

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on January 31, 2012, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Michael Peterson (Unexcused)

Committee Staff Present:

Sean Ostrow, Office of the Revisor of Statutes

Chris Sevedge, Kansas Legislative Research Department

Joyce Hladky, Committee Assistant

Conferees appearing before the committee:

Kent Askren, Kansas Farm Bureau (Proponent)

Tracy Streeter, Kansas Water Office (Proponent)

Wes Essmiller, Big Bend GMD #5 (Proponent)

David Barfield, Chief Engineer, Department of Agriculture, Division of Water Resources
(Proponent)

Others attending:

See Attached List.

Chairman Powell welcomed the committee.

Chairman Powell announced the first order of business is to take up **HB2502 amending the procedure for a county to grant permission to establish swine production facilities**, for further discussion and final action.

Representative Brookens asked to withdraw his earlier motion and moved to adopt the substitute HB2502. Representative Moxley seconded the motion. Sean Ostrow of the Revisor of Statutes Office reviewed the Substitute Bill stating that it is not substantive different from the bill under consideration last week. When called to a vote the motion failed, 7 Yes, 10 No.

Representative Tyson offered a motion to amend the bill to restore the percentage of electors back to 5% from 10% in the Substitute Bill. Representative Collins seconded the motion. When called to a vote, the motion carried 12 Yes, 3 No. Motion carried.

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Representative offered a motion to amend the original bill as follows: Page 3, Line 40 to add the language, “or deny.” The Commission could allow but with the addition of the language, “or deny,” it provides another option. Page 4, Line 39, end of petition language – include the wording, “shall be in compliance with rules and regulations of the Kansas State Department of Health and Environment and Department of Agriculture. The Commission will be asking for a vote, but it will be regulated. Page 2 the same language. While it is a small change, it could be useful. Language regarding election – amend the language to “state, county, or special election. Representative Brookens seconded the motion. When called to a vote, the motion carried unanimously.

*Representative Moxley offered a motion to move **HB2502** out of Committee. Representative Prescott seconded the motion. When called to a vote, the motion carried unanimously.*

Representative Powell opened the floor for hearings on **HB2516 allowing a water bank charter to become permanent.**

Ken Askren, Kansas Farm Bureau, testified in support of **HB2516**. The Kansas Farm Bureau has gained valuable experience over the past ten years with respect to water banking. (Attachment 1)

The proposed improvement would allow water bank charters to become permanent. Allowing for water bank charter to become permanent would provide investment security and very likely improve participation. The bill also proposed that any permanently chartered bank be subject to a review schedule to help ensure that the bank is accomplishing program objectives while also allowing for improvements to be identified and recommended to the chief engineer.

Water banking is a valuable component in the suite of options to help bring water usage down to the Rattlesnake Creek drainage basin. Without tools like water banking the likelihood of water conflicts will increase while production and revenues suffer.

Forward thinking concepts like water banking helps maximize production without further jeopardizing Kansas water resources.

Tracy Streeter, Secretary of Kansas Water Authority, testified in support of **HB2516**. Currently there is one water bank in Kansas, which is located over the Big Bend Groundwater Management District. Review of the Central Kansas Water Bank was conducted by and chaired by the Water Office and the committee learned that the program experienced little participation but would have a great deal of potential if modifications were made. (Attachment 2)

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The two recommended statutory changes are:

1. To clarify the authorizing legislation on the bank's permanency. The lack of the bank's permanency hinders participants from making deposits or leases, as they cannot make long-term plans with no assurance the bank will be in place.
2. The second statutory change would allow more than one groundwater bank. The current Water Act allows for up to two banks, only one of which is a groundwater bank and the other surface water or surface water/ground water combined bank. Water banking may be a useful tool in the Ogallala aquifer where there is growing demand for irrigation, industry or other users. Voluntary, market-based water banks can be a useful tool to move water in closed areas of the Ogallala aquifer and contribute to efforts to conserve the aquifer.

Wes Essmiller, Manager, Big Bend GMD#5 provided testimony in support of **HB2516**.
(Attachment 3)

HB2516 proposes amending statutes 82a-765 and 82a-767 to allow the water bank, after its initial seven-year period and successful review, to be extended into perpetuity with follow-up reviews being required every five years and provides for the addition of other banks throughout the state. The amendments would allow the end-user of the water bank to plan for the long term and invest in the capital needed to produce crops using the program.

A second benefit to the extension of the bank's life would be to allow water users to use the Safe Deposit program more efficiently. With this year's record drought through much of the water bank's area there were several users who signed up for the Safe Deposit accounts that were able to take the water that they had saved over the last seven years and use it during the drought. Extending the life of the bank would allow more individuals time to accumulate water to be used in times of drought. Groundwater management believes that water banking is a viable program and should be extended based on the proposed amendments. It is also the belief of Groundwater Management that the Kansas Water Bank will flourish in the future and become a tool that many water users would be interested in participating in.

David Barfield, Chief Engineer, Kansas Department of Agriculture, testified in favor of **HB2516**. Mr. Barfield stated that while his testimony is in favor of the bill, there are two concerns about the bill which he would like to provide suggestions. (Attachment 4)

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The bill has two principal effects: 1. To remove the current limitation on the number of banks that can be created, and, 2. To allow banks to become “permanent,” while providing for ongoing and periodic review of the banks.

The word “permanent” is problematic from the perspective of Kansas Department of Agriculture. While it is reasonable to attach to the charter of a water bank a requirement to operate within its statutory requirements, however, there must be a way to deal with the eventuality. The suggestion was made that rather than make the bank “permanent,” the term “fully chartered,” might be considered and some explicit provision for revoking a charter added in the unlikely situation where a bank is not meeting the intent and requirements of the statute. Additionally, it was recommended that the Committee consider whether a review team could recommend the chief engineer extend the charter for “a definite period of time,” as an alternative.

A final recommendation was made to extend the deadline for the water bank annual report be moved to April 15. The current February 10 deadlines requires the Division of Water Resources mail out water use cards to bank participants prior to January 1 when the rest of the water use cards are sent. This creates additional work for the Division of Water Resources and ambiguity for the water users. The deadline extension would prevent the extra work and confusion while conserving the transparency of bank operations.

Written testimony in support of **HB2516** was submitted by:

Mike Beam, Kansas Livestock Association (Proponent) ([Attachment 5](#))

Chairman Powell called for a motion to approve the minutes of January 24, 25, 26, 27, 2012. Representative Moxley moved for approval. Representative Arpke seconded the motion. When called to a vote, the motion carried unanimously.

There being no further testimony on **HB 2516**, Chairman Powell closed the hearings.

Bill introduction:

Representative O’Hara introduced a bill relating to real property and the conservation of easements amending and repealing the existing sections.

There being no objections the bill is introduced.

Meeting adjourned at 10:05 a.m.

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.