

MINUTES OF THE SENATE UTILITIES COMMITTEE

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

All members were present.

Committee staff present:

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

Conferees appearing before the committee:

Bernie Nordling, Lawrence (Erick Nordling made presentation)
Tom Schnittker, Gene Francis & Associates, Pratt
Alan Cobb, Tallgrass Ranchers
Don Ward, Kansas Wildlife Federation
Scott Schneider, Kansas Wind Coalition

Others attending:

See Attached List.

Chairman Clark opened the hearing on:

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

Proponents:

Bernie Nordling, Lawrence (Erick Nordling made presentation)
Tom Schnittker, Gene Francis & Associates, Pratt
Alan Cobb, Tallgrass Ranchers
_____ Don Ward, Kansas Wildlife Federation

Erick Nordling presented the testimony for Bernie Nordling and noted the attachments included (1) B. Nordling's testimony on **HB 2280** when he appeared before the Senate Utilities Committee in 2003 and (2) B. Nordling legal opinion on the recording of leases, based on testimony and questions during the hearing on **HB 2280**. Mr. Nordling noted **SB 331** requires the filing of the whole lease document and not just a memorandum of lease. The current system is to file only memorandums of lease which creates serious problems when information to determine the rights and obligations of the parties under the lease is required by a title examiner. (Attachment 1)

Tom Schnittker, Gene Francis & Associates, Pratt, voiced his concerns over failure to record full lease or easement for the protection of the Grantor and the Grantee. If the lease is not recorded, either party could be subject to unfair practices by the other party. It is in the best interests of all parties to have the wind generation lease recorded in its entirety at the register of deeds. (Attachment 2)

Alan Cobb representing Tallgrass Ranchers, cited instances where landowners have entered into leases with developers where the purpose was mischaracterized and since no lease was required to be filed, the public could not know of the mischaracterization. We support **SB 331** to help clean up the industry. (Attachment 3)

Dan Ward, Kansas Wildlife Federation, voiced his concern over the impact wind turbines sited along bird migration routes would have on ducks, geese, hawks, songbirds and other birds. The KWF feels strongly that the intact heritage grasslands of Kansas are irreplaceable pieces of American history, particularly, the Flint Hills. (Attachment 4)

Written testimony presented by:

John Crump, Southwest Kansas Royalty Owners Assn. SWKROA (Attachment 5)
James Yoxall, Attorney, Liberal (Attachment 6)
Philip Ridenour, Attorney, Cimarron (Attachment 7)
Amanda Spikes, Research Assistant (Attachment 8)
Allie Devine, VP & General Counsel, Kansas Livestock Assn. (Attachment 9)

CONTINUATION SHEET

MINUTES OF THE SENATE UTILITIES COMMITTEE at 9:30 a.m. on February 9, 2004 in Room 526-S of the Capitol.

Opponents:

Scott Schneider on behalf of the Kansas Wind Coalition, opposed **SB 331**. He felt current law is sufficient as it requires filing of a memorandum of lease which puts the public on notice that the land is encumbered by possible wind development activity. (Attachment 10)

Chair opened the floor for questions. Committee members questioned the conferees on names of companies involved in wind development activities, wind rights versus surface rights, filing of complete leases versus memorandum of lease, and consequences of the lack of proper filings.

Information on laws in neighboring states will be provided the committee and discussion will continue at their next meeting.

The next meeting of the Senate Utilities Committee is scheduled for February 10, 2004.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 10