

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on February 20, 2008, in Room 783 of the DSOB.

All members were present except, Representatives Holmes and Flora, both of whom were excused.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes
Kristen Kellems, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

John Donley, Assistant General Counsel, Kansas Livestock Association
Brad Harrelson, State Director, Kansas Farm Bureau
Sue Schulte, Director of Communications, Kansas Corn Growers Association
Woody Moses, Managing Director, Kansas Aggregate Producers' Association
Sharon Falk, Manager, Groundwater Management District #5
Mark Rude, Manager, Groundwater Management District #3
Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture
Pat Lehman, Northwest Kansas Groundwater Management District #4
Bob Seiler, President, Equus Beds Groundwater Management District #2
Kent Lamb, Mackville, Kansas
Norman Jennings, President, Smoky Hill Vineyards and Winery
Tuck Duncan, General Counsel, Kansas Wine and Spirits Wholesalers Association
John Brewer, Owner, Wyldewood Cellars
Phillip Bradley, Kansas Licensed Beverage Association

Others attending:

See attached list.

The Chair opened the hearing on **HB 2908 - permits for farm wineries**.

Norman Jennings, President, Smoky Hill Vineyards and Winery, spoke as a proponent for the bill (Attachment 1). He listed the important issues addressed by the bill:

- Allowing wineries to sell to temporary permit holders, such as at the Kansas State Fair;
- Bringing Kansas into compliance with federal labeling requirements;
- Allowing permits to sell by-the-bottle at farmers' markets;
- Allowing multiple licenses and manufacturing locations.

Tuck Duncan, General Counsel, Kansas Wine and Spirits Wholesalers Association, stated that the Association had no objection to the provisions of the bill (Attachment 2). He suggested deleting the language on page 2, line 20, “. . .that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas,” as being in conflict with federal regulations.

John Brewer, Owner, Wyldewood Cellars, Mulvane, spoke in support of the bill (Attachment 3). He noted that Wyldewood Cellars has four sales locations, 44 full-time employees, and provides over \$300,000 annually in taxes to the state. He stated that, by allowing sales to temporary permit holders, the bill corrects an oversight, and removing the 60% in-state requirement sets wineries free from an onerous restriction.

Tom Gronerman, Director, Alcoholic Beverage Control, Kansas Department of Revenue, testified as a neutral party, recommending that the bill needs some clarification regarding the temporary permits issued by the Director.

Phillip Bradley, CEO, Kansas Licensed Beverage Association, declared himself neutral regarding the bill, but stated that if **HB 2817 - microbrewery license, deleting the 50% Kansas-grown requirement** - were amended into the bill, the Association would support the bill (Attachment 4). He commented that such an

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 20, 2008, in Room 783 of the DSOB.

amendment would place all alcohol products on the same level.

The hearing on **HB 2908** was closed.

The Chair opened the hearing on **HB 2625 - intensive groundwater use control areas, mandatory review and advisory committees**. Staff Raney Gilliland reviewed the bill, saying the bill deals with intensive groundwater use control areas, IGUCA being the acronym used. The Chief Engineer of the Division of Water Resources uses IGUCA as a tool for water resources in Kansas. A 2007 interim committee suggested the establishment of a Review Advisory Committee for the purpose of looking at IGUCA's established within the last seven years. Members of the Review Advisory Committee are to be selected at random from the agriculture, industry and municipality arenas; two additional members are appointed by the Chief Engineer and one additional member by the Groundwater Management District. In addition, a Designation Advisory Committee would give consideration to the public interest for the purpose of allowing corrective action in the event a new IGUCA is proposed. Mr. Raney said one technical piece to be added on page 3, line 35, under sub-section (a) would state, "any intensive groundwater use control area".

John Donley, Assistant General Counsel, Kansas Livestock Association, testified as a proponent for the bill ([Attachment 5](#)). He noted that the present IGUCA (Intensive Groundwater Use Control Area) statute lacks an independent hearing officer and a mandatory review of IGUCA orders; both concerns are addressed by this bill.

