

## MINUTES

### SPECIAL COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

December 13, 2013  
Room 528-N—Statehouse

#### **Members Present**

Senator Garrett Love, Chairperson  
Representative Sharon Schwartz, Vice-chairperson  
Senator Marci Francisco, Ranking Minority  
Senator Mitch Holmes  
Senator Dan Kerschen  
Senator Larry Powell  
Senator Caryn Tyson  
Representative Kyle Hoffman  
Representative Harold Lane  
Representative Don Schroeder  
Representative Joe Seiwert  
Representative Troy Waymaster  
Representative Ponka-We Victors

#### **Members Absent**

Representative Sydney Carlin  
Representative Marty Read

#### **Staff Present**

Heather O'Hara, Kansas Legislative Research Department  
Rebecca Manes, Kansas Legislative Research Department  
Michael Wales, Kansas Legislative Research Department  
Joanna Wochner, Kansas Legislative Research Department  
Tamera Lawrence, Office of the Revisor of Statutes  
David Wiese, Office of the Revisor of Statutes  
Gary Deeter, Committee Secretary

#### **Conferees**

Erik Wisner, Deputy Secretary, Kansas Department of Agriculture  
Tracy Streeter, Executive Director, Kansas Water Office  
Lane Letourneau, Water Appropriations Program Manager, Kansas Department of Agriculture

#### **Others Attending:**

See attached sheet.

## Morning Session

The Chairperson called the meeting to order at 10:05 a.m. He noted a correction in the November 19, 2013, minutes: Page three, paragraph four should read "two reservoirs." *By motion of Representative Schwartz and second by Senator Francisco and unanimous vote of the Committee, the November 19, 2013, minutes were approved as corrected.*

Joanna Wochner, Kansas Legislative Research Department (KLRD), reviewed HB 2049, a bill dealing with program fees administered by the Kansas Department of Agriculture (KDA). She traced the history of the bill through its amendments ([Attachment 1](#)).

David Wiess, Office of the Revisor of Statutes explained the focus of the bill, stating it was requested by the KDA; the agency wanted to maintain certain program fees, especially eliminating the sunset provision, which would return fees to the 2002 levels. Amendments to the bill included extending the sunset provisions from 2015 to 2019. He stated the bill died when members failed to adopt the conference committee report. Answering questions, Mr. Wiess replied, most fees were kept the same except for the Weights and Measures fees; since some Weights and Measurers users were outside Kansas, some members wanted the fees to reflect services costs in order not to subsidize out-of-state entities.

Erik Wisner, Deputy Secretary, Kansas Department of Agriculture (KDA), commented further on HB 2049 ([Attachment 2](#)). He noted, the economic impact of the sunset provisions of the bill would result in a \$771,709 loss for the agency. He explained the Weights and Measures program and the Pasteurized Milk Ordinances must maintain U.S. Department of Agriculture regulations, and the pesticide program is required to follow Environmental Protection Agency (EPA) rules. Answering questions, Mr. Wisner replied, sunset provisions in the fees have been extended three times, each time expecting that the State General Fund (SGF) would pick up the costs for services, an expectation that was never realized. All fees have been maintained at the same level since 2002 except for the dairy program. About 8-15 Kansas dairies are affected by dual registration.

Ms. Wochner returned to review the history of HB 2051, followed by Staff Tamera Lawrence, who added further comments on the bill, saying that five of the six provisions of the bill were amended into HB 2063 and passed by the 2013 Legislature. She noted one provision, creating an incentive for multi-year flex accounts (MYFA) for water rights/usage, remains in the bill. The incentive for re-enrolling in a MYFA allows one-fifth of the unused water from the previous five-year period to be rolled into the new MYFA.

Lane Letourneau, Water Appropriations Program Manager, KDA, commented further on the bill. He said that MYFAs were instituted in 2001 to promote water conservation as well as to help agricultural users to apportion their water usage over a five-year period. However, because a user's future allocation would be reduced by conservative water usage, few signed up for the voluntary program. The bill adds a carry-over to encourage users to sign up or re-enroll in a MYFA. Currently 745 users have enrolled in a MYFA. Mr. Letourneau stated the agency does not plan to go forward with any statutory changes pending the final draft of the Governor's Fifty-Year Vision for the Future of Water in Kansas.

Mr. Letourneau responded to members' questions:

- To date 2200 drought permits have been issued; 500 of those are enrolled in a MYFA.

- A very small percentage of users have exceeded their water allocations.
- The one-fifth carryover is capped so that a user is not allowed to use more than five times the original quantity.
- The agency may penalize an excessive user up to \$1000 per day. Tampering with a water meter results in a \$1000 fine and suspension of water rights for one year.
- MYFAs are available to users except those in intensive-use-control areas.

