

MINUTES OF THE House Sub COMMITTEE ON Energy

The meeting was called to order by Chairman Carl Holmes at _____
Chairperson

3:30 ~~xxx~~ p.m. on February 17, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

- Ramon Powers, Legislative Research Department
- Theresa Kiernan, Revisor of Statutes' Office
- Betty Meyer, Committee Secretary

Conferees appearing before the committee:

- Shaun McGrath, The Sierra Club
- Harold Spiker, Kansas Department of Health and Environment
- Max Moomaw, Representative
- Lowell Abeldt, Kansas Watershed Association
- David Pope, Chief Engineer, Division of Water Resources
- Ken Kern, Executive Director, State Conservation Commission

Chairman Holmes called the meeting to order.

Shaun McGrath testified in support of HB 2079, requiring certification of persons and businesses testing for radon contamination. Attachment 1

Harold Spiker testified in support of HB 2079 stating the bill would provide the necessary statutory basis for the Department of Health and Environment to develop a program for certification of persons providing indoor radon testing services. He also pointed out some weaknesses of the bill, and suggested some changes. Attachment 2

Hearings closed on HB 2079.

Representative Max Moomaw testified on HB 2237, then called upon the following conferees. Attachment 3

Lowell Abell testified that 33 members on the Board is too many. That 17 would be better. Also that minutes of annual meetings and audit reports should be necessary to avoid liability.

David Pope testified regarding HB 2237 stating the Division of Water Resources supports the concept of a periodic review of the general plan of Watershed Districts. Attachment 4

Ken Kern testified the Watershed Districts are a vital part of the total conservation program of the state. The Conservation Commission supports the revision of K.S.A. 24-1211 (Line 139 in bill) and K.S.A. 24-1212 (Line 159 in bill). Attachment 5

Chairman Holmes opened the meeting for questions from the committee to the four who had just testified.

Chairman Holmes then asked the committee for permission to work up a balloon and discuss it at the next meeting. STANDING COMMITTEE 3/4/87

Chairman Holmes went back to discussion on HB 2079. Representative Webb asked for a balloon to be passed out.

A motion was made by Representative Freeman and seconded by Representative Acheson to change the wording in HB 2079 as follows:

Line 0016: The words "...testing for the presence..." should be replaced with the words provide services for the detection and measurement of.

Line 0022: The words "...test for the presence..." should be replaced with the words persons providing services for the detection and measurement of.

Line 0027: The words "...testers for the presence..." should be replaced with the words persons providing services for the detection and measurement of.

Line 0029-0031: The word "testers..should be replaced with the words persons providing

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.

CONTINUATION SHEET

MINUTES OF THE House Sub COMMITTEE ON Energy,
room 526-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 17, 1987.

services for the detection and measurement of indoor radon.

Line 1139: Change the sentence to read ...where each such service is performed...
The motion carried.

A motion was made by Representative Sutter and seconded by Representative Webb to add to HB 2079 the following "All laboratory analysis of devices for radon detection and measurement shall be performed by the state health laboratory or a laboratory approved by the Secretary of Health and Environment for such analysis." The motion carried.

A motion was made by Representative Sutter and seconded by Representative Webb to pass HB 2079 as amended out to the full committee. The motion passed.

A motion was made by Representative Rosenau and seconded by Representative Fry to pass HB 2108 out to the full committee. The motion carried.

Chairman Holmes adjourned the meeting at 5:00 p.m.



SIERRA CLUB

Kansas Chapter

February 17, 1987

To: Energy and Natural Resources Energy Subcommittee
From: Shaun McGrath

re: HB2079 establishing a program for radon testing certification

The Sierra Club is a non-profit organization concerned with the preservation and protection of wildlife and the environment. Our Kansas Chapter membership is over 1500.

The Sierra Club supports HB2079, which requires certification of persons and businesses testing for radon contamination. Certification of testers should produce a number of positive effects:

- it would control for charlatans coming in and taking advantage of persons distraught over a problem of which so little is understood.
- it would improve the quality of results, important for the interpretation of the tests.
- because information on the test results is disclosed to KDHE, the state's data base on radon will be expanded.

We commend this committee on your work in this area, and encourage you to pass this piece of legislation.

House Subcommittee on Energy

2-17-87

#1

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON H.B. 2079

PRESENTED TO:

This is the official position taken by the Kansas Department of Health and Environment on H.B. 2079.

BACKGROUND INFORMATION

As written, this bill would require the certification of persons testing for the presence of indoor radon in Kansas and prescribes the authorities and duties of the Secretary of Health and Environment relating to such. This includes requiring the Secretary to: establish a certification program for radon testers and to charge a fee for such certification; to adopt rules and regulations necessary for the administration and implementation of the act; a requirement for those performing radon testing to report the location and result of each test performed to the Department and for such information to be kept confidential and not subject to the provisions of the open record act. The bill also provides that anyone violating the provisions of this act or any rules and regulations adopted pursuant to the act shall be guilty of a class C misdemeanor.

