

Approved

Thomas F. Walker
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by REPRESENTATIVE THOMAS F. WALKER at
Chairperson

9:00 a.m. ~~XXXX~~ on WEDNESDAY, JANUARY 18, 1989 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman - Revisor
Carolyn Rampey - Legislative Research
Laura Howard - Legislative Research
Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

Laura Howard - Legislative Research
Carolyn Rampey - Legislative Research

The meeting of the House Governmental Organization Committee was called to order by Representative Thomas F. Walker, Chairman. The Chairman stated the minutes would stand approved at the end of the meeting if there were no corrections or additions.

From time to time the Committee receives bill requests. Today, one of those requests comes from Ramon Powers, Historical Society. Mr. Powers is requesting a bill be introduced that would make the Assistant Secretary of the Historical Society an unclassified position.

The Chairman stated he would entertain a motion.

Representative Bowden moved the legislation be introduced. Representative Sughrue gave a second to the motion. The motion carried.

The Chairman introduced Joe Harkins, Director, Kansas Water Office and Leland Rolfs, Board of Agriculture.

The agenda for the day was staff review of HB 2038 and HB 2039 - Water Office and Water Authority.

Laura Howard, Legislative Research gave an overview of both agencies. She began with a background and a short history of both entities and proceeded with the functions and responsibilities. She ended her review with the organization and budget and state water plan. (Attachment 1)

Carolyn Rampey, Legislative Research, went through the Water Agencies Subcommittee Report of 1987 and stated what had been done with each of the twelve recommendations. The two remaining Subcommittee members that remain on the Governmental Organization Committee, Kathryn Sughrue and Rick Bowden, added input with particular emphasis on recommendations eight and twelve. (Attachment 2)

Chairman Walker added that Mr. Harkins will supply much more information. With the subcommittee's efforts, a wealth of information will be garnered. Mr. Harkins will address the Committee Thursday, January 19.

The meeting was adjourned.

MEMORANDUM

January 16, 1989

TO: House Committee on Governmental Organization

FROM: Kansas Legislative Research Department

RE: Sunset Review of the Kansas Water Office, the Office of the Director, and the Kansas Water Authority

The Kansas Sunset Law, K.S.A. 74-7245 et seq., contains two sections providing that the Kansas Water Authority, the Kansas Water Office and the Office of the Director be abolished on July 1, 1989 (K.S.A. 74-7271 and 74-7272). These agencies would continue for one year beyond the date of abolition before termination unless reestablished by the Legislature in accordance with the provisions of the Sunset Law. 1989 H.B. 2038 and H.B. 2039, introduced by this Committee, would continue the Kansas Water Office, the Office of the Director, and the Kansas Water Authority until 1997 at which time they would be abolished under the Sunset Law. The last sunset review for these entities was during the 1987 Legislative Session. At that time the subcommittee recommended that they be extended for two years. This recommendation was made to allow the Legislature to evaluate how the agencies are operating under the current administration and to allow review of the water planning process on a fairly regular basis in order to allow the Legislature to assist in the implementation of the State Water Plan.

BACKGROUND

The Kansas Water Office and the Kansas Water Authority are those entities in state government charged with the responsibility to plan for the management of the water resources of the state. The actual management of water resides with other state agencies such as the Kansas Department of Health and Environment (water quality), the Division of Water Resources of the State Board of Agriculture (water rights), the Department of Wildlife and Parks (recreational uses), the State Conservation Commission (water conservation), and the State Corporation Commission (water quality).

The Kansas Water Office was created by the 1981 Legislature to carry out the powers, duties and functions of the former Kansas Water Resources Board. The primary function of the Water Office is to provide for the management, conservation and development of the water resources of the state. The Water Office is the water planning and marketing agency for the state. The Kansas Water Authority is a part of the Kansas Water Office and serves in an advisory capacity to the Governor, Legislature, and others on water policy issues.

FUNCTIONS AND RESPONSIBILITIES

Kansas Water Office. The Kansas Water Office is statutorily prescribed with the following duties: (1) Collection and compilation of information on water resources; (2) Development of a state plan of water resources management, conservation and development for water planning areas; and (3) the development and maintenance of

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guidelines for water conservation plans and practices. In addition, under the State Water Resource Planning Act (K.S.A. 82a-903 et seq.), the Office is directed to formulate on a continuing basis a comprehensive state water plan for the management, conservation, and development of the water resources of the state. The Water Office is also responsible for administering provisions of the State Water Plan Storage Act, through which the agency has acquired storage in federal reservoirs for the purpose of resale to municipal and industrial water users.

The Water Office also has responsibilities in the areas of weather modification, water marketing, water assurance, basin planning, large reservoir finance, minimum desirable streamflows, water transfers, lake level management, water supply and demand estimates, and water research.

