

Approved: 2/8/05

Date

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairperson Joann Freeborn at 3:30 P.M. on January 20, 2005 in Room 231-N of the Capitol.

Committee members absent: Representative Bill Light- excused

Committee staff present:

Raney Gilliland, Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Dana Wurdeman, Committee Secretary

Conferees appearing before the committee:

Representative Tom Sloan
Dale White, Mayor, Horton, Kansas
Paul Liechti, Kansas Biological survey
Dennis Schwartz, Board member of Kansas Rural Water Association and Manager of Rural Water District No. 8
Bub Burke presented testimony for Don Seifert, Municipal Services Director for the City of Olathe
Greg Foley, Executive Director, State Conservation Commission
Brad Mears, Holton City manager (written testimony)
Carl Numzman, Chairperson, Kansas-Lower Republican Basin Advisory Committee (written testimony)
Tracy Streeter, Acting Director, Kansas Water Office, and Secretary of the Kansas Water Authority

Others attending:

See attached list.

Chairperson Freeborn made Committee announcements, gave instructions as to how members were to offer possible amendments to proposed legislation the Committee would be working on this session, and reviewed next Tuesday's agenda. The Chair called for bill introductions.

Representative Johnson presented a bill request by Greg Foley, State Conservation Commission, who had to leave for another meeting. He explained the proposed legislation pertained to Irrigation Transition Assistance Program, and said Mr. Foley had talked with the Revisor.

Representative Johnson made a motion to introduce a bill which would put into statute Irrigation Transition, seconded by Representative Vaughn Flora, and the motion carried.

HB 2017 - Clean drinking water fee; use for protection of source water and assistance to public water supply systems

Chairperson Freeborn opened the hearing on **HB 2017**. Representative Sloan testified in support of the proposed legislation which he sponsored. He explained that until a few years ago, drinking water systems for both cities and rural water districts were required to pay sales tax on all purchases, and waste water systems were exempt from this tax. He said that this created bookkeeping problems for many communities in which the drinking and waste water operations were in the same department, and gave examples of the problems. The Legislature recognized the problem and authorized drinking water systems to pay 3 cents per 1,000 gallons of treated water sold at retail, which became know as the Clean Drinking Water Fee.

Representative Sloan explained that **HB 2017** transfer the Clean Drinking Water Fee money from the State General Fund to the Kansas Water Plan, which amounts to approximately \$3 million per year. He said that the money is dedicated to providing on-site technical assistance and funding projects to renovate/preserve drinking water lakes. He added that this concept has been endorsed by the Kansas Water Authority after a year's review and discussion. He testified that questions had been raised about the timing of this transfer, and after consulting with all interested parties involved suggested the Clean Drinking Water Fee money be transferred from the State General fund as follows: 1/4 as of January 1, 2006, 2/4 as of July 1, 2006, 3/4 as of January 1, 2007, and 4/4 as of July 1, 2007. He concluded his

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MINUTES OF THE House Environment Committee at 3:30 P.M. on January 20, 2005 in Room 231-N of the Capitol.

testimony by stating that he offered this schedule in the spirit of compromise, while remaining true to the intent of all to help drinking water systems protect the public's health. (Attachment 1)

NOTE:

Sloan referred to maps that Committee members had showing all the reservoirs in Kansas marked with red dots, and also a map of Perry Lake in full color. The map included an image made in August, 1973 and an image of July 2003 - 30 yrs. later - one can see the changes in size and shape which the lake has taken due to sediment that has filled it - NO MAPS IN TESTIMONY GROUP OR ATTACHED TO HIS TESTIMONY.

Chairperson Freeborn noted that upstream protections were not addressed. She asked if remediation was done, i.e. dredging; and there was no change of upstream activity. Would renovation provide a lasting remedy? Representative Sloan said the reason for not addressing upstream protections was that the water plan has programs already in place and on the books. He stated that Tracy Streeter would have more information on that subject.

Chairperson Freeborn referred to the bill, lines 8, 9, and 10 under section b, which says the remainder shall be used renovate and protect lakes used directly or indirectly. She asked what was meant by directly and indirectly. Representative Sloan responded that directly would be a city who has its water treatment plant on that lake, and indirectly would be something in Topeka that takes its water from the Corps lakes or comes down the Kansas River. The Chair questioned how broad "indirectly" would be interpreted. This question was not fully addressed.

Representative Hayzlett inquired what the rationale was regarding line 41 on page 1, where it talked about a portion of the money would be credited to the State Highway Fund and the remainder to the State General Fund. Representative Sloan said he did not know for sure, but it came from the original statute and had been carried through.

Representative Hawk asked what percent of the rural water districts pay the sales tax instead of the 3 cents. Representative Sloan replied that most of them do pay the fee, but not all of them. He said he had been unable to get the exact number from the Department of Revenue. Representative Hawk asked if this provide the Kansas Water Plan \$3 million more than what they currently have or is that money being transferred to them through the State General Fund. Representative Sloan said they would have \$3 million more than they have whenever it is completed, but it is focused on specific types of projects which fills the gap between upstream programs, the irrigation programs, and Parks and Recreation Programs.

Representative Hawk asked for clarification on the ones who are paying the sales tax, that money would not go into this fund. Representative Sloan replied in the affirmative. Representative Hawk asked if the water districts would have a choice any time, i.e. year by year or month by month, whether to pay sales tax. Representative Sloan answered that they would not, and that it was a one time opportunity to make a one time decision to move from sales tax to the fee, but they cannot go back to the sales tax due to the difficulty for the Revenue Department to follow.

