

MINUTES OF THE HOUSE ENVIRONMENT COMMITTEE

The meeting was called to order by Chairman Joann Freeborn at 3:30 P.M. on February 3, 2005 in Room 231-N of the Capitol.

All members were present except:

Representative Bill Light- excused
Representative Tom Hawk- excused
Representative Vaughn Flora- excused

Committee staff present:

Raney Gilliland, Legislative Research Department
Emalene Correll, Legislative Research Department
Liza Montgomery, Revisor of Statutes Office
Pam Shaffer, Committee Secretary

Conferees appearing before the committee:

Fred Cholick, Dean of Agriculture and Director of Agricultural Experiment Station, 113 Waters Hall, Manhattan, KS 66506
Jana Beckman, Coordinator of Kansas Center for Sustainable Agriculture and Alternative Crops (KCSAAC) 113 Waters Hall, Manhattan, KS 66506
Steve Swaffer, Director of Natural Resources, Kansas Farm Bureau, 800 SW Jackson, Ste 1300, Topeka, KS 66612
Wendy Harms, Associate Director of the Kansas Aggregate Producer's Association, 800 SW Jackson, Ste 1401, Topeka, KS 66612
M S Mitchell, Legislative Chairman of the Kansas Building Industry Association (KBIA), 212 SW 8th Ave, Topeka, KS 66612
Tracy Streeter, Director of the Kansas Water Authority (KWA), 901 Kansas Ave, Topeka, KS 66612

Others attending:

See attached list.

Chairperson Freeborn called the meeting to order.

Chairperson Freeborn asked that all guests sign log. She praised the Legislative Research Department for the Legislator Briefing Book that they have put together. She reminded all the Representatives that it is full of helpful information and that they might want to take a look at it. On Tuesday, February 8th there will be a presentation by Mary Jane Stankiewicz, Administrator of the Kansas Agricultural Remediation Board. Thursday, February 10th the Committee may work some legislation, she will let everyone know for certain next week.

Chairperson Freeborn asked if there were any bill requests.

Representative Johnson introduced a motion designating a portion of interstate highway I-70 as Twin Buttes Pass, Representative Sloan seconded the motion. Motion carried.

Chairperson Freeborn welcomed Fred Cholick, Dean of Agriculture and Director of Agricultural Experiment Station from Kansas State University to provide an overview. "An Informal Report to the Kansas Legislature January 2005" booklet was passed out to everyone attending, it can be found on the website www.oznet.ksu.edu and is not attached to these minutes. K-State Research and Extension is dedicated to a safe, sustainable, competitive food and fiber system and to strong, healthy communities, families and youth through integrated research analysis, and education. The four themes they operate under are: (1) Agriculture Industry Competitiveness (2) Natural Resources and Environmental Management (3) Food, Nutrition, Health and Safety and (4) Youth, Family, and Community Development. Mr. Cholick introduced Jana Beckman, Coordinator of Kansas Center for Sustainable Agriculture and Alternative Crops, this center was established in 2000 out of concern for farmers and ranchers in Kansas. They work with state and federal agencies, farmer organizations, farmer agencies to boost the economic profit for the producer while maintaining the environmental balance and the impact on community. Agriculture plays a very important role in society. Ms.

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Beckman used the same booklet as Mr. Cholick.

Committee questions and discussion followed.

Chairperson Freeborn thanked Mr. Cholick and Ms. Beckman for their presentation.

Chairperson Freeborn returned to bill requests. Representative Svaty, representing Representative Flora, made a motion for the Kansas Department of Health and Environment to hire a hydrologist to evaluate landfill sites, Representative Thull seconded the motion, Motion carried.

Raney Gilliland, Legislative Research Department, gave a review of **HB 2014 - Powers of Members ex officio of the Kansas Water Authority.**

Chairperson Freeborn opened the Hearing on **HB 2014**

Steve Swaffar, Director of Natural Resources, Kansas Farm Bureau testified in support of the proposed legislation. Mr. Swaffar testified that Kansas Farm Bureau believes that the voting procedures and privileges of the ex-officio members of the Kansas Water Authority are extremely important to the success and transparency of the Kansas water planning process and the grassroots basic advisory committee structure. In actuality, the question of voting rights and the right to make and second motions for ex-officio members has been asked before. In 1981, at the request of the Chairman of the Water Authority at the time, Attorney General issued opinion 82-47 that stated "Ex-officio members of the Kansas Water Authority are precluded by KSA 1981 supp 74-2622 from voting on matters considered by the Authority..." The opinion goes on to state that ex-officio members are not specifically precluded by statute from making and seconding motions as those actions are considered "part of the deliberative process and the ensuing discussion of the motion."

