

Approved

Date

1/23/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel  
Chairperson

3:30 ~~xxx~~ p.m. on January 17, 1991 in room 526-S of the Capitol.

All members were present except:

Representative Patrick, excused  
Representative Webb, excused

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Mary Torrence, Revisor of Statutes' Office  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

None

Chairman Grotewiel introduced himself and welcomed those present to the meeting. The chair then introduced Representative McClure as Energy Vice Chairperson, Representative Charlton as Natural Resources Vice Chairperson, Representative Holmes, the Ranking Minority Member, and Committee Secretary, Lenore Olson.

The Chairman then distributed copies of the Proposed Committee Rules, and entertained a motion to adopt these rules. (Attachment 1)

A motion was made by Representative McClure, seconded by Representative Holmes, to adopt the Proposed Committee Rules. The motion carried.

Chairman Grotewiel directed the Committee, regarding introduction of bills, that any member may introduce bills, but the bills must be in an acceptable form for introduction. Copies of the bills to be introduced will not be distributed to every member prior to introduction in order to conserve on paper. The chair touched on the topic of hearings and said that he hopes to schedule hearings for similar bills together. Regarding procedure for scheduling of conferees, the chair said that they will appear in order of notification of the Committee Secretary, with the exception of secretaries of State departments. Twenty-six copies of written testimony are to be provided by conferees. A five minute time limit on testimony was encouraged by the chair. Absences of members will be excused, but promptness at all committee meetings was encouraged by the chair.

Chairman Grotewiel announced that there were four bills to be introduced; the first three were recommendations of the Kansas Water Authority.

A motion was made by Representative McClure, seconded by Representative Shore, to introduce a bill regarding regulating approved laboratories that test private well water supplies. (Attachment 2) The motion carried.

A motion was made by Representative Charlton, seconded by Representative McClure, to introduce a bill to set standards for water treatment units. (Attachment 3) The motion carried.

A motion was made by Representative Freeman, seconded by Representative McKechnie, to introduce a bill relating to conservation plans and practices for people with water rights. (Attachment 4). The motion carried.

A motion was made by Representative McClure, seconded by Representative Holmes, to introduce a bill to protect customers of merging utilities from paying extra costs relating to a merger; and regarding sales of excess capacity. (Attachment 5) The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on January 17, 1991.

Chairman Grotewiel announced that hearings on the utility bill are scheduled for January 30 and 31.

Directions for the Committee tour to the Kansas Corporation Commission facilities on January 22 were given by the chair.

The meeting adjourned.

COMMITTEE: House Energy & Natural Resources DATE: 1/17/91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Tom TUNNELL	Topeka	KS FERT & CHEM ASSN
ED SCHAUB	"	KPL GAS SERVICE
Chris Wilson	"	KS Grain & Feed Ass'n
TREVA POTTER	"	PEOPLES NAT. GAS
JERRY (DONALD)	Lawrence	KGE
Jim Luning	Topeka	KPL GAS SERVICE
Woody Moses	✓✓	KS Agg Producers
Curt Carpenter	Great Bend	Centel
John Peterson	Topeka	Antenna Busch
Meal Whitaker	Topeka	KS Beer Wholesalers Assn.
Chiginta Carmeluis	Topeka	IG BIRP
MATT SCHERER	TOPEKA	KSBA - DWR
DEBBIE Mc CASKILL	TOPEKA	COMMERCE
Suzan Tucker	Topeka	Commerce
Stephen Hurst	Topeka	Kansas Water Office
Daljit Singh Jansen	Topeka	K.W.O
Clark Ruff	"	"
Paula McClure	Shenandoah	
Dan Haas	Overland Park	KCPK
STEVE KEARNEY	TOPEKA	PETERMILL
Jake Nier	Topeka	Hain & Ebert

KEN GROTEWIEL

REPRESENTATIVE, NINETY-SECOND DISTRICT

1425 W. MURDOCK

WICHITA, KANSAS 67203-3178

(316) 265-2704



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENT

MEMBER: ENERGY AND NATURAL RESOURCES  
TAXATION  
LEGISLATIVE, JUDICIAL AND  
CONGRESSIONAL APPORTIONMENT

PROPOSED COMMITTEE RULES  
ENERGY AND NATURAL RESOURCES COMMITTEE

The purpose of these rules is to facilitate the understanding of members of the Committee and the public in reviewing the flow of legislation through this committee. Unless stated to the contrary herein, the rules of the House or Robert's Rules of Order will apply.

