

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 13, 2001 in Room 231-N of the Capitol.

All members were present except: Representative Bruce Larkin - excused
Representative Jeff Peterson - excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Richard Wenstrom, Water Protection Association of Central Kansas, Rt 1 Box 107, Kinsley, KS 67124
Mike Beam, KS Livestock Association, 6031 SW 37th Street, Topeka, KS 66614
David Pope, Chief Engineer, Div. of Water Resources, KS Dept. of Agriculture, 109 SW 9th Street, 2nd Floor, Topeka, KS 66612-1283
Sharon Falk, Groundwater Management District #5, 125 S. Main, Stafford, KS 67578
Bill Fuller, Associate Director, Public Policy Division, KS Farm Bureau, 2627 KFB Plaza, Manhattan, KS 66505-8508
Kent Lamb, Chairman, Kansas Water Authority, RR1, Box 69, Macksville, KS 67557
Karl Muedener, Director, Bureau of Water, KS Department Health and Environment, Forbes, Bldg. 740, Topeka, KS 66620-0001
Earl Lewis, Kansas Water Office, 901 S. Kansas Avenue, Topeka, KS 66612-1249
Diana Edmiston, Senior Assistant General Counsel, Kansas Corporation Commission, 1500 SW Arrowhead Road, Topeka, KS 66604

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She welcomed a group from 2001 Tomorrow's Agri-Business Leaders' Class visiting the committee today. They are co-sponsored by the Kansas Grain and Feed Association and the Kansas Fertilizer and Chemical Association. She announced that **HB2198, HCR5008, HB2317, and HB2133** may have possible final action today. She opened the hearing on **HB2047**.

HB2047: An act concerning water rights; relating to water banking; enacting the Kansas water banking act.

The Chairperson welcomed Richard Wenstrom, Water Protection Association of Central Kansas, to the committee. He testified as a farmer-irrigator member of the Water PACK in support of the bill. WaterPACK very much wants to use the water banking concept as one of their elements of water use reduction in the Rattlesnake Creek Sub-basin and will be available to the committee on an as-needed basis as a resource. (See attachment 1)

Mike Beam, Kansas Livestock Association, was welcomed. He presented testimony on behalf KLA in support of the bill. The KLA actively supported water-banking legislation last year and are hopeful a workable bill will pass this year. As the Water Banking Task Force report stated, 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

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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. (See attachment 2)

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, was welcomed to the committee. He appeared on behalf of Secretary of Agriculture Jamie Clover-Adams to provide testimony in support of the bill. Managing and regulating water use in Kansas currently rests with the chief engineer, but KDA is amenable to exploring new management practices like those proposed in water banking. Water banking allows a water user who chooses not to use all or part of a water right to deposit it into a water bank so other water users can lease it. One very important provision of the bill requires the bank charter to ensure that operating the bank will result in at least a 10 percent reduction in total groundwater consumption. One of the challenges for the operation and oversight of water banking will be to ensure this actually happens. (See attachment 3)

Sharon Falk, Groundwater Management #5, was welcomed. She testified before the committee in support of the bill. The Groundwater District is seeking to establish a groundwater banking system within the Rattlesnake Creek Basin of south central Kansas. It is only one of many programs that has been selected to reduce total water use within that area. Their intent is to offer incentives to decrease water use in sensitive areas, and provide flexibility for the water users while conserving the water resources. (See attachment 4)

Bill Fuller, Kansas Farm Bureau, was welcomed to the committee. He appeared on behalf of Farm Bureau in support of the bill. Kansas Farm Bureau 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 water right in a water bank, or even sell that water right. (See attachment 5)

Written only testimony, in support of the bill, was submitted by Mike Brzon, Chairman, Lower Republican Water Association. (See attachment 6)

Chairperson Freeborn welcomed Kent Lamb, Chairman, Kansas Water Authority, to the committee. Mr. Lamb addressed the committee on a neutral basis to the bill. At the Kansas Water Authority meeting on January 18, 2001, the KWA adopted a position on water rights banking. The KWA supports the development and implementation of pilot water banks in the State of Kansas. They do have four qualifications of that support, that may need to be considered as amendments to the bill. Those are: (1) Banks should be established on a pilot basis. (2) The safe deposit account provision should be removed. (3) DWR should have a comprehensive water right enforcement program for all water rights within the entire hydrologic unit of the bank, with significant penalties. (4) Evaluation of the pilot banks should be based on the entire hydrologic unit. (See attachment 7) Questions and discussion followed.

