

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on February 15, 2012, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Michael Peterson (Unexcused)

Committee Staff Present:

Randy Gilliland, Kansas Legislative Research Department

Sean Ostrow, Office of the Revisor of Statutes

Chris Sevedge, Kansas Legislative Research Department

Joyce Hladky, Committee Assistant

Conferees appearing before the committee:

Representative Vince Wetta

Shelley Hansel, Executive Director, Wellington Chamber of Commerce

Erik Wisner, Regulatory and Policy Special Assistant, Department of Agriculture

Ron Hein, Hein Law Firm

Woody Moses, Kansas Aggregate Producers Association

Clint Patty, Frieden, Unrein & Forbes

Dave Barclay, Alsop Sand Company

Tim Austin, Poe & Associates

Nadine Stannard, Associated Materials

David Barfield, Department of Agriculture

Pat Lehman, GMD #4

Others attending:

See Attached List.

Chairman Powell opened the floor for hearings on **HB2730 amending the provisions of acts pertaining to food safety and lodging establishment.**

Erik Wisner, Regulatory and Policy Special Assistant, Department of Agriculture presented testimony in favor of **HB2730**. The bill makes many changes that update and clarify the Kansas Food Drug and Cosmetic Act, including:

Consolidating all definitions into one section

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Consolidating all statutes relating to penalties into a single statute – previously eight statutes referenced penalties. It also sets the cap on civil penalties at \$1,000 per violation.

Clarifies that administration and enforcement of the act is consistent with procedure in the Kansas Administration Procedures Act.

Repeals statutes that are archaic, redundant or incorporated into existing or new statutes.

The bill also makes some changes to the license structure.

The amendments will update food safety and lodging statutes to provide more transparency in regulatory authority and more equity in licensing cost by directing relating the fees paid to regulatory costs of the program. (Attachment 1)

Ron Hein presented neutral testimony on behalf of the Kansas Restaurant and Hospitality Association (KHRA) on **HB2730**. Mr. Hein testified regarding the issue of monies received by Kansas Department of Agriculture in the form of penalties going to the SGF.

The Kansas Restaurant and Hospitality Association suggests exploring with the Department of Agriculture greater reliance on facilities which penalties are being imposed for noncompliance with the ability to avoid fines by, instead, undergoing food safety training programs. Additionally, the KHRA would like to explore the issue of penalties going to a fund, not directly accessible by Kansas Department of Agriculture for operating expenses, which could be used for food safety training in the industry.

KHRA believes the fees should be reasonable and the proposed fee structure results in fee increases for many facilities. While the KHRA traditionally does not support fee increases, there is no objection to **HB2730** and thus stand neutral on the bill. (Attachment 2)

There being no further testimony on **HB 2730**, Chairman Powell closed the hearings.

Chairman Powell opened the floor for hearings on **HB2563 designating Kansas Annual Wheat Festival in Wellington, Kansas.**

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Representative Vince Wetta introduced Shelley Hansel, Executive Director of the Wellington Chamber of Commerce.

Ms. Hansel presented testimony in support of **HB2563**. The Wheat Festival is a five-day celebration that the Wellington Chamber of Commerce hosts every year and has done so since 1900. The festival represents more than Wellington/Sumner County. It is representative of all Kansas wheat farmers and the Wellington Chamber of Commerce believes the title proposed in the bill will take the festival to the next level. Contact has been made with the Kansas Farm Bureau and the Kansas Wheat Commission regarding the festival and coordination of efforts.

Ms. Hansel expressed appreciation to the Committee for consideration of the bill and asked for support through passage of the bill to the House floor for vote. (Attachment 3)

There being no further testimony on **HB 2563**, Chairman Powell closed the hearings.

Chairman Powell opened the floor for hearings on **HB2698 water permit for sand and gravel pit projects**.

Woody Moses, Kansas Aggregate Producers Association, testified in favor of **HB2698**.

Under the provisions of **HB2698** the evaporation of groundwater will be regulated by a single permit authorizing the use of water for that purpose. The permit will cover all uses of water associated with a sand and gravel operation including the dredge, wash water wells, and net evaporation. This concept was envisioned in the earlier compromise. Adopting this concept will balance the public interest in both sand and gravel and water by:

- Providing a long-term solution for sand and gravel operations, by securing reserves that may not be accessed for another 50-100 years.
- Reduce the work load of the Kansas Division of Water Resources
- Provide economical access for the development of natural resources
- Preserve property rights, while protecting the state resources.

