

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 5, 2002 in Room 231-N of the Capitol.

All members were present except: Representative Clay Aurand - excused  
Representative Dennis McKinney - excused

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

Conferees appearing before the committee: Clint Riley, Department Attorney, KS Department Wildlife & Parks, 900 SW Jackson, Ste 502, Topeka, 66612-1233  
Mary Ellen Conlee, Regional Economic Area Partnership, 1845 Fairmount, Wichita, KS 672-0155  
Jerry Blain, GMD#2, 455 N. Main, Wichita, KS 67202  
Charles Benjamin, KS Chapter Sierra Club, PO Box 1642, Lawrence, KS 66044-8642  
Margaret Fast, Kansas Water Office, 901 SW Kansas Ave., Topeka, KS 66612-1249  
Dennis Bush, Mayor, PO Box 295, Andover, KS 67002  
Keith DeHaven, PO Box 131, Sedgwick, KS 67135  
Bob Myers, City Attorney, 600 N. Main, Newton, KS 67114  
Brad Franz, President, Equus Beds GMD#2, 313 Spruce, Halstead, KS 67056-1925  
Leslie Kaufman, KS Farm Bureau, PO Box 3500, 2627 KFB Plaza, Manhattan, KS 66505  
Jay Russell, KS Bldg. Industry Association, 2206 SW 29<sup>th</sup> Terrace, Topeka, KS 66611  
Kerri Ebert, Kansas Dairy Association, 4210 Wamtehu Drive, Wamego, KS 66547  
Bob Seiler, KS Dairy Association, 13501 85<sup>th</sup> N., Valley Center, KS 67147

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She opened the floor for bill introductions and asked if anyone wished to request a bill at this time. No one came forward. She opened **HB2607** for discussion and possible action.

**HB2607: Rural water districts mail ballot elections.**

The Chairperson recognized Representative Tom Sloan.

Rep. Tom Sloan made a motion the bill be passed favorably and placed on the consent calendar. Rep. Sharon Schwartz seconded the motion. Motion carried.

Chairperson Freeborn announced that Rep. Tom Sloan will carry the bill if it is taken off the consent calendar.

The Chairperson opened public hearing on **HB2679**.

**HB2679: Defining "resident" for the purpose of obtaining lifetime hunting, fishing or furharvester licenses.**

Clint Riley, Department Attorney, Kansas Department Wildlife and Parks, was welcomed to the committee and testified in support of the bill. For purposes of eligibility for lifetime hunting, fishing, furharvester, or combination licenses, this bill would require that a person maintain residency in Kansas for one year, rather than 60 days as is required by current law. The statutory definition of "resident" applicable to Wildlife and Parks laws and regulations currently requires that a person "maintain the person's place of permanent abode in this state for a period of 60 days immediately preceding the person's application..." KSA 32-701(p). The

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statute also describes factors to determine what it means to maintain a place of permanent abode, including "domiciliary intent." Eligibility for a lifetime license is extended only to Kansas residents, and therefore these licenses are available only to persons meeting this statutory definition. Because the benefits of a lifetime license are considerable greater than other resident permits and licenses, and because the legislature has previously decided to make lifetime licenses available to Kansas residents, the department believes the time period to qualify for these licenses should be increased to one year, and thereby guarantee that only persons truly intending to be Kansas residents receive these benefits. (See attachment 1) Discussion followed.

The Chairperson closed the hearing on **HB2679** and opened the hearing on **HB2680**.

**HB2680: Increase in cash bond fees for wildlife and parks violations.**

Clint Riley, Department Attorney, Kansas Department Wildlife and Parks, was welcomed back to the committee. He testified in support of the bill and believes the amount of the proposed increases are intended to ensure that the bond amount would serve as an appropriate deterrent, while recognizing the various levels of seriousness for different offenses. The categories have also been reexamined in certain cases to help apply the larger increases only to the offenses deemed most important. The department requests approval of this bill to help deter Wildlife and Parks violations by better ensuring that violators will be subject to appropriate penalties. (See attachment 2) Discussion followed.

Chairperson Freeborn closed the hearing on **HB2680** and opened the hearing on **SB264**.

