

MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on March 24, 2008, in Room 783 of the DSOB.

All members were present except:

Representative Clay Aurand - excused
Representative Vaughn Flora - excused
Representative Josh Svaty - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Hank Avila, Kansas Legislative Research Department
Gordon Self, Revisor of Statutes
Kristen Kellems, Revisor of Statutes
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Scott Carlson, Assistant Director, State Conservation Commission
Jeff Keating, Directorate of Public Works, Environmental Division, Fort Riley, Kansas
Alan Pollom, Kansas Chapter of Nature Conservancy
Mike Beam, Kansas Livestock Association
Luke Bell, Director of Governmental Relations, Kansas Association of Realtors
Woody Moses, Managing Director, Kansas Aggregate Producers Association
Clint Patty, Attorney, Frieden & Forbes
Joe Marney, Owner and Vice-President, Concrete Supply of Topeka
Jeffrey Wietharn, Attorney, Kaw River Drainage District
Larry Brennan, Kaw Valley Drainage District
Stephen Dailey, General Manager, Fairfax Drainage District, Wyandotte County
Steve Swaffar, Director Natural Resources, Kansas Farm Bureau {Written Only}
Chris Wilson, Executive Director, Kansas Building Industry {Written Only}
Lenny Meier, President, Vegetable Growers Association {Written Only}

Others attending:

See attached list.

Hearing on: SB 538 - Conservation commission relating to easements; establishing the farm and ranch land protection program

Chairman Faber called the meeting to order, announced the agenda for the day, and opened the hearing on **SB 538**. Scott Carlson, Assistant Director, State Conservation Commission (SCC), spoke as a proponent of the bill and said the proposed **SB 538** would amend **K.S.A. 2-1904**, allowing the SCC to provide state funded grants to eligible entities for the administration, lease or purchase of perpetual conservation easements (Attachment 1). Mr. Carlson provided details for the implementation of the conservation easement program and outlined the fiscal impact on the SCC budget, saying the program is contingent upon the amount of funding appropriated.

Jeff Keating, Directorate of Public Works, Environmental Division, Fort Riley, stated the division's position is supportive of the aspects of **SB 538** (Attachment 2). He said the new section adequately serves the interest of Fort Riley when ranking projects for conservation easement funding. Mr. Keating commented on the allotment of funds by stating that the full amount had not been used so that other entities could use the state funds for easements in the Flint Hills. He expressed appreciation for the protection provided through the Army Compatible Use Buffer area for the habitat of declining grassland bird species.

Alan Pollom, Kansas Chapter of Nature Conservancy, spoke in favor of **SB 538**, saying the conservancy owns six preserves in Kansas encompassing more than 46,000 acres (Attachment 3). He said the work with Kansas landowners has netted over 20,000 acres using the program of conservation easements. Mr. Pollom commented on the opportunities this bill may provide for the state to receive matching resources from federal agencies, nonprofit land trusts and landowners who are interested in long-term preservation of their farms and ranches.

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Mike Beam, Kansas Livestock Association (KLA), said that in the past the Legislature has provided funding in the State Conservation Commission budget for conservation easements of approximately \$311,00 annually. He said that putting a statutory program in place to preserve farm and ranch land in Kansas is recommended by agreement of several agencies ([Attachment 4](#)). He reported the number of acres lost nationwide from 1992-1997 amounts to an area the size of Maine. Mr. Beam said that members of KLA have formed an agricultural land trust called the Kansas Livestock Association Ranchland Trust, Inc. He noted that no funding mechanism is indicated at this time in **SB 538**.

Luke Bell, Director of Governmental Relations, Kansas Association of Realtors (KAR), offered neutral testimony on **SB 538** ([Attachment 5](#)). He provided a definition of conservation easements and said that, once restrictions are in place, they are binding on all future landowners in perpetuity. Mr. Bell said the intent of this legislation is to establish a state level grant program for leveraging federal moneys to purchase conservation easements. He indicated that KAR is not in agreement with any attempt to levy new excise taxes on real property or new real estate development.

Written testimony in opposition to the bill was provided by:

Chris Wilson, Executive Director, Kansas Building Industry ([Attachment 6](#)).

Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau ([Attachment 7](#)).

Dave Webb, Kansas Livestock Association, Stillwell, Kansas ([Attachment 8](#)).

The Chairman closed the hearing on **SB 538**.

