

Approved: 2-6-95
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:11 a.m. on February 1, 1995 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Representative Richard Reinhardt
Bill Fuller, Kansas Farm Bureau Association
Mike Beam, Kansas Livestock Association
Lynn Rundle, Kansas Wheat Growers Association

Others attending: See attached list

SB 62 - Appointment of state board of agriculture by governor; board appoints secretary of agriculture.

Chairperson Corbin called on staff for a briefing on the bill. Staff briefed the committee. A spread sheet was distributed showing the comparison of current law with bills introduced in the 1995 legislative session to restructure the Kansas State Board of Agriculture (Attachment 1).

Information from Vernon McKinzie, Government Affairs Committee Chairperson, Kansas Pest Control Association, was distributed (Attachment 2).

Representative Richard Reinhardt testified in support of **SB 62**. He is a former member of both the Board of Agriculture and the Board of Regents. He believes the Board of Regents process has served higher education well. He suggested several amendments that he thought would improve the bill (Attachment 3). He responded to questions.

Bill Fuller said their members prefer a system be devised in selecting the Board that allows grassroots input. At the Farm Bureau Annual Meeting, November 19, 1994, a policy was adopted, and that statement is attached to Mr. Fuller's testimony (Attachment 4).

Mike Beam testified in support of **SB 62**. He said their members would meet later this month and they would have a more specific policy on the issue after that time. Their main goal is to find a legislative proposal that is constitutional and provides the framework for the Department of Agriculture to be responsive to the agricultural community (Attachment 5). He responded to questions.

Lynn Rundle testified in support of the ideas found in **SB 62**. He believes it would put in place a system of checks and balances for both the board and the secretary that their members could support (Attachment 6).

Fiscal Note for **SB 47** was distributed to committee members. The meeting adjourned at 11:02 a.m.

The next meeting is scheduled for February 2, 1995.

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2.1.95

NAME	REPRESENTING
Bill Gaven	KRRC / Sierra / Conservation
Leland E. Rolfe	DWR / KS DA
Carole Jordan	KD of Ag
Kenneth M. Wilke	Ks. Dept of Agriculture
JOHN KABUS	
Allis W. W. W.	Ks. Dept. of Agriculture
Bill Fuller	Kansas Farm Bureau
Russ Fry	
Jamie Clower Adams	KGFA / KFCA
Lynn Rynell	KAWG
Guy Krissch	KS Dept of Ag
Mike Teague	Ks Pork Prod.
Donna Hedke	Kansas Farm Bureau
Mary Jane Stettin	KS Farm Bureau
Marty Vanier	KS Ag Alliance
Gary J. Helser	KVMA
[Signature]	Kansas Farm Bureau
Mike Beam	Ks. Food Comm.
Bill Anderson	Water DIST #1 of Jo Co

SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: 2-1-95

NAME	REPRESENTING
Tom Tunnell	KS GRAIN & FEED ASSN.
Catherine A. DeWitt	KS. Vet. Med. ASSN.

COMPARISON OF CURRENT LAW WITH BILLS INTRODUCED IN THE 1995 LEGISLATIVE SESSION TO RESTRUCTURE THE KANSAS STATE BOARD OF AGRICULTURE

Issue	Under Current Structure	Under S.B. 63	Under S.B. 62	Under S.B. 61	Under H.B. 2078	Under H.B. 2137	
Secretary -- Manner of Selection	Secretary elected by Board.	Elected for two-year term by Board of Agriculture subject to Senate confirmation. (Sec. 20)	Appointed by the Board of Agriculture for two-year term subject to Senate confirmation. (Sec. 8)	Appointed by Governor with confirmation by the Senate. (Sec. 1)	Elected for a four-year term by the Board of Agriculture. Subject to Senate confirmation. (Sec. 20) The Secretary would be in the unclassified service.	Elected by the Board of Agriculture for a two-year term (Sec. 2(d)). The current Secretary's term would end March 1, 1996 and the new Secretary would be elected by the new board.	
Qualifications of Secretary	None.	No specific qualifications.	No specific qualifications.	Demonstrate executive and administrative ability. (Sec. 1)	No specific qualifications.	No specific qualifications.	
Board -- Manner of Selection	Elected by delegates of certain organizations authorized by law.	Popularly elected by districts (10 districts) for a four-year term (Sec. 30), based on State Board of Education districts (which are based on state Senate districts). Vacancy filled in same manner as that for a State Board of Education member. (Sec. 13 and 40) Candidates run on a partisan basis.	Nine members appointed by the Governor subject to Senate confirmation. One from each Congressional district, the remaining at large. (Sec. 1)	Advisory Board appointed by the Governor. (Sec. 9)	Popularly elected by districts (10 districts) for a four-year term (Sec. 30), based on State Board of Education districts (which are based on state Senate districts) in a non-partisan manner. (Sections 1-12) Vacancy filled by appointment by Governor. (Sec. 13)	Delegates to the annual meeting would nominate not less than four or more than six persons for appointment to the board from each of the current agricultural districts. (Sec.2(a)) Authority is given to the Governor, the Speaker of the House, and the President of the Senate to appoint Board members from a list of nominees. (Sec. 2(c))	
Qualifications of Board	None.	Resident of the district. (Sec. 1)	No two are to be residents of the same county at the time of appointment. (Sec. 1)	None.	Resident of the district. (Sec. 1)	None.	

