

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.~~ ~~XXXX~~ on Thursday, January 27, 1983 in room 123-S of the Capitol.

All members were present except:
Senator Paul Hess

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

Conferees appearing before the committee:
James F. Aiken, Jr., Kansas Department of Health and Environment
R. L. (Dusty) Chandler, Water District No. 1 of Johnson County, Kansas Section-American
Waterworks Association
Buford M. Watson, Jr., City of Lawrence

The minutes of the January 26, 1983 meeting were approved.

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

James F. Aiken, Jr. testified the Kansas Department of Health and Environment (KDHE) supports S.B. 61 and urges that it be completed as soon as possible. Mr. Aiken reviewed the proposed amendments to the bill (Attachment 1).^{*} He suggested that Section 10 contain provisions that water contract applicants provide the Kansas Water Authority with a water supply demand plan containing their needs for at least a 20 year period. Mr. Aiken said KDHE feels the State of Kansas should promote conservation of water and that the proposed water supply demand plan should provide information regarding the applicant's proposals to conserve water. He stated they feel these items will fit into the system of the water policy plan that will be under development this year. Mr. Aiken explained KDHE's proposals concerning a minimum charge, five-year increments, adjusting contracts and deferred payment. Answering questions from the Committee, Mr. Aiken said they consider the bill to be in a developmental stage and feel the items which they have mentioned are worthy of consideration. He went on to say they are not specifying what conservation measures should be taken, but feel the State of Kansas should promote consideration of conservation and reduce waste of water.

R. L. (Dusty) Chandler said he was appearing on behalf of the Kansas Section-American Waterworks Association. He read his written testimony (Attachment 2). Mr. Chandler testified his association does not oppose S.B. 61 but does have some concerns and comments. He mentioned the interest rate in Section 5 is of concern; they do not feel the State of Kansas should make a profit on this. They suggest eliminating the words "other than federal reservoirs" from Section 14. They concur with the establishment of a conservation storage water supply fund as provided in Section 14, but do not believe it should be funded with interest charges and replacement charges because only a few contractors would be paying these charges for future planning. They feel these costs should be spread over all surface waters and even groundwater if the State should begin development in this area. Regarding the 2.5¢ replacement charge, Mr. Chandler raised such questions as: What is the basis for the charge? Will it produce sufficient revenues? Is it truly a replacement cost or is it a fund for development of future reservoirs? What is the unit to which the 2.5¢ is to be applied? Mr. Chandler suggested the bill provide the rates shall be adjusted if necessary. He also commented on the ten year minimum period for contracts and whether Section 6(b) would mean that interbasin contracts are not subject to legislative review. Responding to a question from Senator Roitz, Mr. Chandler said they feel the revenues for the conservation storage water supply fund should be from all state-funded water projects.

Dennis Schwartz explained the Tri District Treatment Facility is made up of three rural water districts in Shawnee, Douglas and Osage Counties. He said one of their concerns was, as they understand the bill, the interest on the unused water and the 2.5¢ replacement charge could possibly be applied to existing contracts and they would like a clarification on this point. He also said they are concerned that the first users in are going to be paying for more than what their share is on a state-wide plan. Further, they are concerned that the contract provisions of the bill could dramatically affect them.

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

*Please see January 27, 1983 minutes which reflect an amendment made to the above minutes.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 123-S, Statehouse, at 8:00 a.m./~~PM~~ on Thursday, January 27, 1983

Buford M. Watson, Jr. read his written testimony (Attachment 3). Mr. Watson said they object to the bill for the following reasons: (1) annual price adjustment, (2) floating interest penalty on unused water, (3) floating interest charge on money advanced by the State of Kansas to pay the federal obligation, (4) annual review and possible reduction of allocations after six years, and (5) the 2.5¢ surcharge. Mr. Watson emphasized the City of Lawrence would like to be exempted from the bill. Chairman Angell stated he was not aware of any attempts to overturn any contracts already in effect. Senator Feleciano said it was his understanding the only impact for the City of Lawrence would be on the 10-year review. Mr. Watson reiterated they would like to see the matter clarified in the bill. Senator Werts asked Mr. Watson how he feels future development should be funded. Mr. Watson answered that a sales tax on all water would be a solution. Answering questions from Chairman Angell, Mr. Watson said he feels the State must decide whether its major concern is to recover the money that has been advanced for the development of the reservoir system or whether its major concerns is to conserve and prioritize the use of water. Responding to a question from Senator Gannon, Mr. Watson said their wholesale price for water is around 80¢ to 85¢ which includes the costs of pumpage, electricity, etc.

