

Approved: Feb 10, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Lisa Benlon on February 8, 1999 in Room 521-S of the Capitol.

All House Committee members were present. Except for :Rep. Shriver, excused

John Toplikar, excused

Committee staff present: Mary Galligan - Research, Dennis Hodgins - Research, June Constable-Committee Secretary. Revisor Kiernan was excused

Conferees appearing before the committee: Proponents: Rep. Mayan, Jamie Clover-Adams from Gov.Graves office, Christina Coleman from Kansas Chapter of Sierra Club, Ron Gaches of Kansas Society of Prof. Engineers. Opponents: Kay Kent of Kansas State Nursing Association,

Others attending: See Guest List, attached to these Minutes.

Silent roll for the House Committee was taken by the Secretary of that Committee.

HB 2087 was worked by the committee. Brad Bryant suggested an amendment to the bill and provided written support, (Attachment #1). Rep. Johnston moved that the committee adopt the amendment as written and presented. Rep. O'Connor seconded the motion. Motion carried.

Rep. Johnston moved that the committee favorably move the bill out of committee. Rep. Gilbert seconded the motion. Motion carried..

The committee then worked HB 2086. Rep. Johnston moved that the committee favorably move the bill out of committee, and should be placed on the consent calendar. Rep. O'Connor seconded the motion. Motion Carried.

Chair Lisa Benlon opened the hearing for HB2077.

Rep. Mayan spoke to the committee as proponent for the bill, stating that due to the heavy load regarding health and environment issues, the department should be split with two Secretaries and reorganized into separated agencies. (Attachment #2)

Rep. Powers asked if the split would come under one department head and if a Fiscal statement has been issued.

Jamie Clover-Adams from Gov. Graves office spoke to the committee in favor of the bill citing enhanced efficiency, customer service, accountability and visibility as reasons to divide the present agency. (Attachment #3)

Rep. Powers asked for clarification and definitions of classified and unclassified personnel. He asked if additional personnel would be needed for a split.

Rep. Storm asked if attorneys were unclassified positions in other agencies. She asked when the Governors Public Improvement Commission was appointed and when would their study be completed.

Rep. Horst asked if the current tight employment market, lack of qualified workers, would affect the split of the agency.

Rep. Johnston asked if a position was unclassified, does the state have flexibility in pay scales. He asked for clarification on precisely what problems were occurring because the agency is now under one Secretary.

Rep. Powers stated that additional employees should not be needed.

Rep. Huff asked if there would be two Secretaries if the bill passed.

Christina Coleman spoke for the Kansas Chapter of the Sierra Club, as Proponent of the bill.

Written testimony was provide (Attachment # 4).

Rep. Powers asked which was more important to the club, environment issues or health issues.

Ron Gaches, of Kansas Society of Prof. Engineers, spoke as proponent and provided written testimony . (Attachment # 5). No questions were asked by legislators.

Kay Kent, Kansas State Nurses Association, spoke as an opponent of the bill, citing that public health is directly affected by environmental issues and requested that no change be made in the agency until the Governors Public Health Improvement Commission report, due the end of 1999 is received.

Written testimony was provided. (Attachment #6)

Rep. Powers asked why the Nurses Association is opposed to the bill when some environmental issues have nothing to do with health, such as "blood pressure has nothing to do with hog farms" and are two different issues.

Rep. O'Connor asked if the other states which have separated the two agencies have reported any problems and if they have been tempted to change back to one agency, or have now re-combined the two.

Rep. Powers asked if the "health" portion of the agency has been eliminated from the separated agencies in the other states.

There being no further questions from the legislators, and no further testimony, Chair Lisa Benlon Closed the Hearing on **HB 2077**.

Minutes for the February 1 and February 3 meeting were approved. Rep. O'Connor moved that said minutes be approved as written. Rep. Storm seconded the motion. Motion carried.

