after line 60, prefunding of capital costs, an amendment to Section 5(4) concerning the anniversary date and reallocation of water, deferred payment, that the surcharge be set out as a separate factor and be 1.5¢ rather than 2.5¢, that "other than federal reservoirs" be deleted from line 435 and language to specify that the monies raised by the surcharge go into the new state conservation storage fund.

Responding to questions from Senator Werts, Mr. McKenzie said the League opposes the 2.5¢ replacement charge, but feels like they can reluctantly accept a 1.5¢ replacement charge which possibly could be increased if it can be shown to be necessary after there has been an opportunity to see how the fund would work. Mr. McKenzie stated their preference would be for no replacement charge at all. Senator Werts asked about the prepayment on capital costs. Mr. McKenzie said it would be possible to pay off the federal government or possibly invest the funds. It was pointed out this might require a separate fund. Answering a question from Senator Feleciano, Mr. McKenzie replied that the possibility of losing the water supply is of greater concern than the possibility of rates being raised. In addition, the chief engineer gives municipalities 20 years to perfect their water right. Mr. McKenzie stated the League would have to reserve full support of S.B. 61 until the proposals set forth are given adequate consideration.

William M. Henry read his written testimony (Attachment 3). The Kansas Engineering Society recommends the passage of S.B. 61 with certain reservations. Mr. Henry stated that the Society feels that water marketing must (1) reward program participation, and (2) penalize program procrastination to encourage water planning. Further, the Society believes that the users of the conservation water supply should not carry the entire responsibility of financing water development and management in Kansas. Mr. Henry commented favorably on the provisions of S.B. 61 which will speed up contract negotiations and provide authority to purchase water outside of Kansas. Mr. Henry explained the Society's concerns (set forth in Attachment 3) in the area of the replacement charge, the pooled money investment fund rates and the intent of New Section 14(a). Answering questions from Chairman Angell, Mr. Henry said water pricing could be used as a conservation device and could be used as a planning device, as well. Mr. Henry noted that the water available in the federal reservoirs should be used because eventually it will be lost through natural occurrences. Mr. Henry emphasized that the Society feels this pricing structure places

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 123-S, Statehouse, at 8:00 a.m./~~p.m.~~ on Wednesday, January 26, 1983.

most of the burden for the planning and construction of new impoundments upon users who have contracts with the federal reservoir system, whereas this obligation should be upon the State of Kansas, as a whole.

Don E. Gerard read his written testimony in support of S.B. 61 and recommendations for amendments (Attachment 4). He testified the major concern of the entities he represents is the ability to obtain contractual assurance of an adequate water supply. Mr. Gerard discussed prepayment of interest, extending the beginning of payment to five years rather than three years, the figure of 1.5¢ rather than 2.5¢ for the replacement charge and having a special fund for the replacement charges. Mr. Gerard answered questions from Committee members.

The meeting was adjourned at 9:00 a.m. by the Chairman.

The next meeting of the Committee will be at 8:00 a.m. on January 27, 1983.

Senate Energy & Natural Resources

Jan. 26, 1983

<u>Name</u>	<u>Organization</u>
Ray D. Shenkel	KC & P C.
Ed Reinert	KSL WV Ks Chapt. Sierra Club
Jerry Coonrod	K65E
Lon Stanton	KPL
Don Gerard	BPU - City of M'Pherson
Louis Stroup Jr.	Kmu - M'Pherson
DAVID FURNAS	Wichita Chamber
Scot WRIGHTON	CITY OF WICHITA
BILL PERDUE	KPL
Wayne Roberts	Johnson Co RWD # 7
Dennis L. Schwartz	Shawnee Co RWD # 8
C.A. Worthington	Douglas Co RWD # 3
Marshall Tatum	Ko. Water Authority
Ch. Duffy	" Staff
Sim Aiken	KDHE
James Powell	KDHE
Leland E. Relf	KSBA - DWR
Bill Henry	Ks Engineering Society
George Barber	Ks Consulting Engrs.
David Darling	KS Water Office
John A. Henderson	"
Bill Anderson	Water Dist #1 Johnson County
Martha Mangelsdorf	Kansas Water Authority
Barbara Jable	KDHE
Rosemary O'Leary	KCC
Tom Decker	KACT
Harold Shoop	KSE
Sabrina Williams	Water Dept City of Joplin

Jan 26 (cont)

Deb Miller

Joe HARRIS

Carl Dean Holmes

Hi Bland

Jack Alexander

Gov

RWO

Plains City

Wodge City

K.W.F

Statement Regarding Senate Bill 61

Chris McKenzie, Attorney and Director of Research
League of Kansas Municipalities
January 26, 1981

Mr. Chairman, members of the Committee, I am pleased to appear before you today on behalf of the League of Kansas Municipalities to discuss the position of the League's Special Committee on Water Policy on Senate Bill 61. Only this past Monday that Committee, which consists of thirteen governing body members, mayors, city managers and utility superintendents from around the state, met to review the provisions of this bill. Many of the same individuals served on the Committee during the 1981 legislative session when Senate Bill 95 was developed. Consequently, they have considerable familiarity with the issues at stake in this particular piece of legislation.

With the exception of the proposed amendments that I am prepared to discuss with you today, I am present today to report to you the Committee's general support for Senate Bill 61. We are fully aware of the deliberations of the Kansas Water Authority on this matter, and we appreciate the efforts of the members of the Authority to clarify the purpose and policies of the state's water marketing program. At the same time, we feel there are a number of important and substantive ways in which the bill could be improved. Before mentioning those proposals, however, let me share with you for a moment the formal policy position of the League of Kansas Municipalities on the state water marketing program since it provides a foundation for my remarks and suggestions today. That statement, which was adopted at the League's annual convention of cities this past October reads:

State water storage pricing should be based on direct costs, for existing reservoirs or reservoirs for which land has been acquired. The state should not attempt to make a profit from the sale of such water. We continue to oppose statewide assessments on the sale or use of any water until a comprehensive plan has been developed to guide the expenditure of such funds and to assure its commitment to public water supply development.

Atch. 1

In light of those preliminary remarks, I would now like to discuss the various provisions of the bill that the League's Special Committee on Water Policy would recommend be amended. On page two of the balloon bill I have handed out, you will see the beginning of a definition for the term "replacement cost". As you know, that term is used in Section 7 (on page 9) to describe the 2½¢ assessment or surcharge per 1,000 gallons that would be charged each contractor under this bill. We strongly recommend that the Committee consider defining the term in Section 1 or describe the uses to which the surcharge will be put in Section 14 of the bill.

