

Approved 4-10-87
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at
Chairperson

8:00 a.m./~~p.m.~~ on March 25, 19 87 in room 123-S of the Capitol.

All members were present except:
Senator Eric Yost

Committee staff present:
Ramon Power - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:
Representative Max Moomaw
Leland Rolfs, Water Resources Division
Ken Kern, Conservation Commission
Clark Duffy, Kansas Water Office
Lavene Brenden, Kansas Department of Health & Environment

HB 2237 - Concerning watershed districts

Representative Moomaw explained the bill and amendments made in the House Committee and by the Committee of the Whole. Written testimony will be given to the Committee members. Discussion concerned availability of due process following a claim for damages, compensation for the directors of watershed districts and imposition of tax levies. Location and procedures used for retention of minutes of meetings have been a problem. It was suggested the word "qualified" before appraiser in line 210 be stricken.

Ken Kern testified the bill was studied during the interim. Procedures for organizing watershed districts was explained. The proposed five year review will provide assistance to the Conservation Commission and the Water Resources Division in their planning processes. The importance of proper centralized filing and retention of minutes was emphasized. (Attachment A)

Leland Rolfs stated the Water Resources Division will be responsible for reviewing the general plan developed by the watershed districts and this bill will provide periodic projects review every five years, a process which has been lacking. (Attachment B)

HCR 5001 - Concerning Water/wastewater management plan

Lavene Brenden related the background of this legislation. The countywide water management plan is a good means to protect the environment as well as public health in local areas. Preparation of a countywide water/waste water plan is a preventitive procedure as it requires counties to look ahead in determining location of treatment plants and procedures to solve problems. The economy of an area could be adversely affected without such planning. (Attachment C)

Mr. Brenden stated that ultimate approval of extension of any water/waste water systems would depend upon the Secretary of KDHE. Available alternate systems could provide the means to sewer an area as opposed to placement of septic tanks, depending on the economics of an area. This legislation will work hand in hand with SB 285, 286 and 287.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~p.m.~~ on March 25, 1987

Clark Duffy stated that this resolution hopefully will help complete the plan for countywater/waste water management which has been seen as a problem by the water office. Twenty eight counties are in need of this type of plan and this resolution should encourage planning in these counties.
(Attachment D)

The economics of a circular system as opposed to a linear system was discussed. Mr. Rolfs stated that there are areas that are doomed to 100% failure with septic tanks, but KDHE is not going to ban the use of them.

Motion was made to adopt favorably HCR 5001 by Senator Martin, seconded by Senator Langworthy. Motion carried.

HB 2237 - Concerning watershed districts

Amendments requested by Representative Moomaw, sponsor of the proposed bill, were acted upon by the Committee.

Motion was made to reinstate stricken language in line 111 by Senator Langworthy, seconded by Senator Kerr. Motion carried.

Motion was made to delete the language "and the state conservation commission" in lines 160 and 161 by Senator Langworthy, seconded by Senator Hayden. Motion carried.

Motion was made to delete the language "qualified" in line 210 by Senator Martin, seconded by Senator Langworthy. Motion carried.

Motion was made to recommend favorably HB 2237 as amended by Senator Daniels, seconded by Senator Langworthy. Motion carried.

Chairman Werts informed Committee members that a bill draft has been prepared by staff which would establish a LLRW disposal authority and this will be discussed at the next meeting.

Meeting adjourned. The next meeting will be March 26, 1987.

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Harold Spiker	KDH+E	Topeka, Ks.
Lalene Brenden	KDH+E	Topeka
Kenneth Kern	SCC	Topeka
Ed Reuert	KS L W V E	"
Lola Warner	SCC	Topeka
Leland E. Rolfe	DWR-KSBA	Topeka



State Conservation Commission

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SENATE ENERGY AND NATURAL
RESOURCES COMMITTEE
HOUSE BILL 2237

TESTIMONY BY
KENNETH F. KERN
EXECUTIVE DIRECTOR
STATE CONSERVATION COMMISSION

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 ¹⁴⁷~~139~~) and KSA 24-1212 (Line ¹⁶⁷~~159~~). 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 160 that reads "and the state conservation commission".

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

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STATEMENT BY LELAND E. ROLFS
LEGAL COUNSEL
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
TO THE SENATE
ENERGY AND NATURAL RESOURCES COMMITTEE
ON
HOUSE BILL NO. 2237

MARCH 25, 1987

Chairman Wertz and Members of the Committee, thank you for this opportunity to appear 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) Ten years following approval of the general plan, and every five years thereafter, the board shall review the general plan to determine if projects proposed to be undertaken by the district in its original plan are still feasible and in current public interest. A report of the review shall be given at a public meeting called for that purpose. This review shall not be required of watershed districts that have completed all the projects in the general plans.

