

Approved: Carl Dean Holmes
Date 4-29-95

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes on March 8, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Phill Kline - Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Glen Cogswell - North Topeka Drainage District

Others attending: See attached list

The Chair referred to a brochure before them announcing the Kansas Committee on the Relation of Electricity to Agriculture Meeting on March 15 at the Holiday Inn Holidome in Manhattan, Kansas. *Electrotechnologies: The Future of Kansas* will be the subject matter, with scheduled keynote speaker Mark Mills, Mills-McCarthy and Associates, Washington D. C.

The Chair then recognized Representative Doug Lawrence to explain a bill draft that he will request to be introduced in the Federal and State Affairs Committee tomorrow regarding CURB, if the proposal is approved by this Committee today. (See Attachment #1.) Chairperson Holmes told the Committee that if they choose to hold hearings it will be on both CURB bills (**HB 2550** and the new proposal), and will be scheduled Friday, March 17 upon adjournment of the House. He called for a Committee vote on whether to hold hearings, and the vote carried in favor of holding hearings.

The Chair announced that he has received word that the Senate has received **SB 284** and **SB 337** back from an exempt committee, and there is a possibility that these two bills will also be heard in Committee on March 17.

Hearing on SB 211:

Glen Cogswell. Mr. Cogswell introduced individuals in the audience who support this bill and will be available for questions:

Mike Johnson, President, North Topeka Drainage District
Clayton Cochran, Vice President and Treasurer, North Topeka Drainage District
Dale Senberg, Superintendent, North Topeka Drainage District
Dennis Hall, Attorney, Tri-County Drainage District
Frank Rice, Tri-County Drainage District
Howard Parr, Treasurer, Tri-County Drainage District

Mr. Cogswell said that he was speaking in support of **SB 76** on behalf of the North Topeka; Tri-County; and Kaw River Drainage Districts. He said there is a deficiency in the statute as it is presently worded, explaining that the effect of the present law is that sand royalty funds, received by the counties are being accumulated and not used, because of the counties' lack of authority to disburse or use them. Mr. Cogswell said that the three aforementioned Drainage Districts respectfully request that this bill be passed. (See Attachment #2.)

Messrs. Dennis Hall and Frank Rice. Both gentlemen spoke from the floor, briefly commenting that they concur with Mr. Cogswell's comments.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room
526-S Statehouse, at 3:30 p.m.. on March 8, 1995.

Representative Sloan moved to approve Committee minutes for February 6; 7; 8; and 9. Representative Krehbiel seconded. Motion carried.

Upon completion of its business, the meeting adjourned at 4:25 p.m.

The next meeting is scheduled for March 9, 1995.

BILL NO. _____

By Committee on

AN ACT concerning utilities; creating the citizen advocacy panel and prescribing the powers and duties thereof; abolishing the citizens' utility ratepayer board; amending K.S.A. 66-1502 and 66-1503 and repealing the existing sections; also repealing K.S.A. 66-1222 through 66-1225.

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

New Section 1. (a) There is hereby established a citizen advocacy panel which shall consist of five members appointed by the governor. Subject to the provisions of K.S.A. 1994 Supp. 75-4315c and amendments thereto, the governor shall appoint one member from each congressional district and the remainder from the state at large. Not more than three members of the panel shall be members of the same political party. The members of the panel shall serve for terms of four years. Any vacancy on the panel shall be filled by appointment by the governor for the remainder of the unexpired term.

(b) The governor shall designate one member of the citizen advocacy panel to serve as chairperson of the panel.

(c) The citizen advocacy panel shall adopt such rules of procedure as the panel considers necessary for conducting its business and shall hold such meetings as in its judgment may be necessary for the performance of its powers, duties and functions. Appointive members of the panel shall receive amounts provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto.

(d) The state corporation commission may provide such technical and clerical staff assistance as may be requested by the citizen advocacy panel in the administration of the provisions of this act.

