

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 11, 2004, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research Department
Amy VanHouse, Legislative Research Department
Gordon Self, Revisor of Statutes Office
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

Adrian Polansky, Secretary, Kansas Department of Agriculture
David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture
Doug Wareham, Senior Vice President, Kansas Agribusiness Retailers Association
Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council
Herbert Graves, Executive Director, State Association of Kansas Watersheds
Ethel King, Manager and Contracting Officer for Six Watershed Districts
Marilyn Snider, Watershed Manager

Others attending:

See attached list.

Minutes of the February 2 and 4 meetings were distributed. Members were asked to notify the committee secretary of any corrections or additions prior to 5:00 p.m., February 13, or the minutes will be considered approved as presented.

Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council, asked that the Committee rescind her request for a committee bill to allow grain warehouses to dump grain on the ground in emergency situations. There being no objection, the Chairman so ordered.

Hearing on HB 2622 - Fees collected by department of agriculture

Chairman Johnson opened the hearing on **HB 2622**. Raney Gilliland explained that **SB 438** passed during the 2002 legislative session increased certain fees in the Department of Agriculture commencing July 1, 2002. The bill required that the fees being increased return to prior levels on July 1, 2005. **HB 2622** essentially removes the "sunset" provisions for these fee increases thereby making these fee increases permanent. He provided an outline of the fees which are proposed to become permanent. (Attachment 1)

Adrian Polansky, Secretary, Kansas Department of Agriculture, appeared in support of **HB 2622**. He stressed that this legislation does not increase any of the department's fees, it merely removes the July 1, 2005, sunset provisions to allow fees to stay at current levels. In 2002 when **SB 438** was passed, it was hoped that the state's general fund balances would recover and that adjusting fees downward might be possible; however, that recovery has not taken place. The Department of Agriculture estimates they will lose a total of \$853,372 of fee revenue per year if this legislation is not acted upon favorably by the legislature. (Attachment 2)

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, discussed fees charged in the division's water appropriation program and responded to committee questions.

Doug Wareham, Senior Vice President, Kansas Agribusiness Retailers Association, testified in support of **HB 2622** to remove the sunset provisions on the fee funds in the Department of Agriculture. KARA supports adequate funding of the department to ensure that all parties in Kansas that store, transport, handle, and apply fertilizer and ag-chemical products do so in accordance with Kansas laws and regulations. KARA has recently expressed concerns to KDA regarding increased commercial activity by non-licensed parties in Kansas, as well as the proliferation of bulk storage facilities in Kansas that are not properly contained as Kansas fertilizer and pesticide regulations call for. They believe there is clearly sufficient work to be done by KDA and maintaining adequate financial support is essential. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE AGRICULTURE COMMITTEE at 3:30 p.m. on February 11, 2004, in Room 423-S of the Capitol.

Leslie Kaufman, Director, Governmental Relations, Kansas Cooperative Council, appeared in support of **HB 2622** and for a strong Department of Agriculture and the adequate staffing and funding of KDA's current programs. She stated that although they understand the need to continue these fees, at least in the short term, the Kansas Cooperative Council firmly believes there is a great need to identify new means for infusing state general fund dollars into the Department of Agriculture. KDA programs that benefit and/or protect the state as a whole or the general public need to be funded significantly by state general funds. The Council suggests that rather than eliminating the sunset provisions, the legislature might want to consider extending the sunset provisions, forcing the issue to be directly revisited at a specific date. (Attachment 4)

Herbert Graves, Executive Director, State Association of Kansas Watersheds, testified in opposition to **HB 2622** and fees in general being charged to Kansas watershed districts by the Department of Agriculture as they are a division of state government. The main purpose of watershed district activities is to preserve and protect our natural resources for the future of Kansas. He asked what rationale exists for the State to impose fees upon itself that make it even tougher to accomplish that purpose. He explained that watershed districts gain no financial rewards from this stored water and, therefore, have no means to recoup the costs of the water appropriation fees. SAKW requests that **HB 2622** be amended to exempt all watershed districts from paying all fees imposed on them by the Department of Agriculture. (Attachment 5)

Ethel King, Manager and Contracting Officer for Six Watershed Districts, appeared in opposition to **HB 2622** and requested elimination of all Department of Agriculture fees being charged to watershed districts. She discussed the various fees a watershed district is required to pay for certification of the completion of a watershed structure. (Attachment 6)

Marilyn Snider, Watershed Manager from Holton, submitted written testimony in opposition to **HB 2622**. She states that watershed districts are a division of the State of Kansas and as such are supported by local taxes on the land within the district. In order to pay the permit fees, watershed districts must use funds that would otherwise be used to benefit the local communities by control of flooding, reduction of siltation, and providing improved water supplies. Her watershed district feels it is improper to require watershed districts to use limited tax money to pay permit fees to the Department of Agriculture or any other agency. (Attachment 7)

As there were no other conferees, Chairman Johnson closed the hearing on **HB 2622**.

