

Approved: May 9, 2012

(Date)

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 AM on Tuesday, February 21, 2012 in 548-S of the Capitol.

All members were present.

Committee staff present:

Jan Lunn, Committee Assistant
Melinda Gaul, Chief of Staff, Senator McGinn's Office
Eli Johns, Intern, Senator McGinn's Office
J. G. Scott, Chief Fiscal Analyst, Legislative Research Department
Michael Steiner, Senior Analyst, Legislative Research Department
Bobbi Mariani, Fiscal Analyst, Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes

Conferees appearing before the Committee:

Steve Frost, Water Conservation Programs Manager, Division of Conservation, Kansas Department of Agriculture
Earl Lewis, Assistant Director, Kansas Water Office
Mike Beam, Senior Vice President, Kansas Livestock Association
Steve M. Swaffar, Director of Natural Resources, Kansas Farm Bureau
Leslie Kaufman, President/CEO, Kansa Cooperative Council, and speaking on behalf of the Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association

Others in attendance:

See attached list.

Bill introductions:

Senator Huntington moved introduction of 12rs2291, concerning fee increases for the Abstracter's Board of Examiners; Senator Teichman seconded the motion, which passed on a voice vote.

Subcommittee report on Fee Boards: (Attachment 1)

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Senator Huntington reported the Subcommittee concurred with the Governor's FY 2012 recommendation for the Abstractor's Board of Examiners with one notation, which was to introduce legislation to increase fees to enable sustainability of the agency.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Behavioral Sciences Regulatory Board with a notation that concern exists that the agency would be required to move from its current leased location to a state-owned property at a higher cost than the rental costs at the current location.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Barbering.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Cosmetology with an adjustment that would add \$14,000, all from the Board of Cosmetology Fee Fund, for the purchase of a new vehicle to replace a high mileage vehicle.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Examiners in Optometry with a notation that the Subcommittee recommends the agency review the fee structure and the Optometry Board Fee balances and encourages the agency to consider reducing fees. Senator Huntington moved addition to the Subcommittee notation for the Board of Examiners in Optometry that a bill has been passed and is currently on the consent calendar that establishes a litigation fee; Senator Schmidt seconded the motion, which carried on a voice vote.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Nursing with an adjustment to add \$10,000, all from the Board of Nursing Fee Fund for operating expenditures for FY 2013.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Pharmacy with one adjustment:

- Add \$250,000, all from the State Board of Pharmacy Fee Fund, and delete the same amount from the Harold Rogers Prescription Federal Fund for FY 2013. This recommendation is contingent upon the agency not receiving authorization from the federal government to expend Harold Rogers Prescription grant funds in FY 2013. The Subcommittee recommends that the agency expend \$250,000, all from the State Board of Pharmacy Fee Fund, if federal Harold Rogers Prescription Monitoring

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program grant funds are not extended for FY 2013, and the increase in expenditures is designated for the prescription monitoring program.

A committee member inquired how the Board of Pharmacy can accomplish this adjustment when **SB 491** (which is the prescription monitoring program from the 2008 Legislative Session) could not be funded by fees to pharmacists or pharmacies.

Deb Billingsley, Executive Director of the Board of Pharmacy, plans to use distributor fees rather than pharmacists/pharmacies fees.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2012 recommendation for the Board of Technical Professions with a notation that commends the Board for reducing the fees and passing on savings to licensees.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Technical Professions with a notation that commends the agency for reducing fees and passing savings to licensees.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2012 recommendation for the Board of Veterinary Examiners with two adjustments:

- Add \$175, all from the Veterinary Examiners Fee Fund, for official hospitality in FY 2012.
- Add \$3,260, all from the Veterinary Examiners Fee Fund, to increase per diem expenditures for board members in FY 2012, for additional board meetings to perform official duties.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Veterinary Examiners with four adjustments:

- Add \$1,924, all from the Veterinary Examiners Fee Fund, to restore 22 percent of out-of-state travel for FY 2013.
- Add \$715, all from the Veterinary Examiners Fee Fund, for official hospitality for FY 2013.
- Add \$3,260, all from the Veterinary Examiners Fee Fund, to increase per diem expenditures for board members in FY 2013, for additional board meetings to perform official duties.

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- Add \$9,500, all from the Veterinary Examiners Fee Fund, to increase the expenditure authorization for base salary increases. This is intended to replace a portion of the Executive Director's salary, which was diverted to other employees where were given increases last year.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2012 recommendation for the Board of Examiners in Fitting and Dispensing of Hearing Instruments with one adjustment:

- Add \$1,084, all from the Kansas Board of Examiners in the Fitting and Dispensing of Hearing Instruments Fee Fund, to reinstate a 5 percent reduction recommended by the Governor.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Board of Examiners in Fitting and Dispensing of Hearing Instruments with one adjustment:

- Add \$1,078, all from the Kansas Board of Examiners in the Fitting and Dispensing of Hearing Instruments Fee Fund, to reinstate a 5 percent reduction recommended by the Governor.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2012 recommendation for the Dental Board with one addition:

- Add \$2,000, all from the Dental Board Fee Fund, for operating expenditures related to out-of-state travel for FY 2012.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Dental Board with one adjustment:

- Add \$2,000, all from the Dental Board Fee Fund, for operating expenditures related to out-of-state travel for FY 2013.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Office of Administrative Hearings.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Office of the State Bank Commission with one adjustment:

- Add \$205,865, all from special revenue funds, to restore shrinkage reductions for FY 2013.

