

Approved: 3-24-95  
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 20, 1995 in Room 254-E- of the Capitol.

All members were present except:

Senator Martin, Excused  
Senator Wisdom, Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
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:

Larry Holloway, Chief, Electric Operations, Kansas Corporation Commission  
William R. Bryson, Director, Oil & Gas Conservation Division, Kansas Corporation Commission  
Donald P. Schnacke, Kansas Independent Oil & Gas Association  
Ronald R. Hein, Legislative Counsel, Mesa  
Stephen A. Hurst, Director, Kansas Water Office

Others attending: See attached list

**HB 2522: An Act concerning water; relating to state corporation commission duties with regard to flood control and waterworks**

Larry Holloway, Chief, Electric Operations, Kansas Corporation Commission, appeared in support of **HB 2522** stating the changes in agency responsibilities proposed in **HB 2522** were intended to allow the limited KCC utility staff resources to focus their expertise on major emerging utility regulatory concerns. (Attachment 1) Mr. Holloway stated the proposed changes would provide benefits by increasing regulatory efficiency by decreasing the number of agencies involved in approval processes, and assigning regulatory agencies that have better expertise to meet the intent of the statutes.

**Substitute HB 2044: An Act concerning oil and gas well operators and contractors; relating to qualifications for licensure**

William R. Bryson, Director, Oil and Gas Conservation Division for the Kansas Corporation Commission, appeared in support of **Substitute House Bill 2044**. Mr. Bryson stated this measure proposed expansion of the qualifications which an oil operator or contractor would have to meet before being issued a license by the Commission. Mr. Bryson stated the KCC believes it needs the flexibility to recognize that different types of operators exist and that the "one fee fits all situations" is not fair to all parties licensed under the act. (Attachment 2)

Discussion established that a Commission directive occurred at the staff level, then there were rules and regulations which are followed by orders. If a field directive is followed there is no order issued. Mr. Bryson stated that most operators who got orders were repeat offenders.

Donald P. Schnacke, Kansas Independent Oil and Gas Association, appeared stating support for **Substitute HB 2044**. Mr. Schnacke stated his organization opposed the original bill, however, with the introduction of the substitute bill which contains a criteria to be met by persons seeking to apply or renew an annual license to serve as an oil and gas operator, his organization was able to support the legislation. (Attachment 3) He noted there were some troublemakers within the industry, 3300 licensed operators, many who have very little regard for the rules and regulations of the Commission and these people should be forbidden to be a licensed operator in the oil and gas industry until such time as they observe all of the rules and regulations.

Ron Hein, Legislative Counsel, MESA, appeared in opposition to a portion of **Substitute HB 2044** stating the provision requiring the applicant to demonstrate compliance by officers, directors, 5% stockholders, and their

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 20, 1995.

relatives with all requirements of state and federal statutes, rules and regulations, directives, etc. Mr. Hein stated that for large companies such as MESA to obtain such proof of compliance by so many parties would be difficult if not impossible. (Attachment 4)

The chairman asked the conferees to meet on the bill and return to committee with a suggestion to resolve their differences.

**HB 2040: An Act amending the Kansas weather modification act**

Steven A. Hurst, Director, Kansas Water Office, appeared in support of **HB 2040**. (Attachment 5) Mr. Hurst told the committee that **HB 2040** was a clean-up bill to amend language of the current Weather Modification Act. He told the committee the current act provides for licensing weather modification activities "for profit" or purely for "research". The amended language would provide for an "operational", "not for profit" program which would more accurately reflect the current state license program.

Discussion touched on the fact that the process was contracted with professionals and it was all locally funded. It was further stated there was a proposal in the budget which would designate \$10,000 per participating county since two mils does not create enough money, also they would like to do more flights. The bill would also bring the levy out from under the tax lid if one is retained by the legislature.

Senator Morris made a motion to move HB 2040 favorable for passage. Senator Lee seconded the motion.