Senate Ag Com
 2-1-95
 attachment 1

Issue	Under Current Structure	Under S.B. 63	Under S.B. 62	Under S.B. 61	Under H.B. 2078	Under H.B. 2137	
Disposition of Classified and Unclassified Positions	Not applicable. Currently, the Acting Secretary and the agency's attorneys are in the unclassified service. The Assistant Secretary is in the classified service, as well as all other personnel.	Generally, all personnel transfer to the new State Board of Agriculture any abolition of personnel in the classified service is to be in accord with the Civil Service Laws. (Sec. 23) The new Secretary may appoint an Assistant who would be in the unclassified service. (Sec. 21)	Generally, all personnel transfer to the new State Board of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 11) The new Secretary may appoint an assistant who would be in the unclassified service. (Sec. 9)	Generally, all personnel transfer to the new Department of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 5) The new Secretary may appoint assistant secretaries who would be in the unclassified service. (Sec. 2) Each Division would be headed by an Assistant Secretary. (Sec. 4) Each Division head would appoint all employees, subject to the approval of the Secretary. These employees would be in the classified service. (Sec. 4)	Generally all personnel transfer to the new State Board of Agriculture. Any abolition of personnel in the classified service is to be in accord with the Civil Service Law. (Sec. 23) The new Secretary of the State Board could appoint assistant secretaries who would be in the unclassified service. (Sec. 21)	This bill does not address personnel transfers.	
Rules and Regulations	Authority given to Secretary, Board, and to Chief Engineer.	All rules and regulations of Secretary and Board transfer to State Board created by the bill. (Sec. 22) The rules and regulations of the Chief Engineer are not transferred.	All rules and regulations of Secretary and Board transfer to State Board created by the bill. (Sec. 10) The rules and regulations of the Chief Engineer are not transferred.	All rules and regulations of Secretary and Board transfer to Department of Agriculture created by the bill. (Sec. 3) The rules and regulations of the Chief Engineer are not transferred.	All rules and regulations of Secretary and current Board transfer to the new State Board of Agriculture. (Section 22) The rules and regulations of the Chief Engineer are not transferred.	This bill does not address rules and regulations of the agency.	
Secretary -- Member of Cabinet	No.	No.	Yes. The Secretary is to be a member of the Governor's Cabinet. (Sec. 8)	Yes. As an executive agency the Secretary would be a member of the cabinet.	No.	No.	

