

Approved _____

Date _____

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Senator Fred Kerr at _____
Chairperson

10:00 a.m./~~p.m.~~ on Wednesday, January 25, 1984, 19__ in room 423-S of the Capitol.

All members were present except: Senator Ross Doyen (E)
Senator Ed Reilly (E)

Committee staff present: Raney Gilliland, Research Department
Jim Wilson, Revisor's office

Conferees appearing before the committee:

Harland Priddle, Secretary, State Board of Agriculture
David Pope, Chief Engineer-Director, Water Resources Division
Donald Jacka, Asst. Secretary, State Board of Agriculture

Senator Montgomery moved the January 24, 1984 minutes be approved, seconded by Senator Allen. Motion carried.

David Pope distributed Attachment 1 and highlighted its contents, stating his division has the responsibility of administering some 26 statutes pertaining to water; he represents the state on four interstate river compacts and other boards pertaining to water. He stated ten states are involved in the Missouri River Basin. His department has the responsibility of:

1. Processing new applications for permits to appropriate water.
2. Determining the extent that water rights have been perfected or developed in accordance with permits previously issued.
3. General administration of the Kansas Water Appropriation Act.

Since the law was changed in January, 1978, there have been more regulatory responsibilities than administrative since it is now mandatory that water use, other than domestic use and a few other exceptions, be authorized by either a vested right or a permit from their office. Water has become precious and we should manage it properly. He pointed out there is a trend toward the use of water meters. The last two years there has been much study and discussion of a new state water plan--instream uses of water deserve recognition and protection--it is a complex issue. Considered are the uses of water and the need and desire to control streamflow.

Mr. Pope, answering Senator Warren's inquiry, stated it was his understanding farm ponds are not included in the minimum stream flow study. He understands the Little Rock, Cottonwood, Marais des Cygnes and Neosho streams have been given high priority.

Relative to Senator Norvell's inquiry about the Smokey Hill River around Hays, Mr. Pope stated the Cedar Bluff runoff has declined, farmers have instigated conservation, and there has been expanded usage of water by the cities; there is reduced storage in the reservoir. He stated there will be a meeting on this issue at Hays on February 23.

In answer to Senator Montgomery's inquiry, Mr. Pope stated he estimates there are around 137 dams in the high hazard inventory.

(MORE)

CONTINUATION SHEET

Minutes of the SENATE AG & SMALL BUSINESS Committee on January 25, 1984, 19

Don Jacka presented some of the legislative needs of the State Board of Agriculture, as set out in Attachment 2:

Acceptance of Federal Funds
Annual Report of Agriculture and Farm Facts
Filled Milk and Filled Dairy Products
Updating of General Dairy Laws
Ice Cream Gallonage Tax
Pesticide Business Licensing
Update and Codification of the Kansas Weights and Measures Act

ACCEPTANCE OF FEDERAL FUNDS

After some discussion, Senator Warren moved a bill be introduced to allow the Secretary of Agriculture to accept federal funds, seconded by Senator Norvell. Motion carried. Secretary Priddle stated such appropriations would come before the Ways and Means and Finance Council.

SEED BILL

Secretary Priddle stated a revised seed bill was requested by the Kansas Crop Improvement group. Senator Kerr stated Revisor Jim Wilson had worked many hours refining such a bill. Senator Karr moved a revised Kansas Seed Law be introduced, seconded by Senator Gannon. Motion carried.

Senator Kerr stated the committee would meet every day next week. The meeting was arjourned.

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SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

10:00 a.m., Room 423-S

Wednesday, Jan. 25, 1984
Date

NAME

ADDRESS

ORGANIZATION

NAME	ADDRESS	ORGANIZATION
Ed Reinert	Topeka	Ks League Women Voters
Mary Fund	Whiting	Ko Rural Center
Don Jacha	TOPEKA	Ks STATE BOARD OF Agric.
Mary Harper	Healy	AAM
Norman Harper	"	"
Aamen Mantola	Topeka	Kansas Co-op Council
John E. Smith	Troy	Kansas

attach 1-1/25/84

STATEMENT BY DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE

TO SENATE AGRICULTURE AND SMALL BUSINESS COMMITTEE

JANUARY 25, 1984

Thank you, Mr. Chairman and Committee members, for this opportunity to appear before you today. First, I would like to tell you a little bit about the role of the Division of Water Resources, Kansas State Board of Agriculture.

