

Approved: 1-30-97
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:07 a.m. on January 22, 1997 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Linda Bradley, Committee Secretary

Conferees appearing before the committee: Ronald F. Hammerschmidt, Phd, Director of Environment
Al LeDoux, Director Kansas Water Office
Rick Miller, State Coordinator of Geographic Information System
(GIS) Functions

Others attending: See attached list

The Chairperson called the meeting to order and opened the floor to bill requests.

Ron F. Hammerschmidt, Phd., Director of Environment, asked the committee to introduce four bills.
(See Attachment 1)

The first bill covered term limits for the Compliance Advisory Panel is the Kansas Clean Air Act. Term . This legislation would provide a mechanism to stagger the appointments of advisory panel members to allow for continuity of oversight activities. The current compliance advisory panel supports staggering the current term expirations dates, but retaining the two year length of terms.

Senator Goodwin, with a second from Senator Biggs moved to introduce the bill. The motion carried.

The second proposed bill would update the asbestos program. Revisions to K. S. A. 65-5302 are being proposed to provide clarification that when a business entity utilizes its own employees to remove or encapsulate friable asbestos-containing materials, the business entity would not be subject to the provisions of the act. The existing provisions are believed to be duplicative of recently adopted federal OSHA regulations. The requirement that KDHE conduct at least one annual inspection of an asbestos licensee as contained in K. S. A. 65-5303 is being amended to eliminate the annual inspection provision. Current levels of resources have compelled the agency to concentrate inspections of abatement projects where the public is at risk and not on small abatement projects. In K.S. A. 65-5308, the requirements for asbestos worker certification are being amended to eliminate the provision that requires an individual to be examined by a physician annually and provide documentation of such and elimination of statutory language requiring annual refresher training and date of expiration of a certificate. With OSHA regulations now requiring annual physicals, and EPA currently evaluating asbestos training provisions, these proposed changes will allow KDHE to simplify the certification process through the administrative regulation process.

Senator Biggs, with a second from Senator Karr moved to introduce the bill. The motion carried.

The third bill was bring the wastewater permitting program under the Kansas Administrative Procedure Act (KAPA). This proposed legislation makes K. S. A. 65-164 and K. S. A. 65-165 actions subject to the provisions of the DAPA. Currently persons receiving orders and permit denials etc., pursuant to 65-164 and 65-165 are given administrative appeal rights. This legislation is to formalize those rights in statute. Courts prefer full administrative hearing records to review rather than direct appeals through the KJRA. Also the K. S. A. 65-165 revisions contain saving KAPA language which allows expired permits to run until reissued if a timely and sufficient application is filed prior to expiration period. This is consistent with federal APA provisions. The NPDES program was approved without this language and it is not federally mandated. It is,

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on January 22, 1997.

however, consistent with federal APA provisions which act to save permits when a timely and sufficient application for renewal is filed. It is also consistent with federal implementations of NPDES programs which provide for administrative hearings on denials, etc., prior to court review.

Senator Goodwin, with a second from Senator Biggs moved to introduce the bill. The motion carried.

The fourth bill deals with confined animal feeding operations. This proposed legislation would amend K. S. A. 1995 Supp. 65-171d to close a loophole whereby large facilities with pigs under 55 pounds are classified as containing zero animal units for regulatory purposes. Many of these large facilities generate a significant amount of wastewater and need to be regulated for water pollution control regardless of the fact the waste is generated from pigs under 55 pounds. This bill would require the registration and would subject these facilities to separation distance requirements. The need for a permit remains unchanged per the provisions of current law.

Senator Karr, with a second from Senator Harrington moved to introduce the bill. The motion carried.

Al LeDoux, Director Kansas Water Office, presented background information on history of the Kansas Water Authority that was created on July 1, 1981, (Attachment 2). Mr. LeDoux then presented the new Kansas Water Office video.

Tom Stiles, Assistant Director--Coordination and Planning Function, presented a brief overview of the functions of the Kansas Water Office. He gave each committee member a red book and synopsis of State agencies and their functions. Mr. Stiles discussed coordination, planning Kansas Water Plan, policy and technical support and conservation. (Attachment 3).