1-3

Issue	Under Current Structure	Under S.B. 63	Under S.B. 62	Under S.B. 61	Under H.B. 2078	Under H.B. 2137	
One Person-One Vote Challenge*	Challenged in Federal Court, Under Appeal to 10th Circuit Court.	Most likely meets the one-person, one-vote challenge. Board members are elected from accepted State Board of Education districts, based on current state Senate districts.	Most likely would meet one-person, one-vote challenge.	Most likely would meet the one-person, one-vote challenge.	Most likely would meet the one-person, one-vote challenge. Board members are elected from accepted State Board of Education districts based on current state Senate districts.	Most likely would not meet the one-person, one-vote challenge. Board members are nominated from delegates to an annual meeting and are based on agricultural districts which are not drawn based on population.	
State Constitution -- Executive Power Question (Art. 1, Sec. 3)*	See above.	Perhaps a problem with executive power authority.	Executive has direct control of agency through appointment of the Board.	Executive has direct control of agency through appointment of Secretary.	Perhaps a problem with executive power authority.	Perhaps a problem with executive power authority.	
Delegates to the Annual Meeting	Act as an electing body for the Board of Agriculture.	Elected as presently and act as an advisory body to the State Board of Agriculture. (Sec. 48)	The provisions of current law dealing with delegates to an annual meeting are repealed.	The provisions dealing with delegates to an annual meeting are repealed.	The provisions dealing with delegates to an annual meeting are repealed. (Sec. 49)	The provisions dealing with delegates to the annual meeting are modified to allow one delegate from organizations and associations having a voting membership of not less than 100 of a statewide character representing any business or consumers interest which operate under the direction of or are regulated or affected by rules and regulations or actions of the State Board of Agriculture.	
Effective Date	Not applicable.	Upon publication in the Statute Book.	Upon publication in the Statute Book.	Upon publication in the Statute Book.	Upon publication in the <i>Kansas Register</i> . (Sec. 50)	Upon publication in the Statute Book.	

H-1

Issue	Under Current Structure	Under S.B. 63	Under S.B. 62	Under S.B. 61	Under H.B. 2078	Under H.B. 2137	
Status of Bill	Not applicable.	Referred to Senate Agriculture Committee.	Referred to Senate Agriculture Committee.	Referred to Senate Agriculture Committee.	Referred to House Agriculture Committee.	Referred to House Agriculture Committee.	
Other Notable Aspects					The attorneys in the Division of Water Resources would be in the classified service under this bill. (Sec. 4b)		

* The notations in the table under these issues will have a final determination made in a court of law. The notations are based upon the outcomes of past court cases. The Kansas Legislative Research Department cannot issue legal opinions.
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February 01, 1995

RE: SB 62

PRESENTATION TO SENATE AGRICULTURE COMMITTEE
BY: Vernon McKinzie, KANSAS PEST CONTROL ASSOCIATION
GOVERNMENT AFFAIRS COMMITTEE CHAIR

Thank you for considering our comments on SB 62. Our industry is regulated by the Kansas Pesticide Law which is administered by the Kansas State Board of Agriculture, Plant Health Division.

We have some comments on SB 62 we respectfully submit for your consideration on the reorganization of the KSBA. We liked the old system, but that is no longer an option, as you know.

1. We strongly support the statutory establishment of cabinet status for the Secretary of Agriculture.
2. Whether a board is appointed or elected, we recommend the member terms be staggered to establish continuity.
3. Any appointed board whether advisory or not should consist of representatives from agriculture, business, environmental groups, industry and members at large to assure balanced representation.
4. We believe a four year term for the Secretary is more appropriate than a two year term.
5. We support the Secretary's authority to select assistant secretaries who will be unclassified as long as the appointment of staff assistants and employees are based on technical expertise and professionalism. It is of vital importance that the staff continue to be well qualified in the appropriate fields of biology, chemistry, physics, marketing, etc. We believe the current staff and division directors possess appropriate and adequate credentials, and we believe it would be a mistake to change that.

Finally, of all the bills introduced so far this session, we prefer the philosophy of SB 62 and with the above concerns addressed could support its passage. Our second choice is SB 61 but we cannot support any of the others.

We welcome the opportunity to respond to questions and would be willing to meet with any of the interested parties to discuss our concerns in more detail.

Thank you.

Senate Ag Co
2-1-95
Attachment 2

TO: SENATE AGRICULTURE COMMITTEE
FROM: REP. RICHARD R. REINHARDT
RE: SB 62

I am here to testify as a proponent of SB 62. I would like to share with you some thoughts from my perspectives as a former member of both the Board of Agriculture and Board of Regents. I mention the Regents, as this proposal is similar to the structure of the Board of Regents.

I believe it is important to realize that with the exception of marketing, the primary function of the laws administered by the Department of Agriculture are regulatory in nature. This is reason enough to keep the Secretary of Agriculture removed from the election process.

The Board of Regents model has served higher education well and I believe would work for agriculture as well. This allows lay people appointed by the Governor to be advocates for agriculture as well as consumers and keeps the agency as far removed from politics as possible.

Suggested changes to the bill might be two members from each congressional districts and one at large. Another possibility would be three appointed annually to three-year terms or stagger the terms to all four years to avoid the possibility of turning one-half of the Board over at one time.

