

Approved: 3-21-95
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 14, 1995 in Room 254-E- of the Capitol.

All members were present:

Committee staff present: Dennis Hodgins, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Steven A. Hurst, Director, Kansas Water Office
Kenneth F. Kern, Executive Director, State Conservation Commission

Others attending: See attached list

HB 2038 An act concerning the multipurpose small lakes program act; creating an account in the state water plan fund for certain moneys recovered by the state under the act

Steven A. Hurst, Director, Kansas Water Office, presented testimony in support of **HB 2038** presenting a brief background and explanation concerning the objectives of the program. Mr. Hurst further explained the Multipurpose Small Lakes Act was needed to formalize how the funds received in repayment from various projects would be managed and utilized. (Attachment 1)

A member questioned whether any money received by the State Water Fund from the State General Fund is ever returned to that fund. Mr. Hurst stated the original intent was for money that was recaptured to go back into the State Water Fund. He further stated the fund was not growing but was generally stable. Another member commented that with a large amount of money from the general fund going to the State Water Plan each year, it appeared a portion should be returned to that general fund. Mr. Hurst commented that the original intent was to recirculate these funds, using them to support projects such as the multipurpose small lakes program. He stated there were savings to the state from the projects themselves; also he pointed out there were limited locations and his organization assesses future water supply needs for the area. The effort to address future water supply needs actually saved the state money. A member commented that the state already has more parks than they can afford to care for and perhaps it was time to rethink whether some programs previously enacted make sense and whether the state can continue to afford them. Mr. Hurst stated he felt this was one of the better programs funded by the State Water Fund.

Kenneth F. Kern, Executive Director, State Conservation Commission, presented testimony in support of **HB 2038**. (Attachment 2) Mr. Kern told the committee **HB 2038** would provide a mechanism for the return to the state water plan, money recovered from earlier projects. The bill would also establish an account for funding future water supply storage portions of a Multipurpose Small Lake project. Mr. Kern stated the bill came about from a suggestion that the funds be put into a revolving fund so that the immediate need for new money would be less.

Senator Emert made a motion to amend the bill to provide the general fund be reimbursed with the full amount of recaptured funds. Senator Vancrum seconded the amendment. The motion carried.

Senator Vancrum moved to report **HB 2038** favorable for passage with a second from Senator Emert. The motion carried.

SCR 1610 A Concurrent Resolution expressing the legislature's appreciation to the Steering Committee to Reinvent Kansas Government, Environmental Water Permitting Study Team for its effort to improve water permitting agencies service and requesting further cooperation between water permitting agencies and the study team.

A member commented that the only reason for this resolution was to provide a little additional push in the hope

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 14, 1995.

that the issue would be pursued.

Senator Vancrum moved passage of SCR 1610 with Senator Walker seconding the motion. The motion failed.

HB 2478 An act concerning wildlife; amending K.S.A. 32-701, 32-906 and 32-929 and K.S.A. 1994 Supp. 32-988 and repealing existing sections

Senator Morris made a motion to amend HB 2477 dealing with water police into HB 2478. Senator Vancrum seconded the motion. The motion carried.

Senator Wisdom made a motion to amend HB 2478 to add a section (f) on page 7, line 24 to read "on and after the effective date of this act and for the remainder of calendar year 1995, the fee for a nonresident mussel fishing license shall be \$1,000. Senator Lee seconded the motion. The motion carried.

Senator Wisdom moved to increase the maximum for a nonresident mussel fishing license from \$400 to \$1500 (page 6, line 38). Senator Lee seconded the motion.

There was some discussion that a total of three fines would be cheaper than buying a license. Darrel Montei stated that although it was a Class C misdemeanor there was the possibility of going under a felony conviction for illegal takes and such a charge could impound equipment.

The motion carried.

Senator Lee moved passage of HB 2478 favorable as amended. Senator Wisdom seconded the motion and the motion carried.

HB 2457 An act concerning solid waste relating to certain standards for certain solid waste disposal areas

Senator Morris moved to amend HB 2457 on page 3, in line 20, after "system", by inserting "and may be designed with trenches or units which have straight vertical walls". Senator Lee seconded the motion and the motion carried.

Senator Lee moved to pass HB 2457 out favorable as amended with a second by Senator Morris.

Senator Walker offered a substitute motion that would delete the exemption for a leachate collection system. Senator Wisdom seconded the motion.