The Chief Engineer, Division of Water Resources, is responsible for, or involved with the administration of, some 26 statutes. By virtue of my position I represent the State of Kansas on four interstate river compacts. The Division of Water Resources also has representatives on various boards and commissions such as the Missouri Basin States Association, an interstate association to coordinate activities and resolve conflicts for use of the waters of the Missouri River, and the Mined Land Conservation Board. The Division also works very closely with many types of water districts such as rural water districts, watershed districts, public wholesale water supply districts, drainage districts, irrigation districts, and groundwater management districts. In many cases, we work closely with them during the organization of the District and also must approve specific water related projects in the Districts.

Our water structures section is specifically involved in approving projects for dams that store over 30 acre-feet, levees, and channel change projects. That section also processes applications for tax reduction purposes on small reservoirs.

Of course, our most visible duty and that which requires the most time, money and personnel, is the administration of the Kansas Water Appropriation Act. As you are probably aware, somewhere between 80 and 85 percent of the

Attch. 1

water used in the State of Kansas is for irrigation purposes. Our job is not only to process applications for irrigation use, but for all types of water use including municipal, industrial, recreational, water power, artificial recharge and stockwatering. All water use, other than domestic use and a few minor other exceptions, must be authorized by either a vested right or a permit from our office. This is true whether the source of supply is groundwater or surface water.

At this time I would like to talk to you about the role I see for the Division of Water Resources in the coming years.

Since June 28, 1945, the Division of Water Resources has been involved in the administration of the Kansas Water Appropriation Act. Until January 1, 1978, the responsibilities of the Division of Water Resources were mostly administrative and primarily consisted of determining vested rights (those rights acquired by actual use of water prior to June 28, 1945), processing applications for permits to appropriate water for beneficial use, and administering water rights on streams in the State of Kansas during times of shortage.

For the first time, on January 1, 1978, it became illegal in the State of Kansas, except for domestic use and other minor exceptions, to divert water for any beneficial purpose, or to threaten to do so, without the prior written approval of the Chief Engineer of the Division of Water Resources. The enactment of this statute began a shift of the role of the Division of Water Resources from one of administration to one of regulation.

Since 1978 there has also been a shift in philosophy concerning the utilization of water resources in Kansas. Kansas has evolved from the developmental stage of water usage to a time where the water resources in many areas of the State have been fully developed. This has prompted a philosophical shift from development to conservation and regulation of our vital Kansas water resources.

With regard to the administration of the Kansas Water Appropriation Act, I would like to comment on three general areas.

The first area is that of processing new applications for permits to appropriate water. The numbers of new applications have fallen dramatically during the past few years and probably will continue to fall some in the future. In the peak year of 1976, 2,890 new applications were filed. The number of new applications has steadily fallen since that time. In 1983 only 540 new applications were filed. This dwindling number of new applications is due to the limited supplies left to be developed in many areas, tighter regulation by the Division of Water Resources throughout many parts of the state in conjunction with policies developed by the existing groundwater management districts and a change in economic conditions.

Although the numbers of new applications are down, a more detailed review of those applications is necessary due to the fact that many water supplies are fully developed, or are nearing full development. One aspect of administration that is particularly time consuming and complex is analyzing the effect of new applications filed to appropriate water in alluvial valleys to determine the effects of such appropriation on existing surface water rights and, in the future, minimum streamflow designations, if any.

In areas where additional water is not available for appropriation, applications to change the point of diversion, place of use and type of use will be on the increase in those areas because acquiring existing water rights will be the only way persons will be able to acquire a right to use water in those areas. In addition, the owners of existing rights will be replacing old wells or modifying their operations as conditions change.

The second area of concern is the responsibility of the Division to determine the extent that water rights have been perfected or developed in accordance with permits previously issued and issue the Certificate of

*Follow
process*

Limited # of staff

30,000 active H₂O rights

Appropriation which basically quantifies the limits of the water right. The size of the staff of the Division of Water Resources has not increased on a proportional basis to the number of applications that have been filed.

The Division of Water Resources is now, and intends to continue, reducing its backlog in certifying existing applications by means of a combination of remedial actions. For instance, each irrigation season, in order to supplement the field inspection program of the four field offices, contracts are being let to consultants for the purpose of conducting additional field inspections. This has substantially increased the number of field inspections while at the same time enabling our field staff to devote more time and effort to administrative and regulatory functions demanded by the public. It is essential that the certification of water rights proceed as rapidly as possible because the extent to which a water right has been perfected cannot be known until the certification process takes place. The data obtained through the certification process provides the Division of Water Resources with more information which is used to better analyze new applications to appropriate water for beneficial use and to make general overall administrative decisions. Additional staff is necessary in order to facilitate increased production of certificates.