There were no opponents to the bill. The Chairperson closed the hearing on **HB2047** and appointed a Sub-Committee to do further study. The Sub-Committee members are; Representative Joann Freeborn, Chairperson; Representative Becky Hutchins; and Representative Dennis McKinney.

The Chairperson opened the hearing on **HB2198**.

HB2198: An act concerning the Kansas water pollution control revolving fund.

Chairperson Freeborn welcomed Rod Geisler, Section Chief for Municipal Programs Section, Bureau of Water, KDHE, to the committee. He introduced Karl Mueldener, Director, Bureau of Water, KDHE. He addressed the committee in support of the bill, which revises the legislation establishing the Kansas Water Pollution Control Revolving Fund (fund). The fund was established in 1989 to allow Kansas to receive Federal grants from EPA, and then provide low interest loans for wastewater treatment and water pollution control projects. The program is working well, having provided 165 loans to local governments for over \$397 million (as of September 28, 2000) Congress has now created two new federal grant programs, required to be administered by the same state agencies that administer the State Water Pollution Control Revolving Fund.

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These are the Rural Hardship Assistance Grants program, which received a one-time appropriation of \$651,400 for Kansas, and the Wet Weather Water Quality program which can provide about \$7 million per year. This bill will amend existing state legislation to allow Kansas to utilize the new grant programs and allow KDHE to administer these in conjunction with the ongoing Kansas Water Pollution Control Revolving Fund. (See attachment 8)

There were no opponents to the bill. The Chairperson closed the hearing on **HB2198** and asked if the committee wished to take action.

Rep. Ted Powers made a motion the bill be passed favorably and placed on the consent calendar. Rep. Tom Sloan seconded the motion. Motion carried. Rep. Vaughn Flora will carry the bill on the House Floor if it is taken off the consent calendar.

Chairperson Freeborn opened the hearing on **HCR5008**.

HCR5008: A concurrent resolution urging the Congress of the United States to provide funding to the United States Army Corps of Engineers to study reallocation of storage space from the flood control pool to the conservation pool in John Redmond Lake in Coffey County, Kansas.

The Chairperson welcomed Earl Lewis, Environmental Scientist, Kansas Water Office, to the committee. He provided testimony in support of the resolution which will provide support to allow the Corps of Engineers to receive the necessary funding to complete the reallocation study and implement the permanent pool raise. This resolution will help to provide the State's position on the importance of water supply storage in Kansas and bring the issue of siltation in federal lakes in Kansas to the attention of the United States Congress. (See attachment 9) Questions and discussion followed.

There were no opponents to the resolution. The Chairperson closed the hearing on **HCR5008** and asked if the committee wished to take action.

Rep. Tom Sloan made a motion the resolution be passed favorably and placed on the consent calendar. Rep. Dan Johnson seconded the motion. Motion carried. Rep. Ray Merrick will carry the resolution on the House Floor if it is taken off the consent calendar.

Chairperson Freeborn opened the hearing on **HB2317**.

HB2317: An act concerning oil and gas; relating to pollution from certain lease facilities and conditions.

The Chairperson welcomed Diana Edminston, Senior Assistant General Counsel, Kansas Corporation Commission. She appeared before the committee in support of the bill. The KCC believes this bill would fill two regulatory gaps. (1) First, it would confirm that a party who is responsible for an abandoned oil and gas well is also responsible for the other remaining lease conditions, which may also cause pollution. (2) Second, it would confirm that the state abandoned oil and gas well fund can be used to cleanup and remediate other lease conditions, even if not directly connected to a specific abandoned well. (See attachment 10) Questions and discussion followed.

There were no opponents to the bill. The committee had unanswered questions and did not take final action.

The Chairperson closed the hearing on **HB2317**. She reviewed the agenda for Thursday, February 15.

The meeting adjourned at 5:50 p.m. The next meeting is scheduled for Thursday, February 15, 2001.