

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:34 a.m. on January 26, 2006, in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Lisa Montgomery, Revisor of Statutes Office
Raney Gilliland, Legislative Research Department
Emalene Correll, Legislative Research Department
Judy Holliday, Committee Secretary

Conferees appearing before the committee:

Lane Letourneau, Kansas Department of Agriculture's Division of Water Resources
Kyle Kessler, Kansas Department of Social and Rehabilitation Services

Others attending:

See attached list.

Chairman McGinn asked for bill introductions. She introduced Kyle Kessler who introduced a bill relating to Recreational Licenses and Repeal of the Child Support Enforcement 1997 Automatic Sunset Provision (Attachment 1). This bill would assure compliance with federal child support enforcement requirements by expanding sanctions against recreational licenses for nonpayment of support. It also repeals a 1997 provision that could automatically sunset many laws to general application related to child support enforcement. Senator McGinn clarified the proposal by stating that if a person was on record as being in arrears on child support, they probably won't be able to get a vehicle permit or hunting or fishing license.

Senator Teichman moved to introduce the bill, seconded by Senator Bruce. The motion passed.

Lane Letourneau, Kansas Department of Agriculture, Division of Water Resource, provided an update on K.S.A. 2005 Supp. 82a-734 and K.S.A. 2005 Supp. 82a-738 pertaining to sand pit legislation. This 2004 legislation required the Department to study water banking, evapotranspiration as it relates to sand pits with emphasis on tamarisk, and impacts of storm water runoff into sand pits, even though the study was unfunded. Senator McGinn shared that there are four sites in the Wichita area but no water quality data available yet due to lack of funding. Mr. Letourneau noted that state and local entities working on this issue would like to see testing for two and five years. There is no nationwide information available on this activity. The Bureau of Reclamation drilled the wells.

Senator Huelskamp asked about the position of the task force and if the federal government put any money into this study. Senator McGinn said the diversity of the task force was a positive and that all involved are interested in the results. There were no additional questions or comments.

Chairman McGinn asked the Committee to hear and work **Senate Bill 362**. A hearing was held the previous week and Chairman McGinn asked the will of the Committee regarding discussion or action. She directed the Committee's attention to a balloon in members' packets requested by KDHE. She stated that KDHE and Sunflower were both fine with the balloon, and a question from last week remained regarding LLC and further liability.

Senator Francisco stated that the amendments assuring the resources of the LLC would limit the liability of the LLC to its assets, but questioned from where that letter of credit would come. Steve Miller from Sunflower responded that the terms of the financial arrangements would be dictated by the Secretary of Environment, and that by the time the final arrangements were made it is possible there may not be an LLC.

Senator Francisco responded that it makes no difference that the owners of the LLC are the owners of the corporation. She asked if one corporation can provide the assurance for another corporation, and Mr. Miller responded that the Department dictated that it could and would be done in this issue.

Mr. Bider provided further clarification by stating that the current law would be changed and this would take out the risky financial liability. Sunflower would not own the land but would be the operator and would post

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:34 a.m. on January 26, 2006, in Room 423-S of the Capitol.

the financial assurance.

Senator Taddiken stated that this provides three mechanisms to provide security, and says "or." He asked if the Department would have the ability to determine which would be used, and Mr. Bider responded that it would be their choice among the three, but KDHE would have the authority to tell them what the amount would be for based on a yearly assessment of what their liability for post closure would be. Senator Taddiken asked if KDHE had control to revoke the permit if adequate assurances are not met, and Mr. Bider responded that the Department would have that authority.

Senator Francisco stated that she sat in on the water briefing and that water is a concern to Western Kansas. Her understanding is that the electricity is not from burning coal, but from heating water to make steam. She found out the water rights they are purchasing would be reduced from the water rights available to agriculture users. She asked if everyone went down to 60% across the board for water usage, would that solve the problem with water. She mentioned the fight with Colorado over water rights and the fact that now we have the water and we are making electricity and planning to send it back to Colorado, and asked if it is because they don't have the water to do this themselves. She stated we are taking laws that were in place for municipalities to provide electricity to their local business and consumers and using those laws as opportunities for sales of electricity. She further stated that we do not want to change rules if we don't know the direction the state wants to go. Chairman McGinn stated that is something the committee certainly should be thinking about.

Senator Lee expressed concern that cutting back on water rights could affect the future of the plant and all of the people using water rights, and Mr. Miller responded that it has not happened before and should not be a concern. Senator Taddiken brought up the issue of minimum stream flow, and Mr. Letourneau responded that the cuts are across-the-board and have been in place since 1984 with regard to minimum stream flow.

Senator Ostmeyer stated that Colorado put the transmission line in, so with the electricity going there Kansas would be making money from that. He conceded that although the shortage of water is an issue, he can see what Sunflower's operation means to Western Kansas, and he feels we are going in the right direction.

Steve Miller stated that a study is about to be released which shows an \$8 billion economic impact and over 2600 jobs in Western Kansas. On the issue of exporting electricity, he compared it to taking resources and exporting outside as with corn, wheat or other commodities and getting a return on it, and because they are a cooperative, the money stays in Kansas.

Senator Ostmeyer told the Committee that, in his opinion, if Bill Bider signs off on the bill he does not feel there would be a problem. Senator Huelskamp expressed confidence that Sunflower had performed due diligence with regard to water rights and in meeting the requirements necessary to comply with regulations.

Senator Pyle mentioned the concerns of the Moms Against Mercury, and Mr. Miller replied that the Department of Energy would be instituting rules with regard to mercury testing, but at the present time the technology to test the small amounts of mercury is not available. He stated that Sunflower would be investing a substantial amount of money within the next year or two to do this testing.

Senator Pyle asked Mr. Miller to restate the investors in the plant, and Mr. Miller stated that the current plant is owned by six distribution rural electric cooperatives, the second and third plants will be owned by Tri-State Generation and Electric in Colorado, and the fourth unit will be owned half by Sunflower and half by another cooperative outside the State of Kansas. Senator Pyle asked how many of those are in-state, brick and mortar, and Mr. Miller stated that Sunflower and its cooperatives are in-state.

Chairman McGinn asked if the mercury is measured in air particulate or some other method, and asked Mr. Miller to provide her with information on the testing procedure.

In the absence of further questions, Chairman McGinn asked for a motion to adopt the balloon amendment as an amendment to the bill. Senator Huelskamp made a motion to adopt the balloon amendment, seconded by Senator Lee. The motion was made by Senator Ostmeyer to move this bill out as amended, seconded by Senator Huelskamp. The motion carried, with Senator Francisco abstaining.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:34 a.m. on January 26, 2006, in Room 423-S of the Capitol.

With no further business to come before the Committee, the meeting adjourned at 9:25 a.m.