

Approved: 4-3-08

Date

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Mark Taddiken at 8:30 a.m. on March 11, 2008 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department

Jason Thompson, Office of Revisor of Statutes

Matt Todd, Office of Revisor of Statutes

Judy Seitz, Committee Assistant

Conferees appearing before the Committee:

Duane Simpson, Chief Operating Officer & Vice President, Kansas Agribusiness Retailers Association (KARA)

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA)

Others attending:

See attached list.

The hearing on **HB 2860—Registration of petroleum products inspection fees** was opened.

Duane Simpson, Chief Operating Officer and Vice President, Kansas Agribusiness Retailers Association (KARA), spoke in favor of **HB 2860** (Attachment 1). This bill would give the Secretary of Agriculture the authority, through rules and regulations, to extend the pesticide registrations from the current maximum length of 1 year to up to 3 years. This bill would also reduce the unnecessary amount of paperwork that is filed by the registrants and the Department of Agriculture.

Mr. Simpson offered to stand for questions.

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture (KDA) offered testimony in support of **HB 2860** (Attachment 2). This bill would authorize the secretary of agriculture to adopt rules and regulations to allow pesticide products to be registered for periods from one year up to three years.

There were no questions for Deputy Secretary Cotsoradis.

There were no opponents.

The hearing on **HB 2860** was closed.

Chairman Taddiken opened discussion on **SB 559—Water supply and distribution districts, acquisition of grounds**. Copies of an e-mail from the Division of Water Resources, Kansas Department of Agriculture, answering questions regarding **SB 559** was distributed to the Committee (Attachment 3).

Senator Schmidt moved the adoption of the language in the **Substitute for SB 559**, seconded by Senator Pine.

Senator Schmidt moved to adopt the language of the **Substitute for SB 559** and amend the adopted language by inserting item (4) and using language borrowed from the current economic development taking a statute that creates a similar exception, basically that the legislature, by law, specifically approves an individual case and identifies the parcel; seconded by Senator Ostmeyer.

After discussion **Senator Schmidt** withdrew his motion; **Senator Ostmeyer** withdrew his second.

Senator Schmidt moved to adopt **Substitute for SB 559**; seconded by Senator Huelskamp; motion adopted.

Senator Schmidt moved to amend the substitute language by striking the phrase “and the proposed place of use” in Section 1(a); seconded by Senator Francisco. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Agriculture Committee at 8:30 a.m. on March 11, 2008 in Room 423-S of the Capitol.

Senator Schmidt moved to amend the Substitute language in Section 1(a) (1) by replacing "prior to the effective date of this act" with prior to January 1, 2008.,"; seconded by Senator Huelskamp. Motion carried..

The Committee stopped working on **SB 559**.

Discussion was begun on **HB 2660**—Payment of petroleum products inspection fees.

Senator Schmidt moved to amend **HB 2660** by inserting into it the contents of **HB 2860**—Registration of petroleum products inspection fees; seconded by Senator Lee. Motion carried.

Senator Schmidt made a motion to move **HB 2660** as amended, out of Committee favorably,;seconded by Senator Lee.

Senator Francisco made a substitute motion to change the fee funds in **HB 2660** from \$100,000 to \$200,000; seconded by Senator Lee. Motion failed.

The Committee returned to the original motion made by Senator Schmidt to pass **HB 2660** out favorably as amended, seconded by Senator Lee. Motion passed.

The Committee returned to amended **Substitute for SB 559**.

Senator Morris made a motion strike the contents of **HB 2860** and put in the amended **Substitute SB 559** language, creating **Senate Substitute for HB 2860**, and to pass the Substitute out favorably; seconded by Senator Lee. Motion carried.

Meeting adjourned.



KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE

Statement in Support of House Bill 2860
House Agriculture and Natural Resources Committee
Senator Mark Taddiken, Chairman
March 11, 2008

Thank you Mr. Chairman and members of the committee, my name is Duane Simpson; I am the Chief Operating Officer and Vice President of the Kansas Agribusiness Retailers Association. KARA is a volunteer organization that represents over 700 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. On behalf of these members I am testifying in support of HB 2860.

This is a very simple bill that gives the Secretary of the Kansas Department of Agriculture the authority to extend pesticide registrations from the current maximum length of 1 year to up to 3 year registrations. The registrants would pay the same amount in fees to the state if the Secretary exercises this authority and there would be no change in the distribution of the fees. For example, the current \$150 per year fee would be a \$450 per 3 year fee.

The purpose of this legislation is to reduce the unnecessary amount of paperwork that is filed by the registrants and the Department of Agriculture. There are almost 12,000 products that are registered each year. This simple bill would allow the agency to reduce the paperwork our members submit and they handle without any negative impact to the state.

