

MINUTES OF THE HOUSE AGRICULTURE & NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Larry Powell at 9:00 a.m. on March 6, 2012, in Room 783 in the Docking State Office Building.

All members were present except:

Representative Michael Peterson (Unexcused)

Committee Staff Present:

Randy Gilliland, Kansas Legislative Research Department

Sean Ostrow, Office of the Revisor of Statutes

Chris Sevedge, Kansas Legislative Research Department

Joyce Hladky, Committee Assistant

Conferees appearing before the committee:

Chris Tymeson, Chief Legal Counsel, Department of Wildlife & Parks

Mike Irvin, Director, Kansas Farm Bureau

Clancy Holman, Riley County Counselor

Aaron Popelka, Kansas Livestock Association

Others attending:

See Attached List.

Chairman Powell called the meeting to order and opened the floor for hearings on **SB316 updating references and corresponding changes relating to the Executive Reorganization Order No. 36 and the Kansas Department of Wildlife and Parks.**

Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife & Parks presented testimony in favor of **SB316**. The bill seeks to re-codify the statutes related to the Former Kansas Department of Wildlife and Parks and the Division of Travel and Tourism of the Department of Commerce. The bill is largely a technical bill that cleans up the statutes and ensures authorities are transferred appropriately.

In 2011, Governor Sam Brownback issued Executive Reorganization Order Number 36, which created the Kansas Department of Wildlife, Parks and Tourism from the former Kansas Department of Wildlife and Parks and the Kansas Division of Travel and Tourism of the

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Department of Commerce. The ERO also created a new assistant secretary for parks and tourism. As the Legislature took no action to oppose the ERO, it became effective July 1, 2011.

The Department supports the provisions contained in **SB316**. (Attachment 1)

There being no further testimony on **SB316**, Chairman Powell closed the hearings.

Chairman Powell opened the floor for hearings on **SB357** -- Wind erosion; duties of county commissioners, conservation districts.

Clancy Holeman, Riley County Counselor, presented testimony in favor of **SB357**. The original bill was created by the collective work of Riley County, the Kansas Association of Counties and the Kansas Farm Bureau. The Kansas Livestock Association afterward approached with proposals for changes to the text. All representatives of the aforementioned groups met and developed the version of the bill. The bill was then amended and support for the bill continues.

Under the proposed revisions, county commissioners from across the state will retain their authority to address blowing dust whenever it represents a threat to public safety. All other complaints involving less serious situations will first be vetted by the local conservation district. Local agricultural producers will be given the opportunity to evaluate the complaint and make a recommendation to the board of county commissioners. The commissioners, however, will have the final say about any necessary remedies.

Mr. Holeman thanked for the committee for the opportunity to testify in support of **SB357**. (Attachment 2)

Mike Irvin of the Kansas Farm Bureau presented testimony in favor of **SB357**. The bill provides County Commissioners' emergency powers to act in urgent situations. However, the bill provides a process that will allow parties that are disputing blowing dirt (nonemergency situation) to seek assistance from the local conservation district boards, who can tap into the assistance of the NRCS experts. This provides a sound science and a reasonable process that our organization seeks instead of potentially arbitrary decision rendered by Commissioners. (Attachment 3)

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Aaron Popelka, Kansas Livestock Association, presented testimony in favor of **SB357**. Current Kansas laws concerning “Soil Erosion Caused by Wind,” found in Chapter 2, Article 20 of Kansas Statutes Annotated, are antiquated regulations that pose an unnecessary threat to livestock operations across the state. The laws enacted during the Dust Bowl years of the Great Depression when Kansas was trying to desperately stop the large dust storms that rolled across the state. At that time, farming practices were different, science surrounding soil conservation was just starting to develop, and federal conservation policies were in their infancy.

In addition to being out of date, the authorities referenced in the Article 20 grant nearly limitless authority to county commissions in developing corrective action. While this wide sweeping authority may not have been a problem 75 years ago when the state had a general population that was rural based and knowledgeable about agriculture, it now poses a problem in the state’s more urban counties.

SB357, as passed by the Senate, accomplishes the goals of limiting government intervention private property and makes certain that if any intrusion occurs, it is based on necessity and sound science. The legislation changes existing law to prohibit unilateral action by a county commission. A commission can only act upon receiving a complaint. Next, **SB357** eliminates reference to antiquated dust prevention methods like discing or chiseling. In some instances, such as where land is under a no-till conservation system, the practices listed in current statute could actually damage soil structure and exacerbate the erosion problem. **SB357** eliminates reference to the antiquated dust prevention Natural Resources Conservation Service (NCRS) technical guide, which represents the best available conservation practices in the region. In addition, if the local conservation district finds the land owner to be in compliance with the land owner’s federal highly erodible land conservation plan, referenced in 7 C.F.R. § 12.5 (2011), the local conservation district must recommend no corrective action to the county commission.

In the instance where the county commission rejects the local conservation board’s original recommendation, but believes some corrective action may still be necessary, the county commission can ask the local conservation district for an alternative recommendation. Upon receiving the alternative recommendation, the county commission must either accept or reject the alternative recommendation.

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Kansas Livestock Association believes **SB357** improves existing law by limiting government intervention upon private property rights and requiring the use of best available science in making any decisions. (Attachment 4)

Written testimony:

Patrick T. Lehman, Executive Director, Kansas Association of Conservation Districts
(Proponent) (Attachment 5)

Greg Foley, Kansas Department of Agriculture, Div. of Conservation (Attachment 6)

Nathan Eberline, Kansas Association of Counties (Attachment 7)

There being no further testimony on **SB357**, Chairman Powell closed the hearings.

Sean Ostrow of the Revisor of Statutes distributed a balloon amendment for **HB2729** amending provisions relating to parks and recreation motor vehicle registration and permits. The bill was previously passed out of Committee. Mr. Ostrow provided an explanation of a technical amendment to the bill. The bill allows the Department to issue parking vehicle permits at the same time someone signs up for a vehicle registration. The amendment also strikes the provision for people over the age of 65 or people with disability to get a half-price Parks and Recreation pass. This is shown in the balloon amendment that was distributed to the Committee. The only change in the balloon is shown on page 3 brought by the Department of Wildlife and Parks. There was concern over sharing of information between department of revenue division of vehicles and themselves. The balloon includes language that the applicant consents to sharing information with the secretary of wildlife, parks and tourism by the division of vehicles.

*Representative Hayzlett offered a motion to favorably pass **HB2729** balloon amendment favorably. Representative Collins seconded the motion. When called to a vote, motion carried unanimously.*

Mr. Tymeson explained that when people register their vehicle there is no age associated with the registration of the vehicle. Therefore, the department is proposing one fee from \$24 down to \$15. Those currently paying half price the fee would increase \$3.

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Representative Tyson offered an amendment to restore the discount to senior citizens and individuals with disability. Motion died for lack of a second.

*Representative Hayzlett offered a motion to favorably pass **HB2729** as amended. Representative Collins seconded the motion. When called to a vote, motion carried.*

Meeting adjourned at 10:37 a.m.