Our next recommended amendment appears in line 201 on page six of the bill and concerns the issue of prefunding capital costs. At the time of the deliberations of the Authority's subcommittee on water marketing the League suggested the inclusion of a provision similar to one contained in S.B. 95 during the 1981 session that would have allowed contractors to pay all capital costs in a lump sum at the beginning of the payment period. After some consideration the committee did not endorse the proposal--apparently because there was some concern about its complexity. There also was concern that a prefunding provision would allow some contractors to escape sharing in the future added capital costs of the system.

Our proposed amendment on page six (line 201) and a companion proposed amendment on page seven (line 256) represent a prefunding proposal that is not as broad as that presented to the subcommittee on water marketing yet at the same time it provides the opportunity for local government participants in the system to save considerable money at little, if any expense to the state. In fact, the state might profit if both the state and the contractor agreed to prefunding of just those capital costs on the unused water reserved under contract. Simply put, this amendment would allow a contractor which has access

to the municipal bond market to raise the funds to prepay these capital costs at a time of low interest rates. If the capital costs on the unused water were paid, this proposal would then exempt the contractor from paying the interest charge to the state on only that unused portion of the water under contract. At the same time, the proposal (see page seven, line 256) authorizes the Authority to annually assess the contractor for the contractor's proportionate share of any new capital costs incurred by the state due to the construction or acquisition of additional conservation storage water supply capacity.

Our third proposed amendment also appears on page six of the bill in subsection (a)(4) and concerns the reallocation of water if full payment is not made by the sixth anniversary of the execution of the contract and another user is ready, willing and able to contract for such water. It was the unanimous feeling of the League's Special Committee on Water Policy that this provision is much too restrictive. It quite simply is unrealistic to expect full payment within six years since most municipal contractors would be hard pressed to put the water to full use in that short time. Our proposal is to adopt language similar to that contained in some of the recent water contracts approved by this Committee that would provide for reallocation of the water if another user is ready, willing and able and the contractor has not provided evidence to the Authority that a need is being developed for the total quantity of water. The proposed language would allow reallocation if either full payment is not made or the contractor does not keep to the schedule of increasing use of the water over a period of time. As you can see, the proposal requires use of 50% of the water after five years and an increase of 10% during each successive five year period. This particular approach appears much more workable to our Committee, and appears to have been blessed by the legislature during the consideration of these recent contracts. I would note here that there was some discussion among the members of the Authority's subcommittee on water marketing that the existing six year provision was reasonable since full payment

and a subcontract with another user would satisfy the requirements of this subsection. The members of the League's Special Committee on Water Policy felt, however, that the feasibility of subcontracting with another user was limited since most users in the system need a long term contract in order to sell bonds to finance their projects. A subcontract of this nature would simply not provide adequate security for that purpose.

Our fourth proposed amendment appears on page seven of the bill and concerns deferred payment. As you know, S.B. 95 had a five year deferred payment provision. In draft form, S.B. 61 started out with a two year deferred payment provision and that was changed by the subcommittee on water marketing to three years. Our proposal (see line 253) would simply allow the Authority and any contractor to reach agreement on deferred payment for a "period not to exceed five years" rather than three if they so chose. This language does not require a five year deferral or nothing; rather, it gives the Authority the flexibility to determine the term of the period for which payment may be deferred.

Our next proposal appears in lines 254 and 255 on page seven and addresses the issue raised yesterday about the basis for such deferred payment. The proposed language would authorize the Authority to agree to deferred payment if the use of the water requires either (1) the issuance of bonds or the construction of transmission or treatment facilities. While bonds would usually need to be issued to construct transmission and treatment facilities, this language would allow the Authority to agree to deferred payment when such facilities need to be constructed and the contractor has the necessary funds on hand but the construction process will take a period of time.

On page nine of the bill we recommend that the Committee set the replacement cost surcharge out as a separate component in the rate structure and that it consist of 1½¢ rather than the proposed 2½¢. Our reasoning for proposing that it be set out as a separate factor is to clearly identify it as the separate component of the

rate structure that it is. In regard to its reduction from 2½¢ to 1½¢, I would simply note that having been present at the discussion of this issue at the Authority's January 14th meeting, there appears to be little rationale for the 2½¢ rate rather than the 1½¢ rate which the League and other parties supported in S.B. 95 in 1981. This recommendation also is tied to the recognition that the purposes of the surcharge still need to be more clearly defined. While the League's Special Committee on Water Policy can appreciate the need to develop a fund to be pledged in the event the state issues bonds to finance future water projects, until such bond authority exists it would appear premature to assess the current users at the 2½¢ rate. Quite frankly, Mr. Chairman and members of the Committee, we need more experience with this concept before we start collecting as high a surcharge as this bill envisions.

Our final proposed amendments appear on page 12 of the bill. We support the recommendation of the Authority to eliminate the wording in line 435 "other than federal reservoirs." We also suggest the inclusion of language in line 444 that would make it clear that the moneys raised by the surcharge authorized on page 9 would go in the new state conservation storage water supply fund. Given the special purposes of this surcharge, we feel it is imperative that it be afforded sufficient protection to ensure that it is not used to pay off the annual obligations of the state water system.

In closing, I want to thank you for the opportunity to appear before you today to offer our suggestions for improving this important piece of legislation. While there was not a unanimous feeling among the member of our Committee that many of the provisions of this bill that I haven't touched on today were acceptable --most notably the various provisions concerning interest payments--there was genuine appreciation for the effort of the Authority. I personally have enjoyed the experience of working with the Authority and its staff, and I look forward to working with them and you on improving this measure. Thank you again.

SENATE BILL No. 61

By Committee on Energy and Natural Resources

1-20

0017 AN ACT amending and supplementing the state water plan
0018 storage act; concerning rates, charges and contract provisions
0019 for the sale of water; providing authorities and duties for the
0020 Kansas water authority and the director of the Kansas water
0021 office; amending K.S.A. 82a-1301, 82a-1303 to 82a-1306, in-
0022 clusive, 82a-1309, 82a-1312, 82a-1314 and 82a-1316 to 82a-
0023 1319, inclusive, and K.S.A. 1982 Supp. 82a-1307 and repealing
0024 the existing sections; also repealing K.S.A. 82a-1308, 82a-1310,
0025 82a-1311 and 82a-1315.