Rick Miller, State Coordinator of Geographic Information System Functions, presented a brief overview of the primary areas of the Kansas Geographic Information System (GIS) Policy Board. (Attachment 4).

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for January 23, 1997.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: January 22, 1997

NAME	REPRESENTING
Leland E. Rolp	KDA-PWR
Al LeDoux	KWO
Rick Miller	KWO
Tom Stokes	KWO
Waver Johnson	Western Farmers
EL "Woody" Moses	Ks. Agg. Producers Assn.
Clark Duffy	KPC
Rich McKee	KLA
Tom Hammerlund	Ks. Dept. Health & Env.
Jerry Duwall	KWO
Annette Lown	KU student
Doug Wareham	Ks. Fert & Chem Assn.
Charles Benjamin	KNRC/Sierra Club-KS
C Deaton	DOB
Bill Anderson	Water Dist #1 of Jo Co
Duane Waterworth	Division of the Budget
Scott Misogler	Division of the Budget

DIVISION OF ENVIRONMENT

Office of Science and Support

- * 1. Compliance Advisory Panel Term Limits

Bureau of Air and Radiation

- * 1. Update of Asbestos Program

Bureau of Waste Management

- 1. Amendments to Solid Waste Statutes
- 2. Operating Flexibility at Small Exempt Landfills

Bureau of Water

- * 1. Bring the wastewater permitting program under the KAPA
- * 2. Confined Animal Feeding Operations

CENTER FOR HEALTH AND ENVIRONMENTAL STATISTICS

Office of Health Care Information

- 1. Amendment to Health Care Data Governing Board membership

ATTACHMENT 1

Senate Energy & Natural Resources

Jan. 22, 1997

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BILL BRIEF

TITLE: Compliance Advisory Panel Term Limits

I. Purpose/Reason for Proposed Legislation

K.S.A. 1995 Supp. 65-3027(h) stipulates two year terms for the seven member compliance advisory panel. The compliance advisory panel provides oversight of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program established by the Kansas Air Quality Act. All appointments were originally made within a six-month period, so every two years there is almost a new panel (only two were reappointed in 1995). This does not provide continuity. This legislation will have no effect on policy development or implementation. This legislation is not mandated by the federal government, but provides for a more efficient and responsive advisory panel. The legislation will promote the ability of this panel to provide more efficient oversight of the small business assistance program thereby optimizing compliance by small businesses with environmental regulations.

II. Bill Summary

This legislation provides a mechanism to stagger the appointments of advisory panel members to allow for continuity of oversight activities. The current compliance advisory panel supports staggering the current term expiration dates, but retaining the two year length of terms.

III. Legislative History

This legislation has not been previously introduced.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation.

By providing staggered terms for panel members, the advisory and oversight responsibilities will be conducted in a more efficient and responsive manner. The small business community will benefit from a more effective program.

V. Impact on Other Agencies or KDHE Bureaus

None

VI. Fiscal Impact:

None

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

BILL BRIEF

TITLE: Update of Asbestos Program

I. Purpose/Reason for Proposed Legislation

At the conclusion of the 1995 session of the Kansas legislature, the Chairman of the House Energy and Natural Resource Committee convened an environmental law task force to conduct a comprehensive review of all environmental statutes under the jurisdiction of the Division of Environment, Kansas Department of Health and Environment (KDHE). For the review of the asbestos program, the task force recommended retaining the asbestos worker certification portion of the program and eliminating any other provisions that were duplicative and in conflict with recently-adopted federal requirements. Members of the task force reported that the federal Occupational Safety and Health Administration (OSHA) regulations that became effective in October 1995 and the U.S. Environmental Protection Agency (EPA) regulations which became effective in 1990 and 1993 were difficult to interpret and relate to the state asbestos requirements.

At the completion of the session, an asbestos work group was established by KDHE to address the concerns expressed by the task force. The statutory changes proposed are the result of the deliberations of this work group and are not required by federal law.

By not acting on the proposed amendments to the statutes, the existing rules will continue to be in conflict with or duplicate some provisions in the federal regulations.

These statutes protect the public from the exposure of asbestos fibers during projects where friable asbestos-containing materials are removed or encapsulated.

