

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:00 a.m. on January 31, 1994 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Jill Wolters, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Senator Jerry Karr
Rodney Biesenthal, Pottawatomie County Noxious Weed Director
Vernon McKinzie, Kansas Pest Control Association
Bill Craven, Sierra Club and Kansas Natural Resource Council
Joe Lieber, Kansas Cooperative Council

Others attending: See attached list

Chairperson Corbin opened the hearing on SB 85 - providing for the election of the State Board of Agriculture. The bill was sponsored by Senator Karr, Walker and Wisdom. Chairperson Corbin called on Senator Karr to testify.

Senator Karr supported the proposal. He stated it had been introduced during the 1993 Session. The bill calls for the members of the State Board of Agriculture to be elected by districts, and the districts would be similar to those established by the State Board of Education. The Board would then select a Secretary of Agriculture (Attachment 1). He responded to questions.

Rodney Biesenthal testified in support of the bill. He stated they would rather not have the reorganization of the Department of Agriculture, but if it is necessary they would support SB 85 (Attachment 2).

Vernon McKinzie, Kansas Pest Control Association, spoke in opposition to SB 85. They prefer SB 475, as they believe an appointed board would allow for the selection of qualified persons, who in turn would select the Secretary of Agriculture (Attachment 3).

Bill Craven, Sierra Club and Kansas Natural Resource Council, opposed the bill, as it doesn't go as far as the other proposals that have been introduced in solving the legal problems posed by the old system (Attachment 4).

Joe Lieber, Kansas Cooperative Council, testified his council would rather maintain the current method, but if that is not possible they would support a bill that would allow the Governor to appoint the Board, as long as the Board was picked on a rotation basis and some terms extended past the Governor's term (Attachment 5).

Ivan Wyatt, Kansas Farmers Union, was unable to attend the meeting, and his written testimony was distributed. Thier organization at their convention January 13, 14 and 15, 1994 adopted the position of supporting the concept of a Secretary of Agriculture appointed by the Governor to be confirmed by the Senate" (Attachment 6).

Art Howell, Farmer, Lincoln County, Kansas, submitted written testimony. He opposes changing the structure of the Kansas State Board of Agriculture. He believes it is unthinkable to allow a federal judge, without superior court review, to undo what it has taken Kansas Government 120 years to create and refine (Attachment 7).

The Chairperson, also, distributed an article concerning laws and regulations affecting livestock production, from Successful Farming, January, 1994 (Attachment 8).

A motion was made by Senator Karr to adopt the minutes of the January 26 meeting. Senator Frahm

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 10:00 a.m. on January 31, 1994.

seconded the motion. Motion carried.

Senator Karr suggested Staff prepare a paper outlining the differences in the various bills before the Committee in regard to restructuring the State Board of Agriculture, and how the Secretary is selected.

The meeting adjourned at 11:00 a.m.

The next meeting is scheduled for February 1, 1994.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: 1-31-94

[illegible]

State of Kansas

Senate Chamber

GERALD L. "JERRY" KARR
SENATOR, SEVENTEENTH DISTRICT
CHASE, COFFEY, GEARY, LYON, MARION,
MORRIS, OSAGE, WABAUNSEE COUNTIES
R.R. 2 BOX 101
EMPORIA, KANSAS 66801



COMMITTEE ASSIGNMENTS
MEMBER: AGRICULTURE
CONFIRMATIONS OVERSIGHT
INTERSTATE COOPERATION
LEGIS. BUDGET
LEGIS. COORDINATING COUNCIL
STATE FINANCE COUNCIL
WAYS & MEANS

Office of Democratic Leader

STATE CAPITOL
TOPEKA, KANSAS 66612-1504
913-296-3245

Statement by Senator Gerald Karr, Senate Democratic Leader Senate Bill 85: State Board of Agriculture

Senate Bill 85 was introduced in the 1993 session to address the problem of reorganization of the State Board of Agriculture in the context of the pending litigation. The bill you have before you meets the criteria of one person, one vote, which became the focus of the federal case in Kansas City this past year.

I personally believe if this bill had been passed last session we would have been able to maintain stability in the Board of Agriculture and its general organization. The bill calls for the election of the State Board members in districts similar to the districts used by the State Board of Education. The districts were reapportioned after the 1990 census and would easily meet the test of one person, one vote. It is an election process, which would provide direct involvement of the citizens in selection of the Board. The Board then, in turn, would select a Secretary of Agriculture. This is very similar to the process used by the State Board

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attachment 1

of Education, and their selection of a Commissioner of Education.