The third area of concern is that of general administration of the Kansas Water Appropriation Act. This includes investigations of possible well impairment, dividing up streamflow among water right holders during times of shortage, enforcing minimum desirable streamflows as they are set by the legislature, protecting water released under contract from reservoirs and protecting water released in accordance with agreements with the Federal Government.

These increased administrative problems will necessitate the use of additional, or enhanced, administrative and regulatory tools on behalf of the Division of Water Resources.

One such tool will be increased use of water meters. The use of water meters enhances the capability of division personnel to effectively administer and regulate water rights in an effective and timely manner. Already the Division of Water Resources required mandatory metering in one intensive groundwater use control area, on several extensive stream reaches and in many problem areas or situations. It is expected that use of mandatory metering will continue to increase as the need arises. For instance, water users diverting surface water from streams for which minimum desirable streamflows have been established will probably be required to install meters to allow more equitable enforcement of these rights to surface flows.

Another tool which the Division of Water Resources will be relying on increasingly in the future is computerization of water rights and water resources data. Phase I of the computer program is virtually complete. Most of the data has been input and verified. Our visual index system has been abandoned and the data is now accessed by means of 19 computer terminals in the Topeka and four field offices. The computer is being utilized on a daily basis and already enables the Division to more quickly and accurately assimilate information to expedite the processing of water rights, evaluate existing water right conditions in any specific area and provide data to the Division of Water Resources and other state agencies to make better decisions concerning regulation and planning relating to water resources. Examples of some of the data that is currently available in the computer are the maximum rate of diversion, quantity of water authorized, legal descriptions of wells or other diversion points, names, addresses, types of use, a history of each water right and lists of water rights within specified geographical areas. It is anticipated that as needs develop, that additional computer programs and capabilities, such as

graphics, will be developed to meet those needs. Already valuable water right data has been compiled which, for all practical purposes, was unavailable when the Division was operating under the manual records system.

The third tool that will be needed will be increased numbers of field staff to administer surface water rights and enforce minimum desirable streamflows. It is anticipated that eventually at least one full time field person per major stream system in the State of Kansas will be required.

Finally, and maybe most important, the Division of Water Resources will be designating more and more intensive groundwater use control areas throughout the State of Kansas. Although there are only two in existence now, three more are currently under consideration. At the current staffing level the Division of Water Resources will probably be able to initiate proceedings for about two intensive groundwater use control areas per year.

*McC Phers
Pawnee Riv*

*Smoky Hill
Hays*

REGULATION OF WATER STRUCTURES

Another area of concern is that relating to dam safety. The capability of a dam to hold an adequate volume of water to protect downstream areas from flooding, and its structural stability to withstand the force of this water, depends primarily upon how it is designed, constructed and maintained.

*Bevinton
Ark River
SWR*

The Division of Water Resources, Kansas State Board of Agriculture, has been able to check the design and conduct partial inspections during construction of many of the non-federal dams in the State. However, funds or personnel have never been available to make periodic inspections of existing structures to determine if they have been adequately maintained or in good structural condition, except during the federally funded National Dam Inspection Program (N.D.I.P.), for which seven employees were employed by the Division. This program was terminated by the Federal Government during Fiscal Year 1982. Periodic safety inspections are needed to examine dams which could cause loss of lives or serious property damage should they fail. The fiscal

*Review plans
Issue permits*

High hazard

impact to the State of Kansas, if these dams are not properly operated and maintained, would be much greater, should a disaster occur, than the cost of inspections to detect and correct deficiencies in these dams.

CONCLUSION

I feel that Kansas has the basic statutes necessary for the Division of Water Resources to protect and administer the water resources in the State of Kansas. Although I foresee a lot of hard work ahead to accomplish this, I am optimistic about the future of water management and regulation in the State of Kansas.

At this time I would be happy to respond to any questions you might have.

attach 2 - 1/25/84



KANSAS STATE BOARD OF AGRICULTURE

TOPEKA, KANSAS 66612-1280

HARLAND E. PRIDDLE
Secretary

109 S.W. 9th Street
913-296-3556

January 20, 1984

MEMORANDUM

TO: Senator Fred Kerr, Chairman
Senate Committee on Agriculture & Small Business
and
Representative Bill Fuller, Chairman
House Committee on Agriculture & Livestock

FROM: Kansas State Board of Agriculture

RE: Requested Legislation

Below listed are conceptual discussions of legislative needs of the Kansas State Board of Agriculture.

1) Acceptance of Federal Funds

Presently, many statutes administered by this Agency do not contain explicitly directed authority for the Secretary of Agriculture to apply for or receive federal funds. While some statutes may provide such authority by implication, present fiscal interpretations hamper the application for and receipt of federal funds without explicit authority.

