

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 17, 2011, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Rocky Fund - Excused

Representative Michael Peterson - Excused

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes

Raney Gilliland, Kansas Legislative Research Department

Kay Scarlett, Committee Assistant

Conferees appearing before the Committee:

Others attending:

See attached list.

Discussion and action on SB 152 – Clarifying that a person with a concealed carry permit may carry a concealed firearm while legally hunting, fishing or fur harvesting.

Chairman Powell opened discussion on **SB 152**. Raney Gilliland, Kansas Legislative Research Department, explained that this bill would permit a person with a concealed carry license to carry a concealed handgun while lawfully hunting, fishing, or fur harvesting. The bill also would permit a person with a legally acquired suppression device to use the device while lawfully hunting, fishing, or fur harvesting.

Representative Collins moved to recommend SB 152 favorably for passage. Seconded by Representative Hayzlett, the motion carried.

Discussion and action on SB 122 – Authorizing the director of the Kansas Water Office to grant easements on state property on the Arkansas, Kansas and Missouri rivers.

The Chairman opened discussion on **SB 122**. Raney Gilliland, Kansas Legislative Research Department, reviewed this bill that would authorize the Director of the Kansas Water Office, after consultation with the Kansas Department of Agriculture, the Kansas Department of Health and Environment, the Kansas Department of Wildlife and Parks, and the State Conservation Commission, to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners. It was explained that the state owns the stream bed up to the high water mark along the Arkansas, Kansas, and Missouri Rivers.

Chairman Powell noted that Southwest Kansas Groundwater Management District No. 3 had opposed the scope of the language in **SB 122**, but could support the bill if the language was modified just for the purpose of stabilizing stream banks. The revisor explained a balloon amendment that would limit the conservation project easements to the banks of the three rivers. In addition, the balloon adds the phrase “for the expected life of the project.” (Attachment 1) Representative Grant moved to adopt the balloon amendment. Seconded by Representative Brookens, the motion passed.

Representative Grant moved to recommend SB 122, as amended, favorably for passage. The motion was seconded by Representative Hoffman. The motion carried.

Discussion and action on SB 214 – Redefining “person” in the groundwater management district act.

Chairman Powell opened discussion on **SB 214**. Raney Gilliland, Kansas Legislative Research Department, explained that this bill would change the existing definition of “person” for the purposes of the Groundwater Management District Act to mean any natural person, public or private corporation, municipality, or any other legal commercial entity. The bill also made other technical changes.

CONTINUATION SHEET

The minutes of the House Agriculture & Natural Resources Committee at 9:00 a.m. on March 17, 2011, in Room 783 of the Docking State Office Building.

Sean Ostrow, Office of the Revisor of Statutes, explained a balloon amendment requested by the Chairman for **House Substitute for SB 214**. The balloon would retain the contents of SB 214 and add the Subcommittee's recommendations on HB 2272 concerning the exemption of certain minor construction projects from state water regulations. (Attachment 2) Representative Hoffman moved to adopt the balloon amendment. Seconded by Representative Arpke, the motion passed.

Representative Wetta moved to recommend **SB 214**, as amended, favorably for passage in the form of **House Substitute for SB 214**. Seconded by Representative Prescott, the motion carried.

The meeting adjourned at 9:50 a.m. There are no further meetings of the House Agriculture & Natural Resources Committee scheduled for the 2011 legislative session.

HOUSE AG & NATURAL RESOURCES COMMITTEE
GUEST LIST

DATE: MARCH 17, 2011

[illegible]

As Amended by Senate Committee

Session of 2011

SENATE BILL No. 122

By Committee on Natural Resources

2-7

1 AN ACT concerning the Kansas water office; relating to easements on
2 state property for conservation projects.
3

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) As used in this act:

6 (1) "Conservation project" means any project or activity that the
7 director of the Kansas water office determines will assist in restoring,
8 protecting, rehabilitating, improving, sustaining or maintaining the
9 banks ~~or bed~~ of the Arkansas, Kansas or Missouri rivers ~~from the~~
10 ~~effects of erosion. It includes, but is~~ *Such projects include, but are not*
11 ~~limited to, projects that will aid in the protection of the river bed from~~
12 ~~degradation, streambank restoration and the construction of any dams,~~
13 ~~weirs or other structures associated with such projects or activities and~~
14 ~~those projects in the Arkansas, Kansas or Missouri rivers that are under~~
15 ~~the jurisdiction of the chief engineer of the division of water resources~~
16 ~~of the Kansas department of agriculture, as provided in article 3 of~~
17 ~~chapter 82a of the Kansas Statutes Annotated, and amendments thereto;~~

18 (2) "director" means the director of the Kansas water office; *and*

19 (3) ~~"interest in or along the river" means a riparian real property~~
20 ~~interest, including, but not limited to, an easement, project, dam,~~
21 ~~bridge, weir or other similar structure in or on state property, but shall~~
22 ~~exclude water rights; and~~

23 —(4) "state property" means real property currently owned in full or
24 in part by the state in the Arkansas, Kansas or Missouri rivers in
25 Kansas, in and along the bed of the river to the ordinary high water
26 mark on the banks of such rivers.

