

MINUTES OF THE Senate COMMITTEE ON Energy and Natural ResourcesThe meeting was called to order by Senator Charlie L. Angell at
Chairperson8:00 a.m./~~p.m.~~ on Wednesday, March 23, 1983 in room 123-S of the Capitol.All members were present ~~except~~:

Committee staff present:

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

Conferees appearing before the committee:

Joe Harkins, Director, Kansas Water Office
Dee Likes, Kansas Livestock Association
Don Jacka, Assistant Secretary of Agriculture
Paul Fleener, Kansas Farm Bureau
Becky Crenshaw, Committee of Kansas Farm Organizations

The minutes of the March 22, 1983 meeting were approved.

S.C.R. 1622 - Directing studies of minimum streamflow requirements of certain watercourses

Mr. Harkins explained that this resolution deals with minimum streamflows and the basic thrust is that it directs the Kansas Water Office and other water related agencies to work toward developing a proposal for the Legislature to be a part of the state water plan. He said the resolution directs the development of: (1) a methodology for determining just what a minimum streamflow must be, (2) a method for administering minimum streamflows once they are enacted, and (3) a method of reliably monitoring those streamflows which will require the Office to work with the U.S.G.S. Senator Hess asked why the Marais des Cygnes and Neosho basins had been singled out in the bill. Mr. Harkins said the Kansas Water Authority had identified these as priorities. They feel there is enough water flowing that minimum streamflows can be set with the expectation they can be maintained. He said they intend to do all the major basins this year but experiment and have field tests on these two. Chairman Angell asked about the order of priorities for minimum streamflows. Mr. Harkins said that will be spelled out in the state water plan. Answering a question from Senator Feleciano, Mr. Harkins said that various studies on streamflows have been conducted for years, but the Office will be taking all of this information into consideration and setting a state policy for developing a program to administer standards. Mr. Harkins provided the Committee with a letter from the Kansas Water Authority urging the adoption of S.C.R. 1622 (Attachment 1).

S.B. 409 - Confirmation by the Senate of the chief engineer of the state board of agriculture

Senator Vidricksen provided a copy of the criteria to be used in determining who should or should not be confirmed (Attachment 2). He said he feels, and the Committee would probably agree, that numbers 2, 4 and perhaps 5 are applicable. It only takes one of the seven types listed to trigger the confirmation. Senator Vidricksen said the Chief Engineer and the Secretary of Agriculture were not part of the interim study but were amended in later by the committee.

Dee Likes testified that they don't see that the confirmation of the Chief Engineer is necessary. He said the Division of Water Resources has been impartial and efficient in its duties. Answering a question from Senator Feleciano, Mr. Likes said he would say there are numerous other positions in state government who would also fall under the seven types listed.

Don Jacka said the position of Chief Engineer is a classified civil service position so that the Chief Engineer can perform his functions without any interference by any outside influences. Mr. Jacka described the process through which the present Chief Engineer was selected. The outgoing Chief Engineer was asked to submit a list of possible nominations, letters from others in the area of water resources with possible nominations were received and advertisements were placed in interstate and intrastate professional engineering magazines. They received 35 to 40 applications and set up a stringent set of guidelines used to determine the 7 applicants who were interviewed. They do not oppose the bill but

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 123-S, Statehouse, at 8:00 a.m. ~~XXX~~ on March 23, 1983.

are concerned about the technical processes. Mr. Jacka raised the question of whether a classified employee can be confirmed after that employee has become permanent. Senator Hess asked if the mechanical problems can be alleviated, would they have any objections to the bill. Mr. Jacka answered no. Mr. Jacka said he knew of no classified positions presently confirmed by the Senate. Answering a question from Senator Chaney, Mr. Jacka said a classified employee can be removed only for cause. Senator Werts asked how many unclassified positions there are in the Department of Agriculture. Mr. Jacka answered the Secretary, the two attorneys and the special project people concerned with water are the only unclassified employees.