There being no further business to come before the Chair, meeting was adjourned. The next meeting scheduled is February 10, 1999, at 3:30 in room 521-S

June Constable

House Governmental Organization
and Elections
Guest List

Feb. 8, 1999

Your Name	Representing
Joe J. Fund	KDHE
SCOTT SCHNEIDER	McGILL GARDEN ASSOC.
Ed Spiess	-
Danielle Noe	Office of the Governor
Jamie Clover Adams	Office of the Governor
Ken Bahr	Ks. Governmental Consulting
George Barbee	Barbee & Assoc's
Carolyn Medendorp	KSNB
David Bruchmann	Rep. Johnston
Christina Coleman	Ks. Chapter of Sierra Club
Dr. Celso L. Ramirez	KU School of Medicine, Dean Storment Vail School of Rehab, Dean
Dey Kewt	Ks. State Nurses Association
John Fiedorik	Being
Rebecca Fin	KS Chiropractic Assn.
Melissa Hungerford	Ks Hosp Assn
Carl Williams	GEL
Sally Finney	Ks. Public Health Assn.
Step Adams	KDWP
Bill Fuller	Kansas Farm Bureau
David Dyllan	DOB
Jay Len	KSNA

Secretary of State's proposed amendment to HB 2087

HB 2087 amends KSA 25-4148 to require candidates for 1st class city offices, the Wichita school district and the Kansas City board of public utilities to file a campaign finance report on June 10, after their spring elections, in addition to the report currently required on the following January 10.

These reports are filed with the county election officer and the Governmental Ethics Commission.

KSA 25-904 requires candidates for 2nd and 3rd class city offices, community college boards of trustees, and all local school boards except Wichita to file campaign finance reports with the county election officer 30 days after the primary and general elections.

The general election is held on the first Tuesday in April, which can be anywhere from April 1 to April 7. The campaign finance report deadline 30 days after the election can be anywhere from May 1 to May 7.

HB 2087 would create in counties with one or more 1st class city two separate filing deadlines--the first deadline sometime between May 1 and May 7, and the second deadline on June 10. Having two separate deadlines for the same type of report seems unnecessary and confusing.

We propose amending HB 2087 to establish the deadline on the 30th day after the election rather than June 10. This would help county election officers keep track of their deadline dates and avoid confusion among candidates for various local offices.

Brad Bryant
Elections Division
6-4559

Copy to Ted Powers ✓

Gov. Org. & Elec.
Feb. 8, 1999
Attach #1

Mayans

STATES WITH SEPARATE HEALTH AND ENVIRONMENT DEPT.

ALABAMA

Dept. of Environmental Mgt.

ALASKA

Dept. of Environmental Conservation

ARIZONA

Dept. of Environmental Quality

ARKANSAS

Pollution Control and Ecology

CALIFORNIA

Environmental Protection Agency

CONNECTICUT

Dept. of Environmental Protection

DELAWARE

Dept. of Natural Resources and Environmental Control

FLORIDA

Dept. of Environmental Protection

GEORGIA

Dept. of Natural Resources (Environmental Protection Div.)

ILLINOIS

Environmental Protection Agency

INDIANA

Dept. of Environmental Mgt.

IOWA

Dept. of Natural Resources (Environmental Protection Div.)

KENTUCKY

Dept. for Environmental Protection

LOUISIANA

Dept. of Environmental Quality

MAINE

Dept. of Environmental Protection

MARYLAND

Dept. of Environment

MASSACHUSETTS

Dept. of Environmental Protection

MICHIGAN

Dept. of Environmental Quality

MINNESOTA

Environmental Quality Board

MISSISSIPPI

Dept. of Environmental Quality

MISSOURI

Dept. of Natural Resources (Div. of Environmental Quality)

MONTANA

Dept. of Environmental Quality

NEBRASKA

Dept. of Environmental Quality

*Gov. Org. + L7ec.
Feb. 8, 1989
Attach. #2*

NEVADA
Div. of Environmental Protection

NEW HAMPSHIRE
Dept. of Environmental Services

NEW JERSEY
Dept. of Environmental Protection

NEW MEXICO
Dept. of Environment

NEW YORK
Dept. of Environmental Conservation

OHIO
Environmental Protection Agency

OKLAHOMA
Dept. of Environmental Quality

OREGON
Dept. of Environmental Quality

PENNSYLVANIA
DER-Field Operations

RHODE ISLAND
Dept. of Environmental Mgt.

SOUTH DAKOTA
Dept. of Water and Natural Resources

TENNESSEE
Dept. of Environment and Conservation

TEXAS
Natural Resource Conservation Comm.

UTAH
Div. of Environmental Health (?)

VIRGINIA
Dept. of Environmental Quality

WASHINGTON
Dept. of Ecology

WEST VIRGINIA
Commerce, Labor and Environ. Resources (Div. of Env. Protection)

WISCONSIN
Dept. of Natural Resources

WYOMING
Dept. of Environmental Quality

AMERICAN SAMOA
Environmental Quality Comm.