1. Items listed on the agenda must be brought before the committee in order of appearance. However, if the agenda states that any items previously heard may be brought before the committee, the chair may bring to a vote bills previously heard.
2. Original motions and substitute motions shall be in order when a bill is pending for consideration. A substitute motion may not be made which is contrary to the original motion.
3. An amendment to a bill must be "germane" to the area of law that is being proposed or changed. Since committees serve the purpose of examining issues for which there may be multiple solutions or approaches, "germaness" will be interpreted as broadly as possible.
4. The question of adjournment shall be reserved to the chair and no motion to adjourn shall be entertained.
5. A motion to "lay on the table" shall be in order at any time a question or series of questions (including an original motion and a substitute motion) are pending. The motion is non-debatable and requires a majority vote to pass.
6. A motion to "take from the table" shall be in order when such item is on the agenda or is taken up by the chair. The motion requires a simple majority and is debatable.
7. When time is separately reserved on the agenda for proponents and opponents of an issue and the time expires for either side, the testimony shall cease. Witnesses will be recognized in the order they have submitted their names to the committee secretary.
8. All witnesses shall have testimony written and shall provide 26 copies to the committee secretary at the time of appearance.
9. At the option of the chair, all who are scheduled to testify on a bill may be required to submit written testimony 24 hours in advance of the hearing for distribution to committee members.
10. A motion to report a bill "without recommendation" shall not be in order.

*E+NR*  
*1/17/91*  
*attachment 1*

November 5, 1990

\_\_\_\_\_ BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT concerning private water supplies; relating to testing in approved laboratories; penalty for violation; rules and regulations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) "Private water supplies" means any water supply not covered under the definition of "public water supply system" as defined in K.S.A. 65-162a.

(b) "Preliminary screening" means a qualitative laboratory analysis used to determine the need for additional quantitative analytical tests.

(c) "Analytical tests" means a quantitative laboratory analysis to produce quality assured data of the exact levels of impurities.

Sec. 2. It shall be unlawful for any person or laboratory to perform analytical tests for private water supplies unless the laboratory in which such tests are performed has been approved by the secretary of health and environment to perform such tests.

Sec. 3. The secretary of health and environment is hereby authorized and empowered to adopt rules and regulations governing the procedures and qualifications for certification and approval of laboratories as required in section 2 of this statute.

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*4/17/91*

*Attachment 2*

Sec. 4. Any person who violates any provision of this act or of the rules and regulations promulgated under the authority of this act shall, after notice and hearing in accordance with the Kansas Administrative Procedures Act, be subject to suspension, denial or revocation of any certification granted hereunder, and a civil penalty not to exceed Five Hundred Dollars.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

January 16, 1990

\_\_\_\_\_ BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT relating to drinking water quality: to validate drinking water treatment units, to require performance data sheet and a consumer information handbook to accompany the sale of such units.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known as the Kansas Drinking Water Quality and Treatment Units Act.

Section 2. For the purpose of this Act, unless the context otherwise requires:

(1) "Consumer" means any person who purchases, leases or rents a drinking water treatment unit, not for resale or use in the ordinary course of a trade or business, but for providing drinking water for household or business use.

(2) "Contaminant" means any undesirable physical, chemical, radiological or microbiological substance or parameter in water for which there is a federal or state maximum contaminant level "mcl.", or secondary maximum contaminant level "smcl" or guideline.

(3) "Manufacturer's Performance Data Sheet" means a booklet, document or other printed material containing, at a minimum, the information required by Section 4.