Paul Fleener summarized his written testimony (Attachment 3). He said they oppose the bill and think there is a problem with reaching down into the classified level to make confirmations. He mentioned if this bill were to pass, they suggest there are other areas that should be examined, such as the Director of Taxation, the Director of the Property Valuation Department, the Director of the Division of Vehicles, the Highway Advisory Commission and the Building Advisory Commission. Senator Hess asked Mr. Fleener if the Chief Engineer has to go to the Secretary of Agriculture when he is carrying out a statutory responsibility. Mr. Fleener answered no. Senator Kerr asked Mr. Fleener if he would agree that there has been a merging of various groups in the state interested in water policy and that the state has moved on to really carry out some water policies and if this bill were passed, this would take a very significant step backwards. Mr. Fleener said they oppose changes in water law that will result in major reorganization.

Becky Crenshaw said her organization is unanimously opposed to S.B. 409. They feel it would be a mistake to set a precedent of confirming positions such as the Chief Engineer. She stated that the Secretary of the State Board of Agriculture is not confirmed.

The meeting was adjourned at 9:02 a.m. by the Chairman. The next meeting of the Committee will be at 8:00 a.m. on March 24, 1983.

Senate Energy & Natural Resources

Mar. 23, 1983

<u>Name</u>	<u>Organization</u>
CR Duffy	ISWO
David Pope	DWR, KSBA
Don Jacka	KANSAS STATE BOARD OF AGRICULTURE
Paul E. Fleener	Kansas Farm Bureau
Lahn Blythe	" " "
Becky Crenshaw	Comm of the Farm Org.
Bill [unclear]	KLA
James [unclear]	KPC
Del Brewster	Proco Prod. Co.
John A. Henderson	Ks. Water Office League women voters
Ed. Reinert	
Bob Glynn	Hutch Com. College
Tom Stiles	Kansas Water Office
Robert Anderson	Mid Cont Oil & Gas

KANSAS WATER AUTHORITY

Patrick J. Regan, chairman



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

March 22, 1983

The Honorable Charlie Angell
Chairman, Senate Energy and
Natural Resources Committee
Rm. 355-E, Statehouse
Topeka, KS 66612

Dear Senator Angell:

Several weeks ago, I testified before your committee on behalf of the Kansas Water Authority on S.B. 273, dealing with minimum desirable streamflows. We felt at that time that 273 was a good bill and as I pointed out in that testimony, the Authority is not only interested in identifying the minimum flows, but to actually implement a minimum streamflow program.

There was some concern at the time of the hearing on 273 that existing statutes would provide the vehicle to achieve minimum flows on streams in Kansas. After discussion between Mr. Harkins of the Kansas Water Office; Mr. Regan, Chairman of the Kansas Water Authority; and myself, it was agreed that a concurrent resolution instructing the Water Office to proceed to develop methodology, monitoring and administrative procedures would accomplish the same results. Further, that field tests of minimum flows on two streams (the Marais des Cygnes and the Neosho) be conducted utilizing the information assimilated by the Division of Water Resources as requested by the Kansas Water Authority.

At its March 15, 1983, meeting the Kansas Water Authority voted to endorse Concurrent Resolution 1622 and would urge your support and the eventual adoption by both houses of the Legislature.

Respectfully,

Robert J. Binder
By CRD

Robert J. Binder
Member of the KWA

RJB:dk

cc: Members of the Senate Energy and
Natural Resources Committee

Attch. 1

Positions Subject to Confirmation. The Special Committee reviewed the statutes pertaining to executive appointments and nominations. The Committee developed several criteria to be used in deciding whether or not a particular position should be subject to Senate confirmation. The Committee believes that the following types of appointments should be subject to Senate confirmation:

1. appointments to agencies handling large amounts of state monies;
2. agencies operating in sensitive areas of high social concern;
3. key cabinet-level positions;
4. major policymaking positions;
5. regulatory agencies;
6. financial regulatory agencies; and
7. fee agencies with regulatory powers.

The Committee does not believe relatively minor administrative positions or appointments to advisory bodies should be subject to Senate confirmation. Using these criteria, the draft legislation makes several changes in existing statutes which concern positions now subject or not subject to confirmation. These policy changes contained in the bill are noted below, as well as the Committee's rationale for recommending the change.

Senate Confirmation of Executive Appointments

S.B. 496, as amended by S.B. 899, concerns the procedure utilized for Senate confirmation of executive appointments. The bill establishes a uniform procedure regarding Senate confirmations. The legislation requires that all appointments subject to confirmation by the Senate will be received, considered, and acted upon in the manner provided by rules of the Senate. Appointments may be confirmed only by an affirmative vote of a majority of the Senate. If the Senate votes on the question of confirmation and the appointment is not confirmed, the office will become vacant at that time.