Written testimony of Louis Stroup, Jr., Kansas Municipal Utilities (Attachment 4) was distributed to the Committee.

The meeting was adjourned at 8:53 a.m. by the Chairman.

The next meeting of the Committee will be at 8:00 a.m. on January 28, 1983.

Senate Energy & Natural Resources

Jan. 27, 1983

| <u>Name</u> | <u>Organization</u> |
|--------------------|---|
| Boyd D. Shenkel | K.C.P.C. |
| Jeffrey Conrad | KESE |
| George Barber | K's Consulting Engne. |
| Jim Starke | KPL |
| Bru PERDIE | KPL |
| Jack Alexander | K.W.D. |
| Dennis F. Schwartz | Shawnee Co. RWD #8 |
| CA Worthington | Douglas Co RWD #3 |
| Wayne Roberts | Johnson Co RWD #7 |
| Mike Dunningway | Bartlett & West Eng. |
| DAVID FURFAS | Wichita Chamber |
| R.F. Chagalla | Kansas Section RWD #1 Water Dist #1 Johnson County |
| KE Peltz | City of Topeka Water Dept. |
| CR Duffy | KWA Staff |
| Dave BARNES | UES |
| Roland Wieln | Kansas Natural Resource Council |
| LAURA EPKER | BUDGET |
| Susie Schroeder | BUDGET |

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 _____ storage

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~~ _____ section 10

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~~ _____ storage

0153 capacity committed to the state not
0154 required to meet contract requirements under this section if the
0155 ~~board~~ *it* has found such waters to be surplus waters. Any ar-

0156 rangement for the disposition of any such surplus waters shall not
0157 be subject to the provisions of K.S.A. 82a-1306 to ~~82a-1308,~~
inclusive, 82a-1307 and section 7, and amendments thereto,

Atch. 1

0158 ing 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

based upon the water supply demand plan in section 10 as
 a percent

percentage

as specified in paragraph 3, section 7

or before

fifth

fifth year

(a) does not withdraw the minimum quantity as defined in the contractors water supply demand plan and (b)

specified in paragraph 3, section 7.

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;~~

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 ~~first~~ 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;

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

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);

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-~~

~~and with that portion of the state's conservation water supply
city;~~

(f) (7) provisions that if the total amount of waters contracted for withdrawal from any reservoir in any year is greater than the supply available from that reservoir, the board authority will apportion the available waters among the persons having contracts therefor as may best provide for the health, safety and general welfare of the people of this state as determined by the board authority, and neither the state nor the board authority shall be responsible or have any legal liability for any insufficiency of water or apportionment thereof;

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

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

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

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

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 ~~29~~ *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
 contract filed under this ~~paragraph subsection~~.

0303 New Sec. 7. (a) On ~~July 1~~ *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
 _____ or before

06 r. Fixed shall be equal to the sum of the following components
07 computed as provided in this section:

08 (1) An amount necessary to repay the amortized capital costs
09 associated with the state's conservation water supply capacity;
10 ~~plus a replacement cost of \$.025;~~ (2)

11 ~~(2)~~ an amount as interest computed at a rate per annum equal (3)
12 to the average of interest earned the past 12 months on invest-
13 ments by the pooled money investment board on the total amount
14 of moneys advanced from the state general fund for payment of
15 the amortized capital costs incurred and associated with the
16 state's conservation ~~water supply capacity;~~ storage

17 ~~(3)~~ the amount necessary to reimburse the state for the en- (4)
18 forcement of this act. Such amount shall be based on the actual
19 costs of administration and enforcement in the preceding year;
20 and

21 ~~(4)~~ the amount necessary to repay the operation, maintenance (5)
22 and repair costs associated with the state's conservation ~~water~~ storage
23 supply capacity.

