

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 9, 2006, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Constantine Cotsoradis, Kansas Department of Agriculture
Edward R. Moses, Kansas Aggregate Producer's Association
Gary Blackburn, Kansas Department of Health & Environment
Leslie Kaufman, Kansas Co-op Council
Tom Palace, Petroleum Marketers Assn.
Jeff Turnbull, Turnbull Oil
Kim Barnes, Pawnee County Co-op

Others attending:

See attached list.

Chairperson McGinn asked the Committee to approve the minutes of the February 16, 17, and 20, 2006, Committee meetings. Senator Bruce made a motion, seconded by Senator Ostmeyer, to approve the minutes. Motion carried.

Chairperson McGinn asked if there was more discussion needed on **HB 2716, Granting of easement for diversion works on Kansas river for water district number 1 of Johnson County.** There being no further discussion, Senator Bruce made a motion, seconded by Senator Ostmeyer, to move the bill favorably out of Committee. The motion carried.

The hearing on **HB 2875, Concerning inspection fees for works constructed for appropriation of water for beneficial use.** Edward Moses, Managing Director of Kansas Aggregate Producer's Association, testified in support of **HB 2875 (Attachment 1)**. Mr. Moses discussed with the Committee the primary provisions of the bill which would provide for a statute of limitations on the loss of priority resulting from delayed or faulty field inspection by the Kansas Division of Water Resources, and would provide a formal notification to the applicant upon completion of the inspection and any needed changes as a result of the inspection. Mr. Moses told the Committee that the original bill applied to all water users uniformly, but the House amended now limits the scope of the bill to the sand and gravel industry. Mr. Moses suggested a substitute bill be introduced to place this bill into the sand and gravel chapter (K.S.A. 82a-734) of the Kansas Water Appropriations Act.

Senator Lee asked about the location of the well in question that triggered the bill, and Mr. Moses stated that it was 625 feet, double what the distance should be.

Chairperson McGinn asked Mr. Moses to come forward to answer questions about support for the House changes to the bill if the language sand and gravel 'pits' is struck and sand and gravel 'projects' is added.

Constantine Cotsoradis, Assistant Secretary of the Kansas Department of Agriculture, testified in support of **HB 2875 (Attachment 2)**. Mr. Cotsoradis stated that the Department supports the bill as it appears to the Committee right now because the bill is narrow in scope, covering sand and gravel projects, not just sand and gravel pits. He stated that the Department opposes not having meters.

Senator Taddiken asked about the suggestion on 'non-consumptive usage' and Mr. Cotsoradis stated his department opposes meters. He asked Lane Letourneau of the Division of Water Resources to help clarify the terminology. Mr. Letourneau stated that any water pumped from a well is consumptive use, whether its from the sand and gravel industry or any other industry.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 9, 2006, in Room 423-S of the Capitol.

Senator Ostmeyer asked about wells that pump sand with the water, and Mr. Letourneau stated those are considered hydraulic dredging and considered different, or non-consumptive.

Chairperson McGinn told the Committee she would like to work this bill and get it out, but in the interest of time would hear the other bill before the Committee today and then come back to **HB 2875** later in the meeting or at tomorrow's Committee meeting. The hearing on **HB 2875** was closed.

Chairperson McGinn opened the hearing on **HB 2756, Kansas storage tank act, reimbursement for upgrades and closures**. She asked Raney Gilliland of the Legislative Research Department to explain the background of the bill.

Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas, testified in support of **HB 2756 (Attachment 3)**. Mr. Palace testified that **HB 2756** helps small distributors help small distributors with above ground tanks and bulk plants to maintain their presence in rural America. He testified that the underground storage tank act devastated many small towns and forced many small business owners to close because they could not afford to upgrade their tanks. This bill, while not covering all facility upgrade costs for above ground tanks will assist small business owners to stay in business to ensure adequate fuel supply for all Kansans.

Gary Blackburn, Director, Bureau of Environmental Remediation, Kansas Department of Health and Environment, testified in support of **HB 2756 (Attachment 4)**. Mr. Blackburn testified that the bill will provide reimbursements to aboveground storage tank owners to assist them in preventing spills. He also stated that ten months of the fees will go into the cleanup fund.

Senator Lee asked about the need for an advisory board, and Gary Blackburn stated that he felt the advisory board was a good idea to ensure uniform standards. Senator Taddiken asked if the Secretary has the authority to hold over the claims in case of a cash flow problem, and Mr. Blackburn stated that the Secretary has that discretion.

Chairperson McGinn asked all out-of-town conferees to present their testimony in the interest of time. Jeff Turnbull, Owner of Turnbull Oil in Plainville, Kansas, testified in support of **HB 2756 (Attachment 5)**. Mr. Turnbull testified that the EPA's Spill Prevention Control and Countermeasure Plan (SPCC) is an unfunded mandate which threatens numerous plants and businesses with closings due to the exorbitant costs. He explained that the SPCC was originally created to prevent pollution of navigable waters, but broadened to include all potential discharges over 2 spills > 42 gallons per year in any ditch, gutter, etc. He asked the Committee to include bulk dealerships in the one-cent per gallon environmental assurance fee which is already in place to cover the cost of these projects. Mr. Turnbull further explained that the proposed ceiling per location in the bill is helpful, but not enough to cover the costs and will result in numerous facility closings without a fee increase.

Kim Barnes, Internal Auditor for Pawnee County Cooperative Association in Larned, Kansas, testified in support of **HB 2756 (Attachment 6)**. Mr. Barnes told the Committee that the bill would allow the cooperative the ability to access the trust fund for reimbursement costs to retrofit one facility and permanently close another. He stated the important role bulk plants play in the farm economy regarding planting and harvesting time, terminal turnaround, and spot outages., and urged support of the Committee for the bill.

Copies of written testimony from Senator Ralph Ostmeyer (Attachment 7); Leslie Kaufman, Executive Director of the Kansas Cooperative Council (Attachment 8); Brad Thompson, Vice President of Bridgman Oil Company in Hutchinson (Attachment 9); and Mary Jane Stankiewicz, Vice President and General Counsel for the Kansas Agribusiness Retailers Association (Attachment 10) were distributed to the Committee.

Chairperson McGinn asked the Committee to look over the bills testimonies and that **HB 2716** would possibly be worked at the Friday, March 10, Committee meeting.

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