Any revisions or amendments to the general plan shall be submitted to the chief engineer in the manner provided by K.S.A. 24-1213 and amendments thereto.

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 Abeldt 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 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

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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 10 years after approval, and every five years after that, including a determination as to whether the projects proposed to be undertaken in the District were still feasible and in the current public interest. This would be of considerable benefit to long-range planning in each Watershed District. It will also stagger the reviews and spread out the workload on the Division of Water Resources.

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

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

the financial condition and activities of the district, including the estimated construction date of all projects to be initiated within the next five years and the board's determination as to whether each of these projects is still cost effective and in the current public interest.

This information will be of benefit to the state in budgeting for cost-share assistance and staffing for project reviews. This will also provide notice to everyone, including landowners in the watershed district, which projects will be built next and an annual review format to ensure project still needs to be built.

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.

Testimony Presented to
Senate Energy & Natural Resources Committee
March 25, 1987

By
LaVene Brenden
Bureau of Water Protection
Division of Environment
Kansas Department of Health & Environment

House Concurrent Resolution 5001

This is the official position taken by the Kansas Department of Health and Environment on HCR 5001.

BACKGROUND INFORMATION

K.S.A. 65-3301, et seq., establishes requirements for preparation of countywide wastewater management plans, with exemptions available from the Secretary of KDHE for those counties with under 30,000 population. Plan preparation was required for those counties with population greater than 30,000 and nonexempt counties with population under 30,000, only if federal grant funds were available to pay 75% of the plan preparation cost. In 1981, the federal Clean Water Act was amended to reduce the level of federal participation in wastewater projects from 75% to 55%, and to prohibit further use of federal construction grant funds for planning purposes. Thus, no federal funds have been available for countywide wastewater management plan preparation since 1981.

S.B. 482 was introduced to the 1986 Legislature, at the request and recommendation of KDHE and the 1985 State Water Plan, to revise K.S.A. 65-3301, et seq., to remove the language requiring plan preparation only if federal grant funds are available to pay 75% of the plan costs. These plans are necessary to coordinate provision of public water supply and sanitary sewer service to developing areas. Currently these utilities are provided on a piece meal basis, with little thought given to fitting each piece into a long range plan. This often leads to redundant, expensive systems as utilities are quickly overloaded and must be replaced. S.B. 482 died during the 1986 session and was referred to study by the Special Committee on Energy and Natural Resources during the summer of 1986. The Special Committee recommended HCR 5001 be submitted to the 1987 Legislature for consideration. HCR 5001 encourages each county to submit a countywide water/wastewater management plan to KDHE before January 1, 1988.

STRENGTHS

HCR 5001 sends a message to Kansas counties that preparation of the plans is desired by the Kansas Legislature.

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WEAKNESSES

The resolution does not have the full effect of law and could be ignored.

DEPARTMENT'S POSITION

KDHE supports HCR 5001, although it is less than the Department hoped to achieve through passage of S.B. 482 by the 1986 Legislature. HCR 5001 sends a message to the counties that the Legislature desires preparation of the plan and KDHE can use this support to encourage preparation of the plan in the appropriate counties.

Kansas Water Office
Testimony Before the
Senate Energy and Natural Resources Committee
March 25, 1987

Re: House Concurrent Resolution No. 5001

S.B. 482 was introduced in the 1986 Session to implement the Countywide Water/Wastewater Management Plans Sub-section of the 1985 Kansas Water Plan. Though this resolution, HCR 5001, does not go as far as the Plan recommended, the Kansas Water Office supports the concept to encourage counties to do this planning. Counties need to take positive steps to develop these plans to avoid public health and nuisance conditions.

It is instructive to look at the history of the Countywide Water and Wastewater Management Plan recommendation. The Kansas Water Quality Management Plan, adopted by Concurrent Resolution in 1979, recommended adoption of legislation to require counties to prepare comprehensive water/wastewater management plans. This legislation, K.S.A. 65-3308 et seq., was passed in 1980 and 1981.

Some counties have developed plans; others need to. The circumstances that lead to the recommendation in 1979 still exist. The preparation and implementation of countywide water/wastewater management plans are necessary to avoid further unplanned development that may lead to public health problems, nuisance conditions and economic hardships on the citizens of the state.

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