Discussion touched on examples where the storage and reapplication of leachate was working well. Another idea suggested using the tipping fees to help counties establish such systems thereby preventing future problems. Another member stated the feeling the committee has received inconsistent information, also that some members were not leaving this issue to the discretionary determination of KDHE. A member pointed out that the way the bill presently reads it leaves it to the department to make a determination but the facility must qualify for the exemption under federal law. A member noted this bill contained regulations stricter than the EPA also that those who have contamination would not be eligible for small landfill exemption, that the one size fits all mentality was objectional. Concern was expressed about the report rating Kansas' poor water quality and this would go in the wrong direction to improve that situation. He further stated that prevention is a much less costly situation than trying to clean it up after the fact. A member commented that line 17 still requires a demonstration to KDHE's satisfaction to provide sufficient protection from ground water contamination.

The motion failed.

Senator Lee moved to pass HB 2457 out favorable as amended. Senator Morris seconded the motion and the motion carried.

Senator moved to approve the minutes of March 7, 8, 9 and 10. Senator Lee seconded the motion and the motion carried.

The meeting adjourned at 8:50 a.m.

The next meeting is scheduled for March 15, 1995.

**Testimony of Stephen A. Hurst
Director, Kansas Water Office
Before the
Senate Energy and Natural Resource Committee
on House Bill No. 2038
March 14, 1995**

**THE MULTIPURPOSE SMALL LAKES PROGRAM AND ESTABLISHMENT OF A
REVOLVING LOAN FUND**

Background:

The Multipurpose Small Lakes Program was created in 1985 with the enactment of K.S.A. 82a-1601 *et seq.* and is the result of recommendations contained in the *Kansas Water Plan*. Concern over several issues relating to public water supply led to the creation of this program.

Issues:

The State owns water supply storage space in large federal reservoirs that it markets to municipal and industrial users. However, location of these reservoirs is sometimes far removed from the area of need and requires a large capital investment by the State. Not only do potential customers have to repay the State's costs for owning the storage space, but they also face the expense of transporting the water to the ultimate place of use. Therefore, the State Water Marketing Program does not fully or economically meet all of the state's projected municipal and industrial water supply needs.

It was recognized that good reservoir sites (large or small) are limited in Kansas. To maximize benefits, each potential or existing site should be developed to its fullest potential. Through the watershed dam construction program, several sites had been identified for small watershed-type lakes that could be expanded to meet future local water supply needs at far less cost than the large federal lakes.

Solution--Expansion of Watershed Program

Construction of small lakes through the State Conservation Commission's cost sharing programs has historically played an important role in the management and conservation of the State's water resources. Hundreds of small lakes have been designed and built by watershed districts with State financial assistance for flood control and watershed protection. Through the creation of the Multipurpose Small Lakes Program, "add-on" features of public water supply and recreation could be added to such structures. This provides for the development of a proposed small lakes project to its fullest potential. It also provides for the renovation of an existing small lake to provide additional benefits.

Senate Energy & Nat'l Res.
March 14, 1995
Attachment 1

The objectives of the program are:

- (1) The reduction of flood damages caused by excessive runoff and provide protection for safety of people and domestic and wild animals;
- (2) To provide for the development of dependable water supply near communities that need water;
- (3) To provide for a gradual process of developing future water supplies which more closely matches water supply developments with water supply needs;
- (4) To develop a project that requires a fraction of the capital investment costs of large reservoir projects and consumes a relatively small amount of land resources;
- (5) To develop projects that can be operated and maintained by local entities and:
- (6) To provide adequate land treatment measures that will protect the site from pollution and siltation.

A planned flood control structure, if it meets the program's criteria, may become a multipurpose small lake by adding public water supply storage and/or recreation. A planned public water supply structure may become a multipurpose small lake by adding flood control or flood control and recreation. The same rules apply to renovation of a project. Each structure **MUST** contain flood control features to be eligible for Multipurpose Small Lakes Program funding.

Reimbursement of Public Water Supply Costs

From its inception, it was expected that ultimate users of the add-on water supply would ultimately reimburse the State for the costs of adding the public water supply portion to these dams. This was to be accomplished through the Kansas Water Office utilizing contracts with users. The Kansas Water Office is authorized by the Multipurpose Small Lakes Act to acquire the water rights associated with the State's portion of the public water supply in each of these projects and to sell that right to the ultimate user.

