

Approved March 21, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at  
Chairperson

3:30 ~~am~~ p.m. on March 20, 1990 in room 526-S of the Capitol.

All members were present except:

Representative Barr  
Representative Gatlin

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Pat Mah, Legislative Research  
Maggie French, Committee Secretary

Conferees appearing before the committee:

Mr. David L. Pope, Chief Engineer-Director, Division of Water Resources,  
Kansas State Board of Agriculture  
Ms. Lola J. Warner, Program Administrator, State Conservation Commission

Chairman Dennis Spaniol called the meeting to order.

Senate Bill No. 570 -- An act concerning water; relating to fees charged for applications to change place of use.

The chairman recognized Mr. David L. Pope, Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture, who testified as a proponent on Senate Bill No. 570, stating it would modify the filing fees for applications to change existing water rights (Attachment 1). Discussion included questions from the committee relating to whether or not the State Board of Agriculture oversees plugging of abandoned wells; when other wells have been authorized; the part the groundwater management districts play in change applications; if groundwater management districts are eligible for state funding; backlog of change applications; types of changes for irrigation use; the possibility of using undergraduate students in lieu of additional full-time positions; replacement of wells due to deterioration of casings, collapse of screens, and the fact that some wells are too shallow, and if a permit fee would be required if a new sleeve is put in a well.

The chairman concluded hearings on Senate Bill No. 570.

Senate Bill No. 585 -- An act relating to watershed districts; authorizing the establishment of structure maintenance funds.

Ms. Lola Warner, Program Administrator, State Conservation Commission, was called on by the chairman. Ms. Warner testified as a proponent on Senate Bill No. 585 on behalf of Mr. Ken Kern, State Conservation Commissioner, urging favorable consideration of the bill by the committee (Attachment 2). The committee asked questions relating to the need for a structure maintenance fund and if there has been maintenance on the watersheds by the districts. Representative Grotewiel requested a written response regarding funding for structure maintenance from State Conservation Commissioner Kern. Chairman Spaniol asked Ms. Warner to furnish the response to the committee prior to March 23, 1990. Discussion continued on intent for use of the fund; the levy of funds in the watershed districts, and if maintenance is funded by the levy.

The chairman concluded hearings on Senate Bill No. 585.

The meeting adjourned at 4:00 p.m.

The next meeting of the committee will be at 3:30 p.m., March 21, 1990.







STATEMENT OF DAVID L. POPE  
CHIEF ENGINEER-DIRECTOR  
DIVISION OF WATER RESOURCES  
KANSAS STATE BOARD OF AGRICULTURE  
BEFORE THE  
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
ON  
SENATE BILL NO. 570

March 20, 1990

Mr. Chairman and members of the committee, thank you for the opportunity to provide testimony on Senate Bill No. 570 pertaining to fees associated with the administration of certain aspects of the Kansas Water Appropriation Act by the Division of Water Resources, Kansas State Board of Agriculture. I am here in support of the passage of Senate Bill No. 570.

Before I address the specific provisions of the bill, I would like to indicate that Senate Bill No. 570 would modify the filing fees for applications to change (i.e. modify) an existing water right. This is a companion bill to Senate Bill No. 569 that would establish new fees for an extension of time, and for the reinstatement of a water right or permit previously dismissed under certain circumstances. These are revenue bills that seek to recover a portion of the cost of processing these matters from the applicant and to allow our agency to receive the additional funding necessary to carry out these important functions. I recognize that fee bills may not always be popular. Our request to initiate new fees or increase existing fees is not predicated on a desire to see these fees increased, but rather on the need for additional resources to carry out program functions in a timely and responsible manner.

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ATTACHMENT 1

I would now like to explain the provisions of this bill in more detail:

K.S.A. 82a-708(b) allows the owner of a water right to change the place of use, the point of diversion or the use made of the water (i.e. the type of use) by applying to the Chief Engineer and complying with the provisions of the statute. Currently the filing fee for such applications is \$50 irrespective of the type or types of change(s) and the complexity of the matter. For example, a simple replacement well to be drilled within a few feet of the original well does not normally require a lot of staff time, while an application to move a point of diversion a much further distance along a stream or within an aquifer system may involve complexities regarding the determination of the local source of supply and whether or not such a change would impair other water rights. Likewise, changes in the place of use or the type of use, especially, may require more information and analysis requiring additional time to review. Senate Bill No. 570 would modify the current fee schedule to recognize the difference in the types of changes and base the fees more in proportion to the amount of effort required by our office.