0026 *Be it enacted by the Legislature of the State of Kansas:*

0027 Section 1. K.S.A. 82a-1301 is hereby amended to read as
0028 follows: 82a-1301. As used in this act, unless the context other-
0029 wise requires:

0030 (a) "~~Executive director~~" means the executive director of the
0031 state water resources board "*Director*" means the director of the
0032 *Kansas water office.*

0033 (b) "*Chief engineer*" means the chief engineer of the division
0034 of water resources of the state board of agriculture.

0035 (c) "~~Board~~" means the state water resources board or any
0036 successor thereto "*Authority*" means the Kansas water authority.

0037 (d) "*Person*" means and includes a natural person, partner-
0038 ship, organization, association, private corporation, public cor-
0039 poration, any taxing district or political subdivision of the state,
0040 and any department or agency of the state government.

0041 (e) "*Public corporation*" means a body that has for its object
the government of a political subdivision of this state and in-
0044 cludes any county, township, city, district, authority, or other
municipal corporation or political subdivision of this state.

0045 (f) "*Federal government*" means the United States of America
0046 or any department or agency thereof.

Atch. 2

0047 (g) "Point of diversion for a reservoir" means the point where
 0048 the longitudinal axis of the dam of a reservoir crosses the center of
 0049 the streambed.

0050 (h) "Point of rediversion" means the point where released
 0051 water is taken for beneficial use from the watercourse by which it
 0052 is transported.

0053 (i) "Point of withdrawal from the reservoir" means the point
 0054 at which water is taken from the reservoir by pump, siphon, canal
 0055 or any other device or released through a dam by gates, conduits,
 0056 or any other means.

0057 (j) "*Capital cost*" means the total cost incurred by the state in
 0058 the construction or acquisition of conservation storage water
 0059 supply capacity in the state's reservoir system from which water
 0060 may be contracted for sale.

(k) "*Replacement cost*" means....

0061 Section 2. K.S.A. 82a-1303 is hereby amended to read as
 0062 follows: 82a-1303. (a) Notwithstanding any other provisions in
 0063 the statutes of this state, the ~~board~~ director, in the manner pro-
 0064 vided in K.S.A. 82a-1304, and amendments thereto, shall be
 0065 authorized, *subject to approval of the authority*, to acquire on
 0066 behalf of the state the right to divert and store the waters of all
 0067 streams flowing into the conservation storage water supply ca-
 0068 pacity of the reservoirs named in the state water plan sufficient to
 0069 insure a yield of water from the reservoir for beneficial use
 0070 through a drought having a ~~two percent (2%)~~ 2% chance of
 0071 occurrence in any one year with the reservoir in operation. The
 0072 rights of the state under this section and which are acquired
 0073 under K.S.A. 82a-1304, and amendments thereto, known as
 0074 "water reservation rights," shall be subject to all vested rights,
 0075 appropriation rights, approved applications for permits to appro-
 0076 priate water and other vested property interests acquired prior to
 0077 the state's acquisition, but not to those acquired thereafter.

0078 (b) *Whenever the authority shall determine that it is in the*
 0079 *public's interest to acquire, reserve or purchase water located in*
 0080 *another state for this state's conservation storage water supply*
 0081 *capacity, it shall authorize the director to enter into contract*
 0082 *negotiations to acquire, reserve or purchase such water. Any such*
 0083 *contract shall be subject to final approval of the authority.*

0084 Sec. 3. K.S.A. 82a-1304 is hereby amended to read as follows:

0085 82a-1304. The ~~board~~ *director*, on behalf of the state, shall acquire
0086 a water reservation right by filing with the chief engineer a
0087 written notice which shall include the following:

0088 (a) The name of the stream on which the reservoir is located; ;

0089 (b) the reservoir on which a water reservation right is sought; ;

0090 (c) the legal description of the point of diversion for the
0091 reservoir; ;

0092 (d) the storage space in the reservoir described in terms of
0093 elevation and design capacity; ;

0094 (e) hydrologic calculations for a drought having a ~~two percent~~
0095 ~~(2%)~~ 2% chance of occurrence in any one year with the reservoir
0096 in operation specifying the rate of flow of streams into the
0097 reservoir and the volume of waters impounded in the reservoir
0098 that will be necessary to insure a yield of water from the reservoir
0099 for beneficial use; ; and

0100 (f) such other information which the chief engineer may re-
0101 quest in carrying out provisions of this act.

0102 Upon receiving any such filing, the chief engineer shall trans-
0103 mit to the ~~board his or her~~ *director and the chairperson of the*
0104 *authority* written acceptance thereof, or inform the ~~board~~ *director*
0105 in writing that the notice does not comply with the above re-
0106 quirements in one or more ways, all of which shall be specified.
0107 Thereupon, the ~~board~~ *director* shall modify the written notice as
0108 may be appropriate and return the notice to the chief engineer.
0109 When the written notice complies with the requirements of this
0110 section the chief engineer shall transmit to the ~~board his or her~~
0111 *director and the chairperson of the authority* written acceptance
0112 thereof. Upon receipt of the written acceptance of the chief
0113 engineer as provided in this section, the ~~board~~ *director* shall file,
0114 as other instruments affecting real estate, copies of the accepted
0115 written notice in the office of the register of deeds of the county
0116 or counties wherein the point of diversion for the reservoir is
0117 located; and such water reservation right shall thereby be per-
0118 fected as of the date of original filing.

0119 Nothing in this section shall require the ~~board~~ *director* to
0120 acquire an appropriation right, or approval of the chief engineer,

0121 under article 7 of chapter 82a of Kansas Statutes Annotated, *and*
0122 *amendments thereto.*

0123 Sec. 4. K.S.A. 82a-1305 is hereby amended to read as follows:

0124 82a-1305. Whenever the ~~board~~ *authority* finds that a proposed
0125 withdrawal and use of water *is in the public's interest and* will
0126 advance the purposes set forth in article 9 of chapter 82a of
0127 Kansas Statutes Annotated, *and amendments thereto*, it may enter
0128 into written contracts with any persons for withdrawal and use
0129 *within or without the state* of waters from conservation water
0130 supply capacity committed to the state, *except that whenever such*
0131 *proposed use is outside the state, it shall specifically find, prior to*
0132 *negotiating a contract, that such use is in the public's interest and*
0133 *will advance such purposes.* Every such contract shall comply
0134 with the provisions of this act. The ~~board~~ *authority* shall not
0135 contract for withdrawals of water from a particular reservoir
0136 which in ~~the board's~~ *its* opinion are in excess of the yield
0137 capability from such reservoir of conservation water supply
0138 committed to the state computed to provide water through a
0139 drought having a ~~two percent (2%)~~ *2%* chance of occurrence in
0140 any one year with the reservoir in operation. All contracts under
0141 this section shall have terms of not less than ~~ten (10)~~ *10* years ~~and~~
0142 ~~not more than forty (40) years unless desired by the applicant.~~

