

Approved: April 1, 2008
Date

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on March 25, 2008, in Room 783 of the DSOB.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes
Kristen Kellems, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Woody Moses, Managing Director, Kansas Aggregate Producers Association
Larry Brennan, Kaw Valley Drainage District
Stephen Dailey, General Manager, Fairfax Drainage District, Wyandotte County

Others attending:

See attached list.

The Chairman called the meeting to order at 3:45 p.m. Woody Moses, Managing Director, Kansas Aggregate Producers Association, briefed the committee on the changes to be considered for **HB 2982 - Drainage district excavation limitations**. He said striking line 23, page 2, and adding language in the balloon to line 28 will clarify the term "boundaries" and clarify the level of authority for the drainage district. By consensus, both Mr. Brennan and Mr. Dailey have agreed to the proposed changes (Attachment 1).

The Chairman selected **SB 189** for the purpose of removing the wording and inserting the language of **HB 2982**. Representative Gatewood moved to recommend adopting the balloon language. Representative Svaty seconded the motion. The motion passed. Representative Gatewood moved to remove the language in SB 189 and insert HB 2982 as amended. Representative Svaty seconded the motion. The motion passed. Representative Powell moved to pass Sub SB 189 favorable as amended. Representative Light seconded the motion. The motion passed.

The Chairman called attention to **HB 2625**. Staff Kristen Kellems briefed the committee regarding the changes proposed by the Senate Committee on Agriculture and Natural Resources in **SB 15**. She indicated the substitute bill will be constructed to include changes which groundwater management districts have agreed to accept. Representative Powell moved to recommend adopting the balloon. Representative Light seconded the motion. Staff Raney Gilliland reported that **HB 2625** is not presently in the House Agriculture and Natural Resources Committee. Representatives Powell and Light withdrew the motion and the second. Representative Powell moved to eliminate the contents of SB 15. Representative Light seconded the motion. By a vote of 9 to 6, the motion passed.

Representative Powell moved to place Sub for HB 2625 as amended by the Senate in Sub SB 15. Representative Moxley seconded the motion. The motion carried.

Representative Powell moved to adopt the balloon as favorable. Representative Aurand seconded the motion. The motion passed. Representative Powell moved to recommend as favorable for passage Sub SB 15 as amended. Representative Light seconded the motion. The motion passed.

The Chairman adjourned the meeting at 4:15 p.m. and thanked the members for participation during the Session.

HOUSE BILL No. 2982

By Committee on Appropriations

3-20

Kansas Aggregate Producers Proposed
Amendment

AN ACT concerning drainage and levees; relating to excavation by drainage districts; amending K.S.A. 24-132 and repealing the existing section.

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

Section 1. K.S.A. 24-132 is hereby amended to read as follows: 24-132. (a) Except as provided by this section and subject to the provisions of K.S.A. 19-270, and amendments thereto, all of the rights, powers, authority and jurisdiction conferred on counties and boards of county commissioners by the provisions of K.S.A. 19-3301, 19-3302, 19-3303, 19-3304, 19-3305, 19-3306, 19-3308 and 19-3309, and amendments thereto, also are conferred upon and vested in any drainage district traversed or touched by the Kansas river, and contiguous to or including a part of a city of the first class, and the governing body thereof.

(b) The governing body of any such drainage district, in the name of the drainage district, shall have the power to enter into undertakings and contracts and make agreements in like manner and for like purposes as the board of county commissioners are authorized by this act to enter into undertakings and contracts and make agreements in the name of the county; and may acquire lands, rights of way and easements either within or without the limits of the drainage district for like purposes as the board of county commissioners are authorized by K.S.A. 19-3302 and 19-3308, and amendments thereto, by purchase, gift or by eminent domain proceedings in the manner prescribed by K.S.A. 26-501 to 26-516, inclusive, and amendments thereto, and may issue general obligation bonds of the drainage district to pay the costs thereof and expenses connected therewith in the manner provided by law. The aggregate of any such bonds so issued shall not be in excess of 3½% of the total assessed tangible valuation of the drainage district. The governing body of any drainage district may issue additional general obligation bonds of the drainage district for such purposes not in excess of 1½% of the total assessed tangible valuation of the drainage district, but before such additional bonds may be issued, the governing body of the drainage district shall submit the question of the issuance of such additional bonds and the amount thereof to the qualified electors of the drainage district at a regular drainage district

1 election or at a special election called for that purpose as provided by law.
 2 The total aggregate of all such bonds which may be issued under the
 3 provisions of this section shall not be in excess of 5% of the total assessed
 4 tangible valuation of the drainage district. Such bonds shall not be subject
 5 to, nor included in any restrictions or limitations upon the amount of
 6 bonded indebtedness of the drainage district contained in any other law.
 7 Funds received from the sale of bonds by any such drainage district
 8 may be used to pay any loss, damage or expense for which the drainage
 9 district or the governing body thereof may be liable in like manner as
 10 counties are authorized to pay such loss, damage or expense under the
 11 provisions of K.S.A. 19-3304, and amendments thereto.

