

Approved: Carl Dean Holmes
Date 1-13-93

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on January 11, 1993 in Room 526-S of the Capitol.

All members were present except: Representative Long, excused
Representative Lynch, excused
Representative Ruff, excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Cindy Garland, Committee Secretary

Conferees appearing before the committee: Darrell Montei, Wildlife and Parks
Bill Bryson, Kansas Corporation Commission

Others attending: See attached list

Chairperson Holmes welcomed the Committee members and others attending the meeting. He then asked that guests sign the Guest Register.

Darrell Montei, Wildlife and Parks, appeared before the Committee to request introduction of Housekeeping Legislation Bill as shown on (Attachment 1).

A motion was made by Representative Shore, seconded by Representative Gatlin, to introduce the Housekeeping Legislation Bill requested by Mr. Montei. The motion carried.

Bill Bryson, Kansas Corporation Commission, appeared before the Committee to request introduction of three cleanup bills. 1) Elimination of the Interagency Committee on Minimum Disposal Depths; 2) Legally responsible operators; 3) Membership of advisory committee on regulation of oil and gas activities. (Attachment 2).

A motion was made by Representative Grotewiel, seconded by Representative Webb, to introduce the bills requested by Mr. Bryson. The motion carried.

Chairperson Holmes announced that there would be no meeting on Tuesday, January 12.

The meeting adjourned at 3:50 p.m.

The next meeting is scheduled for January 13, 1993.

GUEST LIST

COMMITTEE: ENERGY & NATURAL RESOURCES

DATE: Jan 11 1993

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Carl

DEPARTMENT OF WILDLIFE AND PARKS

Proposal No. 1

Housekeeping Legislation

Bill Summary - The wildlife and park laws were completely recodified in 1989 with the knowledge that such a massive effort would result in occasional clean-up or housekeeping legislation to correct minor problems. This proposed housekeeping bill involves amendment of current department statutes. Many of these amendments were contained in H.B. 2912 from the 1992 Legislative Session. That bill passed the House by a vote of 120 to 2, but did not receive any action in the Senate. There did not appear to be any controversial items in the 1992 Housekeeping Bill. The proposed amendments, by statute, are as follows and items which were in the 1992 bill are so noted:

K.S.A. 32-701. This statute provides definitions which are used throughout other department statutes and in rules and regulations of the Secretary. The definition of "wildlife" is much broader than necessary as it applies to all living animals or any parts or products thereof. This would include livestock and poultry. It is recommended the definition be amended to exclude those species of animals normally considered as agricultural livestock and poultry. The black-footed ferret is listed as a furbearer and it is recommended it be removed from that listing. The ferret is currently listed as an endangered species by both state and federal regulation and that designation would continue thereby affording protection to the species. These amendments were contained in H.B. 2912.

The Department is recommending that a definition for "resident" be included in this statute. A definition for nonresident currently exists, but no definition for resident is provided in Department statute. This has led to confusion and some license fraud problems. Provisions under K.S.A. 32-980 for full-time nonresident students at Kansas

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Attachment 1

colleges, universities, high schools and vocational schools to secure hunting and fishing licenses at resident costs would be included. This proposed amendment was not included in H.B. 2912.

K.S.A. 32-807. The department does not have direct authority to take into possession abandoned property or equipment or to dispose of the items. It is recommended this statute be amended to include possession of abandoned property or equipment on department managed properties. Procedures for possession and disposal would be established by rules and regulations. This amendment was contained in H.B. 2912.

K.S.A. 32-901. This statute establishes the requirement of a motor vehicle permit for use of state parks. It also provides for exceptions to that permit. By regulation, the Secretary may issue special permits for the purposes of sightseeing, attending a church service, news media attendance at an approved special event, or for emergency reasons. It is recommended that events sponsored by the Kansas State High School Athletic Association be included in the above list. This proposed amendment was not included in H.B. 2912.