There was some discussion concerning insurance and license requirements, most of which is language cleanup. It was explained that a permit and a license were two separate issues. The licensee makes the technical decisions, when the seeding should take place, etc. and basically oversees the entire operation of the program. The permit is issued to the groundwater management district. The explanation was made that changes in the bill will allow "for profit" participation. The current program is for profit and research.

Senator Morris made a substitute motion that the bill be changed to include both profit and non-profit operations. Senator Tillotson seconded the motion. The motion carried.

The original motion by Senator Morris carried.

Senator Vancrum moved to pass HB 2522 out favorable. Senator Lee seconded the motion and the motion carried.

The meeting adjourned at 8:50 a.m.

The next meeting is scheduled for March 21, 1995.



BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

PRESENTATION OF THE  
KANSAS CORPORATION COMMISSION ON  
HB 2522

The commission supports this bill. The changes in agency responsibilities purposed by this bill in K.S.A. 12-636, 12-637, 12-638, 12-837, 12-838, 12-2707 and 12-2708 were identified and initially recommended by KCC staff. These changes were intended to allow the limited KCC utility staff resources to focus their expertise on major emerging utility regulatory concerns, such as integrated resource planning and electric and natural gas industry restructuring issues. The proposed changes have the added benefit of increasing regulatory efficiency by decreasing the number of agencies involved in approval processes, and assigning regulatory agencies that have better expertise to meet the intent of the statutes. Subsequently legislative staff has identified similar changes in K.S.A. 24-418, 68-1502, 68-1503. and 68-1504.

The statutes identified by the KCC staff required the commission to provide approval for waterworks, water supply and flood protection improvements proposed by cities or municipalities. Flood protection improvements were already required to be approved by the chief engineer of the department of water resources by other statutes. Similarly, the Kansas department of health and environment is currently required to license improvements to water supply and waterworks. KCC staff contacted these agencies when the proposed changes were first identified and they had no objections to the reassignment of these responsibilities.

While the need to improve agency efficiency in an attempt to better focus limited staff resources was the primary motivation behind the changes proposed by the commission, there are other logistic issues as well. The KCC review of flood protection improvements required by statute implies a level of review that could arguably require a licensed professional engineer (K.S.A. 74-7000). While there are two licensed professional engineers on the KCC utilities division staff, rules of professional engineering conduct (K.A.R. 66-6-4) specifically require professional engineers to certify assignments when qualified by "education and experience." None of the engineering staff in the commission's utility division has experience in the design of flood protection. It seems illogical

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Attachment 1

for the commission to hire consultants to repeat the review of plans and specifications already completed by other agencies with more applicable expertise. In fact, the last flood protection improvement application was recommended for approval to the commission by KCC staff based on the engineering review already performed by the chief engineer of the department of water resources.

Commission review of the proposed changes proposed by the legislative staff to K.S.A. 24-418, 68-1502, 68-1503. and 68-1504 appear to make sense for the same reasons detailed above.

## **Discussion of requirements of K.S.A. 12-636 through 12-638**

These statutes deal with public improvements by cities and municipalities for the purpose of flood protection. They require the governing body of the city to acquire the services of a competent engineer to prepare a resolution for improvement report and submit that report to the corporation commission. K.S.A. 12-637 then specifically requires the corporation commission to submit the report to their engineer. The corporation commission engineer is required to determine whether the improvements proposed in the resolution will perform the intended purpose, and submit this analysis in writing to the corporation commission. The commission then makes a finding approving or disapproving the city engineer's report.

K.S.A. 24-126 requires approval by the chief engineer of the department of water resources prior to constructing any levee or any other such improvement designed to reduce flood risks. K.S.A. 24-105 expands this to any obstruction of surface water. Other sections of K.S.A. chapter 24 and 82a expand this jurisdiction to earthen dams, drainage districts and stream diversions.

