

Approved: 3-23-99
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:16 a.m. on March 18, 1999 in Room 254-E of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Clark Duffy, Kansas Water Office

Others attending: See attached list.

HB 2404: Termination of water rights; notice to user of due and sufficient cause exception.

The Chairperson called on Clark Duffy to address the bill. Mr Duffy presented an amendment the Kansas Water Office had drafted to address some of the concerns that were expressed at the meeting of March 16 (Attachment 1). Mr. Duffy said they thought the proposed language would strength their negotiating position with the federal government. Mr. Duffy responded to many questions about what would happen to the water rights if the GSA gave them to the Kansas Water Office, or what would happen if they were put on the open market to sell. He said the current draft would allow the Kansas Water Office to hold the rights in trust, and that office would determine how they would be disposed of. Mr. Duffy said the Department of Agriculture Division of Water has been involved in all of their negotiations and they approve of the proposal. Responding to a question regarding the contaminated land, Mr Duffy said it was his understanding that the Land of Ah's was committed to cleaning up the contamination but the responsibility for the contamination was forever own by the United States Government.

A motion was made by Senator Morris to amend HB 2404 by adopting Section 1 of Mr. Duffy's proposed amendment, and to inserted language in the section requiring Legislative approval for any contracts specific to Sunflower Water Rights. The motion was seconded by Senator Biggs. The motion carried.

Chairperson Corbin then referred to **HB 2145: Concerning solid waste; relating to certain permits.** He called on staff to brief the committee on the current status of the bill.

Staff said that on March 10 meeting at the request of Bill Bider from the Kansas Department of Health and Environment **HB 2147** was amended into **HB 2145**. **HB 2147** had no opposition in the House Environment Committee they just did not have time to work the bill. **HB 2147** would authorize KDHE to approve four types of disposal activities without requiring the responsible party to obtain a permit. Staff reviewed the four disposal activities.

A motion was made by Senator Biggs with a second from Senator Morris that **HB 2145** be passed as amended. The motion carried.

Senator Huelskamp said he had another amendment to add to **HB 2404**. He explained his amendment and distributed a balloon copy (Attachment 2). Senator Huelskamp moved that his proposed amendment be adopted. Senator Tyson seconded the motion. The motion carried. Chairperson Corbin said further action on the bill would be at a later date.

The meeting adjourned around 8:55 a.m. The next meeting will be held on March 19, 1999.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: March 18, 1999

NAME	REPRESENTING
Dale Lambley	KDA
CORA Schlotzner	LEAGUE of Women Voters
Lee Maserthin	Ag Division - WAC & H
Jennifer Honas	Steve Montgomery
Mike Beqm	Ks. LUSTK. Assn.
Woody Moss	Ks. Agg. Prod. Assn.

DRAFT

Section 1: The Kansas Water Office, on behalf of the State, shall enter into negotiations, agreements and contracts with the federal government on any water rights pertinent to any federal property located in the State of Kansas, when the Kansas Water Office shall deem such negotiations, agreements and contracts to be necessary for the achievement of the policies of the state relative to the water resources thereof. Any such agreement or contract shall be binding upon the state to the extent that future appropriations are made in support thereof.

Section 2: Any contract entered into under the provisions of this Act which would result in the Kansas Water Office accepting and holding title in trust to such water rights shall be subject to disapproval and revocation by the legislature. On or before the 30th calendar day of each legislative session, the Director of the Kansas Water Office shall transmit to the House of Representatives and the Senate of this State and to the Secretary of State copies of each contract made and executed under the provision of this act. At any time after the 30th calendar day of the regular legislative session when a contract is transmitted as provided in this section, the legislature may disapprove and revoke such contract by adoption of concurrent resolution so providing. No contract under this section shall be subject to revocation by the legislature after the 90th calendar day of such regular legislative session.

Clark Duffy
Kansas Water Office

Senate Energy & Natural Resources

Attachment: 1

Date: 3-18-99

HOUSE BILL No. 2404

By Committee on Environment

2-10

10 AN ACT concerning water appropriation rights; relating to abandon-
11 ment; amending K.S.A. 82a-718 and repealing the existing section.
12

3 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 82a-718 is hereby amended to read as follows: 82a-
15 718. (a) All appropriations of water must be for some beneficial purpose.
16 Every water right of every kind shall be deemed abandoned and shall
17 terminate when without due and sufficient cause no lawful, beneficial use
18 is henceforth made of water under such right for ~~three~~ five successive
19 years. Before any water right shall be declared abandoned and terminated
20 the chief engineer shall conduct a hearing thereon in accordance with the
21 provisions of the Kansas administrative procedure act. Notice shall be
22 served on the user at least 30 days before the date of the hearing.

23 The verified report of the chief engineer or such engineer's authorized
24 representative shall be prima facie evidence of the abandonment and
25 termination of any water right.

26 (b) ~~When no lawful, beneficial use has been made of water under a~~
27 ~~water right for two of water under a water right has been reported~~
28 ~~for three successive years, the chief engineer shall notify the user, by~~
29 ~~certified mail, return receipt requested, that (1) No lawful, beneficial~~
30 ~~use has been made of the water for two of the water has been reported~~
31 ~~for three successive years; (2) if no lawful, beneficial use is made of the~~
32 ~~water for three five successive years, the right may be terminated; and~~
33 ~~(3) the right will not be terminated if the user shows that for one or more~~
34 ~~of the three five consecutive years the beneficial use of the water was~~
35 ~~prevented or made unnecessary by circumstances that are due and suf-~~
36 ~~ficient cause for nonuse, which circumstances shall be included in the~~
37 ~~notice.~~

38 Sec. 2. K.S.A. 82a-718 is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after its
40 publication in the statute book.

(c) The provisions of subsection (a) shall not apply to a water right that has not been declared abandoned and terminated before the effective date of this act if the five years of successive nonuse occurred exclusively and entirely before January 1, 1990. However, the provisions of subsection (a) shall apply if the period of five successive years of nonuse began before January 1, 1990, and continued after that date.

Senate Energy & Natural Resources

Attachment: 2

Date: 3-18-99

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