K.S.A. 32-945. This statute addresses Controlled Shooting Areas and the licensing of those areas. By statute, C.S.A.'s are required to secure a \$2,000 "performance" bond. This requirement is not considered necessary as no operator has ever been required to use the bond for purposes as stated in the statute. It is recommended that all reference to the bond be removed from the statute. This amendment was contained in H.B. 2912.

K.S.A. 32-956. This statute provides authority, by regulation, for prohibiting the importation of certain wildlife into the state. Provision are included in current statute for allowing prohibited species by permit for experimental, scientific or display purposes. There is a

need to allow these prohibited species for other select purposes when dangers of accidental release can be controlled. It is recommended the statute be amended to allow for importation for other reasons under a permit issued by the Secretary. That permit would establish criteria for the importation, holding and use of the species in Kansas. H.B. 2497 was introduced in the 1991 session to accomplish this amendment, but the bill received no action.

K.S.A. 32-984. Under this statute, County Clerks are required to remit daily to the County Treasurer s office any receipts from the sale of issues (licenses, etc.) of the Department. County Treasurers are required to remit quarterly to the State Treasurer those Department monies. It is recommended that County Treasurers be required to remit those receipts to the State Treasurer on a monthly basis instead of quarterly. This amendment was not contained in H.B. 2912.

K.S.A. 32-1001. This statute addresses licenses, permits and other issues of the department and specifies unlawful acts. Provisions exist in current statute for a late payment fee of \$5, in lieu of a citation, for failure to purchase any permit required to use a park or other area. The intent is directed at vehicle and camping permits, but is written broad enough that other types of permits would also qualify. It is recommended that the late payment provision be clarified to address only failure to purchase vehicle and camping permits. This amendment was contained in H.B. 2912.

K.S.A. 32-1002. This statute addresses taking or dealing in wildlife and specifies unlawful acts. Wildlife legally taken outside of the state are excluded from possession and commercial restrictions. It is recommended the exemption from the commercial restrictions be removed. This amendment was contained in H.B. 2912.

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K.S.A. 32-1003. This statute addresses methods of taking wildlife and specifies unlawful acts. The use of spotlights and other artifical lights to aid in taking wildlife is prohibited except for taking furbearers when treed with the aid of dogs. This provision is poorly written resulting in misunderstanding and the dismissal of court cases. It is recommended the provisions be rewritten to more clearly state what is illegal. Exceptions would be developed by regulation and no change of intent is planned. This amendment was contained in H.B. 2912.

K.S.A. 32-1004. This statute addresses possession of wildlife and certain devices. Wildlife legally taken outside of the state are excluded from all provisions of this statute which includes such items as reasonable inspection. It is recommended the exemption for such animals from all provisions not be allowed. This amendment was contained in H.B. 2912.

K.S.A. 32-1051. This statute describes the duties of a conservation officer. It specifies that an officer shall take action (arrest) for any violation, it does not provide clear authority to issue warning tickets. It is recommended that "shall" be changed to "may" which would enable use of warning tickets when appropriate. This amendment was contained in H.B. 2912.

K.S.A. 32-1102. This statute provides boating definitions which are used in department laws and rules and regulations. The definition of a "Reportable boating accident" includes a reference to any damage in excess of \$200. The department receives federal boating funds administered by the U.S. Coast Guard and must comply with certain Coast Guard regulations. The Coast Guard currently requires reports for those accidents resulting in over \$500 damage. The Coast Guard has amended the dollar amount by regulation twice since 1989. It is recommended the definition be amended to authorized the department to set the minimum dollar damage

amount by rule and regulation in order to remain current and in compliance with the U.S. Coast Guard. To perform this change, it will require amendment to K.S.A. 32-1177 as \$200 also appears in that statute. This amendment was contained in H.B. 2912.