This does not address constitutional questions as they relate to the Kansas Constitution. I think however those issues were eliminated by the federal judge in the 1993 ruling, and attention was focused on the one person, one vote. This represents one of four viable options that the committee could consider regarding the selection of the Board and/or the Secretary of Agriculture. The four options in review are; an appointed Secretary, an elected Secretary, an appointed Board, and, as presented in **SB85**, an elected Board of Agriculture. I would be glad to answer any questions in regard to this plan, or the alternatives we have before us. Thank you.

I, Rodney Biesenthal, Pott. Co. Noxious Weed Director, speak today in behalf of the organization of Noxious Weed Directors of Kansas.

First off, we would hope that the reorganization of the Department of Agriculture is not necessary. However, if reorganization is necessary, we support Senate Bill 85. We believe that the destiny of Kansas agriculture should be left in the hands of agriculturists.

We have serious reservations with Governor appointed Board of Ag., Governor appointed Secretary of Ag. or elected Secretary of Ag. I will try to point these out in the next few minutes.

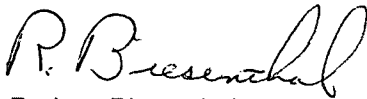
With a Governor appointed Secretary of Ag., the secretary would only answer to the Governor and not to the agricultural community, which would be the most impacted by changes within the Department of Agriculture.

With a Governor appointed Board of Agriculture, how could we be assured that these 9 members are agriculturists and act in the best interest of agriculture.

Since agriculturists now make up a minority of the popular vote in Kansas, an elected Secretary of Agriculture would only guarantee another expensive campaign that would elect a popular individual that had been elected by the urban population of Kansas rather than the people involved on the production and processing of agriculture commodities. Those of us that are involved in agriculture question if agricultures best interest would then be served.

However, under an elected Board of Agriculture, which in turn elects a Secretary, the Ag. Board members would have to answer to the people that they represent whether it be the urban population centers or the sparsely populated rural Kansas. In our opinion, this would require a blending of special interest groups to form a Board of Agriculture best representing the needs of all Kansas and Kansas Agriculture. In closing, we support S.B. 85 in its present form.

Thank you for your time,



Rodney Biesenthal

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attachment 2.*

PRESENTED TO SENATE AGRICULTURE COMMITTEE

by

VERNON MCKINZIE

SB 85

January 31, 1994

Thank you for allowing me to appear before you today to comment on Senate Bill 85. My name is Vernon McKinzie, I am from Emporia and operate pest control businesses in Emporia, Manhattan and Parsons. I am chair of the Kansas Pest Control Association Government Affairs Committee, and I appear today representing the Kansas Pest Control Association.

We oppose Senate Bill 85 based on the election process as outlined in the Bill for the Board of Agriculture members. We prefer Senate Bill 475 which provides for restrictive appointment of the Board members by the Governor.

We believe the appointment of board members would allow for selection of qualified persons, who in turn will select the secretary of Agriculture.

Senate Bill 85 has no provision we can find for establishing cabinet position status for the Agriculture Secretary. We believe cabinet status for the secretary to be quite important to agriculture in particular and government in general.

We also believe it is important to maintain an odd number of board members to avoid deadlocked votes on controversial issues. Senate Bill 85 provides for twelve members, and could therefore result in tie votes on an issue.

On page 27, lines 25-28, I believe the voting power of "delegates" at the annual meeting should be reconsidered. Is it the intent of this bill to allow any of us who may be selected as a delegate to the annual meeting to have the same voting authority as the publicly elected board member? In lines 15-19 on the same page, it is stated the delegates are attending in an advisory capacity. Which is correct?

We do like many parts of Senate Bill 85 as it relates to the transfer of current board authority, structure, policy, the continuity it provides in selection of the secretary and the classified and unclassified staff. However, we respectfully ask you to oppose Senate Bill 85 and support the appointive process for the board as stated in Senate Bill 475.

Thank you again. I will respond to any questions you may have.

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SIERRA CLUB

Kansas Chapter

Testimony of William Craven
Legislative Coordinator,
Kansas Natural Resource Council
and
Kansas Sierra Club

Senate Agriculture Committee
S.B. 85
January 31, 1994

Thank you, Mr. Chairman, for providing an opportunity for the Kansas Natural Resource Council and the Kansas Sierra Club to testify on this important matter. Together, these two groups have about 4,000 members who are concerned about environmental issues, and in particular, about how agriculture affects the environment.