0143 Whenever a contract expires the ~~board~~ *authority* shall give the
0144 persons with whom it contracted therein, the opportunity to first
0145 refuse any new offering of ~~substantially the same contractual~~
0146 ~~terms the water~~ before offering *the same* to applicants under the
0147 provisions of K.S.A. 82a-1311, *and amendments thereto.* When-
0148 ever the ~~board~~ *authority* finds that it *is in the public's interest and*
0149 will advance the purposes set forth in this act and in article 9 of
0150 chapter 82a of Kansas Statutes Annotated, *and amendments*
0151 *thereto*, the ~~board~~ *authority* may dispose of waters from the
0152 conservation water supply capacity committed to the state not
0153 required to meet contract requirements under this section if ~~the~~
0154 ~~board~~ *it* has found such waters to be surplus waters. Any ar-
0155 rangement for the disposition of any such surplus waters shall not
0156 be subject to the provisions of K.S.A. 82a-1306 ~~to 82a-1308,~~
0157 ~~inclusive . 82a-1307 and section 7, and amendments thereto.~~

0158 relating to long-term contracts, but no such arrangement may be
0159 made for a period of time in excess of one year nor may any such
0160 arrangement dispose of water from the conservation water supply
0161 capacity in excess of ~~ten percent (10%)~~ 10% of the yield capability
0162 as computed pursuant to this section unless the governor has
0163 declared that an emergency exists which affects the public health,
0164 safety or welfare. *Whenever the disposition of any such surplus*
0165 *waters is for any purpose other than for streamflow maintenance,*
0166 *a charge shall be levied thereon at a rate set by rule and regulation*
0167 *adopted pursuant to this act.*

0168 Sec. 5. K.S.A. 82a-1306 is hereby amended to read as follows:

0169 82a-1306. (a) Every contract made under authority of K.S.A.
0170 82a-1305, and amendments thereto, shall include the following:

0171 (a) (1) Provision for charges, which shall be set by the board
0172 authority, at a rate which the board it shall fix of not less than five
0173 cents ~~(5)~~ per one thousand ~~(1,000)~~ 1,000 gallons of water at the
0174 point of withdrawal from the reservoir and not greater than ten
0175 cents ~~(10)~~ per one thousand ~~(1,000)~~ gallons of water at the point of
0176 withdrawal from the reservoir as provided in section 7;

0177 (b) provisions for a minimum charge to be paid in equal
0178 annual installments during the term of the contract, the sum of
0179 which shall be fifty percent (50%) of the total amount of water
0180 contracted for during the term of the contract multiplied by the
0181 rate fixed under paragraph (a); and that such minimum charge is
0182 to be paid each calendar year whether or not such amount of
0183 water is withdrawn during the calendar year;

0184 (c) provisions that the board shall adjust the rate provided
0185 under paragraph (a) on the tenth anniversary of the execution of
0186 the contract and each tenth anniversary thereafter, to reflect any
0187 change in experience by substituting the adjusted rate for the rate
0188 then stated in the contract;

0189 (2) except as provided in subsection (b), provisions for a
0190 minimum charge to be paid in either equal annual or monthly
0191 installments during the term of the contract, whether or not water
0192 is withdrawn during the calendar year. The minimum charge shall
0193 be the sum of 50% of the total amount of water contracted for
0194 during the term of the contract multiplied by the rate fixed under

0195 paragraph (1), plus, on the remaining 50% of the water reserved
0196 under contract, an amount as interest computed at a rate per
0197 annum equal to the average of interest earned the past 12 months
0198 on investments by the pooled money investment board on the total
0199 amount of moneys advanced from state funds for costs incurred
0200 and associated with that portion of the state's conservation water
0201 supply capacity;

provided, that the interest charge on the remaining water reserved under contract shall not be payable if the contractor prepays the capital cost on the remaining water reserved under contract as provided in subsection (b)(2).

0202 (3) provisions that the authority shall adjust the rate provided
0203 in paragraph (1) on July 1 of each year effective January 1 of the
0204 following year to reflect any change in experience by substituting
0205 the adjusted rate for the rate then stated in the contract;

0206 (4) provisions that the authority may adjust the total amount
0207 of water contracted for as provided under paragraph (2) on the
0208 ~~sixth~~ anniversary of the execution of the contract and each ~~annual~~
0209 anniversary thereafter, if the contractor does not begin full pay-
0210 ment for the water under contract and another water user is ready,
0211 willing and able to contract for such water,

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fifth

or provide satisfactory evidence to the authority that the contractor is developing a need for the total quantity of water specified in the contract

0212 ~~(d)~~ (5) provisions that water may be withdrawn in any calendar
0213 year up to the quantity used to compute the minimum annual
0214 charge under paragraph ~~(b)~~ (2) without additional charge;

Satisfactory evidence that the contractor is developing a need for the total quantity of water under contract shall consist of the following:

0215 (e) provisions that water may be withdrawn in any calendar
0216 year in excess of the quantity used to compute the minimum
0217 annual charge under paragraph (b); but not to exceed the full
0218 amount specified in the contract for such year, upon payment of a
0219 charge therefor which shall be computed at the rate fixed under
0220 paragraph (a);

(i) Annual use of 50% or more of the total annual contract quantity by the fifth anniversary of the contract; and

0221 (6) provisions that water may be withdrawn in any calendar
0222 year in excess of the quantity used to compute the minimum
0223 annual charge under paragraph (2) but not to exceed the full
0224 amount specified in the contract for each year, upon payment of a
0225 charge therefor which shall be computed at the rate fixed under
0226 paragraph (1) for all water actually withdrawn. In addition, an
0227 amount shall be paid, on the unused balance of the water reserved
0228 under contract, as interest computed as a rate per annum equal to
0229 the average of interest earned the past 12 months on investments
0230 by the pooled money investment board on the total amount of
0231 moneys advanced from state funds for costs incurred and asso-

(ii) Annual use of an additional 10% or more of the total annual contract quantity by the end of each subsequent five year period during the term of the contract.