Members commented on the low fine structure had limited effectiveness as a disincentive for over-pumping; they suggested a review of extant statutory penalties. A member encouraged any proposed statutory changes move away from the use-it-or-lose-it mentality and investigate other states' regulatory approach to fees and penalties.

Jackie McClaskey, Acting Secretary, KDA, stated the agency is developing a more comprehensive fee structure, a matrix that will provide a more flexible penalty assessment to measure not only variations in penalties but levels of water overuse.

Ms. McClaskey then introduced the Governor's Fifty-year Vision for the Future of Water in Kansas ([Attachment 4](#)). She stated the KDA, the Kansas Water Office (KWO), and the Kansas Water Authority, along with other state agencies, are alerting and enlisting interested stakeholders in creating a vision document to outline how most effectively to use Kansas water resources for the next fifty years.

Tracy Streeter, Executive Director, KWO, offered further comments on the Vision. He stated the Ogallala aquifer will be 70 percent depleted in 50 years and that Kansas reservoirs will lose 40 percent of their storage capacity through sedimentation. He referenced supporting documents from the Kansas Corn Growers Association ([Attachment 5](#)) and the Kansas Farm Bureau ([Attachment 6](#)).

Conferees responded to members' questions:

- Mr. Streeter stated the reuse of water will increasingly be included in conservation efforts.
- Mr. Letourneau explained permits are issued in drought areas if the recharge rate provides a "safe yield" as based on the U.S. Geological Survey information for that area. The permits are regulated by the Kansas Water Appropriations Act.
- Mr. Streeter noted the KWO's budget proposal for FY 2015 includes using \$1.5 million in surplus fees to address certain water projects.

Members discussed legislation or regulations that would allow homeowners to employ grey water for secondary use.

Susan Metzger, Chief of Planning and Policy, KWO, presented information regarding the John Redmond Reservoir Dredging Pilot Project ([Attachment 7](#)). She reported that currently the

reservoir has lost 40 percent of its storage capacity; KWO collaborated with the U.S. Army Corps of Engineers to develop a plan to increase the capacity of the reservoir. The Kansas Water Authority proposes to fund the project (estimated to be \$31.6 million) with SGF-backed 15-year bonds and repaid from the State Water Plan Funds (75 percent) and customers of the Water Marketing Program (25 percent). KWO selected Great Lakes Dredge and Dock LLC as the primary contractor with assistance from EBH and Associates, a Great Bend engineering firm. In addition to the dredging project, stream stabilization efforts will reduce sedimentation 11 percent each year. The three million cubic yards of sediment will be deposited primarily on Army Corps' land; an additional 200 acres of private land will be needed to complete the sediment removal.

Ms. Metzger responded to a number of members' questions:

- The dredging will take 12-18 months; the sediment can be used for other purposes within three-five years. A wetlands area will be created with some of the sediment.
- John Redmond Reservoir is the back-up water supply for the Wolf Creek Nuclear Generating Plant.
- The agency is currently seeking landowners willing to accept the sediment. Annual compensation is estimated to begin at \$100 per acre.
- The state owns the entire storage capacity at John Redmond.
- Mr. Streeter replied the agency will work with the Kansas Development.

Finance Authority and the legislature regarding the bonding process. A member expressed concern regarding bonds backed by the SGF. Members discussed alternatives to interfering with the fish hatchery at John Redmond Reservoir owned by the Kansas Department of Wildlife, Parks, and Tourism.

### **Afternoon Session**

Mark Rude, Executive Director, Southwest Kansas Groundwater Management District #3, commented, Representative Doll is preparing legislation to allow residential use of grey water. The Chairperson commented that presently grey water is considered an effluent and will need to be defined as other than an effluent. Nathan Eberline, Associate Legislative Director and Legal Counsel, Kansas Association of Counties, recommended, instead of grey-water legislation, the Kansas Department of Health and Environment, through its regulations, could allow variance at the local level without the need for a statutory change, since there are no statutory prohibitions regarding grey water.

In preparation for the Committee's annual report to the legislature, members made the following recommendations:

- The Committee encourages the Governor's 50-year vision to go forward.

- An informational meeting for all legislative members would assist in bringing members up-to-date on Kansas water issues.
- The Committee offers support for the KDA in submitting a bill to address fee sunsets.
- The Committee recognizes the importance of reviewing the Pet Animal Act regarding inspection schedules, board expansion, and standards of care.

The meeting was adjourned at 3:05 p.m. No further meeting was scheduled.

Prepared by Gary Deeter  
Edited by Heather O'Hara

Approved by the Committee on:

January 17, 2014

(Date)