

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairman Dan Johnson at 3:30 p.m. on February 16, 2000, in Room 423-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture  
Gordon Schmidt, Newton (no written testimony)  
Jim Kaup, City of Hays  
Clark Wiebe, Hillsboro  
Doug Wareham, Vice President, Government Affairs, Kansas Grain and Feed Association  
Ted Schultz, Grain Division Manager, Mid Kansas Coop, Moundridge  
Joe Lieber, Executive Vice President, Kansas Cooperative Council  
Jamie Clover Adams, Secretary, Kansas Department of Agriculture

Others attending:        See attached list

**Hearing on HB 2748 - Allowing owners of water rights to change the place of use or the point of diversion if water is used for irrigation on land owned or leased by the owner of the right.**

Chairman Johnson opened the hearing on **HB 2748** and asked Raney Gilliland to explain the bill. He explained that under current law any owner of a water right may change the place of use, the point of diversion or the use made of the water, without losing priority of right, provided such owner: (1) applies in writing to the chief engineer for approval of any proposed change; (2) demonstrates to the chief engineer that any proposed change is reasonable and will not impair existing rights; (3) demonstrates to the chief engineer that any proposed change relates to the same local source of supply as that to which the water right relates; and (4) receives the approval of the chief engineer with respect to any proposed change. He explained that **HB 2748** would allow any owner of a water right to change the place of use or the point of diversion of the water, without losing priority of right, provided such owner uses the water only for irrigation upon land owned or leased by the owner of such water right.

David Pope, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, appeared as an opponent to **HB 2748**. He said that this seemingly minor change to the law could have tremendous negative implications on the department's ability to protect and administer water rights in the State of Kansas. He discussed the possible consequences of allowing changes in the point of diversion, changes in the place of use, or changes in the use of the water. He said there are provisions in current law to allow an owner of a water right to change the place of use or the point of diversion under certain circumstances. He said that existing law and the associated processing of applications for change in water rights in accordance with existing law and regulations are necessary to protect existing water rights and the waters of the state. He reported that changes in point of diversion involving relocation of the authorized well short distances and changes in place of use for which little or no additional net land is being added are processed at the field office level on a very timely basis. He said that more complex changes may require two to six months, or longer. He reported that during 1999 the average time for these more complex changes was about 90 days. (Attachment 1)

Gordon Schmidt, Newton, testified in support of the concept of **HB 2748**. He feels that an owner of a water right should be able to irrigate as many acres as he would like as long as he doesn't use any additional water. He believes this would encourage development of more efficient uses of irrigation water.

## CONTINUATION SHEET

Jim Kaup, representing the City of Hays, testified as a proponent of **HB 2748**, but requested an amendment to allow municipal water right holders the same benefits of the bill as irrigation water holders. He said that while cities use only a small fraction of the volume of water compared to irrigation water users, they have the same interests. He believes the policy of Kansas should be to provide the benefits outlined in the bill across the board and treat all water right holders the same unless a compelling state interest justified discrimination among categories of water right holders. (Attachment 2)

Clark Wiebe, Hillsboro, testified in support of **HB 2748**. He would like to be able to increase acreage under irrigation using the same volume of water. He feels it would be an incentive for producers to invest in new technology to use water more efficiently and reduce run-off and wasted water. (Attachment 3)

Jerry Nelson, who serves on the Kansas Livestock Association water committee, suggested amending **HB 2748** to allow any owner of a water right to change the place of use, but not the point of diversion or use made of the water, without losing priority of right.

Richard Wenstrom, Kinsley, also a Kansas Livestock Association water committee member, commented that the bill was a non-issue as far as he was concerned. He said that with the cost of pumping the water, seed, fertilizer, chemicals, etc., spreading irrigation water over more acreage was not economically advantageous.

Chairman Johnson closed the hearing on **HB 2748**.

### **Hearing on HB 2973 - In lieu of a warehouse bond, may be an irrevocable letter of credit.**

Chairman Johnson opened the hearing on **HB 2973**. The Chairman noted that this bill was identical to **SB 564** which passed out of the Senate Agriculture Committee with an amendment that it become effective upon publication in the Kansas Register. He said the House Agriculture Committee was hearing the bill at this time to facilitate passage in a timely manner.