Provision is made for an appointing authority to withdraw an appointment or for a successor of an appointing authority to withdraw an appointment from consideration if the appointment was made to fill a vacancy occurring after the successor was elected to succeed the appointing authority. This provision is intended to permit an incoming governor or other elected official to withdraw any appointments made by a "lame duck" elected official.

If the Senate votes on the question of confirmation and the appointment is not confirmed, the appointing authority may not subsequently appoint the same person to the same office. The bill also provides that, if a particular appointment is subject to Senate confirmation, any appointment to fill a vacancy in an unexpired term of that office will also be subject to Senate confirmation.

The bill also makes several changes in existing statutes which concern positions now subject or not subject to confirmation.

A. Appointments to the following positions will no longer be subject to Senate confirmation:

1. Board of Accountancy
2. Washburn University Board of Regents
3. Election Commissioners
4. Governor's Commission on Fire Protection
Personnel Standards and Training
5. Grain Advisory Commission

6. Milk Advisory Committee
7. Board of Healing Arts
8. Statewide Health Coordinating Council
(chairperson)
9. Kansas Turnpike Authority
10. Kansas Veterans' Commission
11. Board of Embalming
12. Mexican American Affairs
Advisory Committee
13. Board of Technical Professions
14. Behavioral Sciences Regulatory Board
15. State Building Advisory Commission
16. Director of Information Systems
and Computing
17. Highway Advisory Commission
18. Director of Taxation
19. Director of Property Valuation
20. Director of Vehicles
21. Commissioner of Rehabilitation Services
22. Commissioner of Social Services
23. Commissioner of Income Maintenance
and Medical Services
24. Commissioner of Mental Health and
Retardation Services
25. Commissioner of Alcohol and Drug
Abuse Services
26. Agricultural Labor Relations Board

B. Future appointments to the following positions will be subject to Senate confirmation:

1. Credit Union Council
2. Alcoholic Beverage Control Board of Review
3. Hazardous Waste Disposal Facility Approval
Board (public members)
4. State Fire Marshal

Attachment 3
STATEMENT TO THE
SENATE ENERGY & NATURAL RESOURCES COMMITTEE

RE: S.B. 409
March 23, 1983
Topeka, Kansas

by
Paul E. Fleener, Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and members of the Committee:

We appreciate the opportunity to appear on S.B. 409. We are here to oppose this legislation which would require Senate confirmation of the appointment of the Chief Engineer of the Division of Water Resources, State Board of Agriculture.

There was legislation in 1982 which sought to include the Chief Engineer. The same bill, which became Chapter 347 of the laws of 1982, at one time contemplated Senate confirmation of the Secretary of the State Board of Agriculture, the Chief Engineer, and several other individuals. Those that were in the Department of Agriculture, starting with the Secretary, were deleted from the bill as the confirmation process received its update. We think it was appropriate that these offices were deleted from the bill.

It has been said that Senate confirmation provides prestige for the office. We are not here to argue that point. We are here today to tell you that in its long history there has not been even a hint of wrongdoing in the State Board of Agriculture nor in the Divisions authorized by law to be operated by the State Board of Agriculture.

There are those who indicate that the Chief Engineer should be confirmed because he (or she, someday) has such far-reaching responsibilities. The administrative duties of the Chief Engineer are great, no question about that. The responsibilities assigned to the Chief Engineer are great. Some legislation this session contemplates additional duties for the Chief Engineer.

That, however, does not necessitate confirmation by the Senate. The person in this position is retained by the State Board of Agriculture. It must be a competent and qualified Engineer.

If the argument held that positions of great responsibility should all be confirmed, then a case could be made for many of those which were left out of the legislation last year. There is no requirement that the Director of Taxation in the State of Kansas (authorized by 75-5102) be confirmed by the Senate. There is no requirement that the Director of Property Valuation Department (authorized by 75-5105) be confirmed by the Senate. Likewise there is no requirement for the Director of the Division of Vehicles, the Highway Advisory Commission, nor the Building Advisory Commission. If the Senate sees the need for additional people to confirm, perhaps the Building Advisory Committee would be the place to start in 1983.

Mr. Chairman, we respectfully request that this Committee reject S.B. 409.