In fulfilling its statutory responsibilities, the Water Office is given the authority to seek and accept grants and other financial assistance from the federal government and other sources; to contract with public or private agencies or persons; to authorize the issuance of revenue bonds for the purpose of paying all or part of the cost of large reservoir projects and to finance the purchase of storage in existing reservoirs; and to acquire water rights under the Kansas Water Appropriation Act for the purpose of providing public water supply storage in federally funded or nonfederally funded multipurpose small lakes.

Kansas Water Authority. The Kansas Water Authority is statutorily prescribed the following duties:

1. to consult with and be advisory to the Governor, Legislature and the Director of the Kansas Water Office;
2. to review plans for the development, management and use of the water resources of the state;
3. to make a study of laws relating to water resources for the purpose of determining whether new or amendatory legislation should be enacted in the state;
4. to make recommendations relating to flood control, construction of levees, irrigation, drainage, watershed development, etc. for the coordination of activities among agencies and political subdivisions;
5. to make recommendations to each session of the Legislature and to the Governor concerning legislation or subjects for study;
6. to approve, prior to submission to the Legislature by the Kansas Water Office or its director, any contract entered into pursuant to the state water plan storage act, any submission to the state water plan or the state water planning act, and any other legislation concerning water resources of the state;
7. to approve, before they become effective, any policy changes proposed by the Water Office concerning the pricing of water for sale pursuant to the state water plan storage act;
8. to approve any agreement entered into with the federal government by the Water Office;

9. to make recommendations to the Governor and the Legislature concerning the budget of state agencies for water resources activities and any plans or related programs; and
10. to approve guidelines for conservation plans and practices.

The Kansas Water Authority is also given the authority to appoint citizens' advisory committees to study and advise on any subjects which the Authority is required or authorized to study or develop and make recommendations.

ORGANIZATION AND BUDGET

Kansas Water Office. The Water Office currently includes a Director, an Assistant Director and 20 other full-time staff positions. The director is appointed by the Governor, subject to Senate confirmation, and serves in the unclassified service at the pleasure of the Governor. The Water Office is organizationally divided into Administration (4 positions); Hydrology and Marketing (2 positions); Research and Data (5 positions); and Planning, including planning for both the Kansas basin and the Arkansas Basin (8 positions). In addition, one clerical position works primarily with the Director, the Water Authority and the Basin Advisory Committees.

The FY 1989 revised budget for the agency as recommended by the Governor totals \$2,408,383, all from the State General Fund, including \$1,302,839 in operating expenditures. The remaining \$1,105,544 is appropriated for payments to the federal government for water storage in federal reservoirs, and for operation and maintenance costs in these reservoirs.

The Governor recommends expenditures of \$2,619,835 in FY 1990, including \$1,462,251 in operating expenditures and \$1,157,584 in water storage repayments. The Governor's recommendation includes funding for one additional position for a total of 23 positions. The Governor's recommendation would fund a Public Information Officer position for public education activities. The Governor's recommendation also includes \$35,000 for a study of the implications of interbasin water transfers.

The agency request had included a supplemental appropriation of \$50,000 in FY 1989 and appropriations of \$50,000 in FY 1990 to contract with Kansas State University for a water conservation education program. The request was made partly in response to the decline in precipitation and the drought conditions experienced and anticipated for the state. The Governor did not recommend funding for this activity. In addition, the agency had requested funds for the implementation of a statewide Geographic Information System (GIS). The Governor did not recommend funding for GIS.

Kansas Water Authority. The Kansas Water Authority is a part of the Water Office and is composed of 21 members, including 13 voting members and 8 nonvoting ex officio members. The Chairperson is appointed by the Governor, subject to Senate confirmation, and serves at the pleasure of the Governor. Ten members are appointed by the Governor for terms of four years, including one representative of large municipal water users, one representative of small municipal water users, one board member of a Western Kansas Groundwater Management District, one board member of a central Kansas Groundwater Management District, one member of the Kansas Association of Conservation Districts, one representative of industrial water users, one member of the State Association

SUBCOMMITTEE REPORT

February 24, 1987
Approved as Revised, March 3, 1987

TO: House Governmental Organization Committee
FROM: Water Agencies Subcommittee
RE: Sunset Review of the Kansas Water Authority and the Kansas
Water Office and Office of the Director

The Subcommittee makes the following recommendations following its sunset review of the Kansas Water Authority and the Kansas Water Office and Office of the Director:

1. The Kansas Water Authority and the Kansas Water Office and Office of Secretary should be extended for two years (from July 1, 1987 to July 1, 1989). The Subcommittee recommends the two-year extension for two major reasons. First, the Subcommittee recognizes that personnel and policy changes could occur in the next several years as the result of the new administration. The two-year extension, which coincides with the end of the statutory term of the Director of the Water Office, would give the Legislature the opportunity to evaluate how the agencies are operating under the current administration. Second, the Subcommittee thinks the Legislature has a commitment to assist in the implementation of the State Water Plan and should take an active role in seeing that the state's water needs are met. Legislative review of the water planning process should occur on a periodic basis. House Bill Nos. 2059 and 2061 should be amended to reflect the Subcommittee's recommendation and then be reported favorably.
2. The Secretary of the Department of Commerce (or a designee) should serve as an ex officio member of the Kansas Water Authority. The Subcommittee thinks economic development and planning for the state's future with regard to its water resources go hand in hand. The agency in which so many of the state's economic development initiatives are focused should be represented in the state water planning process.
3. The Kansas Water Authority should be further expanded to add (1) a member who is representative of the general public (for a total of two public members on the Authority) and (2) a member who has a demonstrated background and interest in water use conservation and environmental issues. Both members would be appointed by the Governor. The Subcommittee thinks it is in the best interest of the state to see that a variety of interests are represented on the Authority and believes its recommendation would add balance to the present composition of the Authority.