We propose to maintain the filing fee for "short move" changes in point of diversion of 300 feet or less at the current \$50 level. Currently, most of these changes are approved by our field staff and are not particularly expensive to process. Applications to change a point of diversion more than 300 feet would be assessed a fee of \$100. An application to change the place of use would be

assessed a fee of \$100 and an application to change the use made of the water would be \$150. Since combinations of two or more types of changes are often made, the bill would allow a lesser fee of \$150 for two types of changes made on the same application and would assess a fee of \$250 if all three types of changes are made on one application, recognizing the cost effectiveness of filing a single application for more than one type of change.

I believe the proposed fee schedule fairly represents the relative amount of effort required for these types of changes to existing water rights. However, it should be recognized that any given application can be more or less complex depending on a wide range of circumstances.

#### Use of Revenue

Since this is a revenue bill, I would call your attention to the information provided in the fiscal note for the bill. The Division is currently unable to process all of the applications, and other related matters required to administer the Water Appropriation Act, in a timely and effective manner with our existing staff.

We have reached a point in the State of Kansas where many areas of the state are now fully appropriated or where the water supplies of the area are unable to satisfy all of the demands for the use of water, especially during periods of drought. As a result, it is necessary for the Division to provide a more detailed and thorough review of every application being filed so as to determine whether or not it should be approved, modified or rejected.

While the general trend in the number of applications received had been down for several years, they have sharply increased during the drought of 1988 and 1989, placing an ever increasing work load on our staff. In addition, the number and complexity of changes to existing water rights have never been greater. Many existing wells are now reaching an age where they must be replaced. As farm operations are modified, changes in place of use must be filed and approved. As cities and rural water districts provide for interconnections to allow the distribution of water to a variety of entities, the place of use authorized by the water rights involved must be modified to accommodate these new arrangements. This is necessary to protect the water rights of all of the entities involved and otherwise allow water resources to be administered properly.

In addition, we are starting to see more and more existing water rights purchased in areas closed to new appropriations of water. This effectively allows growing needs for water to be met from existing supplies without increasing the total amount of water authorized.

Another area of need relates to water conservation and use efficiency. As a result of the provisions of the State Water Plan and legislation passed in 1986, we have been requiring each applicant for a new permit for a change in the place of use or type of use under an existing water right to submit a water conservation plan. This has resulted in considerable extra work load to the



existing staff processing regular applications since no additional staff was allowed when that statute was passed.

While I realize that subsequent action would be required through the appropriation process to modify our budget, the combined revenues from Senate Bill Nos. 569 and 570 would provide the resources to fund an additional engineering position to help address the matters referred to above. This new position would allow regular staff to concentrate on the backlog of applications that need to be processed and provide for specialized expertise to coordinate the water conservation program with the various other entities involved such as the groundwater management districts, Soil Conservation Service, KSU Extension and other parties. Even this will not likely take care of our long term needs in this area, but will at least allow us to stay "afloat" another year or so.

Mr. Chairman and members of the committee, I would appreciate your support of Senate Bill No. 570 and would be happy to answer any questions you may have.



# State Conservation Commission

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HOUSE ENERGY AND NATURAL  
RESOURCES COMMITTEE  
SENATE BILL NO. 585  
March 20, 1990

TESTIMONY BY:  
LOLA J. WARNER  
PROGRAM ADMINISTRATOR

The State Conservation Commission provides administrative assistance to the eighty-six (86) organized watershed districts in Kansas. We appreciate the opportunity to provide comments in support of the passage of Senate Bill 585 this morning.

The Commission, as you are aware, also administers the State Watershed Dam Construction Program. This program provides financial assistance to watershed districts, drainage districts and other special purpose districts for the engineering and construction of flood control structures.

Watershed districts are solely responsible for the operation and maintenance of the structures constructed through the State program in addition to those constructed with P.L. 566 (Federal) and local funds.

Each structure built is required to be inspected and maintained annually. As the flood control structures increase in age, so do the costs associated with the operation and maintenance of them.

The new Section (c) would allow watershed districts to direct a portion of their existing revenue into a "Structure Maintenance Fund". This fund would ensure the availability of resources to perform the necessary maintenance functions on each of their structures.

Thank you for the opportunity to explain the State Conservation Commission viewpoints on Senate Bill 585. We urge your favorable consideration of the bill.

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ATTACHMENT 2