

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 10:00 a.m. on May 1, 2009, in Room 446-N of the Capitol.

All members were present except:

Senator Steve Morris- excused

Committee staff present:

Kristen Kellems, Revisor of Statutes Office

Mike Heim, Revisor of Statutes Office

Corey Carnahan, Kansas Legislative Research Department

Raney Gilliland, Kansas Legislative Research Department

Alissa Vogel, Committee Assistant

Conferees appearing before the Committee:

Elmer Ronnebaum, Manager, Kansas Rural Water Association

Chris Wilson, Executive Director, Kansas Building Industry Association

Kevin Barone, Cities of Eudora and Park City

Kim Winn, Director, Policy Development and Communications, League of Kansas Municipalities

Others attending:

See attached list.

Senator McGinn announced the hearings on **HB 2283- Procedures for release of certain property of rural water districts** and **SB 332- Annexation by cities; territory of rural water districts**.

Raney Gilliland, Legislative Research Department, provided Committee members with a brief overview of **HB 2283**. He stated that the bill would amend a section of current law regarding the factors a rural water district board needs to consider prior to the releasing of lands from a rural water district (RWD). The bill adds additional factors for the members to consider.

He stood for questions. He stated that **HB 2283** passed the House with a vote of 125 to 0.

Elmer Ronnebaum, General Manager of the Kansas Rural Water Association, spoke as a proponent to **HB 2283** and informed the Committee of the KRWA's support for the passage of this legislation.

He stood for questions. Discussion was held on the process a rural water district board follows when determining appropriate compensation for the proposed land to be released from a RWD and whether the process should be modified. **HB 2283** allows a rural water district board to look at additional factors, increasing communication between interested parties, and making more information readily available to courts.

Kevin Barone, representing Park City and Eudora, assisted in answering questions regarding the necessity of **HB 2283**. He provided Committee members with a document that summarized the provisions of the bill. (Attachment 1) He stated that the factors listed in **HB 2283** evolved from previous court cases. This bill acts as a starting point to increase negotiations between RWDs, cities and landowners, prior to any court intervention. **HB 2283** acts as a time and cost saving measure; it resolves issues and limits attorney involvement.

Discussion was held on the court's role in determining whether rural water district boards have abused their power.

Chris Wilson, Executive Director of Kansas Building Industry Association (KBIA), spoke as a proponent to **HB 2283**. (Attachment 2) She shared with Committee members the encounters of homebuilders in the Wichita and Lawrence areas and situations where development occurs in RWDs, but city water services are needed to adequately service the areas. There has increasingly been the problem where RWDs have charged an excessive amount of money, without considering realistic factors to determine a fair amount of compensation for the land. She stated that a federal statute allows RWDs to obtain a loan from the United States Department of Agriculture (USDA) that protects RWDs from being forced to release land for

## CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 10:00 a.m. on May 1, 2009, in Room 446-N of the Capitol.

development. USDA officials acknowledged the abuses and encouraged the KBIA to pursue state legislation to address this issue. She stated **HB 2283** is a step in the right direction, allowing RWDs, landowners and cities to fairly value the loss of the territory to the RWD and for determining the value if negotiations fail.

She stood for questions. Discussion was held on the meaning of the language contained in Section 1, line 19, that stated “to yield more than a fair profit.” Kevin Barone stated that the Kansas Supreme Court determined that a RWD may only “charge such rate as will yield a fair profit, so long as the rate is not disproportionate to the service rendered.”

The hearing was closed on **HB 2283** and opened on **SB 332**.

Raney Gilliland provided the Committee with an overview of **SB 332**, specifically regarding the annexation of territory by cities into RWDs. He described the provisions of **SB 332**, including a mechanism for notice to be given to a RWD that describes the potential annexation and a city’s plan of water service for the area. If a RWD and city are unable to reach an agreement, the bill outlines a negotiation process including mediation and the appointment of appraisers. If the RWD or city is not satisfied with the appraiser’s decision, then an appeal may be made to the district court.

He stood for questions. Senator Francisco requested clarification of language contained on page 3, lines 23 through 26. Members of the Committee requested that clarification be given to the language regarding the factors that need to be considered and the procedure for the appraisers to follow. Mike Heim, Revisor of Statutes Office, assisted in answering questions.

Elmer Ronnebaum, General Manager for the Kansas Rural Water Association, spoke as a proponent to **SB 332**. (Attachment 3) He stated that the main goal of **SB 332** is to see RWDs and cities work out territorial agreements. **SB 332** will give a wake-up call to the RWDs that a city is preparing to annex some of their territory. It provides time for RWDs and cities to evaluate the loss of a territory and/or facility and work towards an agreement.

He stood for questions. Senator Abrams suggested adding “geographic territory” to the language in section 1, line 42.

Chris Wilson, Executive Director of KBIA, spoke as a proponent to **SB 332**. She stated that **SB 332** would encourage mediation to help move the development process along, save tax payer dollars and avoid litigation.

She stood for questions.

Kevin Barone, representing Park City and Eudora, spoke in favor of **SB 332**. He explained to the Committee that each bill pertains to two different situations and both bills are beneficial.

Dale Goter, Government Relations Manager of the City of Wichita, submitted written testimony in support of **SB 332**. (Attachment 4)

Kim Winn, Director of Policy Development & Communications of the League of Kansas Municipalities, spoke as an opponent to **SB 332**. (Attachment 5) Earlier this session, the League of Kansas Municipalities was approached by the Rural Water Association and agreed to meet with them during the interim to address some of these issues. They are concerned with this bill, because it deals with the much larger issue of annexation. She requested that more time be given for all interested parties to meet together to review and consider the specifics of this legislation and reach an agreement on language, including the “blue sky” annexation language.

She stood for questions.

Senator McGinn closed the hearing on **SB 332**.

Senator McGinn requested input from Committee members on the direction they wanted to pursue **HB 2283** and **SB 332**. Senator Abrams suggested combining the two bills and suggested inserting the language

## CONTINUATION SHEET

Minutes of the Senate Natural Resources Committee at 10:00 a.m. on May 1, 2009, in Room 446-N of the Capitol.

contained in section 3, number 1, of **SB 332** into **HB 2283**. Members of the Committee expressed concerns for combining the two bills, due to the language pertaining to two separate situations and whether the same procedure for rural water district boards to follow is appropriate for both situations. Discussion was held on whether to combine the two bills or have them remain separate legislation.

Further discussion was held on the process rural water district boards should be required to follow and the factors appraisers consider in determining reasonable value.

The Committee agreed to include “geographic territory” in the language of **SB 332** and work to combine the language of **SB 332** and **HB 2283**.

The next meeting is scheduled for May 4, 2009.

The meeting was adjourned at 11:00 a.m.