0232 ciated with that portion of the state's conservation water supply
0233 capacity;

0234 (f) (7) provisions that if the total amount of waters contracted
0235 for withdrawal from any reservoir in any year is greater than the
0236 supply available from that reservoir, the board authority will
0237 apportion the available waters among the persons having con-
0238 tracts therefor as may best provide for the health, safety and
0239 general welfare of the people of this state as determined by the
0240 board authority, and neither the state nor the board authority
0241 shall be responsible or have any legal liability for any insuffi-
0242 ciency of water or apportionment thereof;

0243 (g) (8) additional provisions that the board authority finds
0244 reasonable and necessary to protect the public's interest and to
0245 achieve the purpose set forth in article 9 of chapter 82a of Kansas
0246 Statutes Annotated, and amendments thereto; and

0247 (h) (9) additional provisions, within the purview of this act,
0248 that the board authority finds reasonable and necessary to protect
0249 the health, safety and general welfare of the people of this state.

0250 (b) Every contract entered into under the authority of K.S.A.
0251 82a-1305, and amendments thereto, may provide, if the parties
0252 agree, ~~that the beginning of the payment period be deferred for a~~
0253 ~~maximum of three~~ years, or until actual use of the water com-
0254 mences, whichever occurs first, whenever, ~~in order to use such~~
0255 ~~water, bonds are required to be issued for the construction of~~
0256 ~~transmission or treatment facilities.~~

0257 Sec. 6. K.S.A. 1982 Supp. 82a-1307 is hereby amended to
0258 read as follows: 82a-1307. (a) The term of any contract under
0259 K.S.A. 82a-1305, and amendments thereto, may begin on the date
0260 of execution of the contract or upon any date not later than two
0261 years after the date of execution as agreed upon by the parties and
0262 stated in the contract document. Except as provided in paragraph
0263 subsection (b), on the first or before the 60th calendar day of each
0264 regular legislative session, the Kansas water office authority shall
0265 transmit to the house of representatives and the senate of this
0266 state, and to the secretary of state, copies of each contract made
0267 and executed under K.S.A. 82a-1305, and amendments thereto,
0268 since the 60th day preceding the first day of the regular legislative

:(1)

period not to exceed five

the of

requires the issuance of bonds or

; and (2) that when minimum payments will be made as provided in subsection (a)(2), that the total capital costs on the remaining water reserved under the contract may be paid by the contractor in a single lump sum at the beginning of the payment period. If such capital costs are prepaid, the authority may annually assess the contractor for the contractor's proportionate share of any new capital costs incurred by the state due to the construction or acquisition of additional conservation storage water supply capacity.

0269 session occurring most recently prior to such transmission. Such
0270 contract copies transmitted to the secretary of state shall be and
0271 remain filed in the office of the secretary of state from the date
0272 transmitted until the end of the fifth year following the end of the
0273 term thereof, and during such time shall be available for public
0274 inspection during regular business hours. At any time ~~during the~~
0275 ~~first 60 calendar days after the 60th calendar day~~ of the regular
0276 legislative session when a contract is transmitted as provided in
0277 this section, the legislature may disapprove and revoke such
0278 contract by adoption of a concurrent resolution so providing. No
0279 contract under K.S.A. 82a-1305, *and amendments thereto*, shall be
0280 subject to revocation by the legislature after the ~~60th~~ *90th* calen-
0281 dar day of such regular legislative session, except as provided in
0282 ~~paragraph subsection (b)~~. Any annual installment or other amount
0283 due prior to the ~~January 1 immediately preceding the legislative~~
0284 ~~session when a contract is revoked~~ *legislative revocation* shall be
0285 a valid obligation and shall be paid, but no annual installment or
0286 other amount due ~~on or after such January 1 after legislative~~
0287 *revocation* shall be valid.

0288 (b) At any time not later than five days after the effective date
0289 of this act, the ~~Kansas water office authority~~ shall transmit to the
0290 house of representatives and to the senate, and to the secretary of
0291 state, copies of each contract made and executed after the ~~con-~~
0292 ~~vening of the 1982 regular session of the Kansas legislature~~
0293 *effective date of this act*. Notwithstanding any provisions to the
0294 contrary in ~~paragraph subsection (a)~~, the ~~1982~~ *1983* regular ses-
0295 sion of the legislature may within ~~20~~ *30* days after the effective
0296 date of this act disapprove and revoke any contract filed by the
0297 Kansas water office after the effective date of this act by adoption
0298 of a concurrent resolution so providing. Except as provided in
0299 this ~~paragraph (b) subsection and as provided in any statute~~
0300 *regulating interbasin water transfers*, the provisions of ~~paragraph~~
0301 *subsection (a)* and the act of which it is a part shall apply to any
0302 contract filed under this ~~paragraph subsection~~.

0303 New Sec. 7. (a) On July 1 of each year, effective January 1 of
0304 the following year, the authority shall fix the rate provided for in
0305 subsection (a) of K.S.A. 82a-1306, and amendments thereto. The

0306 rate fixed shall be equal to the sum of the following components
0307 computed as provided in this section:

0308 (1) An amount necessary to repay the amortized capital costs
0309 associated with the state's conservation water supply capacity
0310 ~~plus a replacement cost of \$.025;~~

0311 (2) an amount as interest computed at a rate per annum equal
0312 to the average of interest earned the past 12 months on invest-
0313 ments by the pooled money investment board on the total amount
0314 of moneys advanced from the state general fund for payment of
0315 the amortized capital costs incurred and associated with the
0316 state's conservation water supply capacity;

0317 (3) the amount necessary to reimburse the state for the en-
0318 forcement of this act. Such amount shall be based on the actual
0319 costs of administration and enforcement in the preceding year;
0320 and

0321 (4) the amount necessary to repay the operation, maintenance
0322 and repair costs associated with the state's conservation water
0323 supply capacity.

*; and

* (5) an amount equal to \$.015 for replacement cost.

0324 (b) In computing such rates, the authority shall consider the
0325 state's conservation water supply capacity from all sources as
0326 though impounded in one single reservoir. No water supply
0327 capacity of a reservoir shall be considered to be in such capacity
0328 until the year in which the state incurs contract obligations for the
0329 project. The rate so fixed for each year shall be the same for each
0330 contract under K.S.A. 82a-1305, and amendments thereto, for
0331 withdrawal from every reservoir. The rate so fixed for each
0332 twelve-month period from January 1 to December 31 shall be the
0333 same for every contract under K.S.A. 82a-1305, and amendments
0334 thereto.