24 (b) In computing such rates, the authority shall consider the
25 state's conservation ~~water supply capacity from all sources as~~ storage
26 though impounded in one single reservoir. No water supply
27 capacity of a reservoir shall be considered to be in such capacity
28 until the year in which the state incurs contract obligations for the
29 project. The rate so fixed for each year shall be the same for each
30 contract under K.S.A. 82a-1305, and amendments thereto, for
31 withdrawal from every reservoir. The rate so fixed for each
32 twelve-month period from January 1 to December 31 shall be the
33 same for every contract under K.S.A. 82a-1305, and amendments
34 thereto.

35 Sec. 8. K.S.A. 82a-1309 is hereby amended to read as follows:
36 82a-1309. The executive director may require any person with-
37 drawing water pursuant to a contract under K.S.A. 82a-1305, and
38 amendments thereto, to install meters, gauges or other measuring
39 devices in accordance with specifications of the executive direc-
40 . The executive director or his or her the director's agents may
41 read any such device at any time, and he or she may require any
42 such person to report the readings of any such device at reason-

0343 e 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~~ _____ The
 0356 director shall transmit all available information necessary to _____ to the authority
 0357 determine whether or not to approve a contract to purchase water
 0358 from the state's conservation water supply capacity or to use _____ storage
 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 _____ storage
 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 _____ in its finding, but not necessarily limited to
 0374 ~~pertaining to such questions, including:~~ _____ demand plan
 (2) the applicant's current and future water conservation program

0375 (1) The present and future water supply ~~needs~~ of the appli- _____ state's conservation storage water supply capacity and any
 0376 ant; _____ other conservation capacity in said reservoir
 0377 (2) any current beneficial uses being made of the ~~water pro-~~ _____
 0378 ~~posed to be diverted;~~ _____
 0379 (2) any reasonably foreseeable future beneficial uses of the _____

state's conservation water supply capacity and any other conservation capacity in said reservoir;

~~any adverse impacts of the proposed sale of water;~~ (5)

~~(5) the economic, environmental, public health and welfare~~ (6)

and other benefits of approving the contract;

~~(6) alternative sources of water available to the applicant;~~ (7)

~~(7) the preliminary plan of design, construction and operation~~ (8)

of any works or facilities ~~used in conjunction with carrying the~~ for the applicant's water supply system
~~water to its point of use;~~

~~(8) whether the proposed purchase is consistent with the state~~ (9)

water plan approved by the legislature;

~~(9) the date of receipt of the application to contract for with-~~ (10)

drawal and use of water.

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

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

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



Kansas Section-American Water Works Association

January 26, 1983

Kansas Senate, Energy and Natural Resources Committee
 State Capitol
 Topeka, KS 66612

Re: Senate Bill 61 - Amending and supplementing the State
 Water Plan Storage Act

Members of the Committee:

Thank you for the opportunity to present the comments of the Kansas Section, American Water Works Association, on this important piece of legislation. The Kansas Section, American Water Works Association, is a non-profit organization made up of representatives of public water utilities in Kansas and other persons interested in public water supplies, such as state and federal water officials, consultants and equipment suppliers. Our sole objective is providing safe, reliable supplies of potable water to the residents of Kansas.

Our testimony is not in opposition to SB 61. We wish only to comment on a few of the provisions of the bill. We are aware of the tremendous amount of time, energy and expertise that have already been devoted to the preparation of this bill by the members of the Kansas Water Authority and their supporting staff, and we are grateful for their efforts.

General comments of our organization follow:

1. Sec. 5.(a)(2) and Sec. 5.(a)(6). Interest charges to persons contracting for water under the proposed bill are computed at a rate equal to the average interest for the past 12 months on investments by the pooled money investment board. Inasmuch as the State is repaying the Federal government for the separable costs incurred for addition of water supply storage in these reservoirs, and inasmuch as the average interest rate paid by the State on this debt is substantially less than the rate proposed above, we feel that the rate of interest charged should not be greater than that being experienced by the State in the repayment of this debt. We would suggest the use of the average rate of interest for which the State is currently obligated on the total costs of the water supply storage in the reservoir system.