Discussion and action on HB 2531 - Historical preservation; consideration of established agricultural use of land required.

Chairman Johnson opened the floor for discussion.

Todd Johnson, Governmental Affairs Staff, Kansas Livestock Association, proposed an amendment to HB 2531, discussed at the hearing, to strike the words "an unincorporated portion of" on page 2, line 38. Representative Minor, seconded by Representative Powell, moved to accept the proposed amendment. The motion carried.

Representative Powell moved to recommend HB 2531, as amended, favorable for passage. Seconded by Representative Minor, the motion carried.

The meeting adjourned at 4:50 p.m. As next week is reserved for subcommittee meetings on the animal identification program, the next meeting of the House Agriculture Committee is scheduled for February 23, 2004.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 11, 2004

NAME	REPRESENTING
Doug A. Abley	KDA
Adrian Polansky	KDA
David Pope	KDA
Herb Grays	SAKW
Ebel A. King	Watershed Manager
Chilay Prosser	Kansas Farm Bureau Ag. Ambassador
Jill Banjet	Kansas Farm Bureau Ag. Ambass.
Jennifer Mathes	Labette Co. Farmer
Charles King	Jackson Co. Farmer
Marvin Stout	Delaware #10 Watershed Dist
Barbara Egan	Watershed Mgr + SAKW Board Member
Nancy Ulrich	Ks. Animal Health Dept
Debra Duncan	KAHD
George Teagarden	KAHD
Carole Jordan	KDA
Leslie Kaufman	Ks Co-op Council
Audrey Shaw	SWKIA
Doug Wareham	Kansas Agribusiness Retailers Assn. Kansas Grain & Feed Assn.
Ken Rahjer	KS Dairy Assn.

HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 11, 2004

NAME	REPRESENTING
Christy Davis	Kansas State Historical Society
Eric King	K-FED
David Pfaff	Producer
BRAD HARRELSON	KFB

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Rm. 545N-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 ♦ FAX (785) 296-3824

kslegres@klrd.state.ks.us

<http://www.kslegislature.org/klrd>

February 11, 2004

To: Members of the House Agriculture Committee

From: Raney Gilliland, Principal Analyst

Re: Fees in the Department of Agriculture Proposed to Become Permanent

2002 SB 438 adjusted fees within the Kansas Department of Agriculture. The bill required that the fees being increased return to prior levels on July 1, 2005.

The following outlines the fees which were increased by the bill and proposed to become permanent under 2004 HB 2622. The section number refers to the section in HB 2622 where the fees are proposed to become permanent.

Program	Service	Prior Charge	Current Charge	Last Fee Incr.	Sec. No.
Pesticide & Fertilizer	Failure to file affidavit and pay inspection fees	\$5 per day	\$10 per day		1
Pesticide & Fertilizer	Pesticide Product Registration	\$130	\$150	1987	2
Pesticide & Fertilizer	Business License Application	\$112 per category	\$140 per category	1987	3
Pesticide & Fertilizer	Uncertified Applicator Registration	\$10	\$15	1982	3
Pesticide & Fertilizer	Government Agency Registration	\$35	\$50	1982	3
Pesticide & Fertilizer	Technician Registration	\$25	\$40	1987	4
Pesticide & Fertilizer	Commercial Certification Application	\$35 per category	\$50 per category	1982	5
Pesticide & Fertilizer	Commercial Certification Examination per category and re-exam per category	\$25	\$35	1982	6
Pesticide & Fertilizer	Private Certification Application	\$10	\$25	1982	7
Pesticide & Fertilizer	Soil Amendment Product Registration	\$50	\$60	1982	8
Pesticide & Fertilizer	Soil Amendment Inspection Fee	\$0.020 / ton	\$0.28 / ton	1976	9
Pesticide & Fertilizer	Soil Amendment Penalty – failure to file accurate & timely inspection fee or registration	\$1 per day	\$10 per day	1976	9
Pesticide & Fertilizer	Agricultural Liming Material Registration	\$25	\$30	1976	10
Pesticide & Fertilizer	Agricultural Liming Material Inspection Fee	\$0.05 / ton	\$0.07/ton	1976	11
Pesticide & Fertilizer	Chemigation User Permit	\$55	\$75	1985	12
Pesticide & Fertilizer	Chemigation User Permit for additional points of diversion	\$10	\$15	1989	12
Pesticide & Fertilizer	Chemigation Equipment Operator Certification or renewal	\$10	\$25	1989	13
Dairy Inspection	Dairy Manufacturing Plant License	\$120	\$155	1991	14
Dairy Inspection	Distributor License	\$120	\$155	1991	14
Dairy Inspection	Milk Hauler License	\$25	\$35	1993	14
Dairy Inspection	Receiving/Transfer Station License	\$50	\$65	1991	14
Dairy Inspection	Single Service License	\$50	\$65	1991	14