Committee questions and discussion followed Representative Sloan's testimony

Dale White, Mayor of Horton, Kansas, testified in support of **HB 2017**. He introduced Ron Smith, City Administrator, and Connie Werner, President of the Horton Chamber of Commerce. He expressed how important water was to the future of Kansas. He stated that it was ironic that under current law, funds raised from public water systems – the clean drinking water fund – goes to the General Fund. He said that while it can fund Kansas Department of Health and Environment's efforts to keep our water systems clean from pollutants, it can't fund cleaning our lakes and reservoirs.

Mayor White summarized why Horton was interested in the passage of **HB 2017**, which is detailed in his written testimony. He explained a circulated rumor among some legislators that the city of Horton wanted to fix its lake's water supply so that the town could supply water to the Kickapoo Tribe, and stated it was

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MINUTES OF THE House Environment Committee at 3:30 P.M. on January 20, 2005 in Room 231-N of the Capitol.

not true. He gave the history behind the water problem of the Kickapoo Tribe, and talked about the tribe's proposal to build the Plum Creek Reservoir, which has the support of the Brown County Commission, Hiawatha city Commission, Hiawatha Industrial Development, and Horton's City Commission. Mayor White concluded by stating that dredging gives citizens not only less silt, but also deep water, which helps Atrazine to biodegrade. Mayor White included with his written testimony a copy of a letter to City Administrator, Ron Smith, from Ronald R. Demaray, President/CEO, Regulatory Consultants, Inc., Horton, Kansas, requesting support in seeking state assistance to get Mission Lake dredged and cleaned up. (Attachment 2)

Representative Sloan clarified that the City of Horton was looking to the state to share the costs as communities do on a lot of other conservation programs, and were not asking the state to do the project for the city. Mayor White replied that the citizens of Horton believe they have the responsibility as a community to furnish clean drinking water, and have endeavored to develop a funding plan that includes private, local, and state involvement. He stated that he could not emphasize enough that Horton is not a rich community, and has visited with various citizens in the area regarding the possibility of their water bills doubling if the project goes through in April. He said that even the elderly people he has talked to said that it would be worth it.

Paul Liechti, Assistant Director of the Kansas Biological Survey (KBS), spoke in support of **HB 2017**. He said the importance of providing safe, clean drinking water and protecting the sources of drinking water is without question. Water supply lakes are also important for other reasons as well, such as recreation and flood control. He said an added benefit of protecting water supply lakes is that the streams in the watershed that feed the lakes would likely also receive an increased level of protection which would help sustain the aquatic life that depend on these streams. He spoke briefly in regards to the need of a cost-benefit analysis and funding issues. (Attachment 3)

General Committee questions and discussion followed.

Dennis Schwartz, Kansas Rural Water Association (KRWA), testified in support of **HB 2017**. He explained that this proposed bill would credit the payments being made by city and rural water districts to the Clean Drinking Water Fee to be credited to the benefit of the Kansas Water Plan. He said that more than 800 cities and rural water districts presently pay into the clean Drinking Water Fee, and more are moving to so vs. pay sales tax. Mr. Schwartz stated that the successful completion of the projects depends on support from the public, and action by the Governor and Legislature to fully restore funding for the State Water Plan Fund, a dedicated funding source for water projects. (Attachment 4)

Committee questions and discussion followed regarding funding sources, possibility of fees directed to Kansas Water Office, and clarification involving the sales tax collected on water services.

Bud Burke presented testimony for Donald Seifert, Olathe Municipal Services Director, in support of **HB 2017**. He said that Olathe is the fifth largest public water provider in the state, and the city has a strong interest in the use of water fees. He stated that the city supports the simple intent of the proposed bill, and would include technical assistance to public water systems, watershed protection activities, or lake restoration projects, all conformance with the state water plan. The City of Olathe believes the proposed legislation represents good public policy in the use of the water fees. (Attachment 5)

Scott Carlson presented testimony for Greg Foley, Executive Director, State Conservation Commission (SCC), testified in favor of **HB 2017**. He spoke about the clean drinking water fees, and that some of the funds could be used to renovate and protect lakes which are used as source water for public water supply systems. He stated that the Kansas Water Office and the Kansas Water Authority have been working on this issue, and have recommended that action be taken to address the renovation of an existing water supply. As the public water supplies in Kansas that depend on surface water continue to age, this is an issue that will need to be addressed. Mr. Carlson concluded that SCC supported what this bill could do and all SCC programs that the Legislature has directed to this agency for administration. (Attachment 6)

Committee questions related to clarification of which agency would be administering the program, and

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whether these funds would only apply to surface water issues or would also apply to other water sources.