DISTRICT OF COLUMBIA
Environmental Regulation Admin.

GUAM
Environmental Protection Agency

PUERTO RICO
Environmental Quality Board

U.S. VIRGIN ISLANDS
Dept. of Planning and Natural Resources

STATES WITH COMBINED HEALTH AND ENVIRONMENT DEPT.

COLORADO

Dept. of Public Health and Environment

HAWAII

Environmental Health Admin.

IDAHO

Dept. of Health and Welfare

KANSAS

Dept. of Health and Environment

NORTH CAROLINA

Dept. of Environment, Health and Natural Resources

NORTH DAKOTA

Dept of Health (Environmental Health Section)

SOUTH CAROLINA

Dept. of Health and Environmental Control

NORTHERN MARIANA ISLANDS

Public Health and Environmental Services

TOTALS:

STATES/TERRITORIES WITH SEPARATE: 47

STATES/TERRITORIES WITH COMBINED: 8

STATE OF KANSAS

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Topeka, Kansas 66612-1590



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OFFICE OF THE GOVERNOR

LEGISLATIVE TESTIMONY

TO: Chair Benlon and Members of the Governmental Organization and Elections Committee

FROM: Jamie Clover Adams, Legislative Liaison *Jamie*

DATE: February 8, 1999

BILL: House Bill 2077 – Creating the Department of Health and the Department of Environment

Madam Chair and members of the Committee, thank you for the opportunity to appear today in support of H.B. 2077, a bill to split the current Department of Health and Environment into two separate cabinet level agencies.

Rationale for Split

Increased efficiency and accountability in government have been a focus of the Graves Administration since 1995. Dividing the Department of Health and Environment into two separate cabinet level agencies is another step toward that goal. The split would accomplish three distinct objectives: (1) enhance efficiency and customer service; (2) increase accountability; and, (3) enhance visibility.

Enhanced efficiency and customer service. It is important to note that only a few states have a combined health and environment agency. Only two states, Kansas and South Carolina, have fully combined agencies, while another three have delegated substantial environmental duties to their health departments. The number of states with combined agencies has declined over the past decade, from roughly 14 states during the 1980s to the remaining two today.

Extensive studies on the structure of the Department of Health and Environment have been done over the past 15 years, the last in 1993. Each study recognizes the problems within the agency and recommends change. To date, only cosmetic change has occurred. All parties agree that the Department could provide better service to the people of Kansas. However, the current organizational structure is lethargic and unwieldy. In many cases, Secretaries react rather than manage. Creating two separate departments, each with a single mission creates a situation where government can deliver service more effectively. The Secretary of each department can focus not only on current policy questions, but also on how service is delivered and anticipate future needs.

*Gov. Org & Elec
Feb 8, 1999
Attachment #3
3-1*

Enhanced Accountability. Creating two separate departments allows the structure of each to flatten making program managers directly accountable to the Secretary, the Governor and ultimately the people of Kansas for the effectiveness of their program. Two separate departments removes a layer of bureaucracy between program managers and those elected by and accountable to the people of the State. A clearly defined department mission also lends itself to greater accountability.

Enhanced Visibility. Creation of a single mission increases the visibility for the issue. Two departments would allow each Secretary to raise issues of concern in each field. Under the current scenario, the Secretary must choose between important issues in the division of health and the division of environment rather than being able to prioritize issues within each area.

Suggested Substantive Amendments to H.B. 2077

While the Administration supports the overall thrust of H.B. 2077, we do have three substantive amendments for Committee consideration. These include: (1) unclassifying all attorneys; (2) changing the implementation date to October 1, 1999; and, (3) adding a repealer section.

Unclassifying Attorneys. H.B. 2077 as it is currently drafted allows the Secretary of each department to appoint a chief attorney but places all other attorneys in the classified service. We believe all attorneys should be in the unclassified service. First, department attorneys need to reflect the enforcement philosophy of the Secretary – for example, use of consent orders to gain compliance rather than large monetary fines. Secondly, attorneys assist program managers with statutory interpretation. Again, this goes back to the Secretary's philosophy on enforcement. Finally, attorneys represent the Secretary and Administration in court. They should be accountable to their client.

