

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 16, 2006, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Judy Holliday, Committee Secretary

Conferees appearing before the Committee:

Steve Swaffar, Kansas Farm Bureau
Brent Haden, Kansas Livestock Association
Herb Graves, Kansas Association of Watersheds
Adrian Polansky, Secretary of Agriculture

Others attending:

See attached list.

Chairperson McGinn told the Committee that in the interest of time, the hearing on **HB 2867, Concerning dam safety**, would be opened and testimony taken until 9:00 a.m., at which time the hearing on **HB 2867** would close and the Committee would open the hearing on **HB 2710, Creating the water right transition assistance program**.

Brent Haden, Assistant Counsel for the Kansas Livestock Association, testified in support of **HB 2867** (Attachment 1). Mr. Haden stated that **HB 2867** was identical to **SB 524** but was significantly amended in the House, removed sections dealing with hazard reclassification for downstream development; contains a clause requiring the Division of Water Resources to pay for all dam inspections; requires Chief Engineer to utilize all existing maps to create breach inundation maps for existing maps; requires the Chief Engineer to inspect but not require correction of defects of dams that only endanger lives of the dam's owner, operator or family if the dam failed; requires that the Chief Engineer obtain written certification from the dam owner acknowledging acceptance of risk; requires notification by the owner to the buyer of the dam regarding the dam's condition prior to transfer of ownership and notification by the new owner to the Chief Engineer upon transfer of ownership; and a requirement that results of the Chief Engineer's inspection of the dam be filed with the register of deeds in the county where the dam is located. Mr. Haden testified that KLA believes dam owners should not be subjected to expensive inspection and repair requirements when the only lives endangered by the dam are those of the owner or their immediate families. Mr. Haden called the Committee's attention to written testimony submitted by Kansas Livestock Association members Phyllis and Dee Scherich, Merrill Ranch, Comanche County, Kansas (Attachment 2).

Herbert R. Graves, Jr., Executive Director of the State Association of Kansas Watersheds (SAKW), testified in opposition to **HB 2867** (Attachment 3). Mr. Graves stated that there was no need to include fees for inspections by the Chief Engineer, Division of Water Resources. SAKW's position is that dam inspections are a financial burden to dam owners, and funds should be allocated to existing dam construction and rehabilitation programs to share costs with dam owners for the required hazard class inspections. Mr. Graves called the Committee's attention to language changes regarding breach inundation maps, liability of dam owners, continued development by the landowner in the breach inundation area, and exemptions to certain dam owners.

Adrian Polansky, Secretary of Agriculture, Kansas Department of Agriculture, testified in opposition to **HB 2867** (Attachment 4). Secretary Polansky compared **HB 2867** to **SB 524** which the Department also opposed because of the risk to life and property. Secretary Polansky stated that the Division of Water Resources informed him there are probably only four dams that fit the parameters of this bill, and that his agency would rather work with the State Conservation Commission and the Kansas Water Office to find funding for making these four structures safer than to pass legislation that endangers public safety and conflicts with the mission of the dam safety laws. He estimated that the cost of dam repairs would average \$100,000 each. Secretary Polansky discussed other problems with the bill, including inspections and reporting to dam owners who may

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not correct the deficiencies, written certification from the dam owner that he or she accepts the risk, requiring the dam owner to inform a buyer of the dam's condition prior to property transfer, and the excessive cost of breach inundation maps (\$17 million for 5500 dams) with regard to downstream development.

There were no questions on **HB 2867** and the hearing was closed.

Chairperson McGinn opened the hearing on **HB 2710** and stated that there was a motion on the floor by Senator Huelskamp for an amendment to the bill (Attachment 5). Senator Huelskamp made a motion to withdraw his amendment and submitted an updated amendment, seconded by Senator Ostmeyer. The motion carried.

Senator Huelskamp told the Committee that in the second amendment (Attachment 6) the language was updated to include "any acquisition of water rights or leasing of water rights would be through a program enacted by the Legislature." Language also included giving preference to senior water rights. Senator Huelskamp asked if anyone was aware of any current water rights programs operating without legislative authorization. Mike Hayden, Secretary of Wildlife and Parks, told the Committee there is a program through which water rights were leased for irrigation rights in Norton County and how important this was to that region. He asked that the project be exempted from this bill.

Chairperson asked for a motion to accept the Senator Huelskamp's amendment. A motion was made and seconded to accept the amendment. The motion carried.

Senator Taddiken made a motion to offer an amendment to remove "partial water rights" by striking lines 30 and lines 38-42 and inserting "permanent water rights", seconded by Senator Pyle. The motion carried. Senator Taddiken explained that this would make the bill cleaner and easier to administer.

Chairperson McGinn asked Raney Gilliland, Legislative Research Department, to explain the bill. Mr. Gilliland called attention to the first amendment to the bill which was made at the March 10, 2006, Committee meeting. This amendment clarified language that the State Conservation Commission does not have the authority to terminate water rights but has the authority to enter into contracts that result in the termination of water rights. On the next amendment on page 3, beginning on line 27-31, a motion was made to delete the economic impact study [bracketed language] and the language regarding reporting to the Senate Standing Committee on Natural Resources and the House Committee on Environment on the economic impact studies being conducted on the reduction of water consumption. Further language changes on page 2 dealing with number of areas, strike language to "not more than 2"

Chairperson McGinn asked if there was any more discussion. There being none, she told the Committee they would continue discussions on **HB 2710** at the Committee meeting on Friday, March 17, and asked staff to clean up the language on **HB 2710**. Chairperson McGinn also told the Committee it would be hearing **SB 526, Concerning sales of over-the-counter deer tags** at that meeting.

Senator Taddiken asked for a moment to tell the Committee about the Kansas Health Foundation being in the Capitol today. He reminded the Committee that last year the Kansas Health Foundation got an any-sex tag for deer and an elk permit and sold the tags at the Elks National Convention. The deer tag was purchased by a Washington resident for \$7,000 and the elk tag brought \$23,000. Senator Taddiken told the Committee that this money will be used in Kansas for projects such as Big Brothers and Sisters, Kids Outdoors, and other charities, and the idea of making money for charitable projects related to outdoors and hunting worked.

Chairperson McGinn asked Committee members to review the minutes of the March 2 and 3 Committee meetings and be prepared to approve them at the Friday, March 17 meeting.

There being no further discussion to come before the Committee, the meeting adjourned at 9:35 a.m.