12 (c) For the purposes of maintaining and operating such flood control
 13 works as shall be constructed by the United States army corps of engi-
 14 neers or other agencies of the United States government, when the same
 15 shall have been completed and turned over to the drainage district, and
 16 for the purpose of maintaining and operating any flood control works or
 17 dikes heretofore or hereafter constructed for the purpose of protecting
 18 such drainage district from floods, the governing body of such drainage
 19 district shall be empowered to make an annual tax levy upon all the taxable
 20 tangible property within the drainage district, of not to exceed one mill
 21 and such levy shall be in addition to all other levies authorized or limited
 22 by law.

23 (d) Except as provided by this subsection, the ~~The governing body of~~
 24 ~~the drainage district may regulate excavations within the boundaries in~~
 25 ~~the same manner provided by K.S.A. 19-3309, and amendments thereto,~~
 26 ~~and may require an excavation permit as provided in this subsection.~~ No
 27 excavation shall be made or commenced within 1,000 feet landward or
 28 riverward of the center line of any portion of a flood control work constructed
 29 under the provisions of chapter 19, article 33 of the Kansas Statutes
 30 Annotated without first obtaining a permit. Applications for permits
 31 shall be submitted to and reviewed by the district engineer. If the engi-
 32 neer determines that the proposed excavation shall be detrimental or will
 33 impair or endanger the function of any flood protection works, permission
 34 for such excavation shall be denied. If the engineer determines that a
 35 restricted or conditional permit for excavation can be granted to the ap-
 36 plicant which will not be detrimental or will not impair or endanger the
 37 function of such flood protection works, the engineer shall issue such
 38 restricted or conditional permit. If the engineer determines that no im-
 39 pairment of or danger to such flood protection works will occur as a result
 40 of such excavation, the engineer shall issue a permit to the applicant. The
 41 issuance of any permits hereunder shall not authorize the violation of any
 42 existing zoning laws or building codes.
 43 Any person feeling aggrieved by the determination of the engineer may
 44

Kansas Aggregate Producers Proposed
 Amendment

Strike

s or 1,000 feet either side of interior drainage sewers
 within the district boundaries

1 appeal such decision in writing to the governing body of the drainage
2 district within 10 days of determination and the governing body after a
3 public hearing may affirm, reverse or modify the determination.
4 (e) It shall be the duty of the governing body of the drainage district
5 to keep all such flood control works and dikes in serviceable condition
6 and to make such repairs as may be necessary.
7 Sec. 2. K.S.A. 24-132 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.

1 ment district that the chief engineer has reason to believe that one or more
2 of the conditions set forth in subsection (b) exists within that groundwater
3 management district;

4 (2) the chief engineer has provided such district with a description of
5 the area in question and data and analysis that documents the existence
6 of one or more such conditions;

7 (3) the chief engineer has made a preliminary determination that
8 strict application of the priority system under the Kansas water appro-
9 priation act to address such conditions will be significantly less effective
10 in solving or reducing such conditions, or will result in significantly more
11 permits and water rights being ordered to completely cease diverting wa-
12 ter than if an intensive groundwater use area is created, and provided a
13 report to the affected groundwater management district explaining how
14 administration of water rights under the priority system would impact
15 water rights in the area in question;

16 (4) the chief engineer has provided 120 days, or greater time specified
17 by the chief engineer, for the groundwater management district to develop
18 a plan to address the problem;

19 (5) the affected groundwater management district has failed to submit
20 the plan to address the problem within the time period, or any extension
21 thereof, authorized by the chief engineer;

22 (6) the chief engineer has given the groundwater management district
23 90 days, or greater time specified by the chief engineer, to request initi-
24 ation of an intensive groundwater use control area; and

25 (7) the groundwater management district has failed to request initi-
26 ation of an intensive groundwater use control area within the time period
27 authorized by the chief engineer.

28 (d) If a groundwater management district regulation specifying the
29 manner in which the chief engineer may initiate an intensive groundwater
30 use control area within a specific groundwater management district has
31 been adopted by the chief engineer, such procedure shall be the procedure
32 the chief engineer shall use to initiate an intensive groundwater use con-
33 trol area within such groundwater management district.

34 **Sec. 6. K.S.A. 2007 Supp. 82a-1038 is hereby amended to read**
35 **as follows: 82a-1038. (a) In any case where the chief engineer finds**
36 **that any one or more of the circumstances set forth in K.S.A. 82a-**
37 **1036 and amendments thereto exist and that the public interest re-**
38 **quires that any one or more corrective controls be adopted, the chief**
39 **engineer shall designate, by order, the area in question, or any part**
40 **thereof, as an intensive groundwater use control area.**

41 (b) The order of the chief engineer shall define specifically the
42 boundaries of the intensive groundwater use control area and shall
43 indicate the circumstances upon which the findings of the chief en-

. Agreement to such conditions shall be obtained from the groundwater management district. If no such agreement is obtained after a period of 120 days, or a mutually agreed to extension of time, then the groundwater management district and the chief engineer shall enter into mediation. Parties to the mediation proceedings shall consist of: one representative appointed by the chief engineer; one representative appointed by the board of the groundwater management district and one mutually agreed to third party.