K.S.A. 32-1111. This statute deals with boat registrations and other provisions. It allows any boat registered in another state to use Kansas waters for up to 90 days without re-registering or recording the number in Kansas. It is recommended the 90-day period be changed to 60 days. That change will bring Kansas law into conformity with the U.S. Coast Guard 60-day registration requirement and will more closely follow the department's definition of a resident. It will also address problems with individuals who register boats in other states to avoid Kansas taxes, but use Kansas waters and those who primarily use Kansas waters and facilities, but do not contribute through registration fees. This amendment was contained in H.B. 2912.

K.S.A. 32-1112. This statute provides for a Dealer's boat registration to be used when testing or demonstrating a boat on Kansas waters. There is no definition of a dealer nor is there any direction on what is allowable under testing or demonstrating. It is recommended that the statute be amended to authorize the adoption of rules and regulations to address problems and abuses which are presently occurring.

Fiscal Impact - The department's FY 94 budget does not contain any revenue projections nor operating costs that may be incurred as a result of this proposed legislation. The following fiscal impacts are anticipated as listed by statute:

K.S.A. 32-701. No impact is anticipated as the department has not attempted to include livestock and poultry in regulations, except as it may directly apply to activities such as hunting from horseback. Black-footed ferrets will

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continue to receive the same level of protection even if not listed as a furbearer. A resident definition will clarify and help avoid license fraud. As such, it may result in a few more nonresident licenses sold rather than resident licenses, but is not expected to generate significant additional income to the Department.

K.S.A. 32-807. Little if any fiscal impact is anticipated. The primary impact would be in providing the department with a more efficient method to process abandoned property and equipment.

K.S.A. 32-901. Inclusion of KSHSAA may result in fewer vehicle permits issued, but is expected to generate greater interest in park areas and provide better community relations.

K.S.A. 32-945. The proposed removal of the bond requirement will have no fiscal impact on the department. There are about 80 licensed Controlled Shooting Areas and each has secured a \$2,000 bond. Deletion of the bond requirement will reduce operating expenses for the licensees.

K.S.A. 32-956. Insignificant fiscal impact is anticipated as only a few permits would be issued. The primary benefit would be in the private sector by authorizing individuals to import and use prohibited species under controlled conditions.

K.S.A. 32-980. No fiscal impact is anticipated as the proposed non-resident student provision is basically how it is addressed now.

K.A.A. 32-984. The impact of this proposed amendment is unknown at this time. The Department currently receives interest on the Wildlife Fee Fund so the sooner receipts are deposited, the more interest the Department receives. This amendment would reduce the amount of interest money a county receives as they would no longer be able to retain the license fee money for up to three months.

K.S.A. 32-1001. No fiscal impact is anticipated as the amendment would clarify more than change enforcement efforts. No additional enforcement time would be required.

K.S.A. 32-1002. No fiscal impact is anticipated.

K.S.A. 32-1003. No fiscal impact is anticipated.

K.S.A. 32-1004. No fiscal impact is anticipated.

K.S.A. 32-1051. No fiscal impact is anticipated.

K.S.A. 32-1102. Increasing the \$200 damage reporting level to \$500 will slightly reduce the amount of time and expense involved in working boating accidents.

K.S.A. 32-1111. This will provide some additional boating registration revenue to the department, but we have no information to predict how many people are currently avoiding the registration by registering boats in other states. A very slight increase in tax receipts may be noticed by the state.

K.S.A. 32-1112. The development of regulations defining a boat dealer and determining what constitutes testing and demonstration use of a boat under a dealer registration is expected to result in the sale of a few more regular boat registrations. However, the effect of amending the statute will have no fiscal impact on Department operations.

Policy Implications and Background - The proposed housekeeping amendments do not establish any new policies or direction for the department. They are intended to clarify statutes, improve efficiency and effectiveness, and provide enforcement consistency.

Impact on Other State Agencies - The proposed amendment to K.S.A. 32-1111 may provide for a slight increase in tax revenues to the state of Kansas by reducing the 90-day reciprocity period to 60 days. Although not a state agency, the requirement for county treasurers to deposit receipts monthly instead of quarterly may reduce interest income to some counties. All other proposed

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amendments are not anticipated to have any impact on other state agencies.