I appreciate your time and would stand for questions.

Richard R. Reinhardt
State Representative
District #8

Senate Ag Co
2-1-95
Attachment 3



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON AGRICULTURE

RE: S.B. 62 - Establishes a nine-member State Board of Agriculture appointed by the Governor; Board appoints Secretary subject to confirmation by the Senate.

February 1, 1995
Topeka, Kansas

Presented by:
Bill Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Mr. Chairman and members of the committee:

My name is Bill Fuller. I am the Associate Director of the Public Affairs Division at Kansas Farm Bureau. We appreciate this opportunity today to testify on S.B. 62.

Farmers and ranchers are directly impacted by the programs and regulations administered by the Kansas Department of Agriculture. For that reason, the more than 430 Voting Delegates representing the 105 county Farm Bureaus have adopted policy at the last two Kansas Farm Bureau Annual meetings on the appropriate structure of the agency. A year ago, Farm Bureau members expressed their support of the current organizational structure and requested no changes be made until there was an opportunity for a ruling by the federal appeals court.

Our members appreciated the fact that the Kansas State Board of

Senate Ag Co
2-1-95
Attachment 4

Agriculture provided more than 120 years of outstanding service to Kansas agriculture, in fact to all Kansas citizens. The Board avoided partisan political squabbles because it was non-partisan. All Kansans benefited from the continuity of administering programs and regulations since the leadership was not affected when changes occurred in the Governor's office. In addition, the Board was producer-sensitive. It knew how to work with farmers, ranchers, agri-business and general business to achieve maximum benefits for all Kansans.

Delegates to the most recent Kansas Farm Bureau Annual Meeting said the 1995 Kansas Legislature should give careful consideration to enactment of one of three alternative methods to establish a State Board of Agriculture. On November 19, 1994, KFB Policy was debated, revised and adopted (attached).

An examination of Farm Bureau policy reveals three important provisions:

1. A Board of Agriculture should be established;
2. The Board should select the Secretary; and
3. The Secretary should be confirmed by the Senate.

On December 19, 1994, the 10th Circuit Court of Appeals in Denver upheld the ruling of U.S. District Judge Lungstrum that the current selection process is unconstitutional. The legislature was left with the task to change the selection process. Today that process begins.

S.B. 62 creates a nine-member Board of Agriculture appointed by the Governor. Farm Bureau policy also seeks re-establishment of a Board. Our members prefer a system be devised in selecting the Board that allows grassroots input. Adopted KFB Policy suggests three

alternative methods for establishing a board:

1. Election from geographic district;
2. Expanded delegate assembly of agricultural producers and consumers; or
3. Nomination by certified producer, consumer and agribusiness organizations.

S.B. 62 authorizes the Board to appoint the Secretary. The bill also requires confirmation of the Secretary by the Senate. Both of these provisions are compatible with the policy adopted by the farm and ranch members of Kansas Farm Bureau.

A number of bills have been introduced concerning restructuring the Kansas Department of Agriculture. Some contain provisions to elect the Board, one expands the delegate assembly that elects the Board and another devises a system for members to be nominated and appointed by the Governor, President of the Senate and Speaker of the House. We trust hearings will be held on these other bills containing alternative organizational structures that are also acceptable to our membership.

We certainly appreciate your consideration of adopted Farm Bureau policy as you consider a new structure for the Kansas Department of Agriculture. Thank you!

State Board of Agriculture

AG-21

We strongly believe Kansas farmers should take a progressive and pro-active approach in shaping legislation to establish both a Kansas Department and a State Board of Agriculture.

We support continuation of all current duties and responsibilities of all existing divisions within the Board/Kansas Department of Agriculture.

We believe the Kansas Legislature should give careful consideration in 1995 to enactment of one of the three alternative methods listed for establishing a State Board of Agriculture:

1. Provide for a broadly-based delegate assembly of agricultural producers and consumers to elect members of the State Board of Agriculture, or
2. Provide a constitutionally permissible procedure for election of the State Board of Agriculture from geographic districts, or
3. Devise a system for members to be nominated by certified producer, consumer and agribusiness organizations. Appointments to be made by the Governor, Senate President and Speaker of the House from this list of nominees.

The State Board of Agriculture should continue to select, and the Kansas Senate should continue to confirm the Secretary of the State Board of Agriculture.