As we continue to learn more about the levels of radon and radon decay products which exist in homes and public buildings throughout the State of Kansas and the health risks presented by these levels, it is likely that more and more persons, companies, etc. will be getting into the business of providing radon testing and mitigation services. Screening measurements for indoor radon contamination can identify houses/buildings which may contain significant concentrations of radon. These results may indicate the need for further measurements to accurately establish the annual average concentration or may indicate the need for direct remedial action. Screening measurements should be dependable, inexpensive, relatively fast, and accurate.

Because radon is a colorless, odorless and tasteless gas that can only be detected and measured by certain instrumentation and procedures, legislation such as this bill is needed to insure that those providing testing services are competent to do so and use procedures and equipment which provide scientifically accurate results.

As written, this bill would apparently only apply to those persons, companies, etc. providing testing services and not those providing mitigation services.

Two components in addressing the issue of indoor radon measurements are to establish adequate analytical capacity at the state public health laboratory and to insure the accuracy of analyses performed in private laboratories approved by the secretary of health and environment.

The state public health laboratory presently has the capability to perform very limited numbers of analyses for radon. Instrumentation costs of less than

\$10,000 could establish adequate laboratory capacity (3000 samples/year) which would be recoverable on a fee for service basis. No additional laboratory staff would be required. Additionally, the existing environmental laboratory certification program for water/wastewater and hazardous waste analyses could be expanded to certify private laboratories performing analyses of radon sampling devices.

The Department does not currently have a program for certifying individuals who perform such consultant services.

STRENGTHS

The bill would provide the necessary statutory basis for the Department to develop a program for the certification of those persons providing indoor radon testing services and include a fee for the certification to defray a part of the cost for administering such a program.

WEAKNESSES

A potential weakness of the bill is use of the term "tester." This term is not defined in the bill and is somewhat vague.

There are now two basic types of testing services available in Kansas. One involves a home test kit (charcoal device, alpha track device, etc.) which is ordered directly by the homeowner from a company which produces and analyzes them. The kit is shipped by mail along with instructions for placing the device. At the end of a specified period of time the device is sealed up and shipped back to the company in a postage paid box or envelope for analysis. Upon completion of the analysis of the device, the results are mailed in writing to the homeowner.

The other testing service involves a consultant or tester who provides the service. Usually, the consultant would visit the home and place radon measurement device(s) in the appropriate locations. These consultants normally utilize testing devices and analytical services purchased from one of the previously described commercial services.

The Department considers it important that both the laboratories which produce and analyze the testing devices, as well as those performing the consulting services, are properly certified.

As discussed previously, there would be no apparent fiscal impact for the certification of laboratories providing indoor radon detection and measurement services since a similar program already exists for laboratories providing other environmental analytical services.

However, since no such program currently exists for persons performing consultant services, it is estimated that it would require approximately \$27,352 in FY 1987 to implement such a program and \$46,051 for FY 1988. Funding for such an effort is not included in either of the Department's FY 1987 or FY 1988 Budgets and it will not be practical to collect sufficient funds through the certification fees to provide a significant portion of the funds required.

There is apparently no mechanism for enforcing such a certification requirement,

since the Department does not require radon testing. Such a certification requirement would be difficult, if not impossible, to enforce.

DEPARTMENT'S POSITION

The Department supports the bill as written but recommends some modifications.

In order to provide necessary enabling legislation for the Department's Office of Laboratory Services and Research to certify laboratories providing indoor radon detection and measurement services in Kansas, the following or equivalent needs to be added to the bill:

*and
motion*

"All laboratory analysis of devices used for radon detection and measurement shall be performed by the state health laboratory or a laboratory approved by the Secretary of Health and Environment for such analysis."

In addition, it is recommended that the following changes be made in the bill.

- 1st* Line 0016: The words "...testing for the presence..." should be replaced with the words providing services for the detection and measurement of.
- 2nd* Line 0022: The words "...test for the presence..." should be replaced with the words provide services for the detection and measurement of.
- motion* Line 0027: The words "...testers for the presence..." should be replaced with the words persons providing services for the detection and measurement of.
- Line 0029-0031: The word "...testers..." should be replaced with the words persons providing services for the detection and measurement of indoor radon.
- Line 0039: Change the sentence to read ...where each such service is performed...

MAX MOOMAW
ASSISTANT MAJORITY LEADER
REPRESENTATIVE, 117TH DISTRICT
HODGEMAN, LANE AND
PARTS OF FINNEY AND
NESS COUNTIES
R.R. 2, BOX 45
DIGHTON, KANSAS 67839-9801



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ECONOMIC DEVELOPMENT
TRANSPORTATION

TO: House Energy and Natural Resources Committee
Energy Subcommittee, Carl Holmes, Chairman
FROM: Representative Max Moomaw
RE: House Bill 2237
DATE: February 17, 1987

Thank you Mr. Chairman.

HB 2237 deals with Watershed Districts and makes the following changes.

Lines 93 through 97 sets the number of directors for any new districts that may be formed and allows old boards to either keep their current number of members or reduce that number to 15.

Lines 139 - 141 send copies of the minutes of the annual meeting, financial condition, and activities to the State Conservation Commission.

Line 160 also sends the minutes of regular meetings to the commission.