Because of the large number of federal grants and funded programs available, the State Board of Agriculture would benefit greatly by an amendment to present law granting acceptance authority. Such an amendment would explicitly authorize the Secretary of Agriculture, or his representative, to apply for and receive federal funds which may be available to this Agency in the administration of its various programs.

Bill -
House or
Senate

2) Annual Report of Agriculture and Farm Facts

The Annual Report of Agriculture and Farm Facts has, in recent years, been published on an annual basis. This publication has been of great use to all segments of agriculture and agribusiness. It is also the primary resource available for Kansas agricultural data used by regulatory agencies, researchers, the Kansas Legislature, other states, and others. The data is necessary on a timely basis so that all of agriculture will be able to make properly based business and financial determinations.

\$26,000 annual

(A) 20

As a result of 1983 budgetary action, the Kansas Report of Agriculture and Farm Facts was not published in FY 1984. To insure future such publications for use by the Kansas economy, the State Board of Agriculture proposes an amendment to K.S.A. 74-504. Presently, K.S.A. 74-504 permissively authorizes this publi-

HoRS

Attch. 2

cation on a biannual basis. The amendment to this statute, here recommended, would make the Report of Agriculture and Farm Facts a mandatory, annual publication for which no charge is assessed.

3) Filled Milk and Filled Dairy Products

As a result of recent action by the Kansas Supreme Court and the Federal District Court, the Filled Dairy Products Act has been declared unconstitutional. The Filled Milk Act is so closely associated with that law declared unconstitutional that its constitutional validity will certainly be contested. For those reasons, the State Board of Agriculture requests that a bill be passed to repeal the Filled Milk Act [K.S.A. 65-707(E)(2)] and the Filled Dairy Products Act (K.S.A. 65-725 et. seq.)

House

4) Updating of General Dairy Laws

Because these statutes were originally enacted in 1927, much of K.S.A. 65-701 et. seq. requires serious review for necessary updating. The State Board of Agriculture requests that legislation be drafted to remove outmoded language. Such deletion of outmoded language would eliminate references to anachronistic duties. Changes in industry practices have greatly changed the regulatory needs in the dairy industry.

House

5) Ice Cream Gallonage Tax

Presently, the dairy industry pays a gallonage tax on the manufacture of ice cream and ice milk products in Kansas and on such products imported into Kansas for resale. Since the Filled Dairy Products Act has been declared unconstitutional, Mellorrene products (filled ice cream or ice milk products) may now be sold in Kansas. In order to equalize the tax burden over all manufacturers of ice cream type products, a gallonage tax should be imposed on Mellorrene. The State Board of Agriculture requests that a bill be drafted which would impose a tax on Mellorrene and related products on the same basis as the ice cream gallonage tax.

House

6) Pesticide Business Licensing

Present law requires aerial applicator businesses which apply general-use type pesticides to be licensed, while ground applicator businesses, using that same class of pesticides in agricultural settings, need no such business license. This seems to be a serious inadequacy of present law. This inadequacy establishes an inequity among applicators of pesticides and could possibly create enforcement problems.

2 this

The State Board of Agriculture requests that this inequity of the law be corrected. Such a correction could be accomplished by amending K.S.A. 2-2440 to remove the exemption contained at K.S.A. 2-2440(d)(4). Such amendment would require aerial applicator businesses and ground applicator businesses, which apply general-use pesticides, to obtain pesticide business licenses.

7) Update and Codification of the Kansas Weights & Measures Act

The initial weights and measures laws were enacted during the period between 1909 and 1923 with the Division of Weights and Measures and the position of State Sealer being created in 1947. Since that time, the Act has not been re-examined or updated. In the span of more than one-half a century, the technology of weights and measures has greatly progressed. For that reason, the Weights and Measures Law (K.S.A. 83-101 et. seq.) should be updated to make it consistent with today's needs and technology.

The State Board of Agriculture requests that a bill be introduced and considered by this committee to recodify the Weights and Measures Law. In such a review of weights and measures amendments, close scrutiny should be applied to the adoption of model weights and measures laws proposed by the National Bureau of Standards and the National Conference on Weights and Measures.

It is felt by the Kansas State Board of Agriculture that the above mentioned legislation is necessary for the continued efficient operation of this Agency. The above proposals are, of course, submitted in addition to various other topics of legislation which this Agency realizes your committee is working on and in no way is represented as this Agency's assessment of a complete list of needed legislation. If we can be of any assistance in the drafting or explanation of the need of such legislation, please do not hesitate to contact this Agency.

DLJ:k1

Senate?
Do they
have proposed
language?
Could get
sticky!