Bradley Mears, City Manager for Holton, Kansas, submitted written testimony in favor of the passage of **HB 2107**. (Attachment 7)

Carl Nuzman, Chairperson, Kansas-Lower Republican Basin Advisory Committee, submitted written testimony in support of **HB 2107**. (Attachment 8)

Chairperson Freeborn called upon Tracy Streeter to testify, and asked if he was a neutral conferee or a proponent on **HB 2107**. Mr. Streeter, Acting Director, Kansas Water Office, and Secretary of the Kansas Water Authority (KWA), said he was both and that his testimony was in support of the basic concepts contained in **HB 2017**. He explained the clean drinking water fee and the proposed changes in **HB 2017** as outlined in his written testimony. Mr. Streeter told what action the KWA took in November of 2004, and clarified the need for the additional revenues within the State Water Plan would provide a source of funding for future restoration projects in the much larger reservoirs in the state. He said Water Authority has also approved the study on this project, of which a demonstration project is one of the first visible steps in gathering data for that policy study. (Attachment 9)

Mr. Streeter testified that the Governor's budget for FY 2006 proposes expenditures from the State General Fund (SGF), which includes the revenues generated from the clean drinking water fee. He said, in addition, the KWA has taken action to support the restoration of the SGF demand transfer to the FY 2006 State Water Plan Fund (SWPF) as Phase I of its Water Plan Projects Initiative. Mr. Streeter stated that the Governor has recommended full restoration of the SGF demand transfer in her budget recommendations, and as a result, the January 1, 2006 date proposed in **HB 2017** would result in revenue shifts that are inconsistent with the aforementioned KWA policy and the Governor's budget recommendations for FY 2006. This would prevent him from supporting the proposed bill because of it being inconsistent with the Governor's budget recommendations.

Mr. Streeter further testified that discussions have ensued among water agencies and the Governor's Office regarding Phase II of the Water Plan Projects Initiative which would be proposed for implementation in FY 2007. Phase II would look to restore additional SWPF revenue by transferring certain SWPF programs and activities historically funded by the SGF back to the SGF. He concluded his testimony by stating that the Authority could fully support the proposed bill if this Committee was to change the date that the revenue would start flowing into the SWPF to July 1, 2006.

Committee questions and discussion followed regarding the various agencies involved in this subject matter, how the criteria was going to be developed for participants in restoration projects, if a process should be amended into the bill on deciding how the lakes will be chosen for funding since there are quite a few communities involved in various political districts throughout the state, how much in federal dollars will be involved, how does the Committee remediate the conflict, and if Mr. Streeter would have a problem with adding an amendment of going through Rules and Regulations so that there would be public input into the process which is a standard process.

The meeting was adjourned at 5:00 p.m. The next scheduled meeting is January 25.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: January 20, 2005

NAME	REPRESENTING
Paul Lichter	Ks Biological Survey
Bud Burke	City of Olathe
Tom Bruno	Bruno & Assoc.
Pat Lehman	KRWIA
Math Cain	KUABA
Cadney Cain	MASTERS Dredging Co.
Kent Osbren	Ks Farm Bureau
Ron Appletoft	WaterOne
Don Smith	City of Horton
Mark Kim	SCC
Mary Jane Stankiewicz	KARA/KGFA
Dave Waldo	KDHE
Hermis Schwartz	Ks Rural Water Assoc
Scott Coulter	SCC
ERIC WISNER	KDA
Ken Botawick	KWO
Jenny Davis	Conlee Consulting
Bill Brady	KGC

Pat McAfee
~~City of Horton~~
 Carrie Wemmer
 City of Horton / CBE
 ELMER RONNEBAUM
 Ks RURAL WATER ASSOC.
 Dale Whitey
 Mayor of Horton
 Tracy Street
 Ks Water Office
 Judy Shaw
 SWKIA
 Wendy Strauss
 KAPA
 Bob Totten
 Ks Contractors

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
CHAIRMAN: HIGHER EDUCATION
MEMBER: UTILITIES
ENVIRONMENT
AGRICULTURAL & NATURAL
RESOURCES BUDGET
KANSAS WATER AUTHORITY

#1
TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

STATE CAPITOL BUILDING
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sloan@house.state.ks.us

Testimony on HB 2017
January 21, 2005 - Room 231
Environment Committee

Madam Chairman, Committee Members:

Until a few years ago, drinking water systems (both cities and rural water districts) were required to pay sales tax on all purchases. Waste water systems were exempt from this tax. As you might imagine, this created bookkeeping problems for many communities in which the drinking and waste water operations were in the same department. Was tax owed on all pipe purchased and placed into inventory? How were taxes calculated on equipment that could be used for both systems' lines, valves, etc.

The Legislature recognized the problem and authorized drinking water systems to pay 3 cents per 1,000 gallons of treated water sold at retail. This made the accounting process for drinking water systems much, much easier and was supported by the Kansas Rural Water Association, Department of Revenue, and League of Kansas Municipalities. The Legislature named this "in lieu of tax payment" the **Clean Drinking Water Fee**.

HB 2017 transfers the Clean Drinking Water Fee money from the State General Fund to the Kansas Water Plan, approximately \$3 million per year. The money is dedicated to providing on-site technical assistance and funding projects to renovate/preserve drinking water lakes. The concept in HB 2017 of helping small water systems meet EPA and KDHE water treatment requirements (on-site technical assistance) and preserving and restoring the drinking water storage/availability of lakes has been endorsed by the Kansas Water Authority after a year's review and discussion. The Kansas Water Office and Conservation Commission, at the direction

House Environment Committee
January 20, 2005
Attachment 1

of the Water Authority, are developing the criteria for selecting projects and the cost-share requirements. Other conferees will speak in greater detail about the need/value of technical assistance and, preserving/restoring our lakes, but keep in mind that when a water treatment system has a mechanical problem - someone (generally on contract through KDHE or the Kansas Water Office) must physically show up and help protect the safety of the water. Similarly, as our drinking water lakes fill with silt, the storage capacity of the lake is impacted, water quality is degraded, and the ability of water treatment plants to physically take water from the lakes is adversely affected.

