

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on March 11, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative Jim Yonally- excused

Committee staff present:

Martha Dorsey, Legislative Research Department
Mike Heim Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

Joe Palacioz, City of Hutchinson
Scott Gates, Department of Administration
Shari Weber, Community Bankers Assoc. Of Kansas
Sen. Goodwin, Kansas Senate
Rep. Judy Showalter, Kansas House
Sen. Pugh, Kansas Senate
Terry Holdren, Kansas Farm Bureau
Allie Devine, Kansas Livestock Association
Ron Pray, Pray Stone Company
Roger Black, Kansas Livestock Association, Save our Industries and Land
Donna Martin, Kansas Livestock Association
Save Our Industries and Land
Charles Benjamin, Kansas Chapter of Sierra Club
Bill House
Sandy Jacquot, League of Kansas Municipalities
Joe Harkins, Kansas Water Office

Others attending:

See Attached List.

The Chairman opened the hearing on:

**HB 2914 investments of public moneys by subdivisions of state;
time period of investment extended**

Rep. Mike O'Neal introduced Joe Palacioz, City Manager, City of Hutchinson, who testified in support of the bill (Attachment 1). He explained that the City of Hutchinson recently reached an agreement with three gain elevators to pay the City \$10.5 million in cash to take over their responsibility for clean-up of

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groundwater contamination. He said in exchange for this cash payment, the City of Hutchinson will construct a reverse osmosis membrane filtration plant. Mr. Palacioz said that current state law provides that local units of government may not invest in certificates of deposit or related financial instruments for more than two years. He said that the City of Hutchinson is asking for specific legislation that will allow them to invest in a longer time period as required for such specific purposes.

Scott Gates, Department of Administration, presented testimony on behalf of Derl Treff, Kansas Pooled Money Investment Board (Attachment 2). He said the language of the bill is too broad and open to interpretation. He explained a proposed balloon amendment to the bill.

Written testimony in support of the bill was submitted by:

- Meryl Dye, Special Assistant to the City Manager, City of Hutchinson (Attachment 3)

Shari Weber, Executive Director, Community Bankers Association of Kansas, testified in opposition to the bill (Attachment 4). She said there are provisions for a public entity to request an extended time frame for investment of public funds from the Pooled Money Investment Board. She stated because of this, there would be no need for this proposed change in the statute.

The Chairman closed the hearing on: **HB 2914**

SB 328 cities and counties; limitation on lien for unpaid sewer charges

Rep. Siegfried made a motion to adopt the balloon amendment (Attachment 5) relating to commercial broker lien rights and to also adjust the time limit for foreclosure on the lien from two years to one year. Rep. Lane seconded the motion. The motion carried.

Rep. Siegfried made a motion for the favorable passage of SB 328 as amended. Rep. E. Johnson seconded the motion. The motion carried.

The Chairman opened the hearing on:

SB 461 limitations on acquisition of land by eminent domain by a port authority and county

Sen. Goodwin testified in support of the bill (Attachment 6). She said she introduced the bill to clarify that neither the counties, port authorities or any quasi-public body may take land from private citizens through the use of eminent domain powers for recreational purposes only. She stated that the bill also specified that if land is acquired with the use of eminent domain powers by any governmental entities and **recreation** is part of the purpose for the use of eminent domain, then the governmental body may not allow private development upon such acquired land or site for 30 years.

Rep. Showalter testified in support of the bill (Attachment 7). She explained that the bill will amend the

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law to provide that no port authority shall modify, amend, or extend the port authorities official plan as originally adopted by the port authority to change the purpose for which it was created or alter the character of the work undertaken without the approval of the legislature. She informed that the bill is specific to Cowley County.

Senator Pugh testified in support of the bill (Attachment 8). He said the bill is an effort to prevent the exercise of eminent domain; otherwise known as condemnation from the taking of the private property of many for the benefit of the few.

Terry Holdren, Associate State Director, Governmental Relations, Kansas Farm Bureau, testified in support of the bill (Attachment 9). He said the bill provides much needed protection by:

- Precluding a port authority or county government from acquiring land for recreational purposes by eminent domain;
- Restricting private development on land acquired by the use of eminent domain for 30 years; and
- Requiring a port authority or county government to satisfy all state and federal permitting agencies before the use of eminent domain powers.

Mr. Holdren said that the provisions will ensure that projects are legitimate and in compliance with regulatory agencies before the homes and lands of private citizens are taken from them, jobs are lost, and the vitality of communities in Cowley County threatened.

Allie Devine, Vice President and General Counsel, Kansas Livestock Association (KLA), testified in support of the bill (Attachment 10). She said the bill is important to their members in Cowley County who are facing a proposed development of a nearly 10,000 acre lake to be built on private lands secured through the use of eminent domain. She advised that the Kansas Water Authority through its planning process has begun gathering data on the feasibility of this lake. She said that the residents of Cowley County have lived under the threat of this lake development long enough. Ms. Devine asked the Committee to give them some legal assurance that their land will not be taken indiscriminately; without regard to state and federal environmental laws; or for the benefit of a few developers.