0335 Sec. 8. K.S.A. 82a-1309 is hereby amended to read as follows:
0336 82a-1309. The executive director may require any person with-
0337 drawing water pursuant to a contract under K.S.A. 82a-1305, and
0338 amendments thereto, to install meters, gauges or other measuring
0339 devices in accordance with specifications of the executive direc-
0340 tor. The executive director or his or her the director's agents may
0341 read any such device at any time, and he or she may require any
0342 such person to report the readings of any such device at reason-

0343 able intervals. The ~~executive~~ director may test any such device at
0344 any time or require any such person to test ~~his or her~~ *the* device as
0345 such director specifies and make a report thereof to the executive
0346 director. All such devices shall be maintained in good order. The
0347 ~~executive~~ director may require any such person to make specified
0348 repairs or maintenance to ~~his or her~~ *the* device or replace the same
0349 as may be reasonable.

0350 New Sec. 9. (a) Any person desiring to enter into a contract
0351 under K.S.A. 82a-1305, and amendments thereto, shall file an
0352 application therefor with the director. Such application shall be
0353 in such form and contain such information as the director re-
0354 quires.

0355 (b) Upon request of the chairperson of the authority, the
0356 director shall transmit all available information necessary to
0357 determine whether or not to approve a contract to purchase water
0358 from the state's conservation water supply capacity or to use
0359 surplus waters for minimum streamflow requirements, unless an
0360 emergency exists.

0361 New Sec. 10. (a) The date of receipt of each application
0362 submitted pursuant to section 9 shall be stamped thereon and
0363 authenticated as directed by the director. Applicants shall notify
0364 the director in writing that they wish to commence negotiations
0365 for a contract to withdraw and use water. Within 10 days after the
0366 completion of negotiations for a contract to withdraw and use
0367 water, the director shall transmit to the chairperson of the au-
0368 thority a copy of the proposed contract.

0369 (b) In order to determine whether a proposed contract for the
0370 sale of water from the state's conservation water supply capacity
0371 is in the public interest and whether the benefits to the state for
0372 approving the contract outweigh the benefits to the state for not
0373 approving the contract, the authority shall consider all matters
0374 pertaining to such questions, including:

0375 (1) The present and future water supply needs of the appli-
0376 cant;

0377 (2) any current beneficial uses being made of the water pro-
0378 posed to be diverted;

0379 (3) any reasonably foreseeable future beneficial uses of the

0380 water;

0381 (4) any adverse impacts of the proposed sale of water;

0382 (5) the economic, environmental, public health and welfare
0383 and other benefits of approving the contract;

0384 (6) alternative sources of water available to the applicant;

0385 (7) the preliminary plan of design, construction and operation
0386 of any works or facilities used in conjunction with carrying the
0387 water to its point of use;

0388 (8) whether the proposed purchase is consistent with the state
0389 water plan approved by the legislature;

0390 (9) the date of receipt of the application to contract for with-
0391 drawal and use of water.

0392 (c) The authority may approve or reject the proposed contract
0393 and may recommend purchase of water from an alternative
0394 source. The authority may approve a contract for a smaller
0395 amount of water than requested and may approve a contract upon
0396 such terms, conditions and limitations as it deems necessary for
0397 the protection of the public interest of the state as a whole.

0398 Sec. 11. K.S.A. 82a-1312 is hereby amended to read as fol-
0399 lows: 82a-1312. A copy of every contract *entered into* under
0400 K.S.A. 82a-1305, *and amendments thereto*, shall be filed with the
0401 chief engineer by the person who is to receive water under the
0402 contract. ~~A copy of every contract shall be filed by the person, as
0403 other instruments affecting real estate, with the register of deeds
0404 of the county or counties in which is located the point of diver-
0405 sion for the reservoir.~~

0406 Sec. 12. K.S.A. 82a-1314 is hereby amended to read as fol-
0407 lows: 82a-1314. Whenever a person, who has a contract under
0408 K.S.A. 82a-1305, *and amendments thereto*, wishes to make a
0409 withdrawal of water, ~~he or she~~ *such person* shall so advise the
0410 ~~executive~~ director. Whenever the bed of a watercourse is to be
0411 used to carry waters so released, the ~~executive~~ director shall
0412 inform the chief engineer. In accordance with such advice, and at
0413 a time agreed upon by the ~~executive~~ director and the chief
0414 engineer within two ~~(2)~~ days of such request, the ~~executive~~
0415 director shall request the authorities in charge of the operation of
0416 the reservoir to make an appropriate release of water. The person

0417 for whom waters are released may conduct such waters into and
0418 along any watercourse and may withdraw or redirect the same at
0419 points specified in ~~his or her~~ *such person's* contract, without
0420 regard to holders of water rights to the waters of the watercourse,
0421 due allowance being made for seepage and evaporation. The
0422 provisions of K.S.A. 82a-706b to 82a-706e, inclusive, shall apply
0423 to water so released. *In addition to such authority and duties, the*
0424 *chief engineer shall protect and shall have authority to enter into*
0425 *agreements necessary to protect any such release of water.*

0426 New Sec. 13. Amounts changed pursuant to contracts entered
0427 into pursuant to K.S.A. 82a-1305, and amendments thereto, and
0428 all other amounts charged pursuant to this act shall be paid to the
0429 director. Upon receipt thereof, the director shall remit the entire
0430 amount thereof to the state treasurer and the state treasurer,
0431 except as provided in section 14, shall deposit the same in the
0432 state treasury to the credit of the state general fund.

0433 New Sec. 14. (a) The director, subject to approval of the
0434 authority, shall acquire or develop conservation storage water
0435 supply capacity in impoundments, ~~other than federal reservoirs,~~
0436 named in the state water plan. All such water supply capacity
0437 shall be subject to the provisions of the state water plan storage
0438 act.

0439 (b) That portion of all moneys received by the state treasurer
0440 pursuant to section 13 which is not attributable to (1) the annual
0441 repayment on water storage costs in federal reservoirs; (2) the
0442 operation, maintenance and repair costs associated with the
0443 state's conservation water supply capacity; and (3) the costs in
0444 enforcing the provisions of this act, shall be deposited in the state
0445 treasury to the credit of the state conservation storage water
0446 supply fund which is hereby established. The director shall
0447 provide the treasurer with an accounting of each such remittance.
0448 Expenditures from such fund shall be made only to carry out the
0449 provisions of this section.