The first small lake dams were built **BEFORE** the existence of the State Water Plan Fund. The public water supply portion of the first multipurpose small lake was partially funded from the State General Fund. Others were funded using State Water Marketing Program revenues intended to be used as a savings account for the development or renovation of the large federal reservoirs used in that program. However, part of the Water Marketing funds were also used to finance non-reimbursable portions of the small lakes, as can be seen on the attached table. The Attorney General's Office, in Opinion 89-33 found that these were inappropriate uses of those funds. Later projects were funded through the State Water Plan Fund as noted.

First Revenue from the Program

The first Multipurpose Small Lakes project to result in reimbursement of funds for construction of the public water supply portion is the Pony Creek Project near Sabetha. The City of Sabetha has signed a contract with the Kansas Water Office to repay \$663,756 in costs associated with 81% of the public water supply storage space in Pony Creek Multipurpose Small Lake. Sabetha has agreed to transmit the \$663,756 to the State by April 1, 1995. With receipt of these monies, the question becomes: Where should the money go and what should it be used for?

It has been our understanding that the funds should be returned to their source. In other words, those monies collected for multipurpose small lakes projects funded through the State Water Plan should be returned to the State Water Plan Fund. Those that came from the Water Marketing savings account should be returned to the Water Marketing savings account. In addition, we believe the intent was that those monies collected should be used to fund new multipurpose small lakes projects. The bill before you today formalizes our understanding of how the monies were to be managed and utilized. Therefore, we support the provisions of House Bill 2038.

Thank you for allowing us to appear before you today.

Multipurpose Small Lakes Projects

Project Name	Funding		FY	Water Supply Sold	Reimbursable Costs
	Amount	Source			
1. Centralia Site 50				NO	\$108,192.00 Construction of water supply
Flood Control	\$0.00				\$280.00 Water right filing fee
Water Supply	\$10,000.00	State General Fund	1987		\$200.00 Water right inspection fee
Water Supply	\$98,192.00	Water Marketing	1988		
Recreation	\$0.00				
Land Treatment	\$240,000.00	Water Marketing	1989		\$108,672.00
TOTAL	\$348,192.00				
2. Yates Center				NA	NA No funding for water supply
Flood Control	\$0.00				
Water Supply	\$0.00				
Recreation	\$100,000.00	State General Fund	1987		
Land Treatment	\$140,352.00	State General Fund	1988		
TOTAL	\$240,352.00				
3. Wellington				NA	NA No funding for water supply
Flood Control	\$745,000.00	Water Marketing	1989		
Water Supply	\$0.00				
Recreation	\$50,000.00	Water Marketing	1989		
Land Treatment	\$122,482.00	Water Marketing	1989		
TOTAL	\$917,482.00				
4. Jetmore				NO	\$589,000.00 Construction of water supply
Flood Control	\$451,250.00	Economic Dev. Fund	1990		
Flood Control	\$130,750.00	Water Marketing	1990		
Water Supply	\$589,000.00	Water Marketing	1990		
Recreation	\$130,250.00	Water Marketing	1990		
Land Treatment	\$0.00				
TOTAL	\$1,301,250.00				
5. Bone Creek				NO	\$1,000,000.00 Construction of water supply
Flood Control	\$903,402.00	State Water Plan Fund	1991		
Water Supply	\$500,000.00	State Water Plan Fund	1992		
Water Supply	\$500,000.00	State Water Plan Fund	1993		
Recreation	\$996,598.00	State Water Plan Fund	1991		
Land Treatment	\$0.00				
TOTAL	\$2,900,000.00				
6. Banner Creek (Holton)				NO	\$396,969.00 Construction of water supply
Flood Control	\$0.00				
Water Supply	\$396,969.00	State Water Plan Fund	1993		
Recreation	\$0.00				
Land Treatment	\$73,040.00	State Water Plan Fund	1991		
TOTAL	\$470,009.00				
7. Pony Creek (Sabetha)				YES 81%	\$815,425.00 Construction of water supply (\$663,756.00) City of Sabetha purchase \$151,669.00 Balance
Flood Control	\$571,420.00	State Water Plan Fund	1992		
Water Supply	\$815,425.00	State Water Plan Fund	1992		
Recreation	\$0.00				
Land Treatment	\$87,378.00	State Water Plan Fund	1992		
TOTAL	\$1,474,223.00				
8. Mill Creek (Alma)				NO	\$203,405.00 Construction of water supply
Flood Control	\$258,891.00	State Water Plan Fund	1993		
Water Supply	\$203,405.00	State Water Plan Fund	1993		
Recreation	\$0.00				
Land Treatment	\$0.00				
TOTAL	\$460,296.00				
9. Bourbon RWS #5				NO	\$541,720.00 Construction of water supply
Flood Control	\$334,943.00	State Water Plan Fund	1994		
Water Supply	\$541,720.00	State Water Plan Fund	1994		
Recreation	\$0.00				
Land Treatment	\$0.00				
NPS Protection	\$57,000.00	State Water Plan Fund	1994		
TOTAL	\$933,663.00				