II. Bill Summary

Revisions to K.S.A. 65-5302 are being proposed to provide clarification that when a business entity utilizes its own employees to remove or encapsulate friable asbestos-containing materials, the business entity would not be subject to the provisions of the act. The existing provisions are believed to be duplicative of recently adopted federal OSHA

regulations. The requirement that KDHE conduct at least one annual inspection of an asbestos licensee as contained in K.S.A. 65-5303 is being amended to eliminate the annual inspection provision. Current levels of resources have compelled the agency to concentrate inspections of abatement projects where the public is at risk and not on small abatement projects. In K.S.A. 65-5308, the requirements for asbestos worker certification are being amended to eliminate the provision that requires an individual to be examined by a physician annually and provide documentation of such and elimination of statutory language requiring annual refresher training and date of expiration of a certificate. With OSHA regulations now requiring annual physicals, and EPA currently evaluating asbestos training provisions, these proposed changes will allow KDHE to simplify the certification process through the administrative regulation process.

III. Legislative History

When K.S.A. 65-5301 et seq. was first enacted in 1985 and the regulations in 1986, both OSHA and EPA lacked specific regulations defining activities associated with the removal and encapsulation of friable asbestos-containing materials. With the promulgation of the new federal asbestos regulations, the current Kansas asbestos rules and regulations are in conflict with or duplicate some provisions in the federal regulations. The proposed changes to the statutes and further changes to the regulations will eliminate these conflicts.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation

By amending the statutes as proposed, it will be clearer for business entities who remove asbestos materials within their own facilities that they are not subject to the act. Asbestos workers applying for certification will not have to provide duplicative copies of medical records. These changes will also provide an opportunity to make the program consistent with newly implemented federal regulations.

V. Impact on Other Agencies or KDHE Bureaus

There should be no direct impact to other state agencies regarding these proposed amendments to the statutes, with the exception that when a select number of state agencies certify their workers for removing asbestos-containing materials, the certification process will be less burdensome.

VI. Fiscal Impact

The only fiscal impact associated with these changes will be the cost-savings that will result from the stream-lining of the employee certification program upon enactment of revisions to the specific administrative regulations that implement this program.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BILL BRIEF

TITLE: Bring the Wastewater Permitting program under the KAPA
K.S.A 65-164 and 65-165

I. Purpose/Reason for Proposed Legislation

This legislation makes 65-164 and 65-165 actions subject to the provisions of the KAPA. Currently persons receiving orders and permit denials etc. pursuant to 65-164 and 65-165 are given administrative appeal rights. This legislation is to formalize those rights in statute. Courts prefer full administrative hearing records to review rather than direct appeals through the KJRA. Also the 65-165 revisions contain saving KAPA language which allows expired permits to run until reissued if a timely and sufficient application is filed prior to expiration period. This is consistent with federal APA provisions.

II. Bill Summary

See above>. The NPDES program was approved without this language and it is not federally mandated. It is, however, consistent with federal APA provisions which act to save permits when a timely and sufficient application for renewal is filed. It is also consistent with federal implementation of NPDES programs which provide for administrative hearings on denials, etc. prior to court review.

III. Legislative History

Last year a trailer bill was sponsored by the Judicial Council bringing most state agency actions under KAPA. K.S.A. 65-164 and 65-165 were inadvertently omitted from the bill.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation.

Possibly some increase in appeals with legal rights statutorily provided.

V. Impact on Other Agencies or KDHE Bureaus.

Possible work increase in the Bureau of Water, Legal Office and Administrative Appeals Unit if more appeals ensue. No staff increase is proposed

at this time. This bill is consistent with the mission of the agency in protecting the public health and environment as it insures that an enforceable permit will be in place if permit renewals are delayed by staff shortages, etc. and it allows for public participation in the administrative hearing process.

VI. Fiscal Impact:

There should be limited impact on programs as the agency is currently providing administrative hearings if requested.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BILL BRIEF

TITLE: Confined Animal Feeding Operations

I. Purpose/Reason for Proposed Legislation

State statutes now have a loophole whereby nursery facilities for swine rearing can be of significant size and have an environmental impact but escape state statutes and regulations. This legislation would amend K.S.A. 1995 Supp. 65-171d to address this loophole, which revolves around small pigs.