I am an opponent of this proposal because the groups I represent support either H.B. 2294 or S.B. 599 as the solution to this problem. Those bills provide for the creation of a Department of Agriculture headed by a secretary appointed by the governor and confirmed by the senate.

—This bill, if passed, doesn't go as far as those two bills or S.B. 475 in solving the legal problems posed by the old system. It provides for the district election of members of a new Board of Ag, who then elect the Secretary. That provision does meet the requirements of one person, one vote, but it begs the question of whether it meets the requirements of the separation of powers doctrine. I have explained that issue to the committee before noting that the separation of powers doctrine requires executive branch officials to be appointed by, and accountable to, the governor.

The bill also retains the old delegate system in an advisory capacity. There are policy--not constitutional--objections to that. One has to wonder why only members of the groups listed in the old statute are listed as advisory delegates. By now everyone should realize that there are a whole bunch of people who don't belong to any of those groups who are deeply interested and concerned about agricultural policies in this state. That provision of this proposal leaves them out of the process entirely.

Thank you for the opportunity to testify.

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Attachment 4*

Testimony on Senate Bill 85
Senate Agriculture Committee
January 31, 1994

Prepared by Joe Lieber, Kansas Cooperative Council

Mr. Chairman and members of the Committee, I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperatives. Of these, over 150 of these are local farm supply cooperatives that are owned by nearly 200,000 Kansas farmers and ranchers.

If the Council had its choice, we would like to see the State Board of Agriculture selected like it has been for the last 120 some years. The reason being is that we feel the Board of Agriculture has done an outstanding job during that time promoting and protecting Kansas producers and consumers.

We feel that one of the reasons that it has been successful is its continuity. The Board or the Secretary does not change with every election.

If we can not have this method we would support a bill that would allow the governor to appoint the board, as long as the board was picked on a rotation basis and some terms extended past the governor's term. Again, the reason for that would be continuity.

The board would hire a Secretary for a two or four year term.

Senate Bill 85 does provide a Board of Agriculture by district which is good, but we have concerns about its constitutionality and we don't like the idea of having the expense of 10 additional elections.

Also, we are unclear why the position of Assistant Secretary of Agriculture will be unclassified.

SB85 does have some good features, but we do oppose it.

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STATEMENT
OF
IVAN W. WYATT, PRESIDENT
KANSAS FARMERS UNION
ON
SENATE BILL 85
ELECTION STATE BOARD OF AGRICULTURE BY DISTRICTS
BEFORE
THE SENATE COMMITTEE ON AGRICULTURE
ON
JANUARY 27, 1994

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM IVAN W. WYATT, PRESIDENT OF THE KANSAS FARMERS
UNION.

THE KANSAS FARMERS UNION MEMBERS AT THEIR RECENT STATE
CONVENTION (JANUARY 13, 14, 15, 1994) HELD IN MCPHERSON
ADOPTED THE FOLLOWING POSITION ON THE RESTRUCTURING OF THE
FORMER STATE BOARD OF AGRICULTURE.

"WE SUPPORT THE CONCEPT OF A SECRETARY OF AGRICULTURE
APPOINTED BY THE GOVERNOR TO BE CONFIRMED BY THE SENATE."

THE MAJOR FACTOR IN ADOPTING THIS POSITION WAS THE

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BELIEF THAT THE PRODUCTION PROCESSING AND MARKETING OF AGRICULTURE PRODUCTION CONTINUES TO BE A MAJOR PART OF THE KANSAS ECONOMY, AND THAT THESE THREE SEGMENTS IN UNISON CAN BE AN IMPORTANT FACTOR IN RESTORING PROSPERITY TO HUNDREDS OF RURAL COMMUNITIES IF ALL THESE FACTORS CAN BE BROUGHT TO AN AREA OF CLOSER COOPERATION WITH OTHER DEPARTMENTS OF STATE GOVERNMENT SUCH AS COMMERCE, BUT NOT LIMITED TO JUST COMMERCE. THERE WAS NO SUPPORT FOR THE CONSOLIDATION OF THE TWO DEPARTMENTS.

IT WOULD APPEAR SB-85 WOULD PASS THE COURT DEMAND FOR EQUAL REPRESENTATION, BUT FOR THOSE WHO FEAR URBAN INFLUENCE OF THE BOARD, THIS BILL MAY NOT QUIET THOSE CONCERNS.