House Agriculture Committee
February 11, 2004
Attachment 1

Program	Service	Prior Charge	Current Charge	Last Fee Incr.	Sec. No.
Dairy Inspection	Grade "A" Milk Produced	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	15
Dairy Inspection	Grade "A" Milk Distributed	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	15
Dairy Inspection	Grade "A" Milk Processed	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	15
Dairy Inspection	Mfg Grade Milk Produced	\$0.01 per hundred wt.	\$0.015 per hundred wt.	1991	15
Dairy Inspection	Mfg Grade Milk Processed	\$0.0075 per hundred wt.	\$0.01 per hundred wt.	1991	15
Dairy Inspection	Frozen Dessert-Mfg or Imported	\$0.001 per gallon	\$0.0015 per gallon	1991	15
Water Appropriations	Permit to Appropriate 0-100 acre foot	\$100	\$200	1989	16
Water Appropriations	Permit to Appropriate 101-320 acre foot	\$150	\$300	1989	16
Water Appropriations	Permit to Appropriate More than 320 acre foot	\$150 plus \$10 /ea. additional 100 acre foot	\$300 plus \$20 /ea. additional 100 acre foot	1989	16
Water Appropriations	Water Storage Permit 0 to 250 acre-feet	\$100	\$200		16
Water Appropriations	Water Storage Permit more than 250 acre feet plus an amount for each additional 250 acre feet	\$100 plus \$10 for each additional 250 acre feet	\$200 plus \$20 for each additional 250 acre feet		16
Water Appropriations	Change Point of Diversion – 300 ft or less	\$50	\$100	1989	17
Water Appropriations	Change Point of Diversion – more than 300 ft	\$100	\$200	1989	17
Water Appropriations	Change Place of Use	\$100	\$200	1989	17
Water Appropriations	Use Made of Water	\$150	\$300	1989	17
Water Appropriations	Any Two Above	\$150	not to exceed \$300	1989	17
Water Appropriations	Any Three Above	\$250	not to exceed \$500	1989	17
Water Appropriations	Field Inspection Fee	\$200	\$400	1989	18
Water Appropriations	Extension Requests	\$50	\$100	1989	18
Water Appropriations	Water Right or Permit to Appropriate Reinstatement	\$100	\$200	1989	18
Water Appropriations	Temporary permit	\$100	\$200	1989	19
Weights & Measures	Scale Co. License	\$50	\$100	1996	20
Weights & Measures	Scale Co. License Renewal	\$50	\$100		20

The bill also created the Fertilizer and Pesticide Compliance and Administration Fund where an amount equal to \$.05 per ton of fertilizer is deposited. (Sec. 2)



KANSAS

DEPARTMENT OF AGRICULTURE
ADRIAN J. POLANSKY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

Testimony on HB 2622, Maintaining Current Level of Fees

to

The House Committee on Agriculture

By Adrian Polansky
Secretary
Kansas Department of Agriculture

February 11, 2004

Good afternoon, Chairman Johnson and members of the committee. Thank you for the opportunity to discuss HB 2622 with you.

HB 2622 is a very simple bill that only maintains the status quo for the Department of Agriculture. It keeps fees in a number of our programs at the same rate they have been since this body passed legislation to update those fees during the 2002 session. In 2002 the original proposed language did not include the sunset provisions, however, with the state of general fund dollars the bill was amended to include sunset provisions for many KDA programs. We were hopeful that the state's general fund balances would recover and that adjusting fees downward might be possible within a few years, so a 2005 sunset was placed in the appropriate statutes. As we all know, recovery has not taken place, and the current fee levels are vital to program operations. House Bill 2622 does not increase any of the department's fees. It merely removes the July 1, 2005, sunset to allow fees to stay at current levels.

In their first full year, these fees generated some \$798,500 for agency operations. In FY 2004, they are projected to generate \$853,372. They are an important component of our total budget of \$19 to \$20 million. The funds will allow us to maintain current levels of service, without any enhancement, in five of our programs.

Specific areas affected by the bill are commercial fertilizer fees, chemigation fees, soil amendment registration and inspection, agricultural liming materials inspection and registration, commercial applicator licenses, pest control technician registration, pest control business licenses, pesticide commercial applicator licenses, private applicator certification, water appropriation permit fees, dairy inspection and regulatory fees, weights and measures service company licensing, and dairy business license fees.