HB 2017 proposes that the small amount of money directly paid by drinking water systems be used to help protect the quality and quantity of clean, safe, drinking water consumed each day by our constituents. Because a previous legislature named this money - The Clean Drinking Water Fee - legislative intent is clear . . . to use the money paid by the water systems to benefit those systems' customers.

Questions have been raised about the timing of this transfer. To my knowledge, no one questions the value of the work anticipated. After consulting with the Chairman of the Appropriations Committee, members of the Governor's Natural Resources Sub-cabinet, and representatives of water systems, I suggest that the Clean Drinking Water Fee money be transferred from the SGF in the following manner:

1/4 as of January 1, 2006; 2/4 as of July 1, 2006;
3/4 as of January 1, 2007; and 4/4 as of July 1, 2007.

I offer this schedule in the spirit of compromise, while remaining true to the intent of all-to help drinking water systems protect the public's health.

I ask for your support of HB 2017 and will be pleased to respond to your questions.



Dale White, Mayor
Ken Krug, Commissioner
Tim Lentz, Commissioner
Kevin Sturton, Commissioner
Bryan Sturton, Commissioner

Administrative Officers
Ron Smith, City Administrator
Candy Schmitt, City Clerk
Carol Sturton, Deputy Clerk

TO: Hon. Joann Freeborn
Chair, House Environment Committee
Members of the Committee

FROM: Dale White, Mayor

SUBJ: HB 2017

DATE: January 20, 2005

Madam Chair & Members of the committee

I am Dale White, the Mayor of Horton. It is a privilege to be here today. I've brought with me several others from our town. Ron Smith is our city administrator. Connie Werner is the President of our Chamber of Commerce.

All of us believe in the hopes contained in HB 2017.

I believe this committee stands in the shoes of John Quincy Adams. Adams was the only former President who later was popularly elected to Congress. As a Congressman, he was an ardent abolitionist, always petitioning Congress to outlaw slavery. He became something of a flake on the topic. Southerners were so angry at him they threatened to block consideration of all other legislation if Adams didn't stop offering petitions.

That never bothered Adams. He once offered a petition on behalf of some slaves in Virginia. The roar of indignation from Southern Congressmen overwhelmed him. He couldn't speak.

When order was finally restored, Adams said his petition was by 24 slaves who had decided that they preferred slavery and wanted things to remain as they were. This stunned his Southern colleagues into silence. Then Adams' pointed out that slavery's supporters in Congress were so suspicious and stubborn they opposed petitions no matter which type was offered.

What does HB 2017 and slavery petitions have in common? Nothing except the concern over process. Water issues are important to you because you work with these issues all the time. You understand how important water is to the future of Kansas. Our task is to help other legislators understand some important points:

- Financing schools and building highways is important but, without water, there will be no children to educate.
- You understand that without water, there is no economic development.

- You understand that not all of your colleagues fully understand the importance of clean drinking water as it compares to other priorities of state government. The growing crisis of our states current water supply is an awakening giant that will only become more difficult to deal with the longer we wait to begin. But we must begin. The ancient Chinese had a saying – “when moving a mountain, began by carrying away small stones”.

It is ironic that under current law, funds raised from public water systems – the clean drinking water fund – goes to the general fund. While it can fund KDHE’s efforts to keep our water systems clean from pollutants, it can’t fund cleaning our lakes and reservoirs.

As long as we leave the Clean Drinking Water revenues in the general fund, we’ll build highways but not clean up our lakes. I realize this was done several years ago when revenues were off. But that does not make it right, nor does it make sense.

HB 2017 forces your colleagues to look in the eye a very critical and expensive item that is coming down the pike – what to do about our supply of clean drinking water for Kansans.

On behalf of the City of Horton I am here to lend our most ardent support to Representative Sloan’s legislation. Let me quickly summarize why Horton is interested in the passage of this bill.

1. Our Mission Lake was built in 1924 as a regional water supply, including our own. It was built specifically for a clean drinking water source. Up to this point many people were dying from drinking polluted water. In those days, it was common to have an out house and a well in the same yard. The outcome, of course, was inevitable. But even then there were forward thinking folks, and so Mission Lake was built.
2. Because Mission Lake was built BEFORE we had electricity in the rural areas (Horton was the site of the first REA in Kansas), and before the advent of modern machinery such as bulldozers the construction techniques used involved earth moving equipment drawn by mules. The use of modern terracing and catchments basins were nonexistent. There was also a great rain that came immediately after the dam's completion and the accompanying flood almost broke the dam. Only through the super human efforts of local towns people was the lake saved. It is speculated though that this brought much silt into the new lake. Additionally as I mentioned, the lake of modern farming practice in through the early to mid 20th century, compounded the problem of siltation. With the silt also came Atrazine. Until the enactment of the federal Clean Drinking Water Act, we used the lake in Horton as our city’s primary drinking water supply. Now the lake water does not meet these drinking water standards, and is designated as a “secondary drinking water source”. Horton relies on six water wells southeast of town. Although most of these wells are relatively new, already they do not produce the amounts of water that we had hoped for when we undertook there placement.
3. Further, Horton is and old railroad town, the region rich in history pre dating the pony express. Until 1946, the rock Island Railroad maintained its main stem engine shops at Horton. We all understand that without water, economic development does not happen. Last year you spent several millions of dollars enacting the Rural Tax Credit Program. We appreciate that, however if we don’t have water, all the tax incentives in the world won’t attract or maintain commerce and industry. Good water resources are essential to economic and community development for Kansas.
4. Horton is a blue collar town. Our people aren’t wealthy. Yet we believe so strongly that the rehabilitation of Mission Lake is important the city council voted this last Monday night to

place on the ballot for April the question for voters to decide if they will impose on themselves a \$4 million water services bond to fund their share of a demonstration project in lake restoration. In effect if passed in April, and our lake is adopted as the demonstration project the citizens of my community will impose on themselves as commitment that will basically double their water bill. Why?