27 (b) (1) The director is hereby authorized to negotiate and grant
28 easements on state property for *construction and maintenance of*
29 *conservation projects with cooperating landowners in such projects*
30 *for the expected life of the project and* ~~with such terms and conditions~~
31 ~~as the director, after consultation with the Kansas department of~~
32 ~~agriculture, the Kansas department of health and environment, the~~

1 Kansas department of wildlife and parks and the state conservation
2 commission, may deem appropriate.

3 (2) Notice of the easement shall be given to the county or counties
4 in which the ~~conservation project or~~ easement is proposed and to any
5 municipality or other governmental entity ~~holding a riparian interest at~~
6 ~~the location on which such easement is proposed to be granted~~ *that, in*
7 *the opinion of the director, holds a riparian interest in the river and*
8 *may have an interest in the project or results thereof.* Those *persons*
9 *or* entities receiving notice shall have a period, not to exceed 30 days,
10 to provide comment on the proposed easement to the director.

11 (3) In the event such an easement is proposed to be granted on
12 state property owned or managed by any other agency of the state, the
13 director shall give notice of the proposed easement and project to that
14 agency and shall jointly negotiate any easement so granted. ~~The~~
15 ~~director shall also give notice of such proposed easement to the~~
16 ~~secretary of state.~~

17 (4) *A copy of* all easements so entered ~~into by the director~~ shall be
18 filed by the director with the office of the secretary of state and the
19 office of the register of deeds for the county or counties in which the
20 easement is located.

21 (c) The director shall adopt rules and regulations necessary to
22 carry out the provisions of this act.

23 Sec. 2. This act shall take effect and be in force from and after its
24 publication in the statute book.
25

HOUSE SUBSTITUTE FOR SENATE BILL NO. 214

By Committee on Agriculture and Natural Resources

AN ACT concerning water; related to water obstructions; related to groundwater management districts; amending K.S.A. 2010 Supp. 82a-301 and 82a-1021 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2010 Supp. 82a-301 is hereby amended to read as follows: 82a-301.

(a) Except as provided in subsection (c), without the prior written consent or permit of the chief engineer of the division of water resources of the Kansas department of agriculture, it shall be unlawful for any person, partnership, association, corporation or agency or political subdivision of the state government to: (1) Construct any dam or other water obstruction; (2) make, construct or permit to be made or constructed any change in any dam or other water obstruction; (3) make or permit to be made any change in or addition to any existing water obstruction; or (4) change or diminish the course, current, or cross section of any stream within this state. Any application for any permit or consent shall be made in writing in such form as specified by the chief engineer. Jetties or revetments for the purpose of stabilizing a caving bank which are properly placed shall not be construed as obstructions for the purposes of this section.

(b) As used in K.S.A. 82a-301 et seq., and amendments thereto, "dam" means any artificial barrier including appurtenant works with the ability to impound water, waste water or other liquids that has a height of 25 feet or more; or has a height of six feet or greater and also has the capacity to impound 50 or more acre feet. The height of a dam or barrier shall be determined as follows: (1) A barrier or dam that extends across the natural bed of a stream or watercourse shall be measured from the down stream toe of the barrier or dam to the top of the barrier or dam; or (2) a barrier or dam that does not extend across a stream or watercourse shall

be measured from the lowest elevation of the outside limit of the barrier or dam to the top of the barrier or dam.

(c) (1) The prior written consent or permit of the chief engineer shall not apply to water obstructions that meet the following requirements:

- (A) The water obstruction is not a dam as defined in subsection (b);
- (B) the water obstruction is not located within an incorporated area;
- (C) every part of the water obstruction is located more than 300 feet from any property boundary; and
- (D) the watershed area above the water obstruction is 640 acres or less.

(2) If the water obstruction does not meet the requirements of subsection (c)(1)(C), but meets all other requirements of subsection (c)(1), such water obstruction may be exempted from the permitting requirements of subsection (a) if the chief engineer determines such water obstruction has minimal impact upon safety and property based upon a review of the information, to be provided by the owner, including:

- (i) An aerial photo or topographic map depicting the location of the proposed project, the location of the stream, the layout of the water obstruction, the property lines and names and addresses of adjoining property owners; and
- (ii) the principal dimensions of the project including, but not limited to, the height above streambed.

