

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 15, 2007, in Room 423-S of the Capitol.

All members were present except:
Mark Taddiken- excused

Committee staff present:
Raney Gilliland, Kansas Legislative Research Department
Emalene Correll, Kansas Legislative Research Department
Art Griggs, Revisor of Statutes Office
Judy Holliday, Committee Assistant

Conferees appearing before the committee:

Others attending:
See attached list.

Chairman McGinn explained to the Committee that **SB 15, Establishing the Kansas dam rehabilitation program to provide cost-share assistance to rehabilitate certain deficient dams**, which passed out of Committee on February 16 had come back to the Senate Natural Resources because of problems dealing with an area in Senator Derek Schmidt's district that was low income, and an area in Senator Peggy Palmer's district dealing with small cities.

Chairman McGinn read the new language in New Section 2 of the balloon amendment to **SB 15** (Attachment 1) dealing with cost share for up to 100 percent of the project costs for dam rehabilitation in a low income county. She noted that the second part of the amendment on page 3 dealt with cost share assistance for second and third class cities located in or near a hazardous dam in need of rehabilitation.

Scott Carlson, State Conservation Commission, addressed Committee members' concerns regarding the allocation of money and how the priorities were determined. Mr. Carlson stated that public safety is the number one priority, then income and other criteria could be used in determining the percentage of cost share.

The question was asked regarding the use of 2000 census data, and why not "based on the most recent census data." It was determined that the bill language regarding the 2000 census data currently only affected two watershed district dams, those located in Chautauqua and Greenwood counties. With regard to the 100 percent of project costs, there were questions as to why that figure was used, and whether it could be changed to 90/10 or 70/30 percent. A concern was expressed that a high income individual could be living in a low income area, but would still qualify for the 100 percent assistance.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture, was asked about the number of high hazard dams, and he told the Committee that there are twenty-one at this time. The Department recognized the problem of a dam owner with a defective dam who could not afford the needed repairs, estimated at anywhere from \$18,000 to \$150,000, and that is why it came up with the 70/30 percent rule.

Senator Francisco made a motion to change the cost share from 100 percent to 90 percent, seconded by Senator Lee. There was no action.

Chairman McGinn asked if there were any questions on the proposed amendments. Senator Ostmeyer made a motion to approve the balloon amendment, but the motion died for lack of a second.

Senator Francisco made a motion that the language "except for second and third class cities" be retained in the balloon amendment, seconded by Senator Huelskamp. The motion carried.

Senator Pyle made a motion to move SB 15 as amended favorably out of Committee, seconded by Senator Francisco. The motion carried.

The Committee discussed concerns with **SB 189, Hunter education requirements**, which would be discussed

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 15, 2007, in Room 423-S of the Capitol.

in the Natural Resources Committee meeting the following day.

Jordan Austin, a representative of the National Rifle Association, answered questions about a hunter safety course, or "crash course" that out-of-state hunters could take in order to come back another year; if other states offer these crash courses; if the courses could be offered both to in-state and out-of-state hunters; and concerns were expressed regarding changing the age from 18 to 21. Mr. Austin told the Committee that twenty states have a one-year deferred program, wherein hunters can hunt one-year without taking a hunter's safety course.

The meeting adjourned at 9:35 a.m.

SENATE BILL No. 15

By Special Committee on Agriculture and Natural Resources

1-5

10 AN ACT concerning the state conservation commission; relating to dam
11 safety; creating the Kansas dam rehabilitation program; amending
12 K.S.A. 2006 Supp. 2-1915 and repealing the existing section.
13

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

15 Section 1. K.S.A. 2006 Supp. 2-1915 is hereby amended to read as
16 follows: 2-1915. (a) Appropriations may be made for grants out of funds
17 in the treasury of this state for terraces, terrace outlets, check dams, dikes,
18 ponds, ditches, critical area planting, grassed waterways, tailwater recovery
19 irrigation systems, precision land forming, range seeding, detention
20 and grade stabilization structures and other enduring water conservation
21 practices installed on public lands and on privately owned lands, *dam*
22 *rehabilitation projects* and, the control and eradication of sericea lespe-
23 *deza* as provided in subsection (n) of K.S.A. 2-1908, and amendments
24 thereto, on public lands and on privately owned lands. Except as provided
25 by the multipurpose small lakes program act, any such grant shall not
26 exceed 80% of the total cost of any such practice. or section 2

27 (b) A program for protection of riparian and wetland areas shall be
28 developed by the state conservation commission and implemented by the
29 conservation districts. The conservation districts shall prepare district pro-
30 grams to address resource management concerns of water quality, erosion
31 and sediment control and wildlife habitat as part of the conservation dis-
32 trict long-range and annual work plans. Preparation and implementation
33 of conservation district programs shall be accomplished with assistance
34 from appropriate state and federal agencies involved in resource
35 management.

36 (c) Subject to the provisions of K.S.A. 2-1919, and amendments
37 thereto, any holder of a water right, as defined by subsection (g) of K.S.A.
38 82a-701, and amendments thereto, who is willing to voluntarily return all
39 or a part of the water right to the state shall be eligible for a grant not to
40 exceed 80% of the total cost of the purchase price for such water right.
41 The state conservation commission shall administer this cost-share pro-
42 gram with funds appropriated by the legislature for such purpose. The
43 chief engineer shall certify to the state conservation commission that any

Senate Natural Resources
March 15, 2007
Attachment 1

1-2

1 water right for which application for cost-share is received under this
2 section is eligible in accordance with the criteria established in K.S.A. 2-
3 1919, and amendments thereto.

4 (d) (1) Subject to appropriation acts therefor, the state conservation
5 commission shall develop the Kansas water quality buffer initiative for
6 the purpose of restoring riparian areas using best management practices.
7 The executive director of the state conservation commission shall ensure
8 that the initiative is complementary to the federal conservation reserve
9 program.