TOTAL REIMBURSABLE COSTS	\$3,655,191.00
REIMBURSABLE COSTS COLLECTED	(\$663,756.00)
BALANCE REIMBURSABLE COSTS	\$2,991,435.00

REIMBURSABLE COSTS FROM WATER MARKETING	\$687,672.00
REIMBURSABLE STATE WATER PLAN FUND	\$2,957,519.00
REIMBURSABLE STATE GENERAL FUND	\$10,000.00
TOTAL	\$3,655,191.00
REIMBURSABLE COSTS COLLECTED	(\$663,756.00)
BALANCE REIMBURSABLE COSTS	\$2,991,435.00



State Conservation Commission

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TESTIMONY ON HB 2038
SENATE ENERGY AND NATURAL
RESOURCES COMMITTEE

KENNETH F. KERN
EXECUTIVE DIRECTOR
March 14, 1995

Thank you for the opportunity to appear before the Committee and testify on House Bill No. 2038.

The Kansas Water Plan recommended and the Legislature created the Multipurpose Small Lakes Program in 1985 by the enactment of K.S.A. 82a-1601 et seq.

The objective of the Multipurpose Small Lakes Program is to develop, to its fullest potential, a flood control, water supply, or recreation dam site being planned for construction.

A Multipurpose Small Lakes project may be sponsored by a political subdivision of the state which has the power of taxation and the right of eminent domain, a public wholesale water supply district, or a water district.

The State has funded nine (9) projects since FY 1987. See attachment for projects and appropriations.

Statutory provisions provide for the Kansas Water Office to recover the state's cost incurred in providing public water supply storage. This is accomplished by selling the water supply storage and associated water right. (K.S.A. 82a-1604, 1605, and 1606)

The intent of HB 2038 is to:

1. Provide a mechanism for the return to the state water plan fund the amounts recovered from previously appropriated state water plan funds.
2. Establish an account for funding future water supply storage portions of a Multipurpose Small Lake project.

Senate Energy & Nat'l Res.
March 14, 1995
Attachment 2

Multipurpose projects are high dollar projects, with a range from \$460,000 to \$3,000,000. The water supply portion ranges from 40 to 50 percent of the total costs. Funds available for the water supply portion will reduce the amount needed from the state water plan fund annual receipts.

An example of this is the Commission's FY 1996 budget request for \$2,335,795 for a Multipurpose Small Lake project in Linn County. The cost breakdown is:

Flood Control	\$ 879,260
Water Supply.....	1,266,135
NPS Pollution Protection.....	190,400

If the special revenue fund had \$750,000 available, the current request would be for \$1,585,795 of new money from the FY 1996 Water Plan Special Revenue Fund.

The funded projects and the amount of funds available to be returned to the state upon the purchase of the water storage and associated water right are:

Bone Creek Reservoir (Crawford County).....	\$1,000,000
Banner Creek Reservoir (Jackson County).....	396,969
Pony Creek (Nemaha County - Sabetha).....	815,425
Mill Creek (Wabaunsee County).....	203,405
Bourbon County PWWSD #13.....	541,720
TOTAL.....	\$2,957,519

There is no time table for the repayment of these funds, as it will depend on the sale of the water right. Therefore, the amount of funds available at one time is hard to predict.

All funds would go through the budget process and require appropriation by the Legislature for a new Multipurpose Small Lake project.

The establishment of the special account for Multipurpose Small Lake funds reimbursed to the State will be beneficial to the development of future water supply storage in the Multipurpose Small Lakes program.

However, there are several things to be considered that may affect the benefits:

1. The bill would create additional accounting and transfers by the Accounts and Reports Section of the Department of Administration.
2. The establishment of a separate account could lead to other separate accounts for water plan funds reimbursed to the State.

There are two options for the return of water plan funds:

1. Passage of the bill and establish the revolving fund, or
2. Return the funds back to the special revenue water plan fund without the establishment of a revolving fund.

The State Conservation Commission supports either option.

Multipurpose Small Lakes Projects

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	Amount	Source	FY		
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