Implementation Date. H.B. 2077 establishes July 1, 2001 as an implementation date. We believe October 1, 1999 is a more reasonable date. Waiting more than two years to implement a split in the agency would wreak havoc on the programs and delivery of service to Kansans. It effectively halts any change to current operations and creates great uncertainty for too long for agency employees. The Administration supports October 1, 1999 because it allows enough time for the two secretaries to work out the details of the split and also allows programs to close out the books on federal grants and start fresh in the new federal fiscal year. (More than 80% of the division of health budget comes from federal funds.)

Repealer. The Revisor informed us that H.B. 2077 did not contain a repealer section because of the lengthy implementation period. We raise this as a substantive issue because of the implication of leaving some sections in force. We request the Committee leave the following sections in statute: (1) coverage under the Kansas governmental operations accountability law; (2) designation of health officer II class in the unclassified service; (3) contracting for hearing officer services; (4) creation of advisory committees; and, (5) adoption of rules and regulations. We have not included the office of laboratory services. Abolishment of a statutorily created office of laboratory services increases the flexibility of the secretaries to determine the best method for providing laboratory services. Further, the Kansas Performance Review Board is currently reviewing this function. The secretaries should have the flexibility to consider the Board's recommendations.

Suggested Technical Amendments

We ask the Committee to consider three technical amendments which include a drafting inconsistency in Sections three and six, clarification of intent in section 13 and clean-up of references in sections 19 and 20.

Closing

The Governor supports H.B. 2077 to increase efficiency, accountability and visibility for the health and environment programs of the State. The Governor appreciates your consideration of this legislation. I would be happy to answer any questions you may have.

Testimony presented to the
House Committee on Governmental Organization and Elections
February 8, 1999

Re: H.B. 2077

Charles M. Benjamin, Ph.D., J.D.
Attorney at Law and Legislative Coordinator
Kansas Chapter of Sierra Club
935 S. Kansas Ave., Suite 200, Topeka, KS 66612

Madam Chair, members of the Committee, thanks for the opportunity to present testimony from the Kansas Chapter of the Sierra Club with regard to H.B. 2077. I regret that I cannot deliver this testimony in person. However, a previous commitment in Washington, D.C. prevents me from doing so. Instead, I hope that you will welcome Christina Coleman, a Kansas University senior, who is majoring in Environmental Studies, doing an internship this semester with my office. This is the first time she has ever given testimony before a legislative committee. I trust that you will make it a learning experience to be remembered for a long time.

I represent the Kansas Chapter of the Sierra Club. The Sierra Club is the largest grassroots environmental organization in the United States, with over 550,000 members. The Kansas Chapter represents approximately 4,000 members from all over the state.

As you are no doubt aware, splitting the Kansas Department of Health and Environment into two Cabinet level agencies needs to be considered very carefully. The old adage, don't fix something if it isn't broken, could apply here. So, is it broken? The Executive Committee of the Kansas Chapter of the Sierra Club discussed this issue at great length at it's last meeting on January 23 in Emporia. The consensus of the Executive Committee is to support creating separate departments of health and environment. The current system appears to us to be broken, especially when it comes to environmental matters.

There are many environmental issues in Kansas, but the biggest one is water quality. As many of you know, Kansas is consistently ranked at or near the bottom among states in terms of its water quality. Some say that ranking is due to the fact that Kansas, specifically KDHE, does a better job of monitoring water quality than other states. Others say that we have higher standards than other states. However, we see another factor in those rankings. That is the failure by the state of Kansas to meet the federal statutory requirements of the Clean Water Act.

The fact is that Kansas, like every other state, is required to submit, and have approved by EPA, water quality standards every three years - a so-called triennial review. Only once, in the more than 25-year history of the Clean Water Act has that process been completed.

Gov. Org + Election
Feb 8, 1999
Attachment #21

The fact is that Kansas, like every other state, is required to measure the total maximum daily load of pollutants that impair the designated uses of streams. That provision of the Clean Water Act has never been carried out. We have had to go to federal court to get a judge to order that it be done.

The fact is that Johnson County has a wastewater treatment plant that has been operating on an expired permit for over nine years. That plant is polluting creeks that flow into Wyandotte County and Kansas City, Missouri with ammonia that exceeds state standards. It is so bad that EPA has taken the unusual step of taking over the permitting of this plant from KDHE.

The fact is that Topeka has a wastewater treatment plant that has been operating on an expired permit for over three years. Topeka has been allowed to pollute the Kansas River with partially treated human waste, exceeding the safe levels for human exposure to fecal coliform bacteria, for years. That same plant is also polluting the Kansas River with ammonia that exceeds state standards. This is occurring in that part of the Kansas River most used by Kansas' families for recreational canoeing.

