

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on March 12, 2001, in Room 423-S of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research Department
 Gordon Self, Revisor of Statutes Office
 Kay Scarlett, Committee Secretary

Conferees appearing before the committee:

 Troy Schroeder, Department of Wildlife & Parks
 Representative Melvin Minor
 Ralph Arnold, Mayor, City of Larned (written only)
 Lee Borck, President, Ward Feed Yard, Larned
 Richard Boeckman, Attorney, Great Bend (written only)
 Marian Mull, Larned
 Ron Ashworth (no written testimony)
 Alan Buster (no written testimony)
 Marty Loving (no written testimony)
 David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture
 Clint Riley, Attorney, Department of Wildlife & Parks

Others attending: See attached list

Troy Schroeder, Department of Wildlife & Parks, presented a draft of a Kansas Buffer Partnership for Clean Water Program. He stated that buffers provide common sense, cost-effective conservation. By putting small sensitive areas of the field in permanent vegetation, environmental benefits can be achieved over the entire field and beyond, allowing most of the field to remain in production. These buffers will not only control erosion and improve water quality associated with crop land runoff, wildlife habitat will also be improved. He noted that although this project is still in the planning stages and the number of partners involved and the level of funding are unknown, details of project coordination, hiring/training, job descriptions/duties, etc. will be developed prior to May 1. He provided several brochures and an article from the Wichita Eagle. (Attachment 1)

Hearing on HB 2561 - Imposing requirements prior to issuance of certain certificates of water appropriation to federal or state governments.

Chairman Johnson opened the hearing on **HB 2561**. Raney Gilliland explained that **HB 2561** would amend the Kansas water appropriation act relating to certificates of appropriation issued to government entities for diversion of water in amounts exceeding 15,000 acre feet after January 1, 2000.

Representative Melvin Minor outlined the requirements for issuance of a certificate of a water right in excess of 15,000 acre feet to a state or federal agency as set forth in **HB 2561**: 1) The Chief Engineer would be required to publish in the Kansas Register the information used to make the determination; 2) Water right holders within the affected area would be given 120 days from date of publication to challenge the findings; 3) If challenged, a hearing before a hearing officer would be required, and may be appealed to the district court; and 4) The law would be retroactive to include all certificates issued on or after January 1, 2000. (Attachment 2)

Representative Minor read testimony submitted by Ralph Arnold, Mayor, City of Larned, on behalf of the Larned City Council in support of **HB 2561**. The City of Larned believes the Cheyenne Bottoms water right certification could cause a significant curtailment of water usage when flow in the Arkansas River cannot

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support the diversion to Cheyenne Bottoms. It is felt that the future economic impact to the City of Larned could be substantial as growth would be limited by the loss of water supply and by the inability to replace the water supply due to cost or availability. (Attachment 3)

Lee Borck, President, Ward Feed Yard at Larned, a commercial cattle feeding operation with extensive irrigated farming interests, spoke in support of **HB 2561**. He believes a public hearing should be held concerning the Cheyenne Bottoms water right certification to assure the public that a transfer of water rights of this magnitude between state agencies is held to the same standards as private water users. (Attachment 4)

Richard Boeckman, an attorney from Great Bend representing a group of water users in Barton and Pawnee Counties concerned about the certification permit held by Kansas Department of Wildlife & Parks to divert water from the Arkansas River into the Cheyenne Bottoms, submitted written testimony in support of **HB 2561**. (Attachment 5)

Marian Mull, an irrigation user from Larned, testified in support of **HB 2561**. (Attachment 6)

Ron Ashworth, Alan Buster, and Marty Loving, irrigation users from Pawnee County, appeared in support of **HB 2561**.

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, appeared in opposition to **HB 2561**. He explained the process to receive a permit to appropriate water for beneficial use and, ultimately, a certificate of appropriation. Specifically, he reviewed the water right and process used to certify the diversion of water from the Arkansas River to the Cheyenne Bottoms wetlands. He expressed concern that this bill would require that the Cheyenne Bottoms certificate be reviewed through an after-the-fact public hearing process, stating that once water is diverted under an appropriation right, it becomes a real property. He questioned whether it would be good policy to set a precedence that one type of water right can be subjected to a different type of process. In addition to the impact on the Kansas Department of Wildlife and Parks water right at Cheyenne Bottoms, he explained that this bill would apparently impose these requirements on any government entity that had a water right of this size, examples would be public water supplies operated by cities or water districts, large irrigation districts, and any other public entity that would operate a large water management project in the future. (Attachment 7)

Clint Riley, Attorney, Department of Wildlife & Parks, testified in opposition to **HB 2561** as it would impact only one certificate of appropriation, and would impact that certificate retroactively. The certificate of appropriation to Kansas Department of Wildlife & Parks for the diversion of water from the Arkansas River for use at Cheyenne Bottoms Wildlife Area was issued in August 2000. He explained that the original application for this water right had been filed in 1954; the perfection period closed in 1967, but the certificate of appropriation had not been issued. He questioned the wisdom and precedent of applying retroactive procedures to select water rights. (Attachment 8)

As there were no other conferees, the Chairman closed the hearing on **HB 2561**.

Discussion and action on HB 2468 - Enacting the land stewardship and productivity act.

Chairman Johnson opened discussion on **HB 2468** and asked Raney Gilliland to review the bill that would rewrite and update Kansas noxious weed law.

Gordon Self, Revisor of Statutes, explained proposed technical and clarifying amendments to **HB 2468**. (Attachment 9) Representative Freeborn moved to adopt the amendments contained in the balloon. Seconded by Representative Schwartz, the motion carried.

Representative Dahl moved to amend **HB 2468** to require that the same financial incentive apply whether the responsible party purchases chemicals from the county noxious weed department or a registered Kansas pesticide dealer as proposed in the amendment by the Kansas Agricultural Alliance. (Attachment 10) The motion was seconded by Representative Feuerborn. After much discussion, the motion carried.

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Noting numerous concerns with the bill, the Chairman appointed a subcommittee on **HB 2468** consisting of Representative Dan Johnson, Chairman; Representative Don Dahl; and Representative Bruce Larkin.

The meeting adjourned at 6:20 p.m. The next meeting is scheduled for March 14, 2001.