0450 Section 15. K.S.A. 82a-1316 is hereby amended to read as
0451 follows: 82a-1316. No assignment, sale, conveyance or transfer of
0452 all or any part of a contract under K.S.A. 82a-1305, *and amend-*
0453 *ments thereto*, or of interest thereunder, or of interest therein shall

and those moneys received by the state treasurer for replacement cost pursuant to
section 7,

0454 be valid unless and until the same is approved by the board
0455 *authority* under such reasonable terms and conditions as the
0456 board it may impose. Any contract under K.S.A. 82a-1305, and
0457 *amendments thereto*, may be amended or nullified by written
0458 agreement of the parties thereto made and recorded as provided
0459 in this act for original contracts under K.S.A. 82a-1305, and
0460 *amendments thereto*, but no such amendment shall change any
0461 rate specified in the original contract in accordance with either
0462 paragraphs ~~(a)~~ (1) or ~~(b)~~ (2) of subsection (a) of K.S.A. 82a-1306,
0463 and *amendments thereto*.

0464 Every such contract amendment shall be transmitted as pro-
0465 vided in K.S.A. 82a-1307, and *amendments thereto* for original
0466 contracts, and shall be subject to revocation as provided in K.S.A.
0467 82a-1307, and *amendments thereto*. Whenever a contract amend-
0468 ment is so revoked, the contract to which the amendment applied
0469 shall remain valid and unchanged, as though such amendment
0470 had never been agreed upon.

0471 Sec. 16. K.S.A. 82a-1317 is hereby amended to read as fol-
0472 lows: 82a-1317. If any person financially obligated under a
0473 contract made under K.S.A. 82a-1305, and *amendments thereto*,
0474 should fail to make any of the payments when due, then the
0475 overdue payments shall bear interest compounded annually at the
0476 rate of eight percent ~~(8%)~~ *per annum equal to the average rate of*
0477 *interest per annum earned in the next preceding 12 months on*
0478 *investments of the pooled money investment board until paid.*
0479 This provision shall not be construed as giving the person an
0480 option of either making payments when due or paying interest
0481 nor shall it be construed as waiving any of the rights of the board
0482 *authority* or the state of Kansas that might result from any default
0483 by the person.

0484 Sec. 17. K.S.A. 82a-1318 is hereby amended to read as fol-
0485 lows: 82a-1318. The board *authority* may sue in its own name, or
0486 may authorize suit to be brought by an authorized representative
0487 in the name of the board *authority*, to enforce any claim or right
0488 arising out of any contract under K.S.A. 82a-1305, and *amend-*
0489 *ments thereto*, any provision of this act or any rule and regulation
0490 adopted under this act. The board *authority* may be sued and may

0491 defend any action brought against the board it arising out of any
0492 contract under K.S.A. 82a-1305, and amendments thereto. Noth-
0493 ing in this section shall be deemed to authorize any suit against
0494 the board authority or any member thereof, or any officer or
0495 employee of the state or of the board authority, on an implied
0496 contract, or for negligence or any other tort. The attorney general,
0497 or any attorney designated by him or her the attorney general,
0498 shall represent the board authority in all litigation.

0499 Sec. 18. K.S.A. 82a-1319 is hereby amended to read as fol-
0500 lows: 82a-1319. The state water resources board director may
0501 adopt, subject to approval of the authority, rules and regulations
0502 for the administration and carrying out the purposes of this act.

0503 Sec. 19. K.S.A. 82a-1301, 82a-1303 to 82a-1306, inclusive,
0504 82a-1308 to 82a-1312, inclusive, and 82a-1314 to 82a-1319, in-
0505 clusive, and K.S.A. 1982 Supp. 82a-1307 are hereby repealed.

0506 Sec. 20. This act shall take effect and be in force from and
0507 after its publication in the Kansas register.

Kansas Engineering Society, Inc.

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Topeka, Kansas 66601
913-233-1867

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Testimony re: Senate Bill 61
Senate Energy and Natural Resources Committee
January 26, 1983

Mr. Chairman and members of the committee I am Bill Henry, Executive Vice President of the Kansas Engineering Society, appearing on behalf of the society and specifically its Environmental Resources Committee.

The Engineering Society recommends the passage of Senate Bill 61 with certain reservations. Indeed as the printed bill was only available as of Friday the 21st, most of the members of the Environmental Resources Committee of KES have not had the opportunity to completely examine Senate Bill 61 in its current form.

As a result we would reserve additional comments to the committee on Senate Bill 61 which we will communicate at a later time by writing. We do not however wish to delay the consideration of this measure in any event. It is essential in our view that the state move quickly to resume contracting for water in the state's conservation storage water supply.

Briefly our fundamental position in this area is this:

First, our society believes the state must reward program participation and penalize program procrastination to encourage water planning by all of localities throughout the state.

Secondly, the Society does not feel users of the conservation water supply allocated should carry the entire responsibility of financing water development and water management in Kansas. It is important of course that those who wish to take from this dedicated water supply pay a fair share of the cost of providing that supply and maintaining the reservoirs where those supplies exist. Even as you consider past contracts and future negotiations the state must realize the "persons" enumerated in this measure's definition section are only a small class of the total water users of the state.

As to particular sections of the bill.

1. We particularly feel that subsection b of section 6 as amended, lines 288-302, is a necessary and proper section that should be approved. This section will allow certain residents of Johnson County water districts to complete their water management actions that have been forestalled for nearly a year.
2. The society is pleased to see clear statutory authority given to the Director and the Authority to enter into contracts to acquire and purchase water located in other states. Frankly, however we doubt if there are going to be a large number of opportunities to buy other states' water at any price.

A member of the National Society of Professional Engineers

Attch. 3

KES CONCERNS

1. We realize the cost of water is a policy decision that must be acted on by members of this legislature. At the same time the figures settled upon should have some basis for their enactment. We doubt if quibbling over pennies per thousand gallons is going to be a large factor and certainly not the make-or-break factor for a local unit of government in determining whether it is going to contract for water. However:

(a) In new section seven, (1), lines 0308-0311, page 9, a \$.025 replacement cost is established. We know of no report or finding that recognizes this figure as a reasonable or even accurate charge for "replacement." Granted, the state has to start somewhere, but as some of our members have commented there is nothing more magical ~~at~~ \$.025 than \$.01 or \$.015. Indeed if the state is seeking to use these funds to expand or develop new water impoundments a more realistic charge for that purpose would be as high as \$.25 per thousand gallons.