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Joan Finney
Governor

Jim Robinson
Chairman

F. S. Jack Alexander
Commissioner

Rachel C. Lipman
Commissioner

Judith McConnell
Executive Director

Brian Moline
General Counsel



Kansas Corporation Commission

January 11, 1993

Honorable Carl Holmes, Chairman
House Energy and Natural Resources
Room 115-S
State Capitol Building
Topeka, Kansas 66612

Representative Holmes:

The Kansas Corporation Commission would ask the House Energy and Natural Resources Committee to introduce the following cleanup legislation on behalf of the KCC. The cleanup legislation proposed for introduction has been tentatively approved by the Governor's office.

Attached please find a brief synopsis of each statutory change, proposed new statute, and a bill draft from the Revisor's office.

The attached legislation includes: 1) Elimination of the Interagency Committee on Minimum Disposal Depths; 2) Legally responsible operators; and 3) Membership of advisory committee on regulation of oil and gas activities.

The Corporation Commission respectfully seeks introduction of the bills through the House Energy and Natural Resources Committee. Should you have questions, please feel free to call me at 271-3190.

Thank You,

A handwritten signature in black ink, appearing to read "Tom Day", written over a horizontal line.

Thomas A. Day
Director of Administrative Services

House E & NR
1-11-93
Attachment 2

KANSAS CORPORATION COMMISSION

Proposed Legislation
1993 Legislative Session

Repeal K.S.A. 55-1006 (interagency committee on minimum disposal depths) Amend K.S.A. 55-1005

K.S.A. 55-1006 should have been repealed in 1982 when the Oil and Gas Advisory Committee was established under K.S.A. 55-153. K.S.A. 55-1006 established a Three Agency Committee composed of Kansas Department of Health and Environment (KDHE), Kansas Geological Survey (KGS), and State Board of Water Resources--Kansas Water Office (KWO) to determine minimum safe depths for disposal of saltwater and other oil field waste. If the Three Agency Committee elected to implement K.S.A. 55-1006, any forthcoming recommendations would negate the responsibilities of the remaining seven members of the Oil and Gas Advisory committee.

The repeal of K.S.A. 55-1006 in its entirety would also require a minor statutory amendment to K.S.A. 55-1005 which cross references K.S.A. 55-1006.

Implementation of the repealing statute and amended statute would have no fiscal impact on the Commission, KDHE, KGS, or KWO. All named agencies serve on the KCC Oil and Gas Advisory Committee which now performs the function of K.S.A. 55-1006 under K.S.A. 55-153. KDHE, KGS, and KWO have all been apprised of the proposed changes.

This proposal was heard in the 1992 Legislature as HB 2889.

Amend K.S.A. 55-179 (b) (legally responsible operators)

Amending K.S.A. 55-179 (b) would enable the Commission to expend less time and staff resources in the investigatory stage and to determine legal responsibility more expeditiously for abandoned wells.

The proposed amendment would change the word "shall" to "may" in K.S.A. 55-179 (b). With the use of the word "may" the Commission will be able to exercise its discretion in determining legal responsibility. After investigation and accumulation of evidence, the Commission could consider the specific circumstances and determine whether one or any combination of operators listed should be brought before the commission for a show cause hearing. The word "shall" imposes a duty on the Commission to investigate every operator in the chain of operations of the abandoned well as a potentially legally responsible party.

This proposal was heard in the 1990 Legislature as HB 2697 and 1992 Legislature as SB 677. Legislative concern centered around whether the Commission was abdicating responsibility if the statutory language became more permissive.

The amendment would enable the Commission to expend less time and staff resources in the investigatory stage and to determine legal responsibility more expeditiously. Staff could be used more productively in surveillance and enforcement activities. Other state agencies would not be affected.