Protecting property rights, public resource, and developing natural resources are vital issues to all Kansas. **HB2698** will advance good policy in this area. (Attachment 4)

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Clint Patty of Frieden, Unrein & Forbes, presented testimony in favor of **HB2698**. **HB2698** clarifies and improves the permitting process for sand and gravel operators to operate within the state of Kansas. It allows for a general project permit to be issued for the use of sand and gravel pits, and removes the restrictive time limitations to allow a permit to exist through the life of a project. The bill specifically requires the Chief Engineer to include authorization for net average annual ground evaporation and all consumptive and non-consumptive uses on each project. The bill additionally requires the “safe yield” standard of evaluation for sand and gravel projects and requires the Chief Engineer to expeditiously approve or deny permit applications and a direct appeal for operators to district court under the Kansas Judicial Review Act.

The proposed changes to K.S.A. 82a734 strike the appropriate balance between the state’s need for aggregate natural resources and protection of our water resources. (Attachment 5)

Dane Barclay of Alsop Sand Company testified on behalf of **HB2698**. Mr. Barclay provided the process required to extract sand and expenses associated with equipping such an operation as well as the long-term commitment associated with the project.

Mr. Barclay asked the committee to vote in favor of **HB2698** as the bill would reduce the number of separate permits required for sand and gravel operations. (Attachment 6)

Tim Austin, Professional Engineer, with Poe and Associates, presented testimony in favor of **HB2698**. Mr. Austin testified that **HB2698** simplifies the permitting process for sand and gravel operators to operate within the state of Kansas.

There are many reasons for the lengthy permit process, some of which are no fault of the DWR or GMD 2. However, contributing factors that increased the permitting time were mainly ambiguities and conflicts in the Rules and Regulations between GMD2 and DWR with respect to the safe yield analysis, the hierarchy of authority, and the 15 ac-ft exemption.

HB2698 will streamline the permitting process, provide clarity to appropriation applications and review, and will place the authority for these decisions solely with the Chief Engineer.

Sand and gravel pits contribute greatly to the south-central Kansas economy and allow property owners to realize the highest and best use for their property. (Attachment 7)

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Nadine Stannard, President of Associated Material & Supply Company, presented testimony in favor of **HB2698**. Ms. Stannard testified in detail the tracking process her company follows and included a copy of the tracking worksheet her company uses as a quick reference sheet to track the permits for the two production sites of Associated Material. **HB2658** will help with both the process to apply for and to track the permits required for her company's sites. (Attachment 8)

David Barfield, Chief Engineer, Division of Water Resources, Department of Agriculture presented neutral testimony for **HB2658**. Mr. Barfield testified that while the department does not oppose reducing the number of separate permits are required for sand and gravel operations, the Department does have a number of specific concerns with the bill as drafted:

1. Exemption from safe-yield and other KWAA requirements.
2. Permitting of the wash water well.
3. Ongoing authorization of pit evaporation once dredging is complete.
4. "Expediently approve" language.
5. Deeming of a project permit where existing permits are in place.

Mr. Barfield thanked the committee and answered questions. (Attachment 9)

Pat Lehman presented opposing testimony on behalf of all Five Kansas Groundwater Management Districts. The GMDs are opposed to **HB2698** as they believe the bill creates a new class of water users with general project permits that can utilize undetermined amounts of water for undeterminable periods of time under proposed conditions. This notion is outside the established doctrines of the Water Appropriations Act and the public interest expressed in the Groundwater Management District Act and local groundwater management programs.

The Groundwater Management District urges the bill not be passed at this time. (Attachment 10)

Written Testimony:

Wayne Bossert, Northwest Groundwater Management District (Opponent) (Attachment 11)

There being no further testimony on **HB2698**, Chairman Powell closed the hearings.

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Chairman Powell called for a motion to approve the minutes of January 31; February 1 & 2, 2012. Representative Hayzlett moved for approval. Representative Weber seconded the motion. When called to a vote, the motion carried unanimously.

Meeting adjourned at 10:52 a.m.

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