

Approved 2-2-88
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 January 26, 1988 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers - Research	Laura Howard - Research
Raney Gilliland - Research	Don Hayward - Revisor
Nancy Jones - Secretary	

Conferees appearing before the committee:

David Pope, Division of Water Resources

HB 2569 - Concerning domestic water rights

Chairman Werts introduced David Pope who related background information on the Water Appropriations Act for the committee members. The bill under consideration originated late in the 1987 session in the House Governmental Organization Committee. Mr. Pope testified the Division of Water Resources does not support the bill as drafted principally because it would commingle environmental law with appropriated water rights law and also adequate laws are already in place to regulate proper construction of domestic wells. (Attachment I).

The bill would burden land owners rather than well drillers to have the wells properly constructed and raises questions regarding the placing of responsibility for corrections needed. Mr. Pope stated the purpose behind HB 2569 could be accomplished with expansion of the working memorandum of understanding that coordinates activities of the Divisions of Environment and Water Resources plus additional training for the Water Resources staff. Mr. Pope further stated legislation requiring continuing education of well drillers and additional enforcement authority for KDHE in areas of well construction would be supported by the Water Resources Division, but he feels this bill would only "clutter up" the Water Appropriations Act. Mr. Pope stated that passage of HB 2569 is opposed by the Division of Water Resources.

Discussion was held by committee members regarding possible proposed legislation by other agencies, licensing and ownership of water wells, illegal acts under present regulations and proper certification of well diggers.

Jim Power stated KDHE wholeheartedly supports the position of the Division of Water Resources on HB 2569.

A motion was made by Senator Kerr to report HB 2569 adversely, seconded by Senator Daniels. Motion carried.

Chairman Werts stated work will be completed on SB 472 at the next meeting.

Meeting adjourned. The next meeting will be January 1, 1988.

1-26-88
Guest List

James Power
Bob Hodges
Dave Carliss
Ed Reinert
KEITH R LANDIS
Bryan Hawkins
Rich McFee
Jerry Connors
Richard E. Goff
David W. Goff

KDHE
KCC
League of Municipalities
League Women Voters
CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS
Citizen Service Oil & Gas Corp
Kansas Forest Assn.
KGE
DWR-KSBA
DWR KSBA

STATEMENT OF DAVID L. POPE
CHIEF ENGINEER-DIRECTOR
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
ON
HOUSE BILL NO. 2569

January 26, 1988

Chairman Werts and Members of the Committee, I thank you for this opportunity to testify on House Bill No. 2569. We understand that the intent of House Bill No. 2569 is to provide an additional incentive in the law to encourage the proper drilling and construction of domestic water wells so that the potential threat to the potable groundwater supply in Kansas will be reduced.

The Division of Water Resources (DWR) strongly supports the intent behind House Bill No. 2569, but it cannot support the bill as drafted.

During this past year, the DWR has reviewed House Bill No. 2569 and staff members from DWR and the Division of Environment, Kansas Department of Health and Environment (KDHE), have met and discussed House Bill No. 2569. The following problems or inadequacies with House Bill No. 2569, as currently drafted, were identified:

1. House Bill No. 2569 probably will provide no actual incentive to properly construct domestic wells, either to well drillers or private landowners, because: (1) the "penalty" of not having a water right > would never be felt, or even known, until many years later in most cases, and (2) the "penalty" of not having a domestic right would fall > on the landowner while the infraction might be committed by the well driller.

1-26-88
Attach. 1

2. It puts all persons who drill domestic water wells after the effective date of the bill in jeopardy of not knowing whether they have a water right or not. What person or agency could determine that for the domestic well owner?
3. The landowner's only recourse, if the well was not properly constructed, would be against the well driller who might, or might not be, available, or solvent, 10 or 20 years after the well was drilled.
4. House Bill No. 2569 as drafted, deals only with the actual construction of the well, at which time the driller's responsibility would end. The Bill does not deal with maintenance. Many times pollution by a domestic well is caused by alterations by the owner after the well is drilled.
5. The Groundwater Protection Act already provides adequate laws to regulate the proper construction of domestic wells by KDHE regardless of whether the well is drilled by a licensed well driller or a private landowner.

The bill would probably do little or nothing to promote proper construction of domestic wells to prevent pollution of groundwater. House Bill No. 2569 would only unnecessarily burden landowners who attempted to have wells properly drilled and constructed by hiring a licensed well driller, but did not discover that the wells were not properly constructed until years after they were drilled.

What might actually accomplish the purpose behind House Bill No. 2569?

First, the Division of Environment and the Division of Water Resources now have in effect a working Memorandum of Understanding that coordinates the activities of these two agencies to allow each agency to effectively utilize its

manpower and eliminate duplication of work. This Memorandum of Understanding, which has been effectively utilized since February 13, 1984, is currently being reviewed and rewritten to include several other areas of coordination.

For example, the Division of Water Resources inspects many water wells each year for a number of reasons. DWR could serve as eyes and ears for KDHE and check for any noticeably improperly constructed or maintained water well which could be a threat to groundwater quality. This information will be turned over to KDHE field staff who can screen the information, prioritize inspections and follow-up on wells which could potentially serve as conduits for pollution of ground or surface water.

In the past the Water Well Advisory Committee recommended legislation which it felt would generally improve the construction of all water wells in the State of Kansas. Two components of this proposed legislation were: (1) mandatory continuing education of well drillers, and (2) administrative fine capabilities for KDHE. The Division of Water Resources feels that enactment of legislation of this type could help reduce the pollution threat to groundwater.

In summary, the Division of Water Resources opposes passage of House Bill No. 2569, as drafted, for the reasons which I have stated earlier. The Division of Water Resources has also set into motion amendment of its Memorandum of Understanding with the Division of Environment to increase coordination between these agencies to help prevent groundwater pollution.

The Division of Water Resources would also support additional legislation requiring continuing education for well drillers and additional enforcement authority for KDHE in the area of proper well construction.

Thank you very much. I would be happy to answer any questions.