Doug Wareham, Vice President, Government Affairs, Kansas Grain and Feed Association, appeared in support of **HB 2973** which had been requested by the association. He discussed the importance of expediting passage of this bill and highlighted its major points. He explained that this bill would allow substitution of an irrevocable bank letter of credit in lieu of a warehouse bond as means of satisfying the financial obligation requirement of the Kansas Public Warehouse Act. He noted that this is the same language as currently found in the United States Public Warehouse Act. He said that it would cost the state's warehouse program over \$18,000 in license fees if the five cooperatives requesting this change were to acquire a federal warehouse license. (Attachment 4)

Ted Schultz, Grain Division Manager, Mid Kansas Coop, Moundridge, testified in support of **HB 2973**. He explained how the coops at Moundridge, Hillsboro, Nickerson, Halstead, and Walton had formed Team Marketing Alliance, LLC, to provide their producer owners a fair market for their grain products and protect the value of their assets. Team Marketing Alliance represents 25 million bushels of storage capacity in 38 elevators. As state warehouse licensing laws only allow a bond or physical asset to meet financial obligations, he said passage of **HB 2973** is necessary. Team Marketing Alliance does not physically own the elevators and a bond the size they would require is not available. (Attachment 5)

Joe Lieber, Executive Vice President, Kansas Cooperative Council, appeared in support of **HB 2973** stating that this bill would allow cooperatives and other organizations an opportunity to expand their businesses. He said that with passage of this bill, the Kansas warehouse statute will conform to federal law and will allow many cooperatives to remain state licensed. (Attachment 6)

Jamie Clover Adams, Secretary, Kansas Department of Agriculture, appeared in support of **HB 2973**. She said that with a variety of new partnerships and legal structures being implemented by grain warehouse licensees as they pursue new market opportunities for grain delivery, she anticipates more requests from Kansas licensees to use the irrevocable letter of credit as an additional form of financial guarantee. Because an irrevocable letter of credit is more costly than a bond, she felt facilities would use it only when absolutely necessary. She said that the state grain warehouse licensing program competes with the federal government in attracting licensees and this bill would give the state additional flexibility to bring in, and keep, grain warehouses in the state system. (Attachment 7)

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Chairman Johnson closed the hearing on **HB 2973**.

CONTINUATION SHEET

**Discussion and action on HB 2702 - Sales and property tax exemption for greenhouse machinery and equipment.**

Chairman Johnson called for the subcommittee report on **HB 2702**. Gordon Self, Revisor of Statutes, explained the subcommittee's recommendations to better define a greenhouse as agriculture in the statutes for property tax purposes. As the sales tax portion of the bill was not problematic, that portion of the bill was deleted. The revisor recommended a substitute bill. (Attachment 8)

Representative Dahl, chairman of the subcommittee, moved to adopt the committee's report and rename the bill **Substitute HB 2702**. Seconded by Representative Freeborn, the motion carried.

Representative Weiland moved to recommend passage of **Sub. HB 2702**. Seconded by Representative Compton, the motion carried.

**Discussion and action on HB 2762 - Inspections of controlled shooting areas.**

As there was no opposition to the bill, Representative Schwartz moved to recommend passage of **HB 2762**. Seconded by Representative Showalter, the motion carried.

**Discussion and action on HB 2817 - Disposition of animals from shelters and pounds; spaying or neutering animals.**

Representative Larkin moved to amend **HB 2817** as proposed by the Kansas Animal Health Department:

- 1) On page 3, line 10, after the word premise, insert "located in the state of Kansas"
- 2) On page 3, line 14, strike the word "policy" and insert in lieu thereof "program"
- 3) On page 3, line 15, strike "(b)" and insert in lieu thereof "(a)(2)"

Seconded by Representative Faber, the motion carried.

Representative Dahl, seconded by Representative Flower, moved to table the bill. The motion failed.

Representative Larkin moved to recommend passage of **HB 2817** as amended. Seconded by Representative O'Brien, the motion carried.

The meeting adjourned at 5:12 p.m. The next meeting is scheduled for February 21, 2000.