

MINUTES OF THE SENATE AGRICULTURE COMMITTEE

The meeting was called to order by Chairman Derek Schmidt at 8:30 a.m. on February 11, 2004 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research
Lisa Montgomery, Office of the Revisor of Statutes
Robert Myers, Committee Secretary

Conferees appearing before the committee:

David Pope - Chief Engineer, Kansas Department of Agriculture's Division of Water Resources

Others attending:

See Attached List.

Senator Huelskamp moved to approve the minutes of both the January 27 and 28 committee meetings, seconded by Senator Corbin. The motion carried.

SB 463: Exception to perfection of water rights concerning beneficial use.

Chairman Schmidt opened the hearing on **SB 463**.

David Pope appeared before the committee as a proponent of **SB 463**. He began his testimony by giving a brief background on the water perfection process, describing it as the actual beneficial application of water as authorized by the permit to appropriate water. He stated that a real property right is gained upon the finalization of the water right (i.e., upon the issuance of a certificate of appropriation by the division of water resources). He then stated that the issue addressed by the bill is the 1999 establishment of certain deadlines for the issuance of certificates of water appropriation, having occurred upon the amendment of K.S.A. 82a-714(c). More specifically, he indicated that these deadlines were established in order to address the backlog, in 1999, of approximately 3,500 permits for which the time to perfect a water right had expired prior to the issuance of a certificate of appropriation.

David Pope stated that a positive result of the 1999 amendments is that, by 2003, a certificate was issued to approximately 5,200 out of the approximately 5,500 cases in which water rights had expired. He also indicated the negative side of the situation though, pointing out that currently 247 out of these 5,200 cases of certification still need to be resolved due to questions of abandonment. Thus, he expressed the need for the amendment provided by this bill in order to allow more time to determine if or not abandonment has occurred. He continued by stating that, in addition to the above-mentioned 247 cases, thus far 171 unresolved cases have been addressed during approximately the last year. He provided the following specifics about these 418 total cases:

- 31 cases were resolved because the individuals involved admitted to the abandonment of their resources and did not contest the resulting loss of their respective water rights.
- 94 cases have not been able to be determined as involving abandonment.

David Pope informed the committee that the current number of hearings per month is approximately ten and that it is calculated that another 134 hearings will be needed in order to resolve the remaining cases. Thus, he expressed the need to implement the bill in question, in order to extend the current deadlines for the issuance of certificates of appropriation. To further stress this need, he stated that it would be unwise to jeopardize the legal position of the state by improperly issuing certificates of appropriation in order to comply with the current July 1, 2004 deadline (Attachment 1).

Chairman Schmidt provided the committee with the option of taking immediate action on **SB 463**, due to the lack of other items on the agenda for the meeting that day. The Chairman heard no objections to this option, and thus the bill was discussed at that time by the committee.

Senator Huelskamp moved to make a conceptual amendment to **SB 463** that would reduce the deadline

CONTINUATION SHEET

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extension to one year as opposed to two (i.e., July 1, 2005 as opposed to July 1, 2006), seconded by Senator Tyson.

Senator Downey made the substitute motion to extend the deadline to two years (i.e., July 1, 2006), seconded by Senator Tyson. The motion carried.

Senator Downey moved to report **SB 463** favorably for passage, seconded by Senator Lee. The motion carried.

The next meeting is scheduled for Tuesday, February 17, 2004.