

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./^{XX}p.m. on Friday, January 28, 1983 in room 123-S of the Capitol.

All members were present except:
Senator Ben Vidricksen

Committee staff present:
Ramon Powers, Research Department
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee: None

Senator Feleciano moved that the minutes of the January 27, 1983 meeting be amended to reflect that the amendments suggested by KDHE were not taken to the Kansas Water Authority for consideration. Senator Kerr seconded the motion. After further questioning of Mr. James F. Aiken, Jr., Senator Roitz made a substitute motion that the minutes reflect that some of the concepts of the amendments were discussed by the Kansas Water Authority but these specific written amendments were not because there was no written bill at that time. Senator Kerr seconded the motion, and the motion carried. Senator Werts moved that the minutes of the January 27, 1983 meeting be approved as amended. Senator Gordon seconded the motion, and the motion carried.

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

A letter from Kansas Fish & Game was distributed to the Committee (Attachment 1).

Chairman Angell told the Committee that Buford M. Watson, Jr., City of Lawrence, yesterday raised the question of the constitutionality of abatement of contracts, and the Chairman advised that an Attorney General's opinion on the matter has been requested.

A letter from the Kansas Water Authority containing their proposed amendments to the bill was distributed to the Committee (Attachment 2).

By consensus, the Committee agreed to the following amendments:

In line 59, to strike the word "state's".

That line 128 shall read: "into written contracts negotiated by the director with any persons for withdrawal and use".

Senator Werts moved that line 132 read as follows: "negotiating a contract, that such use is in the public interest of the State of Kansas and". Senator Roitz seconded the motion, and the motion carried.

The Committee discussed the proposal to include a 7.5¢ price floor in Section 5 and agreed to make a final decision later.

By consensus, the Committee agreed to the following amendments:

In line 203, to replace the date of July 1 with the date of July 15.

That line 137 shall read: "(3) the amount necessary to reimburse the state for the administration and en-".

To delete the word "such" from line 425.

The meeting was adjourned at 9:01 a.m. by the Chairman.

The next meeting of the Committee will be at 8:00 a.m. on February 1, 1983.

Senate Energy + Natural Resources.

Jan. 28, 1983

Barbara Spibel	KDHE
Jim Aiken	KDHE
Joe HARRIKINS	KWO
Deb Miller	Gov's office
Bill Anderson	Water Dist #1 Jo Co
Jerry Counsel	KGE
Lon Stanton	KPL
BILL PERDUE	KPL
Martha Murgelsday	Kansas Water Authority
Bill Henry	KS Engineering Society
John A. Henderson	Kansas Water Office
Chris McKenzie	League of Ks. Municipalities
David Darling	KS Water Office
Richard E. Rolp	Ks. State Bd of Ag - DWR
DALE BAJEMA	Ks. Geol. Survey
Paul Sasse	City of Independence
James Power	KDHE
Kenny Wedel	Kansas Natural Resources Council
Larry Panning	Kan. Water Auth.
Dorothy Panning	... wife
Lock H. Alexander	Kansas Water Authority
Mike Cavanaugh	Bartlett & West Eng.
Dennis P. Schwartz	Shawnee Co. RWD #8
CR Duffy	KWD Staff

Kansas Fish & Game

BOX 54A, RURAL ROUTE 2, PRATT, KANSAS 67124
(316) 672-5911

Attachment 1

REGIONAL OFFICES:

*Northwest Regional Office
Rt. 2, 183 Bypass
Hays, Kansas 67601*

*Northcentral Regional Office
Box 489, 511 Cedar
Concordia, Kansas 66901*

*Northeast Regional Office
3300 S.W. 29th Street
Topeka, Kansas 66614*

*Southwest Regional Office
808 Highway 56
Dodge City, Kansas 67801*

*Southcentral Regional Office
Box 764, 204 West Sixth
Newton, Kansas 67114*

*Southeast Regional Office
222 West Main Building
Suite C & D
Chanute, Kansas 66720*

January 26, 1983

Senator Charlie L. Angell
Senator, 38th District
Statehouse, Rm. 355-E
Topeka, KS 66612

Dear Senator Angell:

The impacts of water planning, use, and development on fish, wildlife, and the environment are of critical concern to the Kansas Fish and Game Commission, the prime state agency responsible for conserving and propogating the State's wildlife resources.

Planners in prior years have recognized the importance of integrating water issues with fish and wildlife considerations. K.S.A. 82a-903, 907, 927, of the state water plan; K.S.A. 74-3308, and the Kansas State Water Council Policy adopted April 5, 1979, all attest to this fact.

Senate Bill No. 61 grossly neglects the concerns generated by public interest that fish and wildlife resources should be included in water planning.

The Kansas Fish and Game Commission does not object to the need for a bill such as Senate Bill No. 61; however, to insure proper consideration of all natural resources, we suggest the following changes in Senate Bill No. 61.

Section 4. While possibly not the intent of this section, it can certainly be interpreted that water releases for almost any purpose other than stream-flow maintenance, would require a user charge. This seems to include releases for repair of boat docks, marinas, beaches, boat ramps, stilling basins, operational machinery repairs by the Corps of Engineers, as well as releases for water quality (unless included in minimum stream flows), navigation, and fish and wildlife management purposes. K.S.A. 82a-938 of the State Water Plan indicates that recreation, fish and wildlife are components of the project long-range purposes. Navigation is included in several reservoirs. Consequently, as the maintenance of the fish and wildlife resource is in the public interest of the people of Kansas the last sentence in this section should be changed to read. . .Whenever the disposition of any such surplus waters is for any purpose other than for streamflow maintenance or reservoir pool fluctuation plans, a charge shall be levied thereon at a rate set by rule and regulation adopted pursuant to this act.