There are two major concerns with the required corporation commission review:

- 1) The review of the corporation commission appears to be redundant compared to the review of the department of water resources, creating a regulatory burden to both the municipality and the affected agencies.
- 2) The statute implies that the corporation commissions engineer is performing a professional engineering review, as defined by K.S.A. Chapter 74-7000. In addition K.A.R. 66-6-4, rules of professional conduct specifically require professional engineers only to certify (or "stamp") assignments when qualified by "education and experience". Since it is highly unlikely that the commission would need an experienced water resources professional engineer for other assignments, this could be interpreted to mean that outside consultants would be required, increasing the inefficiency and regulatory burden of the process.

For these reasons it seems logical and efficient for the chief engineer of the department of water resources to perform the duties outlined in K.S.A. 12-636 and 12-637. In addition the Kansas Administrative Regulations for the division of water resources, in Chapter 5 articles 30, 40, 41, 42, 43, 44 and 45 already appear adequate to enforce this change in statutes.

**Discussion of requirements of K.S.A. 12-2707 through 12-2708 and K.S.A. 12-837 and 12-838**

These statutes deal with public improvements by cities and municipalities for the purpose of water supply. The city or municipality is required to obtain corporation commission approval for water supply system improvements and new additions. This does not require specific engineering review of plans, specifications and cost estimates, though it does require these to be submitted for commission approval. However, staff recommendations to the commission, could be interpreted to require professional engineering approval (since those recommendations are based on review of plans and specifications). As with flood protection, this would require specific expertise (water treatment and distribution experience in this case).

K.S.A. 65-163 requires any public water system (not just municipalities and cities) to obtain a public water supply system permit from the secretary of health and environment for "the construction of the public water supply system or the extension thereof". This requires a review of the plans and specifications (however not the cost estimates) as part of the approval process. KAR 28-15-16 and 28-15-17 of the Kansas Administrative Regulations for the Kansas Department of Water resources already provides the necessary procedures for the public water supply certification review and approval process.

Revising K.S.A. 12-2707 and 12-2708 to change the responsibility from the corporation commission to the secretary of health and environment will increase agency efficiency, decrease regulatory burden and provide adequate and equal oversight and enforcement meeting the intent of existing statutes.

Testimony On Substitute House Bill 2044  
By the Kansas Corporation Commission  
Presented Before the Senate Energy and  
Natural Resources Committee  
March 20, 1995

I am William R. Bryson, Director of the Oil and Gas Conservation Division for the Kansas Corporation Commission and I am appearing on behalf of the Commission in support of Substitute House Bill 2044. This measure proposes expansion of the qualifications which an oil operator or contractor would have to meet before being issued a license by the Commission.

Section 1(a)(3) amends KSA 55-155 to require each applicant for an operator license to demonstrate compliance with statutes, rules and regulations of the Commission and all written Commission directives, orders and enforcement agreements as a condition of getting or renewing a license. The measure also specifies the specific parties associated with an oil and gas producing or drilling company who would be subject to these conditions when acquiring or renewing a license.

Our District staff spends a great deal of time working with some operators to achieve or maintain compliance, only to find they have assigned the lease to a relative, partner or merely changed the name of the company. These persons are the 5-10% who habitually do not comply and who have little or no respect for regulations. Many states use bonding and other forms of financial assurance to monitor operators. We believe licensing is equally effective but the amount of time spent working with certain operators is a costly utilization of personnel. Those reviewing this measure have indicated that the wording on line 28 is too general and may be interpreted as covering activities regulated by agencies other than KCC. We concur and believe this concern could be accommodated by making the demonstration of compliance limited to Chapter 55 activities or Federal statutes applicable to Chapter 55.

The original version of HB 2044 had proposed amending KSA 55-151 and KSA 55-155 to allow the Commission flexibility to set fees on applications for intent to drill and operator licenses by regulation rather than by statute. The House Energy and Natural Resources Committee did not concur with the Commission's initiative to have these fees set by regulation and amended the reference to fees out of the bill. Substitute HB 2044 contains the remaining part of the bill.

