

Approved: Carl Dean Holmes
Date 3-25-96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 12:29 p.m. on February 23, 1996, in Room 522-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Torrence, Revisor of Statutes
Marcia Ayres, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Action on HB 2955: Publication of policies, guidelines and standards of the division of environment

The balloon to **HB 2955** was distributed to the members. (Attachment #1) It reflected the amendments approved yesterday in committee. Discussion followed.

Representative Doug Lawrence moved that **HB 2955** be passed out favorably as amended. Representative Tom Sloan seconded the motion. Discussion followed. The motion carried.

Action on HB 3029: Imposition of certain water quality standards deferred until achievability demonstrated

Representative Tom Sloan distributed a balloon to amend **HB 3029** and an explanation of the amendment. (Attachment #2)

Representative Tom Sloan moved to amend **HB 3029** as shown in the balloon. Representative Rich Becker seconded the motion. Discussion followed. The motion carried.

Representative Tom Sloan distributed another amendment to **HB 3029** which was erroneously typed as a Proposed Substitute for **HB 3029**. (Attachment #3)

Representative Tom Sloan moved to adopt the proposed amendment to **HB 3029**. Representative Rich Becker seconded the motion. Discussion followed. Representative Sloan moved to amend his motion in Section 1. and Section 2. by adding "or his designee" after "director . . ." Representative Becker agreed to the amended motion. Discussion followed. The motion carried.

Representative Tom Sloan moved that **HB 3029** be passed out favorably as amended. Representative Rich Becker seconded the motion. Representative Sloan withdrew his motion. Representative Becker withdrew the second.

Representative Richard Alldritt moved to amend **HB 3029** by inserting, "Within five days after registration of a confined feeding facility under K.S.A. 65-171d and amendments thereto, the secretary of health and environment shall publish and notify the county commission of the county where the facility is to be located." Representative Bill Feuerborn seconded the motion. Discussion followed. The motion failed.

Representative Tom Sloan moved that **HB 3029** be passed out favorably as amended. Representative Don Myers seconded the motion. Discussion followed. Representatives Sloan and Myers amended the motion on recommendation of staff to be the Substitute for **HB 3029**. More discussion followed. The motion failed.

The meeting adjourned at 1:50 p.m.

The next meeting is scheduled for March 4, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE
 COMMITTEE GUEST LIST

DATE: February 23, 1996

NAME	REPRESENTING
Kim Gulley	League of KS Municipalities
J.C. LONG	Utili Corp United, Inc.
Dave Holthaus	Western Resources
Karl Mueldeuer	KDHE
Ron Hammerschmidt	"
ED SCHAUB	WESTERN RESOURCES INC.
Michelle Peterson	Peterson Public Affairs
JOHN C. BOTTENBERG	BOTTENBERG & ASSOC

HOUSE BILL No. 2955

By Committee on Energy and Natural Resources

2-6

9 AN ACT concerning the secretary of health and environment; requiring
10 publication of certain information and documents of the division of
11 environment.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. ~~[(a)]~~ The secretary of health and environment shall publish
15 all general policies, guidelines, standards and other documents that are
16 used by the division of environment as part of the division's regulatory
17 functions. The publication shall be supplemented at least annually. The
18 division of the environment shall make the publication available upon
19 request for a fee based only on the time and materials provided by the
20 department in preparing the publication, but the fee for the entire pub-
21 lication shall not exceed \$50 and the fee for the supplement shall not
22 exceed \$10. The publication also shall be available through the informa-
23 tion network of Kansas. The publication or supplement may incorporate
24 by reference ~~any document if the division provides such document~~ to any
25 citizen upon request in accordance with the provisions of K.S.A. 45-219
26 *et seq.* and amendments thereto.

27 ~~[(b) Any regulatory or administrative action taken by the division of~~
28 ~~environment on or after January 1, 1997, shall be invalid if the action is~~
29 ~~dependent in whole or in part on policies, guidelines, standards or other~~
30 ~~documents that have not been published as required by this section.]~~

31 Sec. 2. This act shall take effect and be in force from and after Jan-
32 uary 1, 1997, and its publication in the statute book.

or contain a bibliographic listing of documents that are published or protected by copyright if such documents are generally available to the public or are provided by the division