House Agriculture Committee

February 11, 2004

Attachment 2

109 SW 9th ST., Topeka, KS 66612-1280

Voice (785) 296-3556

Fax (785) 296-8389

<http://www.ks.gov>

We believe the dollars generated in the past two years have been put to good use. Our programs are not static. There are changes in personnel and program focus. In general, however, programs that received these fees have used them to match costs of services with the fee charged. Many fees were last changed 10-20 years ago, so they have not kept pace with inflation. They also helped us make up for cuts in other revenue sources and to keep pace with increases in employee health care costs and other benefits. They helped us refine our focus in specific areas, as many of our constituents had said was needed to ensure a level playing field for businesses, or to provide timely permit and license processing.

Pesticide fees were used to enhance our limited regulatory presence in metropolitan areas through organized pesticide sweep operations and on-site inspections. Our outputs in the pesticide and fertilizer program have increased strikingly. Our enhanced presence benefits the environment and ensures that all businesses are abiding by the same set of regulations.

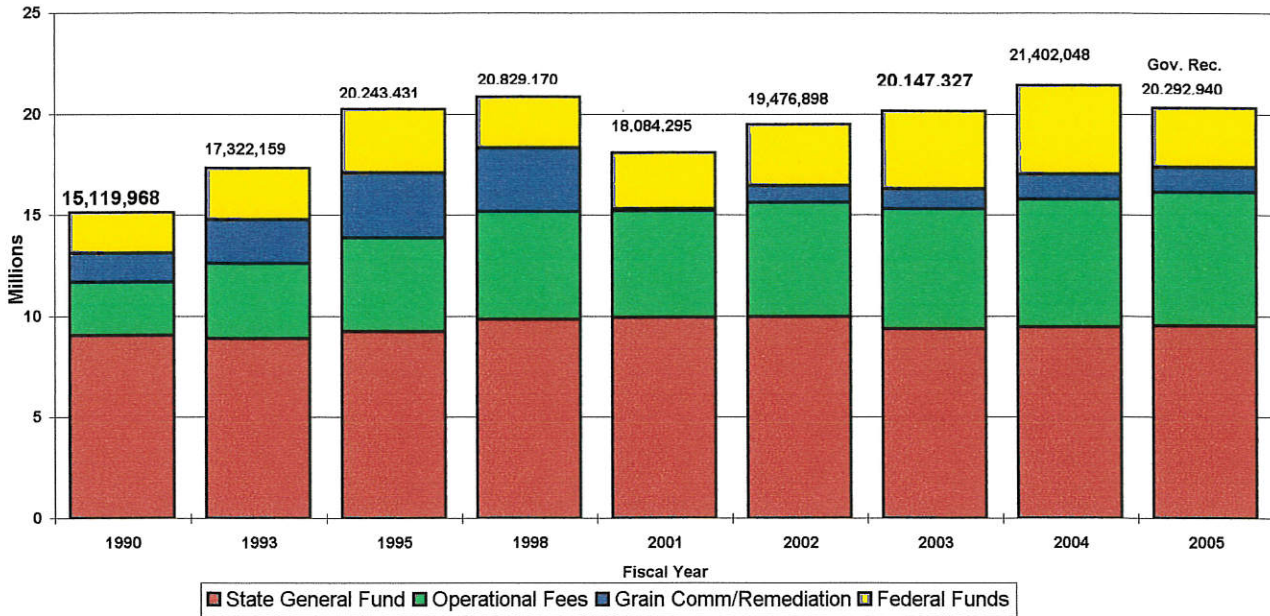
Funds devoted to the division of water resources' water appropriation program allowed us to fill two positions to more timely and efficiently process water permit applications. Besides the new positions, other personnel were directed to focus on improving application processing times and to meet a new requirement to either issue or dismiss all applications within 150 days. Although the program has struggled with the 150-day deadline — primarily due to the backlog they started with — they have made great progress. In February 2002, 600 applications for new permits were pending. By January 2004, that number was down to 350. They also have devoted funds to ensure Kansas is protected in the Arkansas River Compact Administration.

Fees to the dairy program have increased in-store and on-farm consumer protection inspections for milk and paid for up-to-date laboratory equipment to do tests needed to ensure that FDA will allow Kansas to sell milk across state borders. This is a benefit to producers, and it provides a foundation for new food safety duties the Department of Agriculture hopes to take on through ERO 32.

This administration, as well as the one before it, has worked very hard to explain needs and programs to our stakeholders, and we appreciate the support of groups that understand our challenges in these difficult economic times. We appreciated support expressed by the president of the Kansas Agribusiness Retailers Association when agricultural groups met with the governor just before the legislative session began.