(b) This leads us to our next query which is what does "replacement cost" as utilized in line 0310, page 9 represent. Are these charges truly for replacement of the water in the current conservation water supply or is it the policy embodied in this bill that the users of Federal Reservoir water via contract with the state who are to provide the funds for future impoundments across the state?

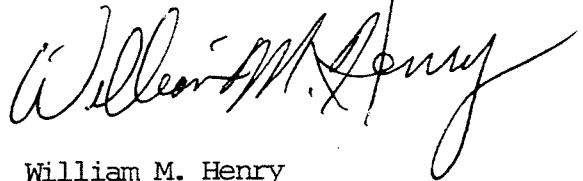
(c) It would appear, based upon the several references to the pooled money board 12 month average, that a current market rate is to be used in determining interest and penalty contract rates throughout SB 61. As we recall the original cost to the state in securing title to the federal reservoir water was much lower. Of course this is now state water and it is certainly within the power of the state to charge a premium for a resource that in the future will be increasingly scarce. Yet we must honestly inquire why the purchasers of this water should bear the highest costs. Certainly recreational users of these same waters receive benefits as well and while in many cases through parks and resources these users pay a fee we doubt if it compares to the totality of the charges that will be exacted against the "persons" who wish to contract for the actual conservation water supply.

2. New section 14(a), page 12. This section allows the director, with the permission of the authority to acquire or develop conservation storage water supply capacity in impoundments other than federal reservoirs now named in the state water plan. This is certainly a strong option the Director should have. Our question is where will the funding for these developments originate? Reading this section in context engineers believe the logical source considering the premise of SB 61 as a whole the costs will be paid by the contractor for federal reservoir water. There is no direct statement to this effect in new section 14 but if I were legal counsel for the director I would advise my client that he could do exactly that under the language provision, "other than federal reservoirs." The result is obvious, the "person" who contracts for federal reservoir storage water will subsidize the construction and planning of the new impoundments for others across the state although that "person" may never receive any direct benefit from the new impoundment. If the committee seeks to develop water resources on a

page 3

users' fee basis then that policy should be consistent; not only for those seeking to contact for reservoir water but also for those would benefit from the planning and construction of the impoundments under new Section 14. We frankly are nonplused. We have been told by some members of the authority that the concern we have just expressed with new section 14 is not the intent of that section. We were told it was inserted to allow the director to seek and obtain water storage when it is made available in existing federal reservoirs or any new reservoirs that may be constructed by the federal government in the future. Yet we have also been informed by other members of the authority that the new section is designed with just that intent. We seek enlightenment.

Respectfully submitted

A handwritten signature in black ink, appearing to read "William M. Henry". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

William M. Henry
Executive Vice-President
Kansas Engineering Society

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January
25
1983

Senate Energy and Natural Resources Committee
Kansas State Legislature
Session of 1983

Honorable Charlie L. Angell, Chairman

In Support of Senate Bill 61
A Water Pricing Act

Dear Chairman Angell:

I appreciate this opportunity to give testimony in support of this proposed legislation. I would like to comment on several issues that may need some minor changes to be in the best interest of my City.

I am the General Manager of the Board of Public Utilities of the City of McPherson. I am also the Chairman of the steering committee of the proposed Central Kansas Public Wholesale Water District.

This proposed public wholesale water district presently consists of twelve cities in central and south central Kansas, and we represent an area that serves a combined population of approximately 500,000 people. Our group of twelve cities has appropriated funds to complete the necessary first level of engineering studies that will ultimately enable us to become a formal wholesale water entity.

Our major concern regarding this water pricing act is the ability to obtain contractual assurance of an adequate water supply. Contracts must be of such duration and legal integrity to allow wholesale water districts to finance large projects through utility revenue bonds over a 30 to 40 year financing period. A favorable bond rating is obtainable from the sound contractual commitments. Favorable bond ratings yield substantial savings in interest costs, and they are an absolute necessity in the development of large and expensive water systems. If long term financing is not feasible, multi million dollar projects such as planned by our wholesale water district, will not be possible.

Atch. 4

More specifically I would like to address the following items:

Section 5 - Paragraph (2)

In the terminology which discusses the payment of interest on the remaining 50% of the water reserved as it is related to the states conservation water supply capacity, this might well be an item to be prepaid by the purchaser. It should be an option set out in the contract with proper stipulation for new state owned capacity and/or credit on unit water charges that are associated with that 50% portion.

Section 5 - Paragraph (4)

The review of the amount of water under contract on the 6th anniversary of the execution of the contract for the purpose of bringing the full amount of contracted water under payment undoubtedly would have merit from the point of contractual enhancement. A superior rated bond issue will require a contract of unquestionable language relative to the supply of water and the savings in interest costs would be reflected throughout the entire life of the bonds.

An option wording, which has been extended in some recent M&I contracts, has essentially allowed a five year period of payment on 50% of the total contracted water and then adding the remaining quantities of water in 10% increments at every five year intervals. This approach to contractual sales would lessen the initial finance impact of the contracting entity and allow for more accurate long range planning on the part of the cities.

Section 5 - Paragraph 9 (b)

The beginning of payment for the purchaser of water should be extended to a maximum of 5 years in lieu of the noted 3 years.

A large multi million dollar project would probably require more than 5 years to develop from the time contracts were drawn, financing was arranged, right-of-ways purchased and contracts awarded. There are occasions where the actual marketing of utility revenue bonds must be delayed to allow an unfavorable bond market to improve. Very few phases of large projects enjoy fast tract privileges.

Chairman Charlie L. Angell
January 25, 1983
Page 3

Section 7 - Paragraph (1)

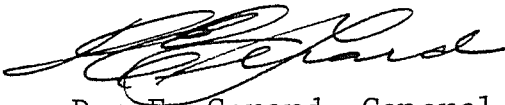
The figure of \$.025 appears to be an arbitrary assessment, however some reservoir replacement fundings are probably reasonable. Until such projects can be identified and costs determined I would suggest an assessment of \$.015 per thousand gllons.

Any funds gathered as replacement funds should be earmarked and held in a special trust fund.

I believe this proposed legislation appears to be progressive and reasonable in effect.

I appreciate the opportunity to address the various issues of this bill.

Yours truly,



Don E. Gerard, General Manager
Board of Public Utilities

Chairman, Public Wholesale Water District

DEG/cjp