House E+NR Comm.
2-23-96
Attachment 1

HOUSE BILL No. 3029

By Committee on Energy and Natural Resources

2-13

9 AN ACT concerning water quality standards; requiring certain conditions
10 to be met before imposition of certain standards.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. The secretary of health and environment shall ~~defer the~~
14 ~~imposition of~~ any new water quality based effluent limit for any pollutant
15 ~~for existing and new point source dischargers pursuant to sections 301(b)~~
16 ~~and 306 of the federal clean water act until the department demonstrates~~
17 ~~that the water quality criterion for the pollutant that is proposed to be~~
18 ~~controlled by the imposition of the~~ water quality based effluent limit can
19 ~~be achieved in the receiving stream with existing nonpoint source pollut-~~
20 ~~ant contributions.~~

21 Sec. 2. This act shall take effect and be in force from and after its
22 publication in the Kansas register.

Before

Establish

for the National Pollution Discharge Elimination System

secretary shall

application of the

will result in full attainment of the designated uses established by the secretary for the water body affected by the point source discharge for which the water quality based effluent limit is specified. This requirement shall apply to effluent limits established on and after July 1, 1994.

House Est NR Comm.
2-23-96
Attachment 2

EXPLANATION OF HB 3029--AND AMENDMENT

Background

- State water quality standards were last amended in 1994 by KDHE.
- The standards included adoption of designated uses for the water bodies listed in the Kansas Surface Water Registry. ¹Designated uses from the prior registry were carried forward into the new one with certain exceptions.
- One exception is that all newly listed classified streams were designated for protection of expected aquatic life use support and would be anticipated for non-contact recreation.
- Some stream classifications were changed to reflect the presence of threatened and endangered species or outstanding natural resources.
- These changes in use designations will lead to new effluent limits for existing discharges. These stricter limits will be set by KDHE when the municipal dischargers NPDES permit is up for renewal.
- The setting of these new designated uses for stream segments into which municipal dischargers place their effluent puts a substantial burden on a municipal applicant to complete a special use attainability analysis. A use attainability analysis is a study that is designed to determine whether a surface water segment supports or is capable of supporting one or more designated uses in the absence of artificial sources of pollution. The burden of such studies and explaining the need for additional expenditures falls squarely on the municipality.
- KDHE estimated in 1994 that these changes in the water quality standards would lead to an estimated \$63 million in increased capital costs by approximately 60 cities in the state. These costs do not include operating and consultant study costs, and will be paid by wastewater system rate payers.

The Amendment

- The amendment clarifies that the bill is not designed to prevent the imposition of secondary treatment requirements or affect nonpoint source pollution sources.
- The amendment would simply require that before establishing any new effluent limits for a point source discharger (i.e., municipal discharger since industrial dischargers were not expected to be affected by the standards), the secretary will be required to demonstrate the limit will result in full attainment of the designated uses.
- In other words, if the designated use of a stream is for special aquatic use in order to protect a threatened or endangered species, the department would have to demonstrate the effluent limit will materially improve the water quality of the stream for use by that species.
- In other words, the secretary will be required to demonstrate the effluent limit will make a material difference in the quality of the receiving stream.

¹ These designated uses include agricultural water supply use, irrigation, livestock watering, aquatic life support use, domestic water supply use, food procurement use, groundwater recharge use, industrial water supply use, and recreational use.

Proposed Substitute for HB No. 3029

Section 1. On the written request of any municipal governing body no less than thirty (30) days in advance thereof, the director of the division of environment, department of health and environment, shall personally:

(a) Meet in public session with the governing body of any city which has applied for an NPDES permit and for which the secretary of the department has proposed or established an effluent limit for the point source discharge of the municipality's effluent into a water body in this state.

(b) Explain in detail during such meeting the technical and scientific basis for the designated uses of the water body affected by the municipality's point source discharge.

(c) Explain in detail during such meeting the technical and scientific basis for the effluent limit which the department has established or proposed to be established for the point source discharge of the municipality.

(d) Explain in detail during such meeting the justification for the expenditure by the municipality of funds necessary to meet the effluent limit and attain the designated uses for the water body affected by the municipality's point source discharge.

Section 2. The director shall attend no less than two meetings with the municipal governing body as provided in paragraph (a). The cost of such attendance shall be borne by the department of health and environment.

Section 3. This act shall apply to effluent limits and designated uses established by secretary on and after July 1, 1994.

Section 4. This act shall take effect and be in force from and after its publication in the Kansas register.

House E + NR Comm.
2-23-96
Attachment 3