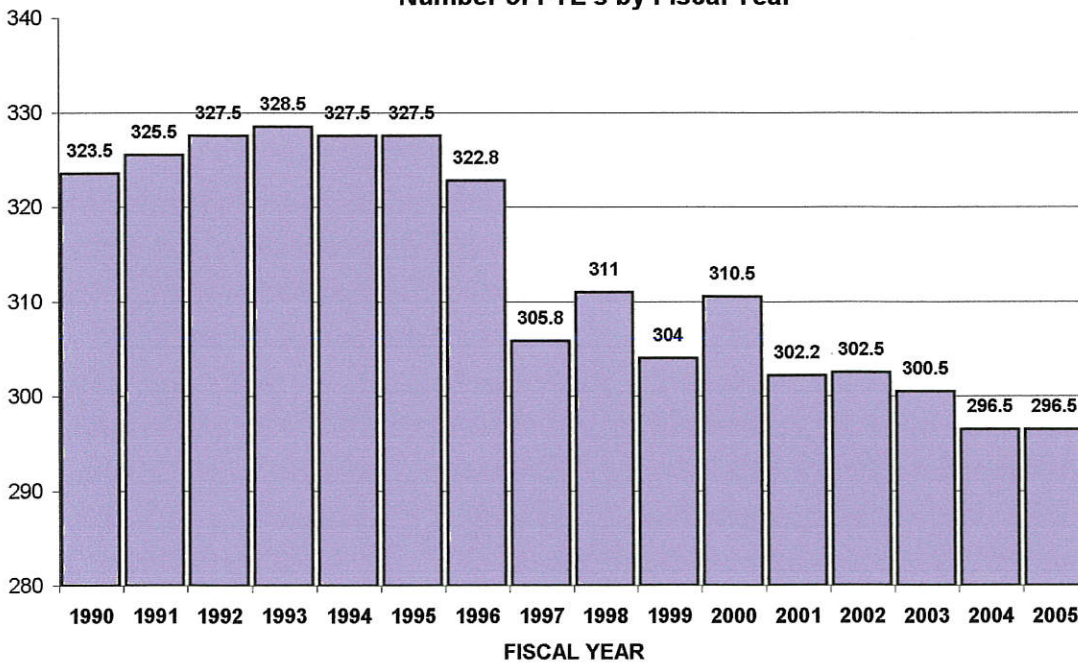
In conclusion, I'll remind you once more that HB 2622 removes sunset dates but it does not raise a single fee. It simply allows our department to provide services at the current level. I would respectfully direct your attention to the attached chart showing our funding mix and staffing history in recent years. I think you will agree that they show a very conservatively funded department. And I would be glad to answer any questions you might have.

Kansas Department of Agriculture Funding Comparison



Kansas Department of Agriculture

Number of FTE's by Fiscal Year



IF FEES SUNSET IN FY 2006

	FY 2005 Widgets	Old Rate	FY 2005 REVENUE @ OLD RATE	Estimate FY 2005	Decrease in Revenue
2105 Dairy					
DPM	4,000	0.0075	30	40	
DM1		0.01	0	0	
DPT	10,750,000	0.001	10,750	16,125	
DT1	20,950,000	0.01	209,500	314,250	
DT3	3,200,000	0.01	32,000	48,000	
DPA	4,760,000	0.01	47,600	71,400	
DBP @25	240	25	6,000	8,400	
@35			0		
DML	13	120	1,560	2,015	
DRS	5	50	250	325	
DSS	6	50	300	390	
DDL	58	120	6,960	8,990	
			314,950	469,935	(154,985)
Less Counter freezers					
2117 tonnage	700	0.2	140	196	
registration	15	50	750	900	
fees		1	0		
			890	1,096	(206)
2118 A-1	385,000	0.05	19,250	26,950	
Registraton	104	25	2,600	3,120	
			21,850	30,070	(8,220)
2165 Lab test	900	30	27,000		
Lab test		50	0	45,000	
License	148	50	7,400	14,800	
			34,400	59,800	(25,400)
2168 REG	510	143	72,930	138,666	
TMP	250	100	25,000	50,000	
CLT	230	50	11,500	23,000	
CTO		50	0		
CSF		50	0		
CSK		50	0		
CGC		50	0		
CGT	165	100	16,500	33,000	
CPU	375	100	37,500	75,000	
CWU	7	150	1,050	2,100	
C-2	55	150	8,250	16,500	
C-3	15	250	3,750	7,500	
FIS	325	200	65,000	130,000	
EX1	250	50	12,500	25,000	
EX2		50	0		
REI		100	0		
A-1	900	25	22,500	45,000	
			276,480	545,766	(269,286)
2194 EXAM	200	10	2,000	5,000	
PERMITS	825	50	41,250	61,875	
WELLS	4,600	10	46,000	69,000	
			89,250	135,875	(46,625)
2800 Registraton	8,900	30	267,000	445,000	(178,000)
2804 Exams	1,200	25	30,000	42,000	
Private	2,100	10	21,000	52,500	
Commercial	2,000	35	70,000	100,000	
BL	1,800	100	180,000	252,000	
Gov Agency	210	35	7,350	10,500	
Un App	2,000	10	20,000	30,000	
Reg Tech	1,200	15	18,000	30,000	
			346,350	517,000	(170,650)
					(853,372)

