

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on March 2, 2000.

following additional duties: (1) Establish rules and regulations. (2) Evaluate and approve each proposed bank charter. (3) Review the proposals to ensure the bank would actually save 10% or more in total groundwater consumed. (4) Review the boundaries of each proposed bank. (5) Issue Term Permits for leases, including terms and conditions of the agreements. (6) After five years, convene a review team to evaluate the operation of each bank that has been established in order to determine whether the Charter should be extended. The Chairperson had asked he address issues related to multiple hydrological areas. Section 2(a) allows a bank boundary to encompass more than one hydrological unit. Section 3 (b) (1) requires that any leased water be used within the bank boundary and in the same hydrological unit from which the water is deposited. Both of these provisions are needed. **SB388** deals with a complex issue which should require careful consideration. (See attachment 3) Questions and discussion followed.

Chairperson Freeborn opened public hearing on **SB388**.

SB388: **An act enacting the Kansas water banking act.**

The Chairperson welcomed Senator Tim Huelskamp to the committee. Senator Huelskamp, Chairman of the Sub-Committee on SB388, addressed the committee in support of the bill, which had been passed out of his committee. He stated there are two principle goals in the bill. One of those is conservation and the other is flexibility, in the usage of water. Water is a limited and valuable resource. He feels with this bill we are able to help conserve and retain some of that water. We are also able to create a better market for water which we are able to move around and get a better economic return on. He feels the Chief Engineer did an excellent job of describing some of the changes that were made to the bill, in the Senate, and feels they were pretty consistent with the recommendations made by the Task Force. The Task Force did indicate this really is an untried concept and that Kansas will be the first state to have this type of water banking available if this bill would go through. He mentioned he does understand the concerns from the Division regarding the fiscal note. (No written testimony)

Chairperson Freeborn pointed out that on the last page of the supplemental note, with the bill from the Senate, there is an explanation of the fiscal note. The Chief Engineer added there would be on going additional expenses that may not be indicated in the supplemental note. Questions for Senator Huelskamp and discussion followed.

Richard Wenstrom, Kinsley, Kansas, was welcomed to the committee. He appeared in support of the bill, on behalf of the 550 farmer-irrigator members of the Water Protection Association of Central Kansas (Water PACK). He believes water banking is a conservation tool through the Safe Deposit Box feature, coupled with the Conservation Element. Water banking is an incentive-driven concept, all transactions are voluntary, and the incentives are designed to attract participants. Water banking can be a tool for water management assistance in a hydrologic area with the boundaries of the water bank. A water bank is self-funded, a margin on all sales from the water bank provides operating capital to fund the bank. Included in his testimony was a text on water banking as listed in the Rattlesnake Creek Sub-basin Management Plan, an example of how the Safe Deposit Box can be used, and one showing an example of water rights deposits and leases out from a water bank. (See attachment 4)

Roger K. Weatherby, Attorney at law, member of the Water Rights Banking Task Force, was welcomed to the committee. He appeared in support of the bill as amended by the Senate. It was the goal of the task force to describe the creation of a market place where water rights and water could be marketed outside the current method established by existing bureaucratic programs. He believes the bill improves on the original submittal. If enacted it will provide a valuable tool in the management of the surface and ground water resources of the state. The Kansas River Water Assurance District plans to apply for a charter to operate a combination surface/ground water bank once this legislation is enacted. (See attachment 5)

Bill Fuller, Kansas Farm Bureau, was welcomed to the committee. He appeared on behalf of Kansas Farm Bureau and supports the concept of water banking. While their support can be based upon the water conservation component alone, they also recognize that water banking can be a viable water management tool that will allow water users several options not currently available. Kansas Farm Bureau has always insisted that a water right is a property right. Therefore, believe the holder of the water right has the right to place that

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water right in a water bank, or even sell that water right. While they support creating opportunities for the holders of water rights to participate in water banking, believe there are a number of issues that must be addressed and several questions that must be answered. (See attachment 6)

Mike Beam, Kansas Livestock Association, was welcomed to the committee. He appeared on behalf of KLA in support of the bill and believes a water bank will be most valuable in areas of the state that are over appropriated or closed to new appropriations. A bank will establish a network to match those who wish not to use their full annual appropriation with entities (irrigators, livestock operations, industrial users, municipalities, etc.) willing to lease their appropriation right. This added flexibility should cause a limited water resource to be put to the most economical use. The water-banking concept also imposes an added conservation incentive. Current water appropriation law and regulations encourage water users to pump their full appropriation to preserve their water right. The safety deposit accounts actually allow a water user to store unused water for future use. This option provides an incentive to store water for a subsequent year while assuring less overall water usage. (See attachment 7)

Ron Appletoft, Water District #1 of Johnson County, was welcomed to the committee. He appeared in opposition to the bill on behalf the Water District. This bill would enact the Kansas water banking act. He believes Water banking is a new concept with many unknown consequences. The Water District has therefore taken a cautious approach to the bill. The Water District took a neutral stand on the original language of the bill, however, some recent amendments cause them concern. It appears the language added to section 4 and the language removed from section 3 and 5 could have negative impact on the state water appropriation system. These amendments appear to be inconsistent with the task force report, which was the basis for this bill. The Water District therefore suggests that these amendments be reversed to clarify the intent of the bill. (See attachment 8)

Margaret Fast, Kansas Water Office, was welcomed to the committee. She appeared on behalf the Kansas Water Office and the Kansas Water Authority in a neutral position to the bill. The Kansas Water Authority has a significant interest in the concept of water banking, having approved a water right banking subsection of the Kansas Water Plan in 1995. The goal of the Kansas Water Plan related to water right banking is to achieve economic growth while protecting water resources through improved conservation and management practices. The Kansas Water Office tracked discussion of this bill through the Senate, but did not present testimony. Changes in the bill raise several issues which she discussed, conservation, seed money, and uncertainty. (See attachment 9) Questions and discussion followed.

Chairperson Freeborn closed the hearing on **SB388**. She appointed a sub-committee to discuss **SB388**. Members will include; Chairperson Freeborn, chair; Rep. Becky Hutchins; Rep. Tom Sloan; Rep. Vaughn Flora; and Rep. Dennis McKinney. The regular committee meeting is scheduled for Tuesday, March 7.

The meeting adjourned at 5:45 p.m. The next meeting is scheduled for Tuesday, March 7, 2000.