

Approved: 2/8/05

Date

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairperson Joann Freeborn at 3:30 P.M. on January 20, 2005 in Room 231-N of the Capitol.

Committee members absent: Representative Bill Light- excused

Committee staff present:

Raney Gilliland, Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Dana Wurdeman, Committee Secretary

Conferees appearing before the committee:

Representative Tom Sloan
Dale White, Mayor, Horton, Kansas
Paul Liechti, Kansas Biological survey
Dennis Schwartz, Board member of Kansas Rural Water Association and Manager of Rural Water District No. 8
Bub Burke presented testimony for Don Seifert, Municipal Services Director for the City of Olathe
Greg Foley, Executive Director, State Conservation Commission
Brad Mears, Holton City manager (written testimony)
Carl Numzman, Chairperson, Kansas-Lower Republican Basin Advisory Committee (written testimony)
Tracy Streeter, Acting Director, Kansas Water Office, and Secretary of the Kansas Water Authority

Others attending:

See attached list.

Chairperson Freeborn made Committee announcements, gave instructions as to how members were to offer possible amendments to proposed legislation the Committee would be working on this session, and reviewed next Tuesday's agenda. The Chair called for bill introductions.

Representative Johnson presented a bill request by Greg Foley, State Conservation Commission, who had to leave for another meeting. He explained the proposed legislation pertained to Irrigation Transition Assistance Program, and said Mr. Foley had talked with the Revisor.

Representative Johnson made a motion to introduce a bill which would put into statute Irrigation Transition, seconded by Representative Vaughn Flora, and the motion carried.

HB 2017 - Clean drinking water fee; use for protection of source water and assistance to public water supply systems

Chairperson Freeborn opened the hearing on **HB 2017**. Representative Sloan testified in support of the proposed legislation which he sponsored. He explained that until a few years ago, drinking water systems for both cities and rural water districts were required to pay sales tax on all purchases, and waste water systems were exempt from this tax. He said that this created bookkeeping problems for many communities in which the drinking and waste water operations were in the same department, and gave examples of the problems. The Legislature recognized the problem and authorized drinking water systems to pay 3 cents per 1,000 gallons of treated water sold at retail, which became know as the Clean Drinking Water Fee.

Representative Sloan explained that **HB 2017** transfer the Clean Drinking Water Fee money from the State General Fund to the Kansas Water Plan, which amounts to approximately \$3 million per year. He said that the money is dedicated to providing on-site technical assistance and funding projects to renovate/preserve drinking water lakes. He added that this concept has been endorsed by the Kansas Water Authority after a year's review and discussion. He testified that questions had been raised about the timing of this transfer, and after consulting with all interested parties involved suggested the Clean Drinking Water Fee money be transferred from the State General fund as follows: 1/4 as of January 1, 2006, 2/4 as of July 1, 2006, 3/4 as of January 1, 2007, and 4/4 as of July 1, 2007. He concluded his

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testimony by stating that he offered this schedule in the spirit of compromise, while remaining true to the intent of all to help drinking water systems protect the public's health. (Attachment 1)

NOTE:

Sloan referred to maps that Committee members had showing all the reservoirs in Kansas marked with red dots, and also a map of Perry Lake in full color. The map included an image made in August, 1973 and an image of July 2003 - 30 yrs. later - one can see the changes in size and shape which the lake has taken due to sediment that has filled it - NO MAPS IN TESTIMONY GROUP OR ATTACHED TO HIS TESTIMONY.

Chairperson Freeborn noted that upstream protections were not addressed. She asked if remediation was done, i.e. dredging; and there was no change of upstream activity. Would renovation provide a lasting remedy? Representative Sloan said the reason for not addressing upstream protections was that the water plan has programs already in place and on the books. He stated that Tracy Streeter would have more information on that subject.

Chairperson Freeborn referred to the bill, lines 8, 9, and 10 under section b, which says the remainder shall be used renovate and protect lakes used directly or indirectly. She asked what was meant by directly and indirectly. Representative Sloan responded that directly would be a city who has its water treatment plant on that lake, and indirectly would be something in Topeka that takes its water from the Corps lakes or comes down the Kansas River. The Chair questioned how broad "indirectly" would be interpreted. This question was not fully addressed.