DAIRY

SOIL AMENDMENTS

AGRICULTURAL LIME

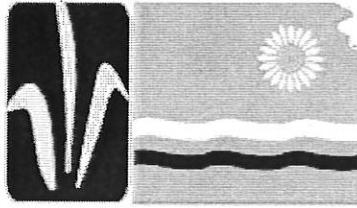
WEIGHTS & MEASURES

WATER APPROPRIATION

CHEMIGATION

AGRICULTURE CHEMICALS

PESTICIDE USE



STATEMENT OF THE
KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

SUBMITTED TO THE
HOUSE AGRICULTURE COMMITTEE
REGARDING HOUSE BILL 2622
REPRESENTATIVE DAN JOHNSON, CHAIR

FEBRUARY 11, 2004

PRESENTED BY
DOUG WAREHAM
SENIOR VICE PRESIDENT

KARA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

Chairman Johnson and Members of the House Agriculture Committee, I am Doug Wareham appearing on behalf of the Kansas Agribusiness Retailers Association (KARA). KARA's membership includes nearly 750 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. I appear before you in support of H.B. 2622.

House Bill 2622 removes the June 30, 2005 sunset language that was adopted during the 2002 State Legislative Session when several Kansas Department of Agriculture Program Fees were increased. Listed below are the specific fee increases that impact agribusiness retailers in Kansas:

- Pesticide Product Registration: \$130 to \$150 (per product)
- Business License Application: \$112 to \$140 (per category)
- Certification Application \$35 to \$50 (per category)
- Certification Exam \$25 to \$35 (per category)
- Soil Amendment Registration \$50 to \$60 (per product)
- Soil Amendment Inspection \$.20/ton to \$.28/ton
- Ag Lime Registration \$\$25 to \$30 (per product)
- Ag Lime Tonnage Fee \$.05/ton to \$.07/ton

KARA has a vested interest in the effective and efficient operation of the Kansas Department of Agriculture's Pesticide and Fertilizer Program. KARA supports adequate funding of KDA to ensure that all parties in Kansas that store, transport, handle and apply fertilizer and ag-chemical products do so in accordance with the Kansas laws and regulations. Rolling back these fees, by not removing the sunset adopted in 2002, would weaken KDA's abilities to maintain a credible program.

KARA has recently expressed concerns to KDA, regarding increased commercial activity by non-licensed parties in Kansas, as well as the proliferation of bulk storage facilities in Kansas that are not properly contained as Kansas fertilizer and pesticide regulations call for. There is clearly sufficient work to be done by KDA and maintaining adequate financial support for KDA is essential. Therefore, KARA supports removal of the sunsets.

I appreciate the opportunity to appear in support of H.B. 2622 and I would be happy to stand for questions.



Leslie Kaufman, Director
Governmental Relations
Kansas Cooperative Council

House Agriculture Committee
February 11, 2004
HB 2622

Chairman Johnson and members of the House Committee on Agriculture, thank you for the opportunity to appear today and comment in support of HB 2622 which would continue Kansas Department of Agriculture fees implemented in 2002. I am Leslie Kaufman and I serve the Kansas Cooperative Council as Governmental Relations Director. The Council has a membership of 186 cooperative businesses. Together, they have a combined membership of nearly 200,000 Kansans.

The KCC supports a strong State Department of Agriculture and the adequate staffing and funding of the KDA's current programs.

Many of you will remember that the Council submitted comments in 2002 opposing the fee increases imposed by then HB 2701. Eventually, that bill did become law and the Department has relied on the revenue streams created by that legislation to fund programs.

Our members are not fans of fee increases, but the Council realizes that continuation of these fees is necessary for programs to continue. In fact, fee increases are being implemented, apart from this bill, to fund the state grain warehousing program. Although we understand the need to continue these fees, at least in the short-term, the Cooperative Council firmly believes there is a great need to identify new means for infusing state general fund dollars into the Department of Agriculture.