Lines 185 to 193 contain the language from HB 2872 that passed the House 121 - 0 in 1986. This language says that there will be a public review each 5 years of the general plan to determine if proposed projects are still feasible and in the best public interest. At this time consideration would be given to changes in farming practices and small dam numbers upstream from proposed sites and any changes downstream that would be affected by the project.

Lines 257 through 259 set a time table of 60 days for payment of reasonable damages.

House Subcommittee on Energy

2-17-87

#3

STATEMENT BY DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
TO THE ENERGY SUBCOMMITTEE OF THE
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON
HOUSE BILL NO. 2237

FEBRUARY 17, 1987

Chairman Holmes and Members of the Energy Subcommittee, thank you for this opportunity to appear before the Subcommittee today regarding House Bill 2237 concerning Watershed Districts.

The primary provision of House Bill 2237 that will effect the Division of Water Resources is found at lines 185 through 193.

This portion of the Bill provides as follows,

(b) Every five years following approval of the general plan, the board shall review the general plan to determine if projects proposed to be undertaken by the district in its original plan are still cost effective and in current public interest. A report of the review shall be given at a public meeting called for that purpose.

Any revisions or amendments to the general plan shall be submitted to the chief engineer in the manner provided by subsection (a).

I might note at this point that members of the staff of the Division of Water Resources met with Ken Kern, Executive Director of the State Conservation Commission, John Reh, Soil Conservation Service and representatives of the State Association of Kansas Watersheds, Lowell Abeltd and Dale Olson, during this past year to discuss possible revisions to this Watershed Act. It is my understanding that this Bill addresses some of the concerns that were raised at these meetings.

One of these of concerns was that in the formation of a Watershed District, the District must adopt a general plan outlining all of the projects to be built. Sometimes it takes many years for the District to complete construction of all of the projects originally proposed, and in fact, in some cases not all of the projects are completed as originally envisioned.

Sometimes circumstances within a Watershed District change and projects must be either added, eliminated or modified to adapt to the changing conditions.

Until now there has been no provision in the law which would require a periodic review and updating of that general plan. The Bill, as proposed, would require this to be done on a five year review basis, including a determination as to whether the projects proposed to be undertaken in the District were still cost effective and in the current public interest. This could be of considerable benefit to long-range planning in each Watershed District, but the cost, in both time and money, of redoing the cost-benefit analysis for each project could be substantial.

The impact on the Division of Water Resources of House Bill 2237, as drafted, would be that those revisions or amendments to the general plan must be submitted to the Chief Engineer.

K.S.A. 24-1211 could be amended to provide that at the annual meeting of the Board, the report shall include,

The financial condition and activities of the district, (590)
including the estimated construction date of all structures
to be constructed within the next five years. + the Board

This information will be of benefit to the state in budgeting for cost-share assistance and staffing for project reviews.

One other item that is not clear from the proposed Bill is whether all Districts, which have been in existence for five years, would immediately have

to review and update their general plans, or whether they would only begin reviews five years after the date of this Bill, or on some other time interval. Because there are 86 Watershed Districts in the state of Kansas, the amount of work that would be generated to the Division of Water Resources by review of revised, or amended, Watershed general plans could be considerable. If they were required to do so on some sort of staggered basis, such as beginning ten years after the anniversary of the approval of the original general plan and every five years thereafter, the workload on the Division of Water Resources would not fall all in one year. This should be limited to only those Districts which have not completed their general plans.

The reference in line 193 to subsection (a) of K.S.A. 24-1216 is possibly in error. I think it should read K.S.A. 24-1213. Subsection (a) of K.S.A. 24-1216 speaks ~~only~~ to submittal of plans for specific projects to determine whether they are in accordance with the general plan.

The Division of Water Resources supports the concept of a periodic review of the general plan of Watershed Districts.

I would be happy to answer any questions you might have at this time. Thank you for this opportunity to appear.

The State Conservation Commission was invited by the State Association of Kansas Watershed Districts to assist in reviewing the Watershed District Act, K.S.A. 24-1201 et seq.

The State Conservation Commission works directly with the organized watershed districts:

1. Assistance is provided during organization of a watershed district.
2. The Governor's Watershed Review Committee, which recommends watershed districts for PL-566 priority planning is chaired by the Commission Chairman.
3. The Field Examination Team, which reviews PL-566 applications for the Watershed Review Committee, is led by the Executive Director of the Commission.
4. The Commission administers the State Watershed Dam Assistance Program.

The Watershed Districts are a vital part of the total conservation program of the state. Therefore, the State Conservation Commission is offering further assistance to the watershed districts by supporting the revision of K.S.A. 24-1211 (Line 139 in bill) and KSA 24-1212 (Line 159 in bill). This would provide the Commission with copies of the district's official minutes for two reasons:

1. Review of minutes for completeness and accuracy and providing assistance to district when needed.
2. A record of district actions on file. Some districts do not have an office and the Secretary maintains the records at home or his place of business. In case of fire or loss of records for one reason or another, a duplicate set would be available.

Recommend that the wording be deleted on line 152 that reads "and the state conservation commission".

The Commission supports the recommended amendments to the watershed district act.