Representative Hayzlett inquired what the rationale was regarding line 41 on page 1, where it talked about a portion of the money would be credited to the State Highway Fund and the remainder to the State General Fund. Representative Sloan said he did not know for sure, but it came from the original statute and had been carried through.

Representative Hawk asked what percent of the rural water districts pay the sales tax instead of the 3 cents. Representative Sloan replied that most of them do pay the fee, but not all of them. He said he had been unable to get the exact number from the Department of Revenue. Representative Hawk asked if this provide the Kansas Water Plan \$3 million more than what they currently have or is that money being transferred to them through the State General Fund. Representative Sloan said they would have \$3 million more than they have whenever it is completed, but it is focused on specific types of projects which fills the gap between upstream programs, the irrigation programs, and Parks and Recreation Programs.

Representative Hawk asked for clarification on the ones who are paying the sales tax, that money would not go into this fund. Representative Sloan replied in the affirmative. Representative Hawk asked if the water districts would have a choice any time, i.e. year by year or month by month, whether to pay sales tax. Representative Sloan answered that they would not, and that it was a one time opportunity to make a one time decision to move from sales tax to the fee, but they cannot go back to the sales tax due to the difficulty for the Revenue Department to follow.

Committee questions and discussion followed Representative Sloan's testimony

Dale White, Mayor of Horton, Kansas, testified in support of **HB 2017**. He introduced Ron Smith, City Administrator, and Connie Werner, President of the Horton Chamber of Commerce. He expressed how important water was to the future of Kansas. He stated that it was ironic that under current law, funds raised from public water systems – the clean drinking water fund – goes to the General Fund. He said that while it can fund Kansas Department of Health and Environment's efforts to keep our water systems clean from pollutants, it can't fund cleaning our lakes and reservoirs.

Mayor White summarized why Horton was interested in the passage of **HB 2017**, which is detailed in his written testimony. He explained a circulated rumor among some legislators that the city of Horton wanted to fix its lake's water supply so that the town could supply water to the Kickapoo Tribe, and stated it was

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not true. He gave the history behind the water problem of the Kickapoo Tribe, and talked about the tribe's proposal to build the Plum Creek Reservoir, which has the support of the Brown County Commission, Hiawatha city Commission, Hiawatha Industrial Development, and Horton's City Commission. Mayor White concluded by stating that dredging gives citizens not only less silt, but also deep water, which helps Atrazine to biodegrade. Mayor White included with his written testimony a copy of a letter to City Administrator, Ron Smith, from Ronald R. Demaray, President/CEO, Regulatory Consultants, Inc., Horton, Kansas, requesting support in seeking state assistance to get Mission Lake dredged and cleaned up. (Attachment 2)

Representative Sloan clarified that the City of Horton was looking to the state to share the costs as communities do on a lot of other conservation programs, and were not asking the state to do the project for the city. Mayor White replied that the citizens of Horton believe they have the responsibility as a community to furnish clean drinking water, and have endeavored to develop a funding plan that includes private, local, and state involvement. He stated that he could not emphasize enough that Horton is not a rich community, and has visited with various citizens in the area regarding the possibility of their water bills doubling if the project goes through in April. He said that even the elderly people he has talked to said that it would be worth it.

Paul Liechti, Assistant Director of the Kansas Biological Survey (KBS), spoke in support of **HB 2017**. He said the importance of providing safe, clean drinking water and protecting the sources of drinking water is without question. Water supply lakes are also important for other reasons as well, such as recreation and flood control. He said an added benefit of protecting water supply lakes is that the streams in the watershed that feed the lakes would likely also receive an increased level of protection which would help sustain the aquatic life that depend on these streams. He spoke briefly in regards to the need of a cost-benefit analysis and funding issues. (Attachment 3)

General Committee questions and discussion followed.

Dennis Schwartz, Kansas Rural Water Association (KRWA), testified in support of **HB 2017**. He explained that this proposed bill would credit the payments being made by city and rural water districts to the Clean Drinking Water Fee to be credited to the benefit of the Kansas Water Plan. He said that more than 800 cities and rural water districts presently pay into the clean Drinking Water Fee, and more are moving to so vs. pay sales tax. Mr. Schwartz stated that the successful completion of the projects depends on support from the public, and action by the Governor and Legislature to fully restore funding for the State Water Plan Fund, a dedicated funding source for water projects. (Attachment 4)

Committee questions and discussion followed regarding funding sources, possibility of fees directed to Kansas Water Office, and clarification involving the sales tax collected on water services.