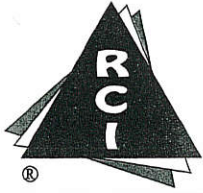
5. Because like the early residence of Horton they will have shown the foresight to know that clean drinking water well into the future is a worth while and in point of fact a prudent investment over time. How much will water cost in 20 years? I don't know. I do know that if you had told me 20 years ago that I would pay \$1 or more for a bottle of water I would have told you that you were crazy. Our primary interest in the demonstration project is to obtain a long-term drinking water supply for the city of Horton and the businesses we hope to maintain and attract. Yes, there will be other uses of that lake, but that is our main purpose.

Let me put to rest one rumor I've heard has circulated among some representatives and senators that somehow the city of Horton wants to fix this lake's water supply so that we can supply water to the Kickapoo Tribe. That is not so. Many years ago Horton did supply the tribe with water via a small pipeline. However, the Kickapoo Tribal Council is working on the tribe's own water supply needs as I am sure you all have heard. They want to build the Plum Creek Reservoir. In fact the Brown County Commission, Hiawatha City Commission, Hiawatha Industrial Development, AND Horton's City Commission have all unanimously passed resolutions in support of the tribes' efforts. In point of fact that plan has been approved by the local Water Shed Board and Congress. They are working out the final arrangements now. I hope this lays that rumor to rest. We in Horton care deeply about the tribe's welfare and our City Commission has support the tribe's quest for a reliable clean drinking water source and I believe they support ours. They are mutually exclusive projects.

Let me sum up. What we need from the legislature is enactment of HB 2017, and the demonstration project that will follow, so some town in Kansas – we hope Horton – can show the legislature the best ways plan for the enormous cost of drinking water that is coming over the horizon when you have to rehabilitate the larger lakes in Kansas. These costs may not fully occur in your political lifetime, but they will occur. And in the end we will have secured cleaning drinking water for our great grand children and saved many communities. We offer a partnership in the most life giving of efforts.

Your committee knows water issues. You know how important water is to our state's future. Our lakes can serve a regional purpose. Dredging gives us not only less silt, but also deep water, which allows Atrazine to biodegrade. We need your help – through the passage of HB 2017

Thank you for your kind attention. I will do my best to answer any questions you might have.



REGULATORY CONSULTANTS, INC.

OSHA, DOT, EPA Compliance Solutions • Business Risk Management Strategies

January 19, 2005

Ron Smith
City Administrator
Horton, Kansas

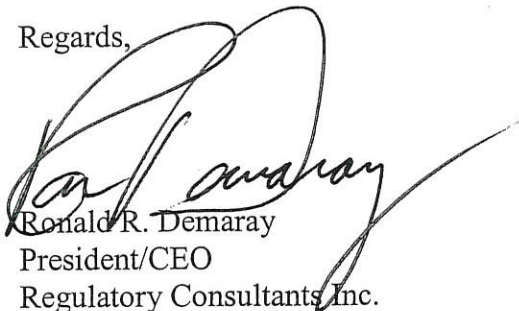
Dear Ron,

I wanted to comment about the value of Mission Lake to me as a person recently moving into northeast Kansas from Des Moines area in Iowa. The lake is one asset that Horton has and no other community nearby has to offer residents or potential residents. What an attraction to business and or commuters looking to move away from the Kansas City metro area! Recreation and beauty out your backdoor!

My wife and I looked at several communities before we decided to build our new home in Horton. Mission Lake is this wonderful little lake on the east side of Horton that is an incredible asset to the community. We found a lot near the lake that gives us a great view of the entire lake and built a very nice home. We are looking forward to using the lake more and more however, the lake needs some attention.

Many area residents are going to other lakes for boating and skiing because Mission Lake is too shallow. Until we get the lake dredged and cleaned up, area people will continue to go elsewhere for water recreation. The lake has the potential to increase tourism to our town and add to city revenues. We need state assistance to get this project going. Won't you provide us the assistance we need to maintain our town, our businesses and hold on to the hope of future growth?

Regards,



Ronald R. Demaray
President/CEO
Regulatory Consultants Inc.

#2

Comments To:
House Environment Committee
Regarding HB 2017
Submitted by: Kansas Biological Survey
January 20, 2005

Representative Freeborn, members of the Committee, my name is Paul Liechti, Assistant Director of the Kansas Biological Survey (KBS). Ed Martinko, State Biologist and Director of the Survey, was unable to attend this hearing but felt that it was important to provide comments on HB 2017. On behalf of KBS, I would like to thank you for the opportunity to speak before the committee.