(4) "Drinking water treatment unit" means any unit used to treat all or part of the water for the facility at the point of entry or any plumbed in or faucet mounted unit for which a claim is made that it will improve the quality of water by changing or reducing one or more contaminants through mechanical, physical, chemical or biological processes or combinations thereof. For the purposes of this Act each model of a drinking water treatment unit shall be deemed a distinct drinking water treatment unit.

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4/17/91  
attachment 3*

(5) "Seller" means a person who is in the business of offering drinking water treatment units for sale, lease or rent to consumers and shall include sales representatives.

(6) "Surrogate" means a chemical compound with similar reaction characteristics as the target contaminant.

Section 3. On and after the effective date of this act, it is unlawful for a seller to sell, lease, rent or advertise the sale, lease or rental of drinking water treatment units unless:

(1) Each model has been tested and certified by the National Sanitation Foundation, Ann Arbor, Michigan, or its other authorized branches.

(2) Each model has met the performance and materials testing requirements specified in the latest revisions of the applicable standards of the National Sanitation Foundation.

(3) Each unit has a statement signed and dated by the consumer that he/she has received and read prior to the consumption of a sale the product information package which includes (a) consumer information handbook as specified in Section 6, (b) certification of product benefit claims and product performance claims by the National Sanitation Foundation and (c) manufacturer's performance data sheet.

Section 4. In the case of customized drinking water treatment units or systems integrated or assembled on site or designed for site-specific needs, the individual water treatment components need not be certified again if already certified. However, the customized system as a whole needs to be certified for any claims not covered by the individual units.

Section 5. The manufacturer's performance data sheet shall be written in layman's language and printed with standard or oversized type and shall contain information including, but not limited to:

(1) The name, address and telephone number of the manufacturer, i.e., the person who makes, assembles, fabricates or constructs drinking water units.



(2) The name, brand or trademark under which the drinking water treatment unit is sold and its model number.

(3) Performance and test data including, but not limited to:

(a) The list of contaminants certified to be reduced or changed by the drinking water treatment unit;

(b) The test influent concentration level of each contaminant or surrogate for that contaminant;

(c) The percentage reduction, change or effluent concentration of each contaminant or surrogate;

(d) The maximum permissible concentration of a contaminant in water as established in the U.S. Environmental Protection Agency Primary Drinking Water Regulations;

(e) The approximate capacity in gallons;

(f) The period of time during which the unit is effective in reducing or changing the contaminants based upon the contaminant or surrogate influent concentrations used for the performance tests; and

(g) The flow rate, pressure and operational temperature of the water during the performance test.

(4) The following information must be contained on the performance data sheet or may be referenced to the owner's manual or to other material given to the buyer:

(a) Installation instructions; and

(b) The recommended operational procedures and requirements necessary for the proper operation of the drinking water treatment unit including, but not limited to, electrical requirements; maximum and minimum pressure; flow rate;

temperature limitations; maintenance requirements; and where applicable, replacement frequencies.

Section 6. The consumer information handbook to be provided to the buyer of a drinking water treatment unit shall be prepared by the Cooperative Extension Service, Kansas State University, Manhattan, Kansas, and updated periodically. This handbook will educate the consumer on the necessity, use and effectiveness of drinking water treatment units, the quality of public water supplies in different areas of the state, the rights and responsibilities of the consumer under the Consumer Protection Act and any other pertinent information to safeguard the consumer interest in this matter.

Section 7. It shall be a violation of the Consumer Protection Act (K.S.A. 50-623 *et seq.*) for a seller to sell, lease, rent or advertise the sale, lease or rental of a drinking water treatment unit in this state to a consumer for which false or deceptive claims or representations of removing or changing contaminants are made; to make any representation or claim that the seller's drinking water treatment unit has been approved or endorsed by any agency of the state or the federal government; to sell, lease or rent a drinking water treatment unit which does not comply with section 3 of this act.

Section 8. This act shall take effect and be in force from and after January 1, 1992.