Board of Trustees 1980 - 1981

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 Kermit Mangun, Kansas City
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Attch. 2

2. Sec. 14. (a). This section could be interpreted to read that future water supply storage could only be in impoundment other than federal reservoirs. We do not believe that this was the intent of the Water Authority. It would appear that water supply storage in future federal reservoirs could be feasible.
3. Sec. 14.(b). We concur with the need for establishment of a state conservation storage water supply fund, but we question the sources of revenue for the fund under the provisions of this bill. As the bill is written, monies for this fund would be derived only from (1) imposition of a higher interest rate on persons contracting for storage than that being experienced by the State in repayment of the debt and (2) levying a replacement cost, as presented in Sec. 7, (a) (1), on those persons who enter into contracts. We question these methods on the basis that the use of these excess-charges to parties who contract for water results in these persons paying into a fund for which they will receive no direct benefits. The true beneficiaries of the fund, will be the water users who will buy water from reservoirs to be built later. We believe that monies for such a water supply fund should be obtained from fees charged to all users of surface waters in the state, rather than only those users deriving their supplies from State-owned conservation storage in federal reservoirs. Levying this excess charge and the administrative costs of the water marketing program on only a small group of water users is discriminatory. Since the waters in the State are owned by the people of the State as a whole, development of a water supply fund and the administration of the water marketing program should be based on a fee assessed against all users of surface waters. The same reasoning should be applied to groundwater sources if the state funds groundwater supplies in the future.
4. Sec. 7.(a) (1). Questions concerning the 2½¢ "replacement" costs are:
 1. What is the basis for a 2½¢ charge?
 2. Will it produce significant revenues?
 3. Is it truly a replacement cost? Sec. 14(b) suggests that it is for a fund for development of future reservoirs.
 4. What is the unit to which the 2½¢ is to be applied?

Kansas Senate, Energy and
Natural Resources Committee
January 26, 1983
Page 3

5. Sec. 5 (a) (3). We recognize the need for periodic adjustment of rates; however, use of the term "...shall adjust the rate..." (emphasis added) allows little flexibility to the Authority. We propose that the wording be changed to "...shall review and adjust the rate, if necessary..."
6. Sec. 4. A minimum contract period is specified for ten years. While we feel this is a reasonable minimum value, we would urge the Authority to recognize during the negotiation of these contracts that most municipal utilities issue bonds with maturities of 20 years or longer, and it may make it more difficult to sell bonds if the contract for a supply of water is valid for only ten years. We would suggest that the ten year minimum term could be adjusted by negotiation to meet the contractors bonding needs.
7. Sec. 6.(b). We do not fully understand the intent of this section. Does it mean interbasin contracts are not subject to legislative review? It appears logical that all contracts should be subject to the same review process.

Thank you for the opportunity of expressing these views. We share the interest of the Committee and the Kansas Water Authority in developing legislation that will best serve the interests of all water users in the State, and we are available at your pleasure to respond to questions or comment further.

Sincerely,



R. L. Chandler, Chairman
Public Affairs Committee

RLC:sw



City of Lawrence KANSAS

BUFORD M. WATSON, JR., CITY MANAGER

CITY OFFICES 6 EAST 6th
BOX 708 66044 913-841-7722

CITY COMMISSION

MAYOR

MARCI FRANCISCO

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January 27, 1983

Chairman Charlie L. Angell
Senate Energy and Natural Resources Committee
Kansas State Capitol
Topeka, Kansas

RE: Opposition to Senate Bill 61

Mr. Chairman:

My name is Buford M. Watson, Jr., and I am City Manager of Lawrence. I appreciate the opportunity to speak to this committee in opposition of Senate Bill 61. The Governing Body of the City of Lawrence last Tuesday passed a resolution expressing opposition to Senate Bill 61 which is included with this communication.