Brad Harrelson, State Director, Kansas Farm Bureau, spoke in favor of the bill ([Attachment 6](#)). Noting that water conservation has become a top priority for agriculture, he said the review process and the independent hearing officer are important safeguards not only to regulate water usage, but to protect local economies. He stated that the present statute sometimes creates a conflict of interest among the decision-making principals.

Woody Moses, Managing Director, Kansas Aggregate Producers' Association, spoke in support of the bill ([Attachment 7](#)). He reviewed the history of groundwater management in the state, observing that the IGUCA statute created a conflicting water-rationing system and presently appears to be supplanting the original water-governing statute, the Kansas Water Appropriations Act (KWAA). He stated that the bill provides a clear procedure for establishing or continuing an IGUCA and clarifies the role between the Division of Water Resources and Groundwater Management Districts (GMDs).

Sue Schulte, Director of Communications, Kansas Corn Growers Association, spoke favorably of the bill, saying it gives citizens a voice in the IGUCA process ([Attachment 8](#)).

Sharon Falk, Manager, Big Bend Groundwater Management District #5, Stafford, testified as a proponent, suggesting additional wording for Section 4 (a) (1), "that the chief engineer shall serve as the nonvoting chairman . . ." *and shall maintain a complete true and correct record of the hearing* ([Attachment 9](#)). She noted that some living near an IGUCA with interests within the IGUCA should not be excluded.

Mark Rude, Manager, Southwest Kansas Groundwater Management District #3, Garden City, provided support for the bill ([Attachment 10](#)). He said the bill will restore the historical perspective and assure a good working relationship between the Chief Engineer and the Kansas Department of Agriculture. He suggested clarifying the language regarding the hearing process to assure an accurate record of proceedings.

Written testimony in support of the bill was provided by David Brenn, Executive Director, Western Kansas Groundwater Management District #1, Scott City ([Attachment 11](#)).

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture, testified as an opponent of the bill ([Attachment 12](#)). He stated that the foundation for water management is the Kansas Water Appropriations Act. IGUCAs are additional tools to manage water in areas with declining resources; however, the bill would prohibit the chief engineer from independently initiating an IGUCA, thus keeping him from fulfilling his legislative mandate. Mr. Cotsoradis said IGUCAs were never intended to replace the chief engineer's authority, and he cited Nebraska's failure to comply with the Republican River Compact to illustrate the problem which the bill could create. As an alternative to the bill, he recommended establishing criteria under which the chief engineer may initiate an IGUCA. He also noted that the bill's provision of

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 20, 2008, in Room 783 of the DSOB.

review committees creates an inflexibility that could result in unintended and untenable consequences.

Pat Lehman, Northwest Kansas Groundwater Management District #4, Colby, qualified his support for the bill ([Attachment 13](#)). He said the District supports amending Section 3 of **K.S.A. 82a-1036**, which reverses an Attorney General's opinion (2002-24). However, he said the remainder of the bill is deficient in that it removes the initiative from GMDs. He offered a number of recommendations to improve the bill.

The Chair noted written testimony was provided in opposition to the bill:

Bob Seiler, President, Equus Beds Groundwater Management District #2 ([Attachment 14](#)) and Frank Austenfeld, Attorney, representing the Kansas Wildlife Federation ([Attachment 15](#)).

Kent Lamb, Mackville, spoke in opposition to the bill, saying that the composition of the review committees will pit neighbor against neighbor, and limiting the authority of the Chief Engineer will dilute needed expertise in dealing with groundwater issues. Further, he said the bill lacks flexibility to apply to varying situations ([Attachment 16](#)).

The hearing on **HB 2625** was closed.

The meeting was adjourned at 5:05 p.m. The next meeting is scheduled for Thursday, February 21, 2008.