The Kansas Biological Survey is a research and service unit of the University of Kansas and a non-regulatory agency of the State. We have had an active water research program for more than 40 years and have conducted studies in streams, State and Federal reservoirs, wetlands, and at the pond facility located at the University of Kansas Field Station and Ecological Reserves. We have extensive experience in water quality assessment, watershed monitoring, and, in combination with our Kansas Applied Remote Sensing Program, the expertise to provide information on past, present, and future reservoir conditions using geospatial technologies.

The importance of providing safe, clean drinking water and protecting the sources of drinking water is without question. However, water supply lakes are also important for other reasons as well, such as recreation and flood control. A number of our water supply lakes, both large and small, are currently experiencing water quality problems and are in need of protection to slow the aging process. An added benefit of protecting water supply lakes is that the streams in the watersheds that feed the lakes would likely also receive an increased level of protection which would help sustain the aquatic life that depend on these streams.

Renovation of some public water supply lakes to improve water quality and recover lost storage capacity may well be necessary and serve as a reasonable alternative to building a new reservoir, especially if an appropriate site for a new lake is not available. Since renovation can be expensive, a cost-benefit analysis will likely be necessary. If renovation is undertaken, safeguards clearly need to be in place to avoid degrading the existing water supply during the process of renovation. We assume some of the funding resulting from HB 2017 would be used to identify the appropriate safeguards.

Additional funding will be essential to continue to provide the clean drinking that we all expect, but all too often take for granted when we turn on the tap. We believe that HB 2017 is a step in right direction.

Again, I would like to thank you for the opportunity to speak to the committee and it would be my pleasure to answer any questions that you may have.

#4



KANSAS
RURAL
WATER
association

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

Comments on House Bill 2017
Before The House Committee On Environment
Thursday, January 20, 2005

Madam Chair and Members of the Committee:

My name is Dennis Schwartz. I am a member of the board of directors of the Kansas Rural Water Association and also Manager of Rural Water District No. 8, Shawnee County. The Kansas Rural Water Association appreciates this opportunity to comment on House Bill 2017. The Association provides training and technical assistance to municipal and rural water systems and has more than 750 city and rural water system members.

HB 2017 would credit the payments being made by city and rural water districts to the Clean Drinking Water Fee to be credited to the benefit of the Kansas Water Plan. The Clean Drinking Water Fee was enacted in the 2000 Session as an option for public water systems versus the very difficult issue of compliance with the application of sales taxes on purchases. More than 800 cities and rural water districts presently pay into the Clean Drinking Water Fee and more are moving to do so vs. pay sales tax.

The members of the Kansas Rural Water Association are of the opinion that the needs of public water systems should receive priority for funding. The initiatives of the Kansas Water Plan are determined through a process that provides full discussion and consideration of the needs. Aside from the fact that public water systems have generally always thought of themselves as providing services that are governmental in nature vs. proprietary services, it's fair to also say that systems would like to see a greater direct benefit in return. That is why the Association and its members support crediting the Fee to the State Water Plan.

The 24-member Kansas Water Authority provides advice to the Governor and Kansas Legislature on water issues. As I am also a member of the Authority, I know that projects fit into four broad categories that will offer region-specific solutions to unfinished water business that will collectively benefit all Kansans. The categories are: facilitating regional public water supply systems; extending and conserving the life of the High Plains/Ogallala aquifer; developing effective watershed protection and restoration strategies and financing long-term water storage debt and recreational river access.

Successful completion of the projects depends on support from the public and action by the Governor and Legislature to fully restore funding for the State Water Plan Fund, a dedicated funding source for water projects. HB 2017 is a move in that direction; it is overdue and for that reason, the Kansas Rural Water Association respectfully requests that you give favorable consideration to this bill.

Respectfully,

Dennis Schwartz, Director, KRWA

House Environment Committee
January 20, 2005
Attachment 4

#5
Bud Burke



TO: Members of the House Environment Committee
FROM: Donald R. Seifert, Municipal Services Director
SUBJECT: HB 2017; Clean Drinking Water Fee
DATE: January 20, 2005

On behalf of the city of Olathe, thank you for the opportunity to present written testimony today in support of HB 2017. This bill would direct funds collected under K.S.A. 82a-2101, the clean drinking water fee, toward water initiatives contained in the state water plan.

The clean drinking water fee of \$.03 per thousand gallons sold at retail was imposed in 2002 on all public water supply systems unless they opted out prior to October 1, 2001 and continued to pay sales tax on direct and indirect purchases. Since January 1, 2002 the city of Olathe has paid nearly \$350,000 in drinking water fees to the state on the sale of some 11.5 billion gallons of water. As the 5th largest public water provider in the state, the city has a keen interest in the use of these funds.

The city supports the simple intent of this bill: to direct the clean drinking water fee revenue stream toward the preservation of clean drinking water. Under this bill, this could include technical assistance to public water systems, watershed protection activities, or lake restoration projects, all in conformance with the state water plan. Since a significant portion of its water supply comes from surface water, Olathe is engaged in watershed protection measures and has expressed a strong interest to state and federal agencies about using a city lake for conducting a demonstration of the technical, environmental, and financial feasibility of small lake restoration. Additional resources, including dedicated revenues represented by the clean drinking water fees, are needed to support these efforts to help preserve our water resources for future generations. We believe this bill represents good public policy in the use of these fees.

Thank you again for the opportunity to present this information. We urge the committee to support this bill.