The Commission still believes it needs the flexibility to recognize that different types of operators exist and the "one fee fits all situations" is not fair to all parties licensed under the act. We are prepared to address this issue during interim study because our projections show that by FY 1997, expenditures at the current activity level will exceed revenues.

We appreciate the opportunity to appear and hope the Committee will view Substitute 2044 favorably and pass it.

Senate Energy & Nat'l Res.  
March 20, 1995  
Attachment 2





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March 20, 1995

TO: Senate Committee on  
Energy and Natural Resources

RE: Sub. HB 2044

Originally HB 2044 contained increasing existing fees on oil and gas operators and creating a new fee. We opposed the bill. The House Committee introduced Sub. HB 2044, which contains a criteria to be met by persons seeking to apply or renew an annual license to serve as an oil and gas operator. That appears on Page 1 beginning on line 27. This was included in the original HB 2044.

We support Sub. HB 2044 and believe it will strengthen the requirements of who will be eligible to hold an oil and gas operators license with the KCC.

Donald P. Schnacke

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Attachment 3

**HEIN, EBERT AND WEIR, CHTD.**

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**SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**

**TESTIMONY RE: SUB HB 2044**

**Presented by Ronald R. Hein**

**on behalf of**

**MESA**

**March 20, 1995**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for MESA. MESA is one of the nation's largest independent natural gas producers and currently has approximately 60% of its natural gas reserves in the state of Kansas.

MESA is opposed to the provision of SUB HB 2044 which requires the applicant to demonstrate compliance by officers, directors, 5% stockholders, and their relatives with all requirements of state and federal statutes, rules and regulations, directives, etc.

For a company like MESA to obtain such proof of compliance by all of those parties is difficult if not impossible. MESA has no objection to the applicant demonstrating such compliance.

MESA would strongly urge the committee to delete subsections B and C of Section 1(c), set out on page 1, lines 30-34. If so amended, MESA would have no objection to the bill.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

*Senate Energy & Nat'l Res.  
March 20, 1995  
Attachment 4*

**Testimony of  
Stephen A. Hurst  
Director, Kansas Water Office  
Before the  
Senate Energy and Natural Resources Committee  
Regarding House Bill No. 2040 on Weather Modification  
March 20, 1995**

Thank you Mr. Chairman, I am Stephen A. Hurst, Director of the Kansas Water Office.

I am here today to testify in support of House Bill 2040 which is solely a clean-up bill to amend the language of the current Weather Modification Act. The current act provides for licensing weather modification activities "for profit" or purely for "research." The amended language would provide for an "operational," "not for profit" program, which more accurately represents the current state licensed program. This bill has no fiscal impact.

I would like to give you a brief background and history of the Western Kansas Weather Modification Program. Weather modification involves the use of aircraft to seed cloud formations with particles of silver iodide or dry ice in an attempt to either enhance precipitation or suppress hail formation. Weather modification activities began in Western Kansas in 1972 and several cloud seeding operations were conducted from 1972 through 1978. The centerpiece of weather modification activities in Kansas is represented by the Western Kansas Weather Modification Program that has operated from 1975 to the present time under the leadership of the Western Kansas Groundwater Management District No. 1. Participation in the Western Kansas Weather Modification Program has been by county option. Currently 12 counties are participating in the program. State involvement in for the Program has been limited to the annual issuance of a permit to operate the Program by the Kansas Water Office.

While the program began as a research program, the current program has evolved into a "not for profit," "operational program" for hail reduction and incidental precipitation enhancement, and House Bill 2040 would simply adjust the statutory language to allow for this type of operation. Again, this bill is strictly language clean-up and has no fiscal impact.

The Kansas Water Office asks for your support of the passage of House Bill 2040.

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Attachment 5