**SB264: Equus beds groundwater management district #2; powers, duties and organization.**

Mary Ellen Conlee, Regional Economic Area Partnership, was welcomed to the committee. She testified in support of the bill on behalf REAP which is an organization of local governments in South Central Kansas that have joined together to work on issues of common interest. They believe this bill is a key element in the process of protecting and preserving the Equus Beds aquifer and the region's public water supplies. Specifically, the proposed legislation provides the district's elected board of directors the authority to set water user fees at a rate sufficient for the implementation of the district's management plan. The legislation does not affect other groundwater management districts because they are not experiencing the same budgetary difficulties. The Equus Beds aquifer is faced with challenges that make it unique among groundwater management districts in Kansas. (See attachment 3)

Jerry Blain, Water Supply Projects Administrator, City of Wichita, was welcomed and testified in support of the bill. He believes this legislation will determine whether or not the Equus Beds will continue to have a GMD. If this committee feels that the GMD should not exist after considering his previous statements, then this legislation should not go forward. However, if the committee feels that one of the most vital aquifers in the state should be allowed to have a Ground Water Management District, then this committee should not have any concerns about advancing this legislation. (See attachment 4)

Charles Benjamin, Sierra Club, Kansas Chapter, was welcomed. He testified in support of the bill on behalf the Sierra Club, and believes that GMD #2 needs the funds to carry out programs to protect the quantity and quality of the water in the Equus Beds. The GMD is not asking for additional state funds. They are merely asking that the users of water from the resource bear the cost of protecting this resource. They trust the board of directors and the people of south central Kansas to work together to protect the Equus Beds. Let them generate the funds they need to do the job. They respectfully urge the approval of the bill by this committee. (See attachment 5)

Margaret Fast, Kansas Water Office, was welcomed to the committee. She provided testimony as staff to the Kansas Water Authority in support of the bill. In mid February, the voting members of the Kansas Water Authority were sent a staff analysis of the bill. The Kansas Water Authority understood this bill raised the cap on the amount the GMD could assess for water use, included the makeup of the board of Directors to include a minimum of three each municipal and agricultural representatives, and gave no additional authority to the GMD. At the time, GMDs 1, 3, and 4 had submitted letters of support for the bill as drafted. (See attachment 6)

Dennis Bush, Mayor of Andover, Kansas, and Chair of the Legislative Committee for the regional Economic Area Partnership, was welcomed. He testified in support of the bill and believes one of the most significant

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regional priorities for REAP is the protection of the public water supply in South Central Kansas. The Equus Beds aquifer is a primary source of water for many REAP communities. In fact, the aquifer provides fresh and potable water daily to over 500,000 people and over 15,000 businesses in 23 cities in Butler, Harvey, McPherson, Reno and Sedgwick counties. Communities that are not located in the boundaries of the Equus Beds GMD such as Andover, Rose Hill and Benton depend on the aquifer for water through service agreements with the city of Wichita. In addition, the aquifer provides groundwater for hundreds of agricultural producers and industries in the region. On behalf of the thirty-three local governments in REAP, asks the committee's support of the bill. (See attachment 7)

Keith DeHaven, Mayor of Sedgwick, Kansas and member of the Regional Economic Area Partnership, was welcomed. He testified in support of the bill and believes the bottom line is that everyone must work together in the arena of water protection. This bill is an example of cooperation with agricultural, industrial and urban interests. The Equus Beds GMD has been trying to address their budget difficulties through legislation for the past few years. Considering the large impact the aquifer has on the economy and well being of South Central Kansas, it just makes sense for REAP to support the district's efforts to increase their budget capabilities. It is imperative for anyone who draws water from the Equus Beds to work with the board in protecting this vital natural resource. (See attachment 8)

Bob Myers, City Attorney for the City of Newton, Kansas, was welcomed. He provided testimony in support of the bill and believes the Equus Beds GMD board is directly elected by and includes the very people who are the ones who pay the assessments, with the vast majority of the board members representing rural and agricultural interests. And this board agrees that the changes provided by this bill are needed. This is local control. This is local problem-solving. This is local decision-making. They uniquely know the problems with which they are faced in this region, and together and cooperatively have devised the needed solution. They urge the committee's support of this bill and of their local, cooperative efforts. (See attachment 9)

Brad Franz, President, Equus Beds GMD #2, was welcomed to the committee. He testified in support of the bill and as a farmer understands that economic conditions are not good at the present time. Any additional expenditures to his operations are reviewed and considered very closely. He has considered and discussed this bill at great length with his neighbors. It is his belief that this bill is needed, reasonable and prudent to insure that his farming operations and those of his neighbors have a fresh and usable source of groundwater. He urges the committee to concur with the Special Committee on Energy, Natural Resources and Environment and the Kansas Senate and pass this bill favorably from the committee. (See attachment 10) Discussion followed.