#6
Scott Carlson



Greg A. Foley, Executive Director

KANSAS
State Conservation Commission

Kathleen Sebelius, Governor

Testimony on House Bill 2017 Regarding Public Water Supply Systems

to

The House Committee on Environment

**by Greg A. Foley
Executive Director
State Conservation Commission**

January 19, 2005

Chairman Freeborn and members of the committee, I offer brief testimony on a bill to amend K.S. A. 82a-2101 regarding certain fees on public water supply systems. Thank you for the opportunity to comment.

This bill purposes to re-direct 5/106 of the clean drinking water fee to use not less than 15% of the funds for on-site technical assistance for the users paying the fee, and to aid such systems in compliance of state and federal drinking water mandates. In addition, some of these funds could be used to renovate and protect lakes which are used as source water for public water supply systems.

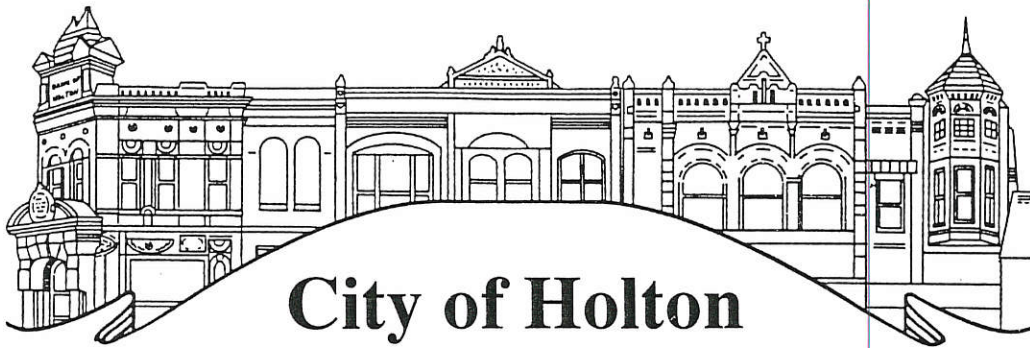
The State Conservation Commission administers the Multipurpose Small Lakes Program (MPSLP). The MPSLP provides state financial assistance to governmental and other entities for the construction or renovation of a dam for flood control and water supply and/or recreation purposes. This program was established to assist local entities in need of a new or restored project for water supply, flood reduction, and/or recreational facilities. The Kansas Water Office and the Kansas Water Authority have been working on this issue and has recommended that action be taken to address the renovation of an existing water supply. As the public water supplies in Kansas that depend on surface water continue to age, this is an issue that will need to be addressed.

In conclusion, we support what this bill could do and all SCC programs that legislature has directed to this agency for administration. The SCC is supportive of this Kansas Water Authority recommendation to address Multipurpose Small Lake renovation.

Madam Chair, I will stand for questions at the appropriate time.

Mills Building, 109 SW 9th Street, Suite 500, Topeka, KS (785-296-3600 Fax 785-296-6172 www.accesskansa

House Environment Committee
January 20, 2005
Attachment 6



City of Holton

COMMENTS SUBMITTED TO THE
HOUSE COMMITTEE ON ENVIRONMENT
ON HB 2017
January 20, 2005

Madam Chair and Committee Member:

On behalf of the City of Holton, we would like to thank the Committee on Environment for the opportunity to provide comment on HB 2017. The City of Holton provides water service to a community of over 3,300 in Northeast Kansas.

The Clean Drinking Water Fee was created in 2000 to allow public water supply systems to have the option of paying this fee as opposed to being subject to the State sales tax. For many water systems, including the City of Holton, the Clean Drinking Water Fee provided the City a way of getting out from under the complicated State sales tax system without having a significant revenue impact to either the City or to the State.

We understand that the passage of HB 2017 would begin transferring the proceeds of the Clean Drinking Water Fee to the State Water Plan Fund beginning January 1, 2006. This transfer provides a targeted revenue source to assist with the State Water Plan. Funding the State Water Plan through a water-related fee fund provides a more direct link between the fees paid by public water systems to the benefits received from the State Water Plan.

As you are all aware water is a very precious commodity to the State of Kansas. The support that could be provided to the Kansas Water Plan through the Clean Drinking Water Fee can help protect, improve, and support water issues across the State.

On behalf of the City of Holton, I would encourage favorable consideration of HB 2017 to allow for the transfer of the Clean Drinking Water Fee to the State Water Plan Fund.

Respectfully submitted,

Bradley J. Mear
City Manager

430 Pennsylvania Avenue, Holton, Kansas 664
(785) 364-2721 FAX (785) 364-3887

House Environment Committee
January 20, 2005
Attachment 7

#8
Used
testimony

Carl E. Nuzman, Chair
Kansas-Lower Republican Basin Advisory Committee

Date: January 20, 2005

To: Rep. Joann Freeborn and Members of the House Committee on Environment

From: Carl E. Nuzman, Chair, Kansas-Lower Republican Basin Advisory Committee

The following testimony is respectfully submitted for your consideration.

The Kansas Lower Republican Basin Advisory Committee in their meeting January 13, 2005, unanimously endorsed HB 2017, which would transfer receipts from the Clean Drinking Water Fee Fund to the State Water Plan Fund and requests those funds be dedicated to the payment of the unfunded liability for reservoir storage in Milford, Perry, Hillsdale and Big Hill reservoirs and other water projects. The future water supply for nearly 50% of the population of Kansas will be supported by these reservoirs.