AN ACT relating to water use; concerning conservation plans and practices; amending K.S.A. 1988 Supp. 82a-732 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1988 Supp. 82a-732 is hereby amended to read as follows: 82a-732. *Annual water use reports required, contents; penalty; disposition of fines.* (a) The owner of a water right or permit to appropriate water for beneficial use, except for domestic use, shall file an annual water use report on a form prescribed by the chief engineer of the division of water resources of the state board of agriculture on before March 1 following the end of the previous calendar year. The report shall completely and accurately set forth such water use information as requested by the chief engineer.

(b) Any person failing to file a water use report or other documents required under the provisions of subsection (a) shall be subject to a civil penalty in an amount not to exceed \$250. The chief engineer upon a finding that the owner of a water right or permit to appropriate water for beneficial use has failed to file such a report may impose a civil penalty as provided in this section. Any person filing a document knowing it to contain any false information as to a material matter shall be guilty of a class C misdemeanor. (c) All fines collected by the chief engineer pursuant to this *subsection* shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and amendments thereto.

K.S.A. 82a-733 The chief engineer may require the owner of a water right or permit to appropriate water for beneficial use to adopt and implement conservation plans and practices; (2) In selecting the water rights or permits required to have conservation plans and practices adopted and implemented, the chief engineer shall give priority to: (a) water users that share a common source of supply that could be insufficient during times of drought, (b)

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Attachment 4

water users in water short areas, including fully appropriated areas or within the boundaries of an intensive groundwater use control area, (c) water users whose use is significantly higher than their peers and (d) water users who apply for state administered grant, loan or cost-share monies for water-related projects; (3) Prior to requiring the adoption and implementation of conservation plans and practices, the chief engineer shall assess the availability of technical assistance and inform the owner of a water right or permit who is required to adopt and implement a conservation plan and practices of the available sources of technical assistance to prepare the conservation plan; (4) The chief engineer shall allow the owner of a water right or permit a minimum of 60 days to prepare a required conservation plan. The time allowed to prepare the required conservation plan can be extended by the chief engineer for good cause shown by the applicant. (5) Such plans and practices shall be consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas water office pursuant to sub-section (c) of K.S.A. 74-2608, and amendments thereto. The Chief engineer, in consultation with the director of the Kansas water office if requested by the owner of the water right or permit, shall determine whether such plans and practices are consistent with the guidelines adopted by the Kansas water office; (6) The Kansas water office shall provide, or arrange to provide, technical assistance for water users required to adopt and implement conservation plans and practices; (7) The chief engineer shall provide the owner of the water right or permit a reasonable time to implement the conservation plan and, for good cause shown, such as the need to apply extensive land treatment practices, the chief engineer may extend the time for implementation for a period of up to five years. (8) The chief engineer may require domestic users of water to adopt and implement conservation plans and practices, and delegate this authority to municipalities that have conservation plans meeting state guidelines, so that they can require compliance from private well owners within the city limits.

(9)(a) No state agency shall lend, grant or cost-share funds for any water-related projects to any person or entity without first determining that the person or entity has submitted to the Chief Engineer a water conservation plan consistent with the guidelines for conservation plans and practices developed and maintained by the Kansas Water Office pursuant to sub-section (c) of K.S.A. 1989 Supp. 74-2608, and that the Chief Engineer has approved the plan; (b) as used in this act "water-related projects" shall include but not be limited to the following: interconnections between water supply systems; development of new water supply and delivery systems; improvements or repairs to existing water supply, sewer or water treatment system; land treatment on irrigated land; small lakes development, improvement or repair; and development of other small impoundments for water supply or irrigation.

*Sec. 2 K.S.A. 1988 Supp. 82a-732 is hereby repealed.*

*Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.*

AN ACT relating to drought; requiring development of guidelines as to when drought exists, requiring notification of governor; authorizing governor to declare "state of drought;" and requiring implementation of drought contingency plans; amending K.S.A. 1989 Supp. 74-2608 and repealing the existing section; amending K.S.a. 1983 48-924 and repealing the existing section.

Article 26. - KANSAS WATER OFFICE AND KANSAS WATER AUTHORITY

**74-2608. Duties of office.** The Kansas water office shall:

(a) collect and compile information pertaining to climate, water and soil as related to the usage of water for agricultural, industrial and municipal purposes and the availability of water supplies in the several watersheds of the state, and, in so doing, the office shall collect and compile the information obtainable from other agencies, instrumentalities of the state, political subdivisions of the state and the federal government.