Ron Pray, Owner, Pray Stone Company, testified in support of the bill (Attachment 11). He stated that many buildings have been built from Silverdale limestone. He listed the following: Crum Castle, Old Sedgwick County Court House, Old Wichita City Building, Cowley County Courthouse, Ahearn Fieldhouse and Archer Hall at K-State, Lindley Hall at K-U, Union building at Fort Hays, and the Kansas City Scottish Rite Temple. He explained that Silverdale limestone outcrops only on the plateaus overlooking the Grouse Creek and Silver Creek Valleys. Mr. Pray said the stone is in the Barneston Geological formation, which is about 100 feet thick and runs north and south across the state with outcrops occurring in the valley in about a 10-foot thick section. He stated that the stone in this section is unique in the color, quality, and characteristics that only Silverdale stone possesses. He informed that if the lake is built, and land within three miles of the lake is appropriated by eminent domain for development of the lake, all past and present reserves of Silverdale limestone will be affected. Mr. Pray said the loss of the quarry will mean loss of jobs—not just those men and women who work in the quarries

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themselves, but also the cutters and the equipment operators who prepare and transport the stone, and the architects, masons and builders who use the stone.

Roger Black, Kansas Livestock Association (KLA), Save Our Industry and Land (SOIL), and Grouse-Silver Creek Watershed Board, appeared in support of the bill ([Attachment 12](#)). He stated that the proposed lake development has already impacted their area. He said that because of the uncertainty regarding their property's future, construction of new homes, remodeling and maintenance projects have all been put on hold. He stated this translates into lost economic activity, which impacts providers far beyond the five mile perimeter. He said they need some relief; a way to bring this uncertainty to an end.

Donna Martin, Kansas Livestock Association (KLA) and Save Our Industry and Land (SOIL), appeared in support of the bill ([Attachment 13](#)). She said according to a September 13, 2004 article in the [Wichita Business Journal](#), a Wichita Real Estate developer made public a five year old plan to stir interest in water and build the first preplanned developer's lake in the nation. She stated that the article further noted that the Wichita group planned to pay for the lake by taking enough extra land for resale. Ms. Martin said that the article went on to say that in order to acquire more land than was actually needed for the project, the Wichita group's way of skirting the law was to have a Port Authority named which in turn would enable them to acquire the governmental authority to condemn and take the extra, desired land. Ms. Martin informed that at a public meeting on October 27th, she and others were told by Lieutenant Governor Moore, "If there is no need for water, this is a dead issue." She said his statement appeared to be withdrawn on January 29th, at the Lower Arkansas and Walnut Basin Advisory Committee's meeting by one of the Lieutenant Governor's subordinates who said, "Our goal is economic development through water." Ms. Martin said that the Walnut Basin Advisory Committee was told that the issue would not be handled in the traditional way and that they would not be able to deal with it. She informed that the Kansas Water Office appointed a special group called the TAC.

Charles Benjamin, Attorney, Kansas Chapter of the Sierra Club, testified in support of the bill ([Attachment 14](#)). He said their group supports the bill because it deals directly with a proposal to dam Grouse Creek in southern Cowley County in order to create a Grand Lake/Lake of the Ozarks type of development. He said that the National Park Service has recognized Grouse Creek as an "Outstandingly Remarkable Stream" based on scenic, historical, and ecological attributes. He advised that the state's former Fish and Game Commission listed Grouse Creek as a "Highest-Valued Fishery Resource." Mr. Benjamin informed that recently, the [Kansas Magazine](#) reported on the historic limestone bridges over Grouse Creek and its tributaries.

Bill House, local resident, appeared in support of the bill ([Attachment 15](#)). He said he was present at the hearing because of the proposal by a representative of Weigand Realtors of Wichita to build a lake in the Grouse Creek Valley seven miles east of Arkansas City. He explained that the proposal lists water and electricity as possible developments, but also lists retirement homes, tourism, resorts and parks, waterfront second homes, vacation homes, and recreation. He said that K.S.A. 12-1774 "Port Authority" is a dangerous statute leaning toward letting predators take anything they desire. He warned that if Sedgwick County issued the authority, Cowley County would lose control over the entire entity.

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Written testimony in support of the bill was submitted by:

- Robert Voegele, Farmer and Cowley County Farm Bureau President (Attachment 16)

Sandy Jacquot, General Counsel, League of Kansas Municipalities, testified in opposition to the bill (Attachment 17). She said the primary focus of concern for the League is the language in Section 1(a) and in Section 3 that would affect all existing and future port authorities. She stated the proposed language would prohibit all existing and future port authorities from modifying, amending or extending the port authority's original plan unless approved by the Legislature, and would prohibit ever changing the character of the work. She said the bill would not allow the use of eminent domain for a recreational-use purpose or private development. Ms. Jacquot said that currently, existing port authorities may modify, amend or extend the character of the work originally undertaken by holding a public hearing. She advised that if the concern needing to be addressed in the bill encompasses only one area, Sections 1 and 3 could be amended to limit the impact to port authorities created for the purpose of completing a project in Cowley County.

Joe Harkins, Acting Director, Kansas Water Office, appeared in opposition to the bill (Attachment 18). He said the Kansas Water Authority (KWA) has authorized the Kansas Water Office to gather information, seek input from the public, and make a recommendation later in the year to the KWA on what the next step, if any, should be on the part of the state regarding a new lake in this region. He expressed that legislative action intended to prevent the project before the analysis is complete, is premature.

The Chairman closed the hearing on: **SB 461**

Rep. Toelkes made a motion to approve the minutes of the February 17, 2004 meeting. Rep. Kassebaum seconded the motion. The motion carried.

The meeting was adjourned.

The next meeting is scheduled for March 16, 2004.