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Senator Huntington reported the Subcommittee concurred with the Governor's FY 2012 recommendation for the Real Estate Commission with the following adjustments and notations:

- Add \$32,231, all from the Real Estate Fund, to restore expenditures deleted in the Governor's FY 2012 recommendation.
- The Subcommittee heard testimony and received information provided by the agency on a possible pilot project to become a self directed, semi-independent agency similar to the project taking place in Texas with that state's Real Estate Commission. The Subcommittee will review the information.
- The Subcommittee notes its support of **SB 121** to allow the agency to raise the maximum fees collected by the agency.

Senator Huntington reported the Subcommittee concurred with the Governor's FY 2013 recommendation for the Real Estate Commission with one adjustment and several notations:

- Add \$27,939, all from the Real Estate Fund, to restore expenditures deleted in the Governor's FY 2013 recommendation.
- The Subcommittee heard testimony and received information provided by the agency on a possible pilot project to become a self directed, semi-independent agency similar to the project taking place in Texas with that state's Real Estate Commission. The Subcommittee will review the information.
- The Subcommittee notes its support of **SB 121** to allow the agency to raise the maximum fees collected by the agency.

Senator Huntington moved adoption of the Fee Boards Subcommittee reports, as amended; Senator Francisco seconded the motion, which passed on a voice vote.

Hearing on SB 435 concerning water; providing for establishment of a conservation reserve enhancement program

Bill Briefing:

David Wiese, Office of the Revisor of Statutes, reviewed the bill, which establishes a conservation reserve enhancement program (CREP), which would be jointly administered by the state and by the Kansas Department of Agriculture. Mr. Wiese described the purpose of the program and the criteria contained within the bill (Attachment 2).

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Steve Frost, Water Conservation Programs Manager at Kansas Department of Agriculture, spoke in support of **SB 435**. He indicated the program has been operational for over four years, through a proviso mechanism. (Attachment 3) The program deals with water conservation and the retirement of water rights while providing other benefits. Mr. Frost discussed the benefits of the CREP program, furnished an executive summary with statistics indicated the land conserved, water conserved, and acres enrolled in the program (by county).

Earl Lewis, Kansas Water Office Assistant Director, spoke in support of **SB 435**. He discussed the history of the CREP program in Kansas; he reported that the CREP program has been a success as marginal land in areas of ground water decline has been enrolled. Continued enrollment will further reduce the demands placed on the aquifer in these areas and provide stability for the purpose of future planning. (Attachment 4)

Mike Beam, Kansas Livestock Association, spoke in support of this bill noting of primary interest is the withdrawal demands on the High Plains aquifer. More specifically, he indicated that a targeted CREP can provide significant resources for water right holders facing a reduction and/or constraint of their water use by state regulator actions in the future. (Attachment 5)

Steve Swaffar, Director of Natural Resources Kansas Farm Bureau, supported this program in 2007 and continues to support the program. He referred to the drought in 2011 as an impetus to use water judiciously, and thereby slowing the progress of aquifer decline. Mr. Swaffar discussed the economic impacts of the program and concluded that CREP is an opportunity for local farmers and ranchers to be part of a targeted solution to declining water levels. (Attachment 6)

Written testimony of **SB 435** was submitted by:

Mark Rude, Executive Director, Southwest Kansas GMD #3 (Attachment 7)

David Brenn, President, The Kansas Water Congress (Attachment 8)

Leslie Kaufman, representing the Kansas Grain & Feed Council, Kansas Cooperative Council, and the Kansas Agribusiness Retailers Association, spoke in opposition to **SB 435**. She testified that the associations' members support water conservation programs that do not rely on prescriptive land use restrictions to meet environmental goals. Ms. Kaufman provided information to committee members on various sections contained in **SB 435**, accompanied by suggestions for improving its contents as well as sections her associations could not support. (Attachment 9)

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In response to a question, Ms. Kaufman clarified that the land Conservation Reserve Program (CRP) pays landowners not to harvest a crop; grass is planted to prevent land erosion, enhance the natural habitat, and to preserve wildlife habitats. When land is in the CRP, grazing is prohibited.

Senator McGinn closed the hearing on **SB 435**.

Possible action on **SCR 1611 --Constitutional amendment; creating a contingency reserve fund in the state treasury; annual transfers; withdrawals only under certain circumstances.**

Senator Vratil summarized the intent and the process contained in **SCR 1611**, which was originally heard on February 7, 2012, and is commonly called the “Rainy Day Fund.” Forty-seven states either have a Rainy Day Fund in statute or in their Constitution. In response to a question, Senator Vratil indicated the SCR contains a cap of 15 percent, which provides that any year in which the fund's balance exceeds 15.0 percent of the preceding year's receipts, no additional funds are required to be deposited, although the Legislature would be authorized to deposit additional amounts of state tax receipts. *Senator Vratil moved to pass out favorably SCR 1611; Senator Kelly seconded the motion, which carried on a voice vote. Senator Masterson requested that his vote be recorded in the permanent record as “no.”*

The meeting was adjourned at 11:49 a.m.