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4. The Chairman of the State Corporation Commission, who is presently an ex officio member of the Authority, should have the authority to appoint the Director of the Conservation Division of the State Corporation Commission as a designee to serve on the Authority. Mike Lennen, the present Commission Chairman, testified before the Subcommittee that he is presently prevented by statute from designating someone else to represent the Commission on the Authority. The Subcommittee agrees that the Chairman should have the flexibility to appoint the Director of the Conservation Division as a designee.
5. Legislation should be enacted to correct a technical error involving K.S.A. 74-2622. (The House Governmental Organization Committee has recommended legislation that would accomplish this.)
6. The Subcommittee requests that the Division of Water Resources, State Board of Agriculture, develop a procedure for adjudication of damage claims in situations where there has not been a finding of impairment of a water right, but where a claimant asserts that his or her right to water has been damaged. The existence of such an arbitration procedure would allow for the resolution of damage claims before they are brought before a court in lengthy and costly litigation.
7. The Subcommittee supports the water planning process and endorses a coordinated approach to the funding of programs proposed in the State Water Plan. The Subcommittee understands that under the present circumstance of reduced state revenues, the funding of water plan programs will be particularly difficult.
8. The Subcommittee believes that water is such a critical resource for the future of agriculture, industry, commerce, wildlife, and recreation that every effort must be made to protect the public interest from over exploitation of the resource or degradation of its quality. The state has an affirmative duty to assert a public trust relationship in its oversight of the use of water by and for the citizens of the state. The state has an obligation to ensure that present policies protect future generations by giving them access to the water they will need. To this end, the Subcommittee recommends that every effort be made to allow only the safe yield appropriation of water, which means that only as much water should be taken as permits an aquifer to recharge or a streamflow to be maintained.

9. As an incentive to ensure that domestic water wells are drilled properly, the Subcommittee recommends that legislation be introduced to provide that any person drilling a domestic well after July 1, 1987, which is not constructed according to standards established under K.S.A. 82a-1205, will not be eligible for securing an appropriation right for water taken from that well. K.S.A. 82a-705a will need to be amended.

The Subcommittee feels that assuring water quality is a fundamental responsibility of the state. Therefore, the proposed amendment would provide a disincentive to anyone who drills a domestic well that is not in compliance with appropriate well-construction standards established by the Kansas Department of Health and Environment.

10. The Subcommittee thinks that physically locating the offices of the water agencies as closely together as possible helps facilitate coordination. The Subcommittee is pleased that the move of the Kansas Water Office to the Mills building and adjacent to the Division of Water Resources has brought about greater coordination of water agency activities. The Subcommittee hopes that plans to move water-related functions of the Department of Health and Environment to office space in downtown Topeka will be accomplished.
11. It is the Subcommittee's understanding that, under the former Administration, the Director of the Water Office was invited to attend meetings of the Governor's cabinet. The Subcommittee is convinced that water issues are related to a broad range of public policy matters and that the Director should be involved in policy development at the cabinet level. For that reason, the Subcommittee encourages the present Governor to include the Director of the Water Office in meetings of his cabinet.
12. Throughout testimony before it, the Subcommittee was persistent in trying to determine whether public participation in the water planning process and public access to the water management agencies are adequate. The Subcommittee concludes that public participation in the water planning process is encouraged and facilitated, and the only addition to this process is the Subcommittee's recommendation of additional representation on the Water Authority. In the area of public access to the water management agencies, the Subcommittee believes that improvements can be made, and suggests that a central access point be created for individuals who have specific water-related questions or problems.

In addition, the Subcommittee supports the Water Office's efforts to educate the public on water issues, and requests that the Office make a report to the House Governmental Organization Committee during the 1988 Session about how information about water-related issues can be better disseminated.

In conclusion, the Subcommittee requests that the Office report to the House Governmental Organization Committee during the 1988 Session on efforts to improve citizen access to water management agencies and efforts to educate the public on water issues.

Elaine Hassler

Representative Elaine Hassler
Subcommittee Chairman

Ginger Barr

Representative Ginger Barr

Rick Bowden

Representative Rick Bowden

Jesse Harder

Representative Jesse Harder

Clarence C. Love

Representative Clarence Love

Dale M. Sprague

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Kathryn Sughrue

Representative Kathryn Sughrue

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