In the near future, we will have another financial crisis if the unfunded liability for reservoir storage is not addressed. This is clearly a bargain for the State of Kansas and must be addressed now.

The State Water Plan Fund has not had an increase in funding since its inception. It is most appropriate to transfer the receipts generated by the municipal water use tax in the Clean Drinking Water Fee Fund to the State Water Plan Fund.

CEN/rm

#9

**Testimony on Crediting Revenue from the Clean Drinking Water Fee
to the State Water Plan Fund**

Presented to

The House Environment Committee

HB 2017

**Tracy Streeter
Acting Director
Kansas Water Office
January 20, 2005**

Representative Freeborn and members of the Committee. I am Tracy Streeter, Acting Director of the Kansas Water Office. I am pleased to appear on behalf of the Kansas Water Authority in support of the basic concepts contained in HB 2017.

The Kansas Water Authority (KWA) is a 24-member group representing the state's diverse water interests. One of its primary duties is to consider and approve policy recommendations for inclusion in *the Kansas Water Plan*. Once approved, the Kansas Water Authority submits these recommendations to the Governor and Legislature for their consideration. The Authority also makes recommendations on spending priorities for the State Water Plan Fund.

Clean Drinking Water Fee

K.S.A. 82a-2101 authorizes a clean drinking water fee of \$.03 per 1000 gallons of water sold at retail that is paid by public water supply systems in lieu of paying sales tax on purchases of tangible personal property. One purpose for this fee was to provide a simpler alternative for paying sales tax on property purchases. The primary portion of the fee revenue was deposited in the State General Fund with 5/106 going to the State Highway Fund.

This statute allowed these systems to opt out of paying the fee before October 1, 2001 and continue to pay sales tax [Section 1,(b)(1)]. It also provides a window on or after January 1, 2005 for all public water supply systems which previously had elected to opt out of the fee to elect to collect the fee and be exempt from the aforementioned sales tax requirement [Section 1,(b)(2)].

Proposed Changes in HB 2017

HB 2017 provides that, after January 1, 2006, all revenue from this fee would be credited to the State Water Plan Fund (SWPF) for protecting and renovating lakes used for public water supply, on-site technical assistance to public water supply systems, and compliance with State and federal laws and regulations [(Section 1(c)).

Action taken by the Kansas Water Authority

In November of 2004, the Kansas Water Authority recommended, for the adoption by the Legislature and Governor, that:

“All revenue collected through the Clean Drinking Water Fee should be credited to the State Water Plan Fund and used as one funding source to finance and conduct small lake and reservoir restoration projects and other programs beneficial to public water systems including on-site technical assistance.”

As part of that recommendation, the Water Authority said that:

“Revenue from the Clean Drinking Water Fee would be credited to the State Water Plan Fund starting July 1, 2006.”

Based on total receipts for the Clean Drinking Water Fee during FY 2004, it estimated the changes in HB 2017 would generate approximately \$2,734,004 of additional revenue for the State Water Plan Fund. For comparison purposes, the total amount recommended by the Governor for the SWPF in FY 2006 is \$17,589,283.

Need for the Additional Revenues

Consistent with the Water Authority's recommendations, HB 2017 proposes the revenue from the Clean Drinking Water Fee be used, in part, to renovate and protect lakes used either directly, or indirectly, for public water supply. The action taken by the Kansas Water Authority adding the *Reservoir Demonstration Projects and Research* policy section to the Kansas Water Plan proposes the state conduct a small lake renovation project. As a result of KWA's action, the Kansas Water Office has received letters from 14 cities expressing interest in the renovation of their small lakes. A multi-agency committee is currently developing criteria for use in the screening and selection process. While firm costs estimates are not currently available for most of the proposals, several cities have estimated the total project costs to range between \$3 million and \$6 million, with part of the cost to be shared by the State and the federal government, if funds are available.

These additional revenues within the State Water Plan would also provide a source of funding for future restoration projects in the much larger reservoirs in the state. The Water Authority has also approved the study of this subject, of which the demonstration project is one of the first visible steps in gathering data for that policy study.

For Committee Consideration

The Governor's budget for FY 2006 proposes expenditures from the State General Fund (SGF) which includes the revenues generated from the Clean Drinking Water Fee. In addition, the KWA has taken action to support the restoration of the SGF demand transfer to the FY 2006 State Water Plan Fund as Phase I of its Water Plan Projects Initiative. The Governor has recommended full restoration of the SGF demand transfer in her budget recommendations. As a result, the January 1, 2006 date proposed in HB 2017 would result in revenue shifts that are inconsistent with the aforementioned KWA policy and the Governor's budget recommendations for FY 2006.

In addition, discussions have ensued among water agencies and the Governor's office regarding Phase II of the Water Plan Projects Initiative which would be proposed for implementation in FY 2007. Phase II would look to restore additional SWPF revenue by transferring certain SWPF programs and activities historically funded by the SGF back to the SGF.

In a perfect world, Phase III could begin in FY 2008 by increasing the total receipts to the State Water Plan Fund through the passage of this bill with a July 1, 2007 starting date.

Position of the Kansas Water Authority

The Kansas Water Authority supports the basic concepts contained in HB 2017. However, the Authority could fully support the bill if this committee were to change the date that the revenue would start flowing into the State Water Plan Fund to July 1, 2006.

I would like to thank you, Representative Freeborn and members of the Committee for your time and attention today. I would be happy to stand for questions.