10 (2) There is hereby created in the state treasury the Kansas water
11 quality buffer initiative fund. All expenditures from such fund shall be
12 made in accordance with appropriation acts upon warrants of the director
13 of accounts and reports issued pursuant to vouchers approved by the
14 executive director of the state conservation commission or the executive
15 director's designee. Money credited to the fund shall be used for the
16 purpose of making grants to install water quality best management prac-
17 tices pursuant to the initiative.

18 (3) The county or district appraiser shall identify and map riparian
19 buffers consisting of at least one contiguous acre per parcel of real prop-
20 erty located in the appraiser's county. Notwithstanding any other provi-
21 sions of law, riparian buffers shall be valued by the county or district
22 appraiser as tame grass land, native grass land or waste land, as appro-
23 priate. As used in this subsection (3), "riparian buffer" means an area of
24 stream-side vegetation that: (A) Consists of tame or native grass and may
25 include forbs and woody plants; (B) is located along a perennial or inter-
26 mittent stream, including the stream bank and adjoining floodplain; and
27 (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

28 (e) The state conservation commission shall adopt rules and regula-
29 tions to administer such grant and protection programs.

30 (f) Any district is authorized to make use of any assistance whatsoever
31 given by the United States, or any agency thereof, or derived from any
32 other source, for the planning and installation of such practices. The state
33 conservation commission may enter into agreements with other state and
34 federal agencies to implement the Kansas water quality buffer initiative.

35 (g) *Within the limits of appropriations therefor, the state conservation*
36 *commission shall develop and administer the Kansas dam rehabilitation*
37 *program in consultation with the chief engineer of the division of water*
38 *resources of the Kansas department of agriculture.*

39 (h) *Any dam permit holder owner may apply for cost-share assis-*
40 *tance to rehabilitate or remove unsafe **for dam rehabilitation, to pur-***
41 ***chase and raze or relocate residential structures, or for engineering***
42 ***solutions to address high and significant hazard dams or low hazard***
43 *dams that are reclassified to high or significant hazard dams related to*

1 downstream development. **State agencies and political or taxing sub-**
2 **divisions in this state shall not be eligible for cost-share assistance**
3 **pursuant to this section.**

except for second and third class cities or as
provided in section 2

4 (i) The division of water resources of the Kansas department of ag-
5 riculture shall assist the state conservation commission by reviewing and
6 recommending a dam priority order for applications for participation in
7 the program based on the following criteria:

- 8 (1) The highest severity of potential impact of dam failure;
- 9 (2) the greatest risk of failure due to the dams' deficiencies; and
- 10 (3) which deficiencies were a result of downstream development be-
- 11 yond the control of the dam owner.

Except as provided in section 2, and amendments
thereto, any

12 (j) ~~dam permit holder~~ **owner** may apply to the state conservation
13 commission for cost-share assistance in the amount of 70% of the rate
14 prescribed pursuant to subsection ~~(k)~~ **(h)**, and if engineering costs are
15 incurred, an additional 10% of the rate prescribed pursuant to subsection
16 ~~(k)~~.

17 (k) ~~The cost-share grant awarded pursuant to subsection (j) shall be~~
18 ~~in an amount not to exceed a rate approved by the state conservation~~
19 ~~commission for the least expensive alternative that such commission de-~~
20 ~~termines properly addresses the problem or problems identified with such~~
21 ~~dam. Dam owners shall not be required to implement such least expensive~~
22 ~~alternative. **If the engineered solution is to purchase and raze or**~~
23 ~~**relocate residential structures in the inundation area of the dam, a**~~
24 ~~**cost share grant may be awarded for the purchase and razing or**~~
25 ~~**relocating of all residential structures in the inundation area if: (1)**~~
26 ~~**An easement prohibiting future development for the inundation**~~
27 ~~**area is acquired and recorded with the register of deeds; and (2)**~~
28 ~~**other terms and conditions of the state conservation commission, if**~~
29 ~~**any, are met.**~~

30 (l) An applicant who is not a dam permit holder shall be eligible to
31 apply for cost-share assistance under the Kansas dam rehabilitation pro-
32 gram subject to the following:

- 33 (1) Such applicant shall submit a rehabilitation plan to the chief en-
34 gineer of the division of water resources of the Kansas department of
35 agriculture in a form prescribed by such chief engineer;
- 36 (2) such rehabilitation plan shall comply with policies and procedures
37 adopted by the chief engineer of the division of water resources of the
38 Kansas department of agriculture; and
- 39 (3) cost-share assistance funds shall not be remitted until such appli-
40 cant is granted a permit pursuant to K.S.A. 82a-301, and amendments
41 thereto.

42 (m) As used in subsection (g) through (n) of this section, "dam permit
43 holder" means any person, partnership, association, corporation, agency

1 or political subdivision of the state government or other entity who holds
2 a permit pursuant to K.S.A. 82a-301, and amendments thereto.

3 (n) **As used in this act, "dam" shall have the meaning ascribed**
4 **thereto in K.S.A. 82a-301, and amendments thereto.**

5 (o) *The state conservation commission shall adopt rules and regulations*
6 *to implement the Kansas dam rehabilitation act program.*

7 Sec. 2. K.S.A. 2006 Supp. 2-1915 is hereby repealed.

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

New Sec. 2. The state conservation commission is authorized to
provide cost share for dam rehabilitation projects of up to 100% of
the project costs for watershed districts that have all, or a majority
of, the land in the watershed district in a low income county. As
used in this section, "low income county" means a county where at
least 40% of households in such county have a county household
income of less than \$24,999 based on 2000 census data or the most
recent census data.

And by renumbering the remaining sections accordingly.

1-4