BESIDES WANTING TO ELEVATE AGRICULTURE TO THE LEVEL OF A CABINET POSITION BY GOVERNOR APPOINTMENT, MANY MEMBERS BELIEVED THAT A GOVERNOR APPOINTED SECRETARY MIGHT BE LESS INFLUENCED BY SPECIAL INTEREST POLITICAL CONTRIBUTIONS THAN A SECRETARY OF AGRICULTURE OR COMMISSIONER OF AGRICULTURE ELECTED AT LARGE, WHERE LARGE POLITICAL CONTRIBUTIONS COULD BE FUNNELLED TO THAT ONE PARTICULAR ELECTION RACE.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, THANK YOU.

PRESENTATION
to
SENATE COMMITTEE ON AGRICULTURE
regarding the
KANSAS STATE BOARD OF AGRICULTURE

Good Morning Mr. Chairman and members of the Senate Committee on Agriculture, my name is Art Howell I am a century farmer from Lincoln, Kansas.

I come before you today to express my deep concern regarding the interference by the federal judiciary with fundamental rights of state government guaranteed within the frame-work of the United States Constitution.

With continuing judicial activism, the area of judicial power will continually grow and the area of democratic choice will continually contract.

The KSBA's present structure was created, over time, by the elected representatives of Kansas Government who also carefully chose what laws the KSBA would administer.

Kansas Government and its Kansas State Board of Agriculture have "met the challenge" and led the nation in adopting needed changes required by rapidly changing science and technology.

This Committee met on August 30 & 31, 1993 and heard testimony on the structure of the Kansas State Board of Agriculture (KSBA). Most, requested that no action be taken regarding KSBA structure pending the appeal of Judge Lungstrum's opinion that KSA 74-502 & 503 is unconstitutional.

Mr. Chairman, members of the Senate Committee on Agriculture, it is unthinkable that we allow a federal judge, without superior court review, to undo what it has taken Kansas Government 120 years to create and refine.

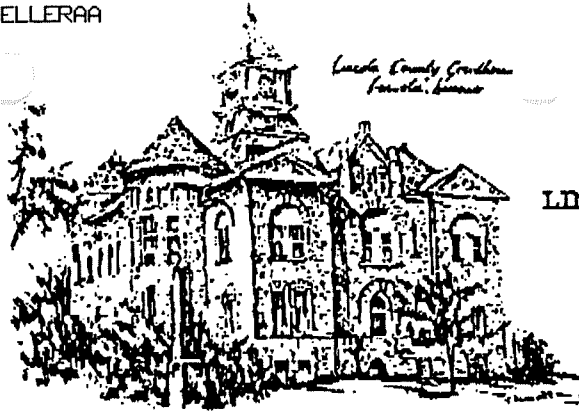
We again request, that the status quo be maintained, until the legal remedies are exhausted by all parties, and a final decision is handed down.

I appreciate this opportunity to be heard.

Post-It™ brand fax transmittal memo 7671		# of pages • 2
To	Senator David Corbin	
From	Art Howell	
Co.	Chairman Senate	
Dept.	Ag Committee	
Phone #	913-524-4605	
Fax #	913-2916-16718	
Fax #	913-524-4478	

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POST ROCK CAPITAL
OF KANSAS



LINCOLN COUNTY COMMISSION
216 EAST LINCOLN
LINCOLN, KANSAS
67455

January 24, 1994

Honorable Members of the Senate Agriculture Committee:

We, the Lincoln County Board of County Commissioners wish to express our concerns regarding proposed changes in the structure of the Kansas State Board of Agriculture.

The Kansas State Board of Agriculture as it was previously structured was considered a premier example by other states in their attempts to reorganize their boards to represent a unique industry and occupation.

That structure is now being questioned by special interest groups who may not have the best interests of agriculture as their goal.

We would urge you to take no action on any legislation at this time and await a decision from the 10th Federal Circuit Court, allowing the appeals process to be completed.