Hearing on: HB 2982 - Drainage district excavation limitations

Clint Patty, Attorney, Frieden and Forbes, Topeka, representing the Kansas Aggregate Producers Association (KAPA), spoke in support of clarifying **K.S.A. 24-132** ([Attachment 9](#)). He explained there is a need in the sand and gravel industry for some regulatory certainty. Mr. Patty said since the statute was amended in 1995, the Corps of Engineers, the Kansas Division of Water Resources and all other drainage districts except one have properly interpreted the amendment and limit their work to 1,000 feet from a flood control facility. He said the KAPA recommends passage of **HB 2982**.

Joe Marney, Vice-President of Concrete Supply of Topeka, presented personal testimony regarding his dredging business, which has been in his family for twenty-five years ([Attachment 10](#)). He indicated that the Corps of Engineers informed the company five years ago that the permits for sand dredging operations on the river would be cancelled. Mr. Marney said misinterpretation of the statute has delayed his dredging project. The lawsuit filed against his company by the Kaw River Drainage District claims that they have authority to prohibit him from dredging in an inland pit extraction operation. Mr. Marney submitted a document of testimony given in 1995, on behalf of the Kaw Valley Drainage District of Kansas City, Kansas, for verification of working within the boundaries of 1,000 feet landward or riverward ([Attachment 11](#)). Mr. Marney requests clarification be made regarding this issue.

Woody Moses, Managing Director, KAPA, spoke in favor of **HB 2982**, giving some background in the dredging operations of various businesses ([Attachment 12](#)). He said approximately 70-80% of sand and gravel is used by state and local governments and only one new operation has been opened since 1992; this area is not open to public usage. Mr. Moses said there is only one producer in Shawnee County and sand prices have increased from \$3.75 to \$6.50 per ton during that time period. Businesses who must transport material from the Kansas City area will pay \$7.50 per ton; if purchased from Sedgwick or Reno County, the amount is \$3.00 per ton. Mr. Moses indicated that inserting the language of **K.S.A. 19-3309** ([Attachment 13](#)) into **K.S.A. 24-132** will clarify the intent of authority suggested in **HB 2982**.

Jeffery Wietharn, Attorney, representing the Kaw River Drainage District, spoke in opposition to **HB 2982**. He indicated the amendment to **K.S.A. 24-132** contained in the bill seeks to limit the authority of drainage districts' governing bodies to regulate excavations within their districts. Mr. Wietharn respectfully requested the committee to reject acting on the bill ([Attachment 14](#)).

Larry Brennan, Administrator of Kaw Valley Drainage District of Wyandotte County, Kansas, spoke in opposition to **HB 2982**. He indicated that the permit process has been quite successful in this district. He

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expressed concern for improper excavations and the risk they pose in relation to land and flood control facilities (Attachment 15).

Stephen Dailey, General Manager, Fairfax Drainage District, Wyandotte County, Kansas, expressed opposition to **HB 2982**, saying the district believes the proposed change in regulatory authority will compromise the ability of drainage districts to continue to provide necessary flood protection for the area. Mr. Dailey said the drainage districts in highly developed areas have a responsibility to protect residents from flooding when river levels become elevated and they must be available to convey interior storm water through drainage ditches and sewers. He closed his testimony and requested the committee refrain from changing **K.S.A. 24-132** (Attachment 16).

Written testimony as a proponent was provided by:

Lenny Meier, President Vegetable Growers Association (Attachment 17).

The Chairman closed the hearing on **HB 2982**.

The Chairman called the committee's attention to **HCR 5037**. Representative Powell moved to recommend the favorable passage of the resolution. Representative Moxley seconded the motion. The motion passed.

The Chairman asked for the committee's desire regarding **HCR 5032**. Representative Moxley moved to recommend the favorable passage of the resolution. Representative Williams seconded the motion. The motion passed.

The Chairman requested the committee begin discussion on **SB 565**. Representative Gatewood made a motion and Representative Powell seconded; upon discovery of incorrect information, the motion was withdrawn. Representative Powell made a substitute motion (line 17, page 3) changing \$15,000 to \$4,756. Representative Light seconded the motion. The substitute motion carried.

Representative Gatewood moved to recommend **SB 565** as favorable for passage as amended. Representative Powell seconded the motion. The motion passed.

As a point of interest, Representative Lukert provided information regarding the tax exemption bill for hunting lodges had been worked in Taxation Committee but did not pass.

The Chairman adjourned the meeting at 5:15 p.m. The next meeting is scheduled for March 25, 2008, at 3:30 p.m.