Mr. Swaffar stated that from the Attorney General's opinion, ex-officio members cannot vote but have motion and seconding rights. Under this opinion, **HB 2014** need not address the issue of voting rights, However, it is our understanding that a 2004 internal policy of the Water Authority does allow ex-officio members to vote in select committees. This internal policy clearly conflicts with the Attorney General's opinion. **HB 2014**, if passed as written will clearly set boundaries for voting rights of ex-officio members, but a revision of the Water Authority's internal policy is also required to abide by the Attorney General's opinion. We encourage the committee to act favorably on **HB 2014**. He thanked the Committee for the opportunity to provide testimony. (See Attachment 1)

Wendy Harms, Associate Director of the Kansas Aggregate Producer's Association testified in support of the proposed legislation. Ms. Harms thanked the Committee for the opportunity to testify in support of **HB 2014**. Ms. Harms stated that in conducting her research in preparation for this hearing, it is obvious from the Webster's Dictionary, that the concept of an ex officio is quite broad. For example, Webster defines ex officio as "by virtue or because of an office then gives the example....the Vice President serves as ex-officio of the president of the Senate". To say the least just what does ex officio mean? What capacities can they serve? This is and can be very confusing. In order to resolve this confusion with respect to the Kansas Water Authority (KWA) and to ensure that the KWA can concentrate on its mission we support an effort to clearly define the procedures and privileges of ex officio members. To us it is apparent your predecessors meant to provide technical and advisory support to the KWA by creating ex officio members. However, in recent years the roles of ex officio members of the KWA have become unclear. **HB 2014** seeks to make this relationship clearer by defining the powers of ex officio membership. We would like to suggest you consider taking one step further by replacing the word "ex officio" with "advisory" per the attached balloon. We suggest this as we believe in reviewing the history of the KWA, that the initial reason or purpose for an ex officio member to serve on the authority was to provide other members with scientific and engineering expertise. By eliminating the work "ex officio" any doubt will be removed.

In closing, Ms. Harms encouraged the committee to act favorably and thanked the committee for the opportunity to testify. (See Attachment 2)

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M. S. Mitchell, Legislative Chairman of the Kansas Building Association (KBIA) testified in support of the proposed legislation. Mr. Mitchell stated the KBIA supports **HB 2014** and the language contained in section 1(a) lines 29-34 on page 2 of the bill. The reason for this position is that it has been my long experience as a member of elected and appointed advisory boards that staff personnel are there to serve as a resource to provide studies and information as requested. As contained in the current law, the Legislature has provided that the ex officio members of the Water Authority are non-voting. My experience is that non-voting members don't make motions or even participate in the discussion of a motion. Mr. Mitchell encouraged the committee for favorable consideration of **HB 2014**. (See Attachment 3)

Committee questions and discussion followed Mr. Mitchell's testimony for all of the proponents who testified..

Tracy Streeter, Directory of the Kansas Water Office testified in opposition of the proposed legislation. Mr. Streeter appeared representing the position of the KWA. The KWA opposes the proposed amendments to K.S.A. 74-2622 as contained in **HB 2014** relative to the privileges of the ex officio members. The KWA is a 24 member group consisting of 13 appointed members representing various water related interests. The remaining 11 members are ex officio, non-voting members representing various state agencies/entities as designated in the statue. The primary function of the KWA is to consider and approve policy recommendations for inclusion in the Kansas Water Plan. Once approved, the KWA submits these recommendations to the Governor and Legislature for their consideration. In addition to other functions, the Authority also make recommendations on spending priorities for the State Water Plan Fund. As previously mentioned, K.S.A. 74-2622 requires ex officio members to serve in a non-voting capacity. A 1982 Attorney General's Opinion was issued which clarified the definition of non-voting membership. A Memorandum of Internal Policy (IPM-07), adopted by the KWA in January of 2004 further defines the role of ex officio members.

The Kansas Water Authority values the role of ex officio members and feels strongly that the ability of the ex officio members to make and second motions as part of the deliberation process is vital to a strong private/public partnership embodied in the Kansas water planning process. The Authority is also committed to maintaining and enhancing the public's trust in this endeavor. To that end, Steve Irsik, KWA Chairman, has agreed to revisit the Memorandum of Internal Policy (IPM-07) at the next meeting of the Authority to determine what changes, if any, need to to be made to the policy to ensure consistency with the statute and interpretations made by the Attorney General. In summary, the Kansas Water Authority is opposed to the proposed changes contained in HB 2014 limiting the participation by ex officio members in the deliberations process of the Authority. Mr. Streeter thanked the Committee for the opportunity to share the position of the KWA. (See Attachment 4)

Committee questions and discussion followed Mr. Streeter's testimony.

The meeting was adjourned at 4:55. The next meeting is scheduled for February 8.