Atch. 1

Section 10.b.2. add "including minimum stream flows"

Section 10.b.4. add "including impacts on minimum stream flow requirements"

The Kansas Fish and Game Commission does not oppose Senate Bill No. 61, on the basis of the intent of the bill including the need for a mechanism of planning. However, the Kansas Fish and Game Commission does oppose Senate Bill No. 61 because of the very apparent weakness in this bill to obligate concerned parties to address fish and wildlife resources or impacts on such resources. If changes were made to ensure input into water planning procedures and activities by the fish and wildlife agency, no opposition would be required on behalf of the Fish and Game Commission.

Thank you for considering this very important matter.

Sincerely,

A handwritten signature in cursive script that reads "Bill Hanzlick". The signature is written in dark ink and is positioned above the typed name and title.

Bill Hanzlick, Director
Kansas Fish and Game Commission

BH/pg

KANSAS WATER AUTHORITY

Patrick J. Regan, chairman



The New England Building Suite 303 · 503 Kansas Avenue · Topeka Kansas 66603 · Telephone (913) 296-3185

January 25, 1983

The Honorable Charlie Angell
 Chairman of the Senate Committee
 on Energy and Natural Resources
 Room 355-E, Statehouse
 Topeka, KS 66612

Dear Senator Angell:

You requested that the Kansas Water Authority submit to you in writing the concerns raised on Tuesday, January 25, 1983, with the draft language of Senate Bill 61.

They are as follows:

1. On Page 2, Line 59. The Authority's proposed language did not include the word "state's." The intent is only for clarification purposes.
2. On Page 4, Line 128. It was the intent of the Authority to include the phrase "Negotiated by the director" after the word "contracts" and before the word "with." This proposed amendment was approved by the Authority to clarify that it is the responsibility of the Director and not the Authority to negotiate all contracts.
3. On Page 4, Lines 129-133. The Authority's proposed language has been modified by the draft. The Authority's original language was taken from language now in the state's Appropriation Act speaking to out-of-state sales or use of Kansas groundwater. The Authority would raise the question of whether there is merit in maintaining language in Senate Bill 61 speaking to out-of-state sales of surface water that is consistent with the existing statutory language for groundwater.

If it is your decision to use the language in the draft, the Authority would ask whether in line 132, it is necessary to specify clearly that the reference is to the public interest of the State of Kansas.

4. On Page 5, Section 5 (a) (1). The draft bill in the appendix of the Authority's report inadvertently dropped a proposed 7.5 cents per 1,000 gallons price floor which was adopted by the Authority and is referenced at page 65 and in more detail at page 74 of the narrative of the Authority's Report to the Legislature. The draft does not include the 7.5 cent floor in Section 5 (a) (1). The Authority would ask that you consider restoring this floor to the price section of the bill.

Attch. 2

5. On Page 6, Line 203. Delete July 1 and insert in Lieu Thereof July 15. The Pooled Money Investment Board indicated the interest rate information necessary for this provision of the bill cannot be computed until after July 1. By delaying the date the price is fixed until July 15, the interest rate amount can be accurately computed.
6. On Page 7, Lines 254-256. The draft bill in the appendix of the Authority's report inadvertently dropped the word "or" which was to have replaced the word "and." The Authority's language should then have read: "...if the use of such water requires the issuance of bonds or the construction of transmission facilities." The reasoning in providing this change was that buyers might use a means other than bonds to finance a project. With the word or, they would not have to meet the test of both bonding and construction to be able to defer.
7. On Page 7, Line 260. The word "two" should be deleted and the word "three" should be inserted in lieu thereof to remain consistent with the proposed amendments in Section 5 (b).
8. On Page 8, Lines 289 and 297. A discrepancy appears to have arisen. The Authority was not working with the 1982 session law change that provided for the late delivery of the Iola contract and referenced the Kansas Water Office. The language possibly should read either "director" at both places or Kansas Water Office.
9. On Page 9, New Section 7(a)(2). The Authority language had recommended that interest be computed on all monies advanced from state funds - not just monies advanced for amortized capital costs. The Authority would raise the question for your decision.
10. Page 9, Line 317. The Authority would question if it is not also necessary to add the words "administration and" before the word "the" and after the word "enforcement."
11. At Page 12, Line 425. The Authority's intent was that the Chief Engineer protect and have agreements to protect any releases from conservation water supply capacity, including releases of surplus water for minimum streamflow maintenance if the water is surplus to the contracts. The Authority would raise the question as to whether the words "any such releases" refers back to water supply contracts only in lines 407 and 408. The word "such" may be triggering this question.
12. Page 12, Line 426. The word "changed" should be "charged."
13. On Page 12, New Section 14, Line 435. The Authority does not intend to exclude development of water supply in federal reservoirs. The Authority would strongly urge that the words "other than federal reservoirs" be deleted. The words appear to be accidentally picked up from old Senate Bill 95.

14. Regarding the language construction for the Conservation Fund, the Authority would raise the question whether by tying the amount of monies the state treasurer can deposit to the credit of the general fund at (b) (1) to "the annual repayment on water storage costs in federal reservoirs" will it be possible beyond the breakeven year to use any user revenues in excess of the annual repayment cost to begin to repay the early-year advances from the general fund. The Authority believes the money generated by the price for the Conservation Fund should be protected against having to use that to begin making the early-year repayments. The question then becomes at the breakeven year and beyond, when the revenues are sufficient to pay the annual costs, the Conservation Fund monies, and then some, whether that excess amount should be available to start making early-year repayments or remain in the Conservation Fund for development. The amendments proposed by the Authority are as outlined on page 12, lines 431-449.

Respectfully Submitted,

Jack Alexander
Jack Alexander
Member,
Kansas Water Authority
by Chad Ruffly