House Agriculture Committee
February 11, 2004
Attachment 4

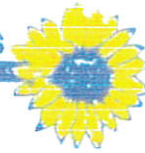
The Kansas Dept. of Agriculture's programs span the gamut of the agriculture industry and provide regulatory oversight to ensure the well being, not just of agriculture, but of all Kansans. KDA programs that benefit and/or protect the state as a whole or the general public need to be funded significantly by state general funds.

As we understand the bill before you today, it removes the sunset on the 2002 fees and essentially makes them "permanent". We would offer that extending these fees indefinitely might not provide much impetus for designing new means to access more SGF dollars. As such, we would respectfully offer that the Committee might want to consider extending the sunset, rather than just eliminating it. Thus, forcing this issue to be directly revisited at a specific date. Granted, the KDA budget is worked each year, but a sunset on the fees will again bring a centered debate on this specific issue, not just a general discussion of the overall budget.

We certainly appreciate the opportunity to appear today in support of HB 2622. Our hope is that you will look favorably on this legislation, but also that we, as a state, seriously endeavor to pull more state general funding into the KDA – a department which has broad significance for all Kansans. Thank you for your consideration.



STATE ASSOCIATION
OF KANSAS WATERSHEDS



Herbert (Herb) R. Graves, Jr., Exec. Dir.

2830 Rain Road, Chapman, KS 67431

Website: www.sakw.org

Phone # (785) 922-6664 **Cell #** (785) 263-6033

Fax # (785) 922-6080 **email:** sakw@tctelco.net

State Association of Kansas Watersheds (SAKW) Testimony

House Agriculture Committee

**RE: HB 2622 / Kansas Department of Agriculture
Fees**

February 11, 2004

Presented by:

Herbert R. Graves Jr., SAKW Executive Director

Chairman Johnson and members of the committee, thank you for the opportunity to provide comments on HB 2622 that relates to fees charged by the Kansas Department of Agriculture (KDA). My name is Herbert R. Graves Jr., Executive Director of the State Association of Kansas Watersheds.

SAKW has concerns with not only the proposed fee increases in HB 2622, but with fees in general being charged to Kansas Watershed Districts by the KDA.

HB2622 has been introduced to increase fees associated with several statutes and to make them permanent. Generally speaking the fee increases proposed are less than 50%, however fees imposed for water appropriation issues are to be doubled.

The Watershed Districts of Kansas are a division of State Government. The main purpose of watershed district activities is to preserve and protect our natural resources for the future of Kansas. What rationale exists for the State to impose fees upon itself that make it even tougher to accomplish that purpose?

In reading the full text of HB2622 it is apparent that the intent of the original statutes was to impose fees to help administer regulations on chemical, soil additive, dairy product, and service companies. The fees paid by these companies merely pass that expense on to their customers.

I did note that an exemption was made to all counties and townships for these type fees.

The water appropriation sections of HB 2622 seemed to be added in the middle of those other unrelated fees. Nonetheless water right fees are generally paid by water appropriators who can either pass the fee costs on to the water users or can count the costs against their own agriculture production.

Watershed district projects are planned and approved by KDA as part of a general plan. That general plan shows that dams are to be designed and built with storage to trap sediments that would otherwise leave the watershed. Naturally until that storage is filled with sediment water is available for incidental use.

The watershed districts gain no financial rewards from this stored water and therefore have no means to recoup the cost of the water appropriation fees that they feel should not apply to them in the first place.

Licensed professional engineers are required to perform all technical work for watershed districts. These professional engineers stack their careers on making sure the dams are located where they were planned and that the required storage is provided. Why then is it necessary for KDA to impose another fee called a "field inspection fee" to make sure the professional engineer has done his job. I know of no dams that have had any changes made to them as a result of these field inspections.

Other Kansas statutes contain fees that watershed districts must pay as well. In order to receive a construction permit for a structure an application accompanied by a fee check must be submitted. I guess those fees are not scheduled for increases at this time.

All these fees are paid to the State Treasurer. Does all KDA fee money make it back to KDA? We probably already know the answer of that question. KDA services to watershed districts have not increased in recent years but actually have decreased. On site construction visits by KDA personnel are almost non-existent. KDA staffs do a great job with the many tasks they are asked to perform.

Kansas is the main beneficiary from the construction of watershed dams. The amount of sediments and agriculturally generated contaminants that are trapped behind watershed dams results in cleaner water being released downstream. That cleaner water reduces the cost of treatment for many water consumers.

The flood control benefits alone to Kansas from watershed dams have been estimated to be in excess of \$30 million dollars annually. Other benefits such as, wildlife enhancement, wetland creation, recreation, and rural fire hydrant installations are provided to Kansans with no fees attached.