In brief, the resolution expresses opposition to the State changing the rules of the game. The City of Lawrence, who was the first municipality to contract for water under the State Reservoir System, negotiated our 40-year contract under the contractual conditions that existed in 1977. Lawrence has since secured financing and built water lines, a lake intake and a treatment plant based on the feasibility of the contractual conditions of 1977. The following conditions of Senate Bill 61 did not exist in 1977:

1. An annual price adjustment;
2. Floating interest penalty for unused water;
3. Floating interest charge on money advanced by the State to pay the Federal obligation;
4. An annual review and possible reduction to allocations after six years;
5. A two and one-half cent surcharge.

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Chairman Charlie L. Angell
Topeka, Kansas
January 27, 1983
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We believe the State should honor the conditions of its existing contracts by grandfathering them from the new conditions of Senate Bill 61.

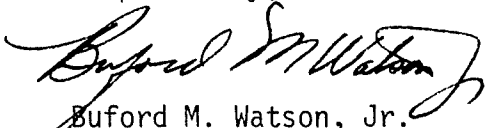
Since Lawrence is in the forecasted growth area of Kansas, we need an ever increasing supply of water. So, our principal concern is achieving an adequate, secure supply of water. Senate Bill 61's provision, which places our allocation in jeopardy after six years if another user exists, is a totally unacceptable provision. The interest penalty on the unused water would also hinder our planning efforts. We believe that the alternative of step increases in the 50% "take or pay" minimum to achieve 100% utilization over a 25-year period would accomplish the same goal without hindering good planning.

We are also opposed to the two and one-half cent surcharge because it has no bearing on the State's cost in providing the water. Contemporary financing of public improvements uses a "pay as you go" philosophy, not a "pay in advance."

Our last objection concerns the floating interest rate charged for monies advanced by the State to pay the Federal government. We do not believe the State should charge its citizens a much higher rate of interest than the fixed rate (less than 4%) charged by the Federal government for all the reservoirs. Why should early participants in the system be responsible for the deficit when they have no control over the State's water marketing activities?

The purpose of the 1958 Federal Water Supply Act is to provide water for future municipal and industrial use. We hope this future orientation prevails in the formulation of Senate Bill 61. I appreciate the opportunity of speaking to your committee on behalf of the City Commission of Lawrence.

Respectfully,


Buford M. Watson, Jr.
City Manager

BMW/ed

RESOLUTION NO. 4646

A RESOLUTION EXPRESSING OPPOSITION TO SENATE BILL 61
PROPOSED BY THE KANSAS WATER AUTHORITY RELATING TO THE
STATE WATER PLAN STORAGE ACT.

WHEREAS, under the 1958 Federal Water Supply Act, the State of Kansas acquired the water supply storage in nine Federal reservoirs for future municipal and industrial water supply, and

WHEREAS, the City of Lawrence has a 40-year contract with the State of Kansas to purchase 10 million gallons of water per day from Clinton Reservoir, and

WHEREAS, the City of Lawrence has spent over 7 million dollars to build water lines, a lake intake and a treatment plant so the Clinton water can be used by Lawrence residents, and

WHEREAS, the City of Lawrence will pay the state over 8 million dollars over the life of our contract, and

WHEREAS, the state legislature is now considering Senate Bill 61 which has several provisions that would adversely effect Lawrence's contract.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE,
KANSAS:

The City of Lawrence is in opposition to Senate Bill 61 for the following reasons:

1. Senate Bill 61 has an additional 2 1/2 cents charge per 1,000 gallons which has no bearing on the cost the state incurs in providing the water nor is the purpose of the 2 1/2 cent charge consistent with contemporary utility or public improvement financing.
2. Increasing the rate of interest from 5% per annum to a floating percentage on the monies advanced by the state to pay the Federal government is inequitable for two reasons. First, why should the existing participants in the system be penalized for the state's lack of securing enough contracts to pay the Federal government? A better approach would be to aggressively market the water at reasonable rates. Second, why should the state charge its citizens a high rate of interest (10% to 15%) when the Federal government is charging the state a fixed rate of interest of less than 4% for all of the reservoirs?
3. Since the purpose of the 1958 Federal Water Supply Act is to provide water for future municipal and industrial use, an interest charge on unused water above the 50% "take or pay" minimum seems contrary to this purpose. An alternative of a periodic percentage increase in the "take or pay" minimum to achieve 100% utilization after 25 or 30 years would allow a participant to plan for their future water needs.
4. Such a periodic "take or pay" increase would also be an alternative to the proposed yearly review and potential loss after the six year anniversary of a participant's allocation. Such an annual review would also hinder a participant from planning for their future water needs.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this 25th day
of January, 1983.