II. Bill Summary

This legislation would amend K.S.A. 1995 Supp. 65-171d to close a loophole whereby large facilities with pigs under 55 pounds are classified as containing zero animal units for regulatory purposes. Many of these large facilities generate a significant amount of wastewater and need to be regulated for water pollution control regardless of the fact the waste is generated from pigs under 55 pounds. The bill would require the registration and would subject these facilities to separation distance requirements. The need for a permit remains unchanged per the provisions of Senate Bill 800.

III. Legislative History

This loophole is a remnant of Senate Bill 800 from the 1994 legislative session. The loophole was created unintentionally during the Senate Bill 800 debate.

IV. Anticipated Outcomes Resulting from the Passage of Proposed Legislation.

A number of swine facilities operated by Seaboard would statutorily fall under the revised language. The facilities were built as if the loophole did not exist, that is the facility meets all KDHE standards. It is possible future facilities by other corporations or operations might fall into this same loophole and the owner might not feel compelled to meet the standards.

V. Impact on Other Agencies or KDHE Bureaus

None

VI. Fiscal Impact: None

STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE
Al LeDoux
Director

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249

MEMORANDUM

913-296-3185
FAX 913-296-0878
TTY 913-296-6604

Date: January 22, 1997
To: Senate Energy and Natural Resources Committee
From: Al LeDoux, Director *AL*
Subject: State Water Planning in Kansas

Mr. Chairman, members of the Committee, my name is Al LeDoux, Director of the Kansas Water Office (KWO).

- July 1, 1981, the KWO and the Kansas Water Authority (KWA) were created. They replaced the Kansas Water Resource Board which had been created in 1955. Water planning, as we know it, was endorsed in 1985 through H.C.R. 5010. In 1989, funding for the *Kansas Water Plan* was dedicated through the State Water Plan Fund.

State water planning in Kansas is accomplished under the direction of the KWA and KWO. The KWO is the water planning, coordination, and marketing agency for our state

- The KWA is a 23-member body with responsibility for advising the Governor, Legislature, and the Director of the KWO on water-policy issues, for approving water-storage sales, for additions and revisions to the *Kansas Water Plan*, Federal contracts, and regulations and legislation proposed by the KWO.
- The basin advisory committees each consist of 11 members representing various water users including irrigation, municipal, domestic, industrial, and wildlife and recreation interests. Memberships are approved by the KWA and are for a four-year term.
- The *Kansas Water Plan* serves as a vehicle for coordinating the management, conservation, and development of the water resources of the state. Development of the Plan is outlined in the State Water Resource Planning Act.

Senate Energy & Nat. Resources

Attachment 2

1-22-97.

2-1

- The water planning process in Kansas is coordinated with numerous local, State, and Federal agencies, special interest groups, and the general public. Planning is accomplished through an annual planning cycle.
- Implementation of the *Kansas Water Plan* is accomplished by the passage of legislation or through funding of specific programs or projects. Creation of the State Water Plan Fund in 1989 provided a dedicated source of revenue.

Now I would like to direct your attention to our new KWO video.

I would also like to introduce three members of the KWO staff who will present to the Committee various functions of our agency:

1. **Tom Stiles**, Assistant Director -- Coordination and Planning Function
2. **Rick Miller** -- State Coordinator of Geographic Information System (GIS) Functions
3. **Terry Duvall** -- Director of Marketing-Storage Programs

AL/HENPRES.MEM/MC

FUNCTIONS OF THE KANSAS WATER OFFICE

1. COORDINATION

- A. **RED BOOK AND SYNOPSIS OF STATE AGENCIES AND THEIR FUNCTIONS**
- B. **AGENCY ORG CHART (PLANNING, GIS, STORAGE)**
- C. **KANSAS WATER AUTHORITY - 23 MEMBERS; 13 APPTD, 10 EX OFFICIO**
- D. **GOVERNOR'S WATER QUALITY INITIATIVE EXAMPLE**