Why then should the State continue imposing fees on the very group that is doing its best to provide a better way of life for all Kansans?

The Kansas treasury is already being affected by lost benefits as the result of reduced appropriations into the watershed dam programs. Watershed districts are doing even less because of the imposed KDA fees.

SAKW requests your support by amending HB2622 to exempt all Watershed Districts from paying all fees imposed on them by the Kansas Department of Agriculture.

SAKW and our partner watershed districts thank you once again for the time you have given us. I would be glad to answer any questions you might have.



Herbert R. Graves Jr.
SAKW Executive Director

To: Representative Dan Johnson
Chairman of the House Agriculture Committee
Reg: House Bill 2622 Sec. 18 K.S.A.2003 Supp. 82a-714
Specific (d) (e) and (f)

Six organized and active watershed districts would like to ask consideration for elimination of the fees listed in Sections d, e, and f of Supp. 82a-714. We note that this fee schedule is due to expire June 30, 2005 and also note that this Bill 2622 would reinstate these fees as a part of a on going fee schedule.

Certification of the completion of a watershed structure (d) is repeated three times during the approval process. A watershed structure, when completed, is certified by the watershed district's professional engineer to the Division of Water Resources at a cost in excess of \$750.00. The Water Structures Section of the Division of Water Resources again certify the dam completed as per approved plans though an in-field check out. This inspection has no added fee. The Water Rights Section of the Division of Water Resources also (supposedly) do the third field inspection. Their fee is \$400. The Water Structures Section and the Water Rights Section are on the same floor of the Mills Building at 109 SW 9th. It would seem a far more efficient use of time and funds to cross the aisle between the two entities and inquire about the completion of the dam.

Also Sec.(e) requires a \$100 fee if an extension of time is requested. Watershed structures are not funded on a timely schedule. The watershed district is at the mercy of the State Conservation Commission regarding cost-share assistance. Sometimes an application for watershed assistance for a dam can be over a period of several years before funds are received. In turn, this period of years can require a \$100 extension-of-time permit over and over. Sometimes this results in the cancellation of the water rights (f) which in turn requires a \$200.00 reinstatement for that water right.

The fees within this section were attached to a fee bill late in the legislative session in 2001. The application fee of \$200 for watershed structures for change of a point of diversion and change of place were implemented as stated in Sec. 17 K.S.A.2003 Supp. 82a-708b at that time. In 2002 these fees were doubled to \$400.00 per structure. The watershed districts had no prior knowledge that these fees were going to be imposed against them.

It would seem that these fees are excessive and are taking tax revenue out of one pocket and putting it into other pockets. We believe the watershed districts should be exempt from these redundant fees.

Thank you for the opportunity to express our concerns.
Ethel A. King, Manager and Contracting Officer for Watershed Districts: Rock Creek #45, Long-Scott #93, Taub Creek #82, Rock Creek #84, Vermillion Creek #70, and Roy's Creek #75

From: "Marilyn Snider" <delawarews@holtonks.net>
To: <johnson@house.state.ks.us>, <craft@house.state.ks.us>, <freeborn@house.state.ks.us>, <compton@house.state.ks.us>, <dahl@house.state.ks.us>, <faber@house.state.ks.us>, <kassebaum@house.state.ks.us>, <light@house.state.ks.us>, <ostmeyer@house.state.ks.us>, <schwartz@house.state.ks.us>
Date: Mon, Feb 9, 2004 11:04 AM
Subject: HB 2622

Dear Honorable Representatives on the Ag Committee:

Because I will be unable to present testimony at the hearing on HB2622, Wednesday, February 11, I wish to present the position of my watershed on the fees currently charged and proposed by the Division of Water Resources for permits.

Watershed districts are a division of the State of Kansas and as such are supported by local taxes on the land within the district. Watersheds districts are allowed 2 mills by statute* This does not amount to much money to do their work each year. Watershed districts were formed to build structures to provide flood control, erosion control and grade stabilization as well as improve water quality by holding back soil particles.

In order to pay the permit fees watershed districts must use funds that would otherwise be used to benefit the local communities by control of flooding, reduction of siltation and providing and improving water supplies.

We feel that it is improper to require watersheds to use limited tax money to pay permit fees to the Department of Agriculture, Division of Water Resources or any other agency.

Thank you for considering our position on this matter.

Marilyn Snider
Watershed Manager
PO Box 70
Holton, Kansas 66436
785-364-4309
delawarews@holtonks.net

* This amount can be increased to 4 mills if the local people approve.

CC: "Marilyn Snider" <delawarews@holtonks.net>, "Earl Stevens" <e2arls@grasshoppernet.com>

House Agriculture Committee
February 11, 2004
Attachment 7