The logo for the Kansas Livestock Association is contained within a black-outlined shape that resembles the state of Kansas. The text "KANSAS LIVESTOCK ASSOCIATION" is written in a bold, sans-serif font, with "KANSAS" on the top line, "LIVESTOCK" on the middle line, and "ASSOCIATION" on the bottom line. The letters "K", "L", and "A" are colored red, while the remaining letters are black.

*A Century of Service
1894-1994*

February 1, 1995

TO: Senate Agricultural Committee
FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division
RE: State Board of Agriculture Structure, SB 62

Mr. Chairman and committee members, on behalf of the Kansas Livestock Association I'd like to state our support for this legislation. We believe there are several positive provisions of Senate Bill 62 that I'll enumerate in a few minutes.

First, let me say our members and Board of Directors will meet later this month to hammer out a more specific policy on this issue. Today, we are not saying SB 62 is the only proposal our members will support. As this legislature progresses through the hearing process and considers other proposals, KLA may find certain aspects of other bills more acceptable. For now, our Executive Committee asked that I make a brief statement in support of certain provisions of this proposal.

Reestablishment of Board - We believe any restructuring of the State Board of Agriculture should maintain a "board" to provide guidance to the agency. Through the years, we've experienced a "common sense and practical" regulatory philosophy by the agency. Perhaps a board of individuals, who live and operate by the state's regulations, should continue to serve as a barometer for regulatory and legislative proposals. This bill reestablishes a board that should meet the constitutional objections of the existing Board of Agriculture statutes.

Senate Confirmation - KLA supports making the Secretary of the State Board of Agriculture (or Department of Agriculture) subject to Senate confirmation. SB 62 contains this provision.

Civil Service Position(s) - We also support changes in the law designating an assistant secretary position as unclassified under the Kansas civil service act. It makes good sense to us that any secretary be allowed to bring with him/her a few assistants as designated in this bill. At the same time I must say we support maintaining the division heads as classified positions.

Again, this is a brief overview of the positive aspects we see in this legislation. We'll continue to discuss this and other proposals with our members and policy committees in the next few weeks. We want to cooperate with this committee, other legislators and other agricultural organizations to find a legislative proposal(s) that is constitutional and provides the framework for a state agency that is responsive to the Kansas agricultural community. Thank you!

*Senate Ag Co
2-1-95
Attachment 5*



1115 Westport, Suite G • Manhattan, KS 66502 • (913) 587-0007 • FAX (913) 587-0003

**Senate Agriculture Committee
RE: Senate Bill 62**

February 1, 1995

**Presented by : Lynn Rundle
Executive Vice-President
Kansas Association of Wheat Growers**

Chairman Corbin and members of the committee:

On behalf of the 3,200 members of the Kansas Association of Wheat Growers I appreciate the opportunity to make a brief statement in support of Senate Bill 62, regarding the State Board of Agriculture and the Secretary of Agriculture.

The issue of changing the structure of the regulatory institutions of agriculture in Kansas has been tedious, if not painful, for many farmers who have been served well by the previous structure. Senate Bill 62 is a progressive bill which addresses the constitutionality issues raised by the courts. It would put in place a system of checks and balances in the selection process of both the board and the secretary that our members could support.

Section 1 (a) puts in place a board who "shall determine the policies and plans for the state of Kansas relating to agriculture." This board, held accountable by

*Senate Ag Co.
2-1-
Attachment 6*

6-1

the electorate, is critical to insure that the agency that regulates agriculture understands and represents agriculture interests.

The provisions included in this bill regarding size, regional diversity, and terms of service of board members make common sense by not allowing any one region of the state to dominate the board. The members of KAWG prefer a board elected geographically. However, we recognize that selection of board members based on Congressional districts, subject to Senate confirmation, puts in place checks and balances that protect the interests of wheat producers in Kansas.

The balance between at-large positions and Congressional District appointments puts in place a system that may serve agriculture well for many years, given population trends in Kansas and the likelihood that Kansas may not always have Congressional Districts that include significant agricultural representation.

Section 8 (a) outlines the Secretary of Agriculture appointment process. Our policy supports a Secretary of Agriculture selected and held accountable by the board. This provision also insures the Secretary would be a member of the Governor's cabinet. We support this concept.

Mr. Chairman, we appreciate the opportunity to support many of the concepts of this bill and would respond to any questions you may have.