2. PLANNING - KANSAS WATER PLAN (*SUMMARY ON THE WAY*)

- A. **BASIN PLANS - WATER SUPPLY, QUALITY, FLOODING, FWR; BASIN MAPS**
- B. **BASIN ASSESSMENTS - NORTHEAST; SOUTHWEST**
- C. **PLAN IMPLEMENTATION - KWA REPORT; STATE WATER PLAN FUND**
\$16.8 - \$17.8

3. POLICY AND TECHNICAL SUPPORT

- A. **WATER QUALITY PROTECTION POLICY; DAM SAFETY & REHAB**
- B. **RESERVOIR YIELDS AND SEDIMENTATION**
- C. **SUPPLY ANALYSIS (STREAMS, GROUNDWATER, RESERVOIRS)**
- C. **GROUNDWATER RESEARCH (S/A INTERACTION)**
- D. **WATER QUALITY RESEARCH (MINERAL INTRUSION)**

4. CONSERVATION

- A. **GUIDELINES**
- B. **WATER USE ANALYSIS**
- C. **DEMAND ANALYSIS (FUTURE POPULATIONS, WATER USE)**
- D. **REVIEW CONSERVATION PLANS FOR STORAGE USERS**
- E. **TECHNICAL ASSISTANCE FOR WATER USERS**
- F. **WEATHER MODIFICATION**

Energy & Natural Resources
1-22-97

Attachment 3

*From
Rick
Miller*

STATE OF KANSAS



Bill Graves, Governor

KANSAS WATER OFFICE
Al LeDoux
Director

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249

913-296-3185
FAX 913-296-0878
TTY 913-296-6604

Comments for Senate Energy and Natural Resources Committee Hearing: 1/22/97

Good afternoon, my name is Rick Miller and I am Geographic Information System (GIS) Coordinator for the Kansas GIS Policy Board. There is a one page information sheet in your packets that contains information on the mission of the Board and its membership. Today, **I would like to provide you with a brief overview of the primary areas of Board activity.** The GIS Policy Board meets on a bi-monthly basis to address issues such as GIS data development, acquisition, and distribution, standards development, and partnerships to promote data sharing among GIS users.

The first major area of activity is the **Coordination of GIS data development** among the GIS community in Kansas government.

Since 1991, the GIS Policy Board has received funding support from the Kansas Water Authority and Kansas Water Plan . The bulk of this funding has been for GIS database development and acquisition. Approximately 2.5 million dollars has been invested in GIS database development. These shared GIS databases are archived, maintained, and made available for distribution under Kansas Open Records law through the Board sponsored Data Access and Support Center. **Examples of these data holding include data on Land Cover and Land Use, Aquifers, Soils, Rivers and Streams, Roads, and the Public Land Survey System, to name just a few.**

The Data Access and Support Center is the second major area of Board sponsored activities.

The Data Access and Support Center has been in operation since 1991 and is awarded by contract to the Kansas Geological Survey. **The Center's mission to perform quality control on shared GIS databases, maintain and provide documentation on these various databases, and to distribute the data to the GIS community on request.** The Center maintains a Home Page on the Internet (<http://gisdasc.kgs.ukans.edu>) that provides fast efficient access to the GIS database holdings. The Center also supports manual distribution of the same data for users who do not have access to the Internet. Government agencies, including federal, state, county and municipal and

*Energy's Natural Resources
1-22-97
Attachment 4*

private sector businesses are all frequent users of the Center's services. **From November of 1991 until January of 1996 the DASC distributed over 5,500 separate database files to GIS users.**

Finally, the third major area of Board activity is that of coordination, partnerships, and standards development. The Board recently approved the Kansas Metadata Documentation Standard that creates a single consistent method for all state agency and regents institutions to document their GIS databases. Numerous Kansas county and municipal government representatives have also agreed to voluntarily follow this same standard. The Board has approved a partnership to cooperate with the Federal Geographic Data Committee and works closely with all members of the Kansas GIS community to promote data sharing, thus avoiding costly and redundant development of GIS data.

Board activities and initiatives are coordinated through the Kansas Water Office and the position of State GIS Coordinator. The Kansas Water Office is assigned Administrative responsibility for the Board by Executive Order #95-180 and the Board is designated as a standing Sub-Committee of the Kansas Information Resources Council. Thank you for your time.