(b) Develop a state plan of water resources, management, conservation and development for water planning areas as determined by the office, and cooperate with any agency or instrumentality of the state or federal government now or hereafter engaged in the development of plans or having developed plans affecting any such area of the state.

(c) Develop and maintain guidelines for water conservation plans and practices. Such guidelines shall:

- (1) Not prejudicially or unreasonably affect the public interest;
- (2) be technologically and economically feasible for each water user to implement;
- (3) be designed to curtail the waste of water;
- (4) consider the use of other water if the use of freshwater is not necessary;
- (5) not require curtailment in water use which will not benefit other water users or the

public interest;

(6) not result in the unreasonable deterioration of the quality of the waters of the state;

(7) consider the reasonable needs of the water user at the time;

(8) not conflict with the provisions of the Kansas water appropriation act and the state water planning act;

(9) be limited to practices of water use efficiency except for drought contingency plans for municipal users; and

(10) take into consideration drought contingency plans for municipal and industrial users.

When developing such guidelines, the Kansas water office shall consider existing guidelines of groundwater management districts and the cost to benefit ratio effect of any plan.

(d) The Kansas water office, with the approval of the Kansas water authority, shall establish guidelines as to when conditions indicative of drought exist. When the Kansas water office determines that such conditions exist in an area, it shall so advise the governor and shall recommend the assembling of the governor's drought response team.

**48-924.** Responsibility of governor during disasters; states of disaster emergency; extension; termination; proclamation, contents and effects; states of drought; powers of lieutenant governor during absence or disability of governor. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) The governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency. The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and upon making such findings the governor shall

terminate the state of disaster emergency by proclamation, but no state of disaster emergency may continue for longer than fifteen (15) days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed thirty (30) days beyond such fifteen-day period. At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency. Any proclamation declaring or terminating a state of disaster emergency which is issued under this subsection shall indicate the nature of the disaster, the area or areas threatened or affected by the disaster and the conditions which have brought about, or which make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency preparedness, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area to which such proclamation applies.

(c) The governor, when conditions indicative of drought exist, shall be authorized to declare by proclamation that a "state of drought" exists. This declaration of a "state of drought" can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans including those for state facilities.

(d) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, the lieutenant governor may issue a proclamation



declaring a state of disaster emergency in the manner provided in and subject to the provisions of sub-section (b). In the event of the absence of the governor from the state or in the existence of any constitutional disability of the governor, the lieutenant governor may issue a proclamation declaring a state of drought in the manner provided in and subject to the provisions of subsection (c). During a state of disaster emergency declared pursuant to this subsection, the lieutenant governor may exercise the powers conferred upon the governor by K.S.A. 48-925. Upon the return of the governor to the state or the removal of any constitutional disability of the governor, the authority of the lieutenant governor to exercise such powers shall terminate immediately and the governor shall resume the full powers of such office. Any state of disaster emergency and any actions taken by the lieutenant governor under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminate by the governor in the manner prescribed by law.

(e) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the political subdivisions or areas affected by the proclamation. Such proclamation shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

HOUSE BILL NO. \_\_\_\_\_

By Committee on Federal and State Affairs

AN ACT concerning public utilities; relating to determination of rates or other charges.

Be it enacted by the Legislature of the State of Kansas:

Section 1. In determining any rate or other charge of a public utility which has merged with another public utility, the state corporation commission shall not allow recovery of or return on:

(a) Any acquisition premium (acquisition cost less net book value of assets acquired) resulting from the merger; or

(b) costs of any executive stock option, executive salary continuation, executive severance pay or other executive compensation arrangements, offered as a part of the merger.

Sec. 2. In the event of a merger of two public utilities, both of which own electric generating capacity, the state corporation commission, in determining rates or other charges of the merged company, shall consider whether excess capacity exists and, if so, whether that excess capacity prudently should be sold to other public utilities doing business in this state.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

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1/17/91  
Attachment 5