Bud Burke presented testimony for Donald Seifert, Olathe Municipal Services Director, in support of **HB 2017**. He said that Olathe is the fifth largest public water provider in the state, and the city has a strong interest in the use of water fees. He stated that the city supports the simple intent of the proposed bill, and would include technical assistance to public water systems, watershed protection activities, or lake restoration projects, all conformance with the state water plan. The City of Olathe believes the proposed legislation represents good public policy in the use of the water fees. (Attachment 5)

Scott Carlson presented testimony for Greg Foley, Executive Director, State Conservation Commission (SCC), testified in favor of **HB 2017**. He spoke about the clean drinking water fees, and that some of the funds could be used to renovate and protect lakes which are used as source water for public water supply systems. He stated that the Kansas Water Office and the Kansas Water Authority have been working on this issue, and have recommended that action be taken to address the renovation of an existing water supply. As the public water supplies in Kansas that depend on surface water continue to age, this is an issue that will need to be addressed. Mr. Carlson concluded that SCC supported what this bill could do and all SCC programs that the Legislature has directed to this agency for administration. (Attachment 6)

Committee questions related to clarification of which agency would be administering the program, and

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whether these funds would only apply to surface water issues or would also apply to other water sources.

Bradley Mears, City Manager for Holton, Kansas, submitted written testimony in favor of the passage of **HB 2107**. (Attachment 7)

Carl Nuzman, Chairperson, Kansas-Lower Republican Basin Advisory Committee, submitted written testimony in support of **HB 2107**. (Attachment 8)

Chairperson Freeborn called upon Tracy Streeter to testify, and asked if he was a neutral conferee or a proponent on **HB 2107**. Mr. Streeter, Acting Director, Kansas Water Office, and Secretary of the Kansas Water Authority (KWA), said he was both and that his testimony was in support of the basic concepts contained in **HB 2017**. He explained the clean drinking water fee and the proposed changes in **HB 2017** as outlined in his written testimony. Mr. Streeter told what action the KWA took in November of 2004, and clarified the need for the additional revenues within the State Water Plan would provide a source of funding for future restoration projects in the much larger reservoirs in the state. He said Water Authority has also approved the study on this project, of which a demonstration project is one of the first visible steps in gathering data for that policy study. (Attachment 9)

Mr. Streeter testified that the Governor's budget for FY 2006 proposes expenditures from the State General Fund (SGF), which includes the revenues generated from the clean drinking water fee. He said, in addition, the KWA has taken action to support the restoration of the SGF demand transfer to the FY 2006 State Water Plan Fund (SWPF) as Phase I of its Water Plan Projects Initiative. Mr. Streeter stated that the Governor has recommended full restoration of the SGF demand transfer in her budget recommendations, and as a result, the January 1, 2006 date proposed in **HB 2017** would result in revenue shifts that are inconsistent with the aforementioned KWA policy and the Governor's budget recommendations for FY 2006. This would prevent him from supporting the proposed bill because of it being inconsistent with the Governor's budget recommendations.

Mr. Streeter further testified that discussions have ensued among water agencies and the Governor's Office regarding Phase II of the Water Plan Projects Initiative which would be proposed for implementation in FY 2007. Phase II would look to restore additional SWPF revenue by transferring certain SWPF programs and activities historically funded by the SGF back to the SGF. He concluded his testimony by stating that the Authority could fully support the proposed bill if this Committee was to change the date that the revenue would start flowing into the SWPF to July 1, 2006.

Committee questions and discussion followed regarding the various agencies involved in this subject matter, how the criteria was going to be developed for participants in restoration projects, if a process should be amended into the bill on deciding how the lakes will be chosen for funding since there are quite a few communities involved in various political districts throughout the state, how much in federal dollars will be involved, how does the Committee remediate the conflict, and if Mr. Streeter would have a problem with adding an amendment of going through Rules and Regulations so that there would be public input into the process which is a standard process.

The meeting was adjourned at 5:00 p.m. The next scheduled meeting is January 25.