Allan D. Serrien, Chairman


Alfred Wayne Wallace, Member


Roland Bolte, Member



Laws and Regulations Affecting Livestock Production

	Environment	Taxes	Zoning	Corporate Farming Restrictions	Worker's Comp	Farmland Preservation/ Right-to-Farm	Other
✓ Arkansas	Regulations govern handling and disposal of waste	Assessed based on productivity or use	Little interest at local level in zoning	No provisions found	Ag farm labor exempt; no provisions to waive exemption	Ag processing and distribution facilities protected	Little success in challenging operations as nuisances
✓ California	Comprehensive water quality control act	Income-based taxation and preferential assessment	May be affected by existence of ag preserves	Allows co-ops and non-profit corp. marketing organizations	Compulsory coverage; no exemptions	Right-to Farm law requires farm in existence 3 years	Ag preserves may be created
✓ Colorado	Confined feeding operations regulated	Ag and livestock production exempt from property tax	Local zoning may occur	No prohibitions found	Workers comp or insurance required for all farm operators	Substantial farm growth not protected under Right-to-Farm	Air emission permits required for hog farms
✓ Illinois	New laws focus on odor nuisance	Reduced property taxes for pollution improvements	Zoning may be for ag purposes	Ag Land Ownership Act applies	Compulsory; some exemptions for farm labor	Has Ag Areas Conservation, Protection Act	Nuisance Suit Act gives some protection to farms
✓ Indiana	Has Confined Feeding Control Law	Has ag advisory council for evaluation of land	No law prohibits developing ag land	No restrictions found	Exempt; employers may waive exemption	Has Right-to-Farm law, no farmland preservation	Conservation Easement Act helps preserve ag land
✓ Iowa	Enforcement on complaint-only basis	5-year tax exemption for owner-operated cattle feedlots	Laws limit local governments from developing ag land	Corporate farming law limits vertical integration	Exempt; employers may waive exemption	Ag Areas have been created	Iowa farmers fight vertical integration and bigness
✓ Kansas	Permit required for most feedlots	Some exemptions for ag products and equipment	Operations are subject to zoning	Production contracts not limited by corporate farming law	Exempt; employers may waive exemption	Protection through Right-to-Farm law	Regulations control siting of operations
✓ Minnesota	State and local regulations are extensive	Protects farmers from taxes based on non-ag use value	Ag use zoning prohibits non-farm dwellings	Has corporate farming law	Compulsory; exempts persons employed by family farms	Has plan for ag land preservation	Has limited nuisance protection
✓ Missouri	Construction and operation permits required	Preferential taxes for ag property	Not specifically used to protect farmland or operations	Passed a weak 1993 law with county exemptions	Exempt; employers may waive exemption	1990 revisions enhanced Right-to-Farm protection	Some farm growth protected under Right-to-Farm law
✓ Nebraska	Waste control is the main focus of laws	Allows preferential tax for ag land	Used to protect ag uses	Constitution prevents corporate ownership	Exempt; employers may waive exemption	Conservation, preservation allowed by easement	Best Mgt. Practices used to maintain water quality
✓ North Carolina	Laws becoming more restrictive	Construction materials exempt from sales tax	Farms exempt from county zoning ordinances	No restrictions on corporate ownership of land	Labor laws treat farms like business	Has Right-to-Farm law and voluntary ag districts	Favorable financing climate for growth
✓ Oklahoma	Coverage is under EPA General Permit	Broad exemptions from taxation	Zoning laws exempt farms	Restrictions strong, but contain farm exemptions	Compulsory; may be exempt based on wages	Right-to-Farm laws based on management practices	EPA outlines Best Mgt Practices (BMPs)
✓ Pennsylvania	Farmers need nutrient management plan	Family farm corps. exempt from some corporate taxes	No restrictions on zoning	No corporate farming law; vertical integration OK	Farm labor exempt from minimum wage and overtime	Has Right-to-Farm and Farmland Preservation	Has First-Time Farmer program
✓ South Dakota	Laws haven't limited growth	Some taxes high; but no personal property taxes	County controls zoning regulations	No corporate farming law, although it's debated	Labor laws not limiting to growth	Passed Right-to-Farm law in 1992, but no rules to enforce	Bankers still cautious about livestock
✓ Texas	Coverage is under EPA General Permit	Ag use value is based on capacity to produce	Commercial ag purposes not protected from zoning	No restrictions found	Compulsory on migrant and seasonal help or \$25,000 payroll	Comprehensive Right-to-Farm law	EPA General Permit outlines BMPs for livestock
✓ Utah	Has Pollution Discharge Elimination System	Exemption for land in ag use and farm machinery	Control is with counties	No prohibitions found	Compulsory if employ for over 5 weeks at 40 hours/week	Protects operations in existence 3 years	Conservation easements used to protect farmland
✓ Wisconsin	Many non-point source water quality laws	Local property taxes are often high	May have areas zoned for exclusive ag use	Restricts certain activities; requires divestiture	Compulsory; may cover if employ 6+ weeks for 20 days/year	Types of nuisance action remedies are restricted	Financial help for water pollution abatement

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