Amend KSA 55-153 (membership of advisory committee on regulation of oil and gas activities)

The 1982 Kansas Legislature established a ten member Oil and Gas Advisory Committee in Substitute Senate Bill 498 to advise the Commission on technical matter related to fresh and usable water protection as it affects oil and gas field regulation. One of the members of this advisory committee is the Mid-Continent Oil and Gas Association

which until late 1992 included Kansas. At their annual meeting in October 1992, Mid Continent voted to drop Kansas from its membership.

The Kansas Corporation Commission is seeking an amendment to K.S.A. 55-153 to replace the Mid-Continent Oil and Gas specification with the Kansas Petroleum Council. The Kansas Petroleum Council has been given the responsibility of looking after major oil company interest in Kansas and, therefore, carries out activities previously done by the Mid-Continent Oil and Gas Association.

The requested amendment is intended to reflect the proper group for which Oil and Gas Advisory Committee membership should be given. This change has no organizational impact on the Commission. Additionally, there is no fiscal impact on either the Commission or the industry.

EXHIBIT C

55-179. Investigation of complaint by the commission; findings; responsibility for remedial action; costs; hearings; orders.

(b) For the purpose of this section, a person who is legally responsible for the proper care and control of an abandoned well ~~shall~~ may include, but is not limited to, the following: Any operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or last operator of the lease upon which such well is located, irrespective of whether such operator plugged or abandoned such well; and the original operator who plugged or abandoned such well.

EXHIBIT F

~~55-1006. Disposal wells; determination of minimum safe depth; filling; rules and regulations; duties of corporation commission.~~
~~shall be the duty of the state board of water resources, the secretary of health and environment, and the state geological survey to determine the minimum safe depth for salt brine or other oil field waste disposal wells for all producing areas of the state; and upon making such determinations shall file the same with the state corporation commission, and said commission shall adopt and promulgate rules and regulations establishing such minimum depth. The state corporation commission shall inspect such disposal wells to ascertain whether they meet said requirements for minimum depth. Whenever said corporation commission shall determine that the depth of any disposal well is less than the recommended depth, it shall immediately report such fact to the proper authorities who shall proceed to charge the parties using such a well with a violation of this act.~~

History: L. 1957, ch. 319, § 3; June, 29.

55-1005. Disposal wells for salt brines and other oil filed wastes; minimum depth; penalty. On and after July 1, 1957, it shall be unlawful to use wells for the disposal of salt brines or other oil field wastes which do not meet the requirements for minimum depth established by the regulations of the corporation commission, ~~pursuant to the provisions of K.S.A. 55-1006.~~ Any person, firm, partnership, association or corporation violating the provisions of this act, shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Each day of violation shall be considered to constitute a separate offense.

History: L. 1957, ch. 319, § 1; June 29.

55-153. Establishment of advisory committee; membership; duties. There is hereby established the advisory committee on regulation of oil and gas activities to be composed of ten members. One member shall be appointed by each of the following associations; ~~Mid-continent oil and gas association~~ Kansas petroleum council, Kansas independent oil and gas association and eastern Kansas oil and gas association. One member shall be appointed by the governor from the general public. One member shall represent groundwater management districts and shall be appointed jointly by the presidents of each groundwater management district. All such appointees shall serve at the pleasure of the appointing authority. The following state agencies shall designate a person as a member of such committee: The commission, the department of health and environment, the Kansas geological survey, the Kansas water office and the division of water resources of the state board of agriculture. The designated person of the commission shall be the chairperson of the advisory committee. The committee shall meet at least once each quarter calendar year and upon the call of the chairperson. The committee shall review and make recommendations on oil and gas activities, including but not limited to current drilling methods, geologic formation standards, plugging techniques, casing and cementing standards and materials and all matters pertaining to the protection of waters of the state from pollution relating to oil and gas activities.

History: L. 1982, ch. 228, § 4; July 1.