(e) The citizen advocacy panel shall administer this act and

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shall have and may exercise the following powers, duties and functions:

- (1) Employ an attorney as a consumer counsel;
- (2) guide the activities of the consumer counsel; and
- (3) recommend legislation to the legislature which in the panel's judgment would positively affect the interests of utility consumers.

New Sec. 2. The consumer counsel may do the following:

- (a) Represent residential, agricultural and small commercial ratepayers before the state corporation commission as an official intervenor in cases filed with the state corporation commission, including rate increase requests;
- (b) intervene in formal complaint cases which would affect such ratepayers; and
- (c) make application for a rehearing or seek judicial review of any order or decision of the state corporation commission which would affect such ratepayers.

New Sec. 3. Neither the citizen advocacy panel nor the consumer counsel shall have the power or authority concerning any action taken by an electric or telephone cooperative with a membership of less than 15,000.

New Sec. 4. All budgeting, purchasing and related management functions of the citizen advocacy panel shall be administered

fiscal year, except that the assessment during any fiscal year shall not exceed .2% of such gross operating revenues. Such assessment shall be paid to the commission within 15 days after the notice of assessment has been mailed to such public utilities and common carriers, which notice of assessment shall constitute demand of payment thereof.

(c) The commission shall remit all moneys received by or for it for the assessment imposed under this section to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the

SENATE BILL NO. 211

TESTIMONY OF TRI-COUNTY DRAINAGE DISTRICT,
NORTH TOPEKA DRAINAGE DISTRICT AND KAW RIVER DRAINAGE DISTRICT
IN SUPPORT OF SENATE BILL NO. 211,
AS AMENDED BY THE SENATE COMMITTEE ON LOCAL GOVERNMENT

BEFORE THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

MARCH 8, 1995

Mr. Chairman and members of the Committee:

My name is Glenn Cogswell and I represent the North Topeka Drainage District. I appear today to present the testimony of Tri-County Drainage District, North Topeka Drainage District and Kaw River Drainage District, the three drainage districts in Shawnee County that bound on the Kansas River, in support of Senate Bill No. 211, as amended by the Senate Committee on Local Government.

The Legislature had tremendous foresight many years ago when K.S.A. 82a-309 was adopted, by anticipating that sand dredging from the beds of the state streams would have an adverse effect on flood control improvements constructed, operated and maintained by drainage districts along those river beds. Their fears were well founded, as evidenced by the Corps of Engineers' report issued in January, 1991, which found that in fact, sand dredging on the Kansas River had an adverse effect on flood control improvements, other public improvements and river banks.

It is evident from the language of K.S.A. 82a-309 that the legislature intended that the sand royalties from sand companies who pumped sand from the beds of the state rivers should be, in part,

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distributed to drainage districts to maintain flood control improvements along or in those river beds. There is a deficiency, however, in the statute as it is presently worded, in that sand royalty funds distributed to counties by the Director of Revenue cannot be redistributed by them, according to Attorney General opinion No. 94-137, to drainage districts and used by them for any lawful purpose granted them under their enabling statutes. The effect of the present law is that sand royalty funds, received by the counties are being accumulated and not used, because of the counties' lack of authority to disburse or use them, even though the legislature had obviously intended otherwise.

Senate Bill No. 211 (and House Bill 2518, also in this committee) were introduced as the result of the Attorney General opinion 94-137, and at the suggestion of the Attorney General's office, to correct the deficiency in the present law. Tri-County Drainage District, North Topeka Drainage District and Kaw River Drainage District respectfully request that Senate Bill No. 211, as amended by the Senate Committee on Local Government be passed out of this committee. Representatives of the three drainage districts in Shawnee County are present and would be happy to answer any questions.

Thank you for your consideration.

Respectfully submitted,

TRI-COUNTY DRAINAGE DISTRICT
NORTH TOPEKA DRAINAGE DISTRICT
KAW RIVER DRAINAGE DISTRICT