

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 17, 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:

J. Michael Hayden, Secretary, Kansas Department of Wildlife and Parks

Others attending:

See attached list.

Chairperson McGinn asked for approval of the March 2 and 3 Committee minutes. A motion was made to approve by Senator Teichman, seconded by Senator Huelskamp. The motion carried.

Chairperson McGinn announced that the Committee would be hearing **SB 526, Concerning sales of over-the-counter deer tags** until 9 a.m.; would hear **HB 2867, Concerning dam safety**; and would finish up with approval of the amendment to **HB 2710, Creating the water right transition program**.

Senator Lee began discussion of **SB 526** and stated that the Department of Wildlife and Parks had been promising for three years that it would totally redo the antlerless deer hunting regulations and asked that the Natural Resources Committee not make any changes, but the DWP made changes without notifying the Committee. She stated the bill she has introduced attempts to undo the change the Department made last year to only allowing hunters with big game permits to then purchase over-the-counter antlerless deer permits. **SB 526** would allow the purchase of over-the-counter antlerless deer tags by out-of-state hunters the same as Kansas allows in-state hunters. Senator Lee cited a report showing the change made by the Department of Wildlife and Parks resulted in a reduction of hunting permits sold to out-of-state hunters; the number of deer in relation to automobile accidents does not indicate a decline in deer population; and the change was not justified and should be changed back and discussed with the Committee. Senator Lee moved to pass **SB 526** out favorably, seconded by Senator Ostmeyer. Staff asked if the word “tags” should be changed to “permits.”

Christopher Tymeson, Chief Legal Counsel, Kansas Wildlife and Parks, commented that the bill as drafted would have no impact on Department operations; over-the-counter deer tags are available for non-residents as well as residents. Copies of written testimony from J. Michael Hayden, Secretary of the Kansas Department of Wildlife and Parks were distributed (Attachment 1). Senator Lee stated that she thought the bill had been written in consultation with the Department, but since it had not, she offered a motion to amend her motion to include the language by Mr. Tymeson of Wildlife and Parks. Senator Ostmeyer seconded the motion, and the motion carried. Chairperson McGinn restated Senator Lee’s original motion to pass the bill favorably out of Committee with a second by Senator Ostmeyer. The motion carried.

Chairperson McGinn opened the hearing on **HB 2867, Concerning dam safety**, and asked Brent Haden, Assistant Counsel, Kansas Livestock Association, to answer some questions. Chairperson McGinn stated that the bill reads “returns back to the Department” and asked if that meant the Department did the inspections before? Mr. Haden told the Committee the law changed in 2002 to require dam owners to pay for inspections, but that the Department had done them in prior years. In response to Chairperson McGinn’s question about the Division doing all dams, Mr. Haden stated that the Division would be doing all dam inspections. Mr. Haden also stated that the language on fee structure could be stricken.

Chairperson McGinn asked about rental property downstream in an inundation area from a dam, and if the renter would be responsible for a breach. Mr. Haden answered that the owner, not the renter would be liable.

Senator Lee questioned the report that only four dams were identified, and Mr. Haden’s response was that he

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 17, 2006, in Room 423-S of the Capitol.

really did not know, and there could be four or there could be two.

Constantine Cotsoradis, Assistant Secretary of Agriculture, offered comments on the issue. Mr. Cotsoradis stated that there may be more dams affected but only four that affect homes downstream, and three of those have been resolved. He stated that only the owner acknowledges the risk, not an employee or renter.

Chairperson McGinn stated that some language in the bill needs cleaned up but the Committee would continue hearing the bill. Chairperson McGinn asked if there had been any dam failures in Kansas, and if any of the larger ones were at risk. Mr. Cotsoradis stated that there had not yet been any failures, that there are several larger dams but there is no way to know when a dam will fail. Mr. Cotsoradis stated that \$275,000 had been earmarked for the Division's budget to fund the dam inspections, but the Senate would need to put the money into their budget.

Chairperson McGinn asked about the bill language that states "use existing maps available and then do breach maps." Mr. Cotsoradis told the Committee the maps cost \$3,200 each, thus requiring more staff to analyze the maps and increasing the costs. He stated that there are 5500 dams that need maps.

Chairperson McGinn asked Brent Haden to clarify language regarding who does inspections, and Mr. Haden stated they are done by a private engineer paid by the owner. Chairperson McGinn told the Committee that if the inspection fee language is left in the bill a tremendous burden would be placed on the Chief Engineer, and ultimately all taxpayers would be paying for the dam inspections, and that is not good policy either.

Senator Taddiken stated that if the bill passes "as is," the burden would be on the Division of Water Resources, and in his opinion if the cost burden were put back onto a state agency, it would be handled. Constantine Cotsoradis stated that the Department acknowledges there is a problem with the bill and asked that the Committee continue to study this issue and come up with a thoughtful recommendation, or concur with the House and require the Department to do the inspections.

Senator Bruce agreed that this is an ongoing problem acknowledged by the Department; that the system is not equitable now, and suggested that an Interim Study be done. Chairperson McGinn stated she would suggest to the Senate President that a study on this issue be done on its own or add to the Colorado water rights hearings.

Senator Bruce moved to table **HB 2867** and recommend an Interim Study, seconded by Senator Ostmeyer. The motion carried. The hearing on **HB 2867** was closed.

Chairperson McGinn opened the hearing on **HB 2710, Creating water right transition assistance program**, and called attention to the changes that were recommended (Attachment 2).

Senator Teichman stated this was a pilot project in only two areas, but could be extended to other areas. She made a motion to amend, taking out "permanent" and add "partial," seconded by Chairperson McGinn. The motion failed.

Mike Hayden, Secretary of Wildlife and Parks, commented that the bill as amended would cut out Almena and Prairie Dog. Chairperson McGinn stated it was her understanding that this language would only apply to new programs. Secretary Hayden told the Committee that the Almena contract would expire June 30 and a new contract would have to be written July 1, and even though it was a continuation of a two-year old program, it is a new contract. Senator Taddiken moved to amend the bill that the Almena project be funded and allow the Revisor's office to draft the appropriate language, seconded by Senator Ostmeyer. The motion carried.

Senator Lee made a motion to move **HB 2710** out of Committee, as amended, seconded by Senator Ostmeyer. The motion carried.

There being no further business to come before the Committee, the meeting adjourned.