Written only testimony in support of the bill was provided by: Senator Jean Schodorf (See attachment 11); Dennis M. Clennan, Director of Public Works and Engineering, City of Hutchinson (See attachment 12); Mike Taylor, Government Relations Director, City of Wichita (See attachment 13); Joe Pisciotte, Vice Mayor, Wichita (See attachment 14); and The Board of Harvey County Commissioners (See attachment 15).

The Chairperson welcomed Leslie Kaufman, Kansas Farm Bureau, to the committee. She testified in opposition to the bill. Kansas Farm Bureau policy supports the GMD Act, which currently applies to all GMDs. Their members further clarified this support by refining policy language at their 83<sup>rd</sup> Annual Meeting this fall. Simply increasing the cap, without the other provisions of the bill, is much preferable to the original bill. Should the committee, see fit to follow the recommendations of the Special Committee, they would strongly urge GMD#2 to: (1) Be judicious in managing funds; (2) Evaluate budgetary expenditures and programs carefully to avoid any duplication with other agencies; (3) Assure that those benefitting from a particular program or service are helping to pay for that program/service; (4) Insure funding mechanisms do not disadvantage agricultural producers; and (5) Slowly and incrementally approach any new cap, implementing increases only as absolutely necessary. (See attachment 16)

Jay Russell, Kansas Building Industry Association, was welcomed to the committee. He testified in opposition to the bill. The two points on which the KBIA disagrees with the GMD#2 contention that the Equus Beds groundwater will be harmed by suburban development are: (1) The advent of Alternative On-Site Sewer Systems that are at least as efficient as "public sewage treatment plants" overcomes the GMD#2 prohibition that no new residential developments be permitted in the Equus Beds area unless they are served by a "public sewer treatment system" and (2) Recognition that domestic wells would impact the water supply in the Wichita Well Field no more than increased production at those wells to serve the same, or a larger population by selling raw water to the City of Bentley. These two factors lead them to question the motives

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of the GMD#2 and its willing accomplice, the City of Wichita. Mr. Russell had maps showing the Bentley Housing Development. Included with the testimony was a letter from Michael T. Dealy, Manager, Equus Beds GMD#2; a letter from Harlan D. Foraker, Certified Engineering Design, Wichita; and a letter from Christopher M. Bohm, Professional Engineer working in the South Central Kansas Area. (See attachment 17)

Kerri Ebert, Kansas Dairy Association, was welcomed to the committee. She testified in opposition to the bill, however, supports the compromise work done by the Interim Committee on Energy, Natural Resources and the Environment and request that the Interim Committee's findings be substituted for the current language in the bill. In defense of the dairy industry and agriculture in general, because of their opposition to the bill, their Association has been criticized as not caring about water quality for a water supply that serves a half million Kansans. The bill is not a water quality bill. It is a tax increase bill. Some of that tax increase will be used to monitor water quality, but as far as they can tell, none of the money will be used for proactive programs that actually prevent water contamination. Those programs are already taking place on the hundreds of farms in the Equus Beds region and all across Kansas in the form of implementation of best management practices for cropping and livestock operations. (See attachment 18)

Bob Seiler, Dairy Producer and Farmer from Valley Center, was welcomed. He testified in opposition to the bill because he doesn't believe there is anything in it for Agriculture. There would be less representation on the board of directors plus the extra assessment would be paid 57 percent by Agriculture. He also contends that the Equus beds and GMD's were formed to manage the quantity of water used not the quality. We have KDHE and KCC to take care of the quality and the control of the quality would be more consistent over the state. He believes water quality is important, but just differs on who should be responsible. The water quality problems in the Equus Beds have mostly been caused by salt from the salt beds and oil field brine. The management of the Equus Beds has been very vocal against animal agriculture even though historically it has not been a problem. He has trouble paying a higher assessment to the Equus beds when they are trying to over regulate the industry. (See attachment 19) Discussion followed.

Written only in opposition to the bill was submitted by Don Phillips, President of Kansas Seed Industry Association. (See attachment 20)

The Chairperson closed the hearing on **SB264**. She reviewed the committee agenda for Thursday, February 7, 2002. She called the committee's attention to testimony from the Kansas Building Industry in support of **HB2624**, which was heard on January 31, in this committee. (See attachment 21)

The meeting adjourned at 6:00 p.m. The next meeting is scheduled for Tuesday, February 5, 2002.