I will also note that the bill eliminates the sunset of the fee increase that was passed several years ago. The fee is currently \$150 and neither the Department nor the industry is seeking a decrease in the fee. If the committee would prefer not to eliminate the sunset, we would have no objection to that amendment, but we simply do not believe the sunset is necessary any longer.

I urge this committee to pass the bill favorably. I will stand for questions at the appropriate time.

Senate Agriculture Committee
3-11-08

Attachment 1

**Testimony on HB 2860
to the
Senate Agriculture Committee**

**by
Constantine Cotsoradis
Deputy Secretary
Kansas Department of Agriculture**

March 11, 2008

Good morning, Chairman Taddiken and members of the committee. I am Constantine Cotsoradis, deputy secretary of the Kansas Department of Agriculture.

We support the concept behind HB 2860, which is to authorize the secretary of agriculture to adopt rules and regulations to allow pesticide products to be registered for periods from one year up to three years.

Currently we register just under 12,000 pesticide products annually. Before modifying the registration process, we would seek input from all relevant stakeholders. If we decide to issue multiyear registrations, we would stagger the renewals depending on whether we issued them for two or three years.

Thank your for letting me testify today. I will be glad to stand for questions at the appropriate time.

Senate Agriculture Committee

3-11-08

Attachment 2

**Response to Senate Agriculture Committee
Regarding Questions on SB 559, Water Supply Districts' Eminent Domain Authority**

Kansas Department of Agriculture, Division of Water Resources
March 10, 2008

Additional information is provided to follow-up on questions of the Committee in the hearing on March 5, 2008. The questions are paraphrased below for reference.

Q. Have any municipalities or water supply districts used eminent domain to acquire a water right or access to land to establish a water right?

A. At the hearing we replied that to our knowledge this had not occurred although we could not say definitively. The agency has not tracked the type of legal instruments through which access to water has been obtained for each water appropriation application, as the method of legal access (e.g., by deed, easement, or eminent domain) is not currently a determining factor in processing applications or administering water rights.

Since the hearing we have learned of several examples in which eminent domain was used or is being applied to acquire a water right, point of diversion, or easement for public water supply systems:

- 1) The Marais des Cygnes Public Utility Authority (File No. 46,339) used eminent domain to acquire land to lay transmission lines from near Paola to the Marais des Cygnes River intake authorized by that permit. The land for the water intake was acquired by purchase but initially involved condemnation proceedings.
- 2) The City of Marysville is currently entering into eminent domain proceedings to access land for the purpose of test drilling.
- 3) The City of Scott City is seeking to acquire some land to obtain the water right. This land has been for sale, a farmer made a contract to purchase it prior to the City having the opportunity, and now the City is threatening eminent domain to obtain the water right from the farmer.

In addition, it should be noted that watershed districts have authority to use eminent domain to obtain land or easements for construction of watershed dams. They rarely use eminent domain authority; however, it is important to keep in mind that watershed districts are required to file a water appropriation application for evaporation losses from reservoirs. The Committee may want to consider structuring the bill to avoid prohibiting watershed districts from obtaining water appropriation permits, in effect prohibiting them from constructing dams if the land is obtained by eminent domain.

*Senate Agriculture Committee
3-11-08*

Attachment 3

Q. Provide examples where existing water rights involve points of diversion located on land not owned by the water right holder.

A. It is common for wells or surface water intakes to be located on land not owned by the water right holder. Some notable examples of public water supply systems for which this is the case include:

- City of Hays
- City of Russell
- City of Dodge City
- City of Wichita
- City of Lawrence
- Post Rock Rural Water District
- City of Liberal
- Johnson County Water District No. 1*
- City of Marysville*
- City of Logan*

* In addition to being located on land not owned by the water right holder, these points of diversion are located outside the city limits or service area.

Q. What would be the perfection period and type of use for the water appropriation applications filed by PWWSD #25?

A. PWWSD #25 filed several water appropriation applications for municipal use (File Nos. 46,767, 46,768, and 46,769) on April 5, 2007. If granted, it appears these files would be limited to a total quantity of water of 1,854.54 acre-feet per year. The rules and regulations allow a perfection period of 20 years for municipal use, with the opportunity for extensions if warranted. KDA-DWR conducts a 10-year review to determine if the water use projections are being met.

Q. What are the criteria to trigger the Water Transfer Act?

A. The Water Transfer Act (K.S.A. 82a-1501 through 82a-1508) is triggered when an entity submits one or more water appropriation applications for the diversion and transportation of 2,000 acre-feet or more per year of water to a "point of use" outside a 35-mile radius from the "point of diversion" of such water. As far as the Water Transfer Act is concerned, the point of use is the geographic center of the place of use. The point of diversion is the geographic center of all points of diversion.