ADOPTED

ATTEST:

Vera Mercer
Vera Mercer, City Clerk

Marci Francisco
Marci Francisco, Mayor

6th Report to Governor
1980

TABLE IV-1. RESERVOIR REPAYMENT DATA

| Lake or Reservoir | Probable Fiscal Year Repayment Starts | Water Supply Allocation AF | Two Percent Chance Yield mgd | Interest Rate on Investment ^{1/} | Estimated Water Supply Costs | |
|--------------------------|--|-------------------------------------|---------------------------------------|---|--------------------------------------|---------------------------------|
| | | | | | First Const. \$1000 ^{2/} | Annual Payment ^{3/} |
| | (1) | (2) | (3) | (4) | (5) | (6) |
| John Redmond | 1975 | 34,900 | 26.5 | 2.670 | 4,499 | \$157,580* |
| Council Grove | 1976 | 24,400 | 5.6 | 2.699 | 1,462 | 52,200* |
| Elk City | 1976 | 24,300 | 16.4 | 2.742 | 2,147 | 77,272* |
| Milford | 1977 | 300,000 | 128.6 | 2.632 | 13,046 | 455,987* |
| Marion | 1978 | 38,300 | 5.7 | 3.046 | 1,576 | 59,974* |
| Perry | 1979 | 150,000 | 79.5 | 3.046 | 8,977 | 336,702* |
| Clinton | 1980 | 53,500 | 11.4 | 3.502 | 4,463 | 182,844 |
| | 1990 | 35,700 | 7.4 | 3.502 | 2,786 | 114,792 |
| Big Hill | 1981 | 9,200 | 2.5 | 4.012 | 2,568 | 115,167 |
| | 1991 | 16,500 | 4.6 | 4.012 | 4,604 | 206,476 |
| Hillsdale | 1982 | 7,500 | 2.5 | 4.012 | 3,214 | 144,124 |
| | 1992 | 45,500 | 14.9 | 4.012 | 19,498 | 874,423 |
| Subtotal | | 739,800 | 305.6 | | 68,840 | |
| <u>In Planning Stage</u> | | | | | | |
| Onaga | | 81,000 | 18.1 | 7.210 | 37,690 | 2,615,200 |
| Cedar Point | | 106,000 | 13.7 | 7.210 | 24,507 | 1,700,467 |
| Towanda | | 8,800 | 2.8 | 7.210 | 1,792 | 124,342 |
| Douglass | | 68,800 | 13.6 | 7.210 | 24,172 | 1,677,223 |
| Total | | 1,004,400 | 353.8 | | 157,001 | |

^{1/} Federal interest rate for FY 1981 is 8.605%. ^{2/} Includes interest during construction.

^{3/} Includes principal plus interest repayment, but does not include annual operation and maintenance costs.

Source: U.S. Corps of Engineers recent cost allocation (1980 prices).

*Annual charge on principal plus interest from agreement signed by state or based on repayment being negotiated with Corps of Engineers.

COMMENTS ON SB 61
Senate Energy and Natural Resources Committee
January 26, 1983
Louis Stroup, Jr., Executive Director

Mr, Chairman, members of the Committee, KMU would like to endorse the League of Kansas Municipalities' position on this measure. To save time and avoid repetition, I would just like to state that KMU also supports SB 61 if the amendments proposed by the League are accepted by this committee.

KMU worked closely with the League in drafting the proposed amendments and we would like to thank the committee for allowing us, the water consumers, to have input into this bill.

We understand the need for SB 61 and respectfully urge the adoption of the proposed amendments so the measure will be equitable for both water users and the state.

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