(3) Notwithstanding any other provision of this section, the chief engineer may require a permit for any water obstruction described in this subsection if the chief engineer determines such permit is necessary for the protection of life or property.

Sec. 2. K.S.A. 2010 Supp. 82a-1021 is hereby amended to read as follows: 82a-1021.

~~(a) The following terms when used in this act shall have the limitations and meanings respectively ascribed to them~~ As used in this section:

~~(a)~~ (1) "Aquifer" means any geological formation capable of yielding water in sufficient quantities that it can be extracted for beneficial purposes.

~~(b)~~ (2) "Board" means the board of directors constituting the governing body of a groundwater management district.

~~(c)~~ (3) "Chief engineer" means the chief engineer of the division of water resources of the Kansas department of agriculture.

~~(d)~~ (4) "District" means a contiguous area which overlies one or more aquifers, together with any area in between, which is organized for groundwater management purposes under this act and acts amendatory thereof or supplemental thereto.

~~(e)~~ (5) "Eligible voter" means ~~any person who is a landowner or a water user as defined in this act except as hereafter qualified. Every a natural person of the age of 18 years of age or upward shall be an eligible voter of a district under this act if older, or a public or private corporation, municipality or any other legal or commercial entity that:~~

~~(1)~~ (A) ~~the person~~ Is a landowner ~~who~~ that owns, of record, any land, or any interest in land, comprising 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality; ~~or~~

~~(2)~~ (B) ~~the person~~ withdraws or uses groundwater from within the boundaries of the district in an amount of one acre-foot or more per year.

~~Except as is hereafter qualified, every public or private corporation shall be an eligible voter of a district under this act either (1) if it is a landowner who owns of record any land, or any interest in land, comprised of 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) if it is a corporation that withdraws groundwater from within the district in an amount of one acre-foot or more per year.~~

(6) "Land" means real property as that term is defined by the laws of the state of Kansas.

(7) "Landowner" means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements, or mortgages shall not be considered landowners by reason of such ownership.

(8) "Management program" means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.

(9) "Person" means any natural person, public or private corporation, municipality or any other legal or commercial entity.

(10) "Water right" shall have the meaning ascribed to that term in K.S.A. 82a-701, and amendments thereto.

(11) "Water user" means any person who is withdrawing or using groundwater from

within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.

(b) Each tract of land of 40 or more contiguous acres and each quantity of water withdrawn or used in an amount of one acre-foot or more per year shall be represented by but a single eligible voter. If the land is held by lease, under an estate for years, under contract, or otherwise, the fee owner shall be the one entitled to vote, unless the parties in interest agree otherwise. If the land is held jointly or in common, the majority in interest shall determine which natural person or corporation shall be entitled to vote. Each qualified eligible voter, or such eligible voter's duly authorized representative, shall be entitled to cast only one vote. ~~A person duly authorized to act in a representative capacity for estates, trusts, municipalities, public corporations or private corporations may also cast one vote for each estate, trust, municipality, or public or private corporations so represented.~~ Nothing herein shall be construed to authorize proxy voting.

(c) Any landowner who is not a water user may have such landowner's land excluded from any district assessments and thereby abandon the right to vote on district matters by serving a written notice of election of exclusion with the steering committee or the board. Such a landowner may again become an eligible voter by becoming a water user or by serving a written notice of inclusion on the board stating that the landowner has elected to be reinstated as a voting member of the district and will be subject to district assessments.

(d) ~~Any eligible voter who is a landowner or water user as defined in this act, and also is the owner of a tract or tracts of land comprising not less than 640 acres in area, located within~~

the boundaries of the district, on which no water is being used or from which no water is being withdrawn, may have such tract or tracts of land ~~on or from which no water is used or withdrawn~~; excluded from district assessment in the manner described above.

(e) All notices of inclusion or exclusion of land shall be submitted to the board not later than January 1 of the effective year.

(f) ~~"Land" means real property as that term is defined by the laws of the state of Kansas.~~

(g) ~~"Landowner" means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements, or mortgages shall not be considered landowners by reason of such ownership.~~

(h) ~~"Management program" means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.~~

(i) ~~"Person" means any natural person, private corporation, or municipality, or other public corporation.~~

(j) ~~"Water right" shall have the meaning ascribed to that term in K.S.A. 82a-701, and amendments thereto.~~

(k) ~~"Water user" means any person who is withdrawing or using groundwater from~~

~~within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.~~

Sec. 3. K.S.A. 2010 Supp. 82a-301 and 82a-1021 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.