The fact is that the greatest impairment to almost every watershed in Kansas is fecal coliform bacteria, mainly coming from animal feedlots.

The fact is that there are fish advisories all over the state's rivers and streams. Just go down to Lawrence across from the Riverfront Mall next to Bowersock Dam and you will see posted notices warning people not to eat too many fish from the Kansas River.

The fact is that adults and children in northeast Kansas are drinking, cooking, bathing and brushing their teeth in water that contains atrazine, a weed killer that is classified as a possible human carcinogen by the EPA.

So I come back to the questions. Is it broken? Does it need to be fixed? The Kansas Chapter of Sierra Club thinks that the answer is yes to both questions. For those of us who have been watching environmental matters in Kansas for a long time, just as we think it can't get any worse, it does. We are now faced with the prospect of the air and water pollution from over 4 million hogs and their waste stored in open cesspools. No rational person believes that the lukewarm hog waste regulations passed by the legislature last year, and the weak record of KDHE enforcement, will protect the people of Kansas from the same suffering that people in North Carolina, Minnesota, Missouri, Illinois, Oklahoma and Iowa have experienced from hog factories.

The people of Kansas deserve and want better regulation of air and water pollution. Every poll taken on this subject shows that Kansans are even willing to pay a little more for the assurance that the water they drink, the air they breath and the soil they plant in is as clean as God meant it to be. We think that separating KDHE and having a Cabinet level department devoted to environmental quality has the potential to serve the people of this great state well. Thank you for your time and attention. When I return from Washington, D.C. I would be pleased to stand for questions if the Committee so desires.



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A state society of the National Society of Professional Engineers

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Testimony on HB2077
House Governmental Organizations and Elections Committee
Submitted by
Ron Gaches, Executive Vice President
Monday, February 8, 1999

**POSITION STATEMENT ON H.B. 2077, PROPOSING
TO SPLIT THE DEPARTMENT OF HEALTH AND ENVIRONMENT
INTO A DEPARTMENT OF HEALTH AND A DEPARTMENT OF
ENVIRONMENT**

KSPE supports H.B. 2077, proposing to split the Kansas Department of Health and Environment (KDHE) into a Department of Health and a Department of Environment. KSPE believes this proposal will elevate environmental concerns in the Governor's cabinet. Further, with the increased specialization occurring within the environmental and health fields, it is increasingly difficult to find and retain technically qualified professionals with the capability of running both a health agency and an environmental agency. In effect, previous secretaries of the department have been either Secretaries of Environment or Health, depending upon their technical training and background.

Gov. Org. & Elec.
Feb 8, 1999
Attachment # 5

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the Voice of Nursing in Kansas

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Kansas State Nurses Association
February 8, 1999

HB. 2077 CREATION OF DEPARTMENT OF HEALTH & CREATION OF DEPARTMENT OF ENVIRONMENT

Madame Chair and members of the House Governmental Organization and Election Committee, thank you for the opportunity to appear before you today. My name is Kay Kent, R.N., M.S. and I am the Administrator/Health officer of the Douglass County Health Department and have been involved in public health in Kansas for the past 25 years.

The KANSAS STATE NURSES ASSOCIATION opposes HB 2077, a bill splitting the Divisions of Health and Environment. We believe environmental health and protection is an integral part of the public health system .

The 1988 Institute of Medicine (IOM) report, *The Future of Public Health*, found that:

“Many environmental health concerns and the authority to deal with them have been removed from the purview of public health agencies. This has led to diffused patterns of responsibilities, lack of coordination, and inadequate analysis of the health effects of environmental problems. As a result society’s ability to deal appropriately with these vital issues has been constrained.

Kansas environmental health an protection programs are public health programs and would not exist but for their public health basis and goals. Environmental problems impact human health as well as ecological relationship and they are clearly interrelated. It is our belief that more, not less, coupling between public health and environmental health and protection should occur.

In addition, we believe it is premature to make changes in KDHE’s structure prior to receiving the report from the **Governor’s Public Health Improvement Commission** due at the end of the year. The Commission is charged with producing a detailed and comprehensive plan addressing the overall public health structure and its component parts.

We urge your opposition to HB 2077 and *thank you* for your consideration.

Gov. Org. + Elect
Attachment # 6