

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Stan Clark at 9:30 a.m. on February 10, 2004 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Legislative Research
Bruce Kinzie, Revisor of Statutes
Ann McMorris, Secretary

Conferees appearing before the committee:

Others attending: See Attached List.

Chair opened the committee meeting and discussion continued on:

SB 331 - Recording leases or easements related to wind resources or technologies

Chairman Clark noted the goal is to accomplish a consensus for direction on **SB 331**. He provided background information on **HB 2280** requiring the recording of leases related to wind resources and technologies that passed the House in 2003 and was referred to this committee. The following documents were provided for the committee – (1) Texas wind energy lease worksheets of Bernie Nordling which were presented to the committee in 2003 (Attachment 1); and (2) Memorandum of wind farm easements filed in State of Kansas, Gray County. (Attachment 2)

Scott Schneider representing Kansas Wind Coalition and in opposition to **SB 331**, provided the committee with copy of the Luthi vs. Evans supreme court case and cited the referral to so-called “Mother Hubbard” clauses in the document in question. This case involves a legal question - the issue presented is whether or not the recording of an instrument of conveyance which uses a “Mother Hubbard” clause to describe the property conveyed, constitutes constructive notice to a subsequent purchaser. (p.626). Mr. Schneider called attention to the following language (V.223 p. 629) - “These two provisions in K.S.A. 58-2221 show a legislative intent that instruments of conveyances should describe the land conveyed with sufficient specificity to enable the register of deeds to determine the correctness of the description from the numerical index and also to make it possible to make any necessary changes in address records for mailing tax statements.” and “A description of the property conveyed should be considered sufficient if it identifies the property or affords the means of identification within the instrument itself or by specific reference to other instruments recorded in the office of the register of deeds.” (Attachment 3)

Charles Benjamin, Attorney, Lawrence, KS. who deals with wind leases through his various clients reported on his experiences and answered questions.

Chairman Clark urged the committee to read the written testimony for **SB 331** provided by Attorneys - James Yoxall of Liberal and Philip Ridenour of Cimarron.

Raney Gilliland of Legislative Research reviewed the laws regarding wind leases from the states of South Dakota, Minnesota and Nebraska. Question asked regarding the extent of wind development in these three states and Mr. Benjamin responded - Minnesota has extensive wind development; Nebraska is minimal and he didn't have the information on South Dakota. (Attachment 4)

The next meeting of the Senate Utilities Committee is scheduled for February 11, 2004.

Adjournment.

Respectfully submitted,
Ann McMorris, Secretary

Attachments - 4