

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 22, 2008 in Room 423-S of the Capitol.

All members were present except:
David Wysong- excused

Committee staff present:
Raney Gilliland, Kansas Legislative Research Department
Jason Thompson, Revisor of Statutes
Matt Todd, Revisor of Statutes
Adrienne Halpin, Committee Assistant

Conferees appearing before the committee:
Christopher Tymeson, Chief Legal Council, Kansas Department of Wildlife and Parks
Joe Marney, Builders Choice Aggregates
Clint Patty, Kansas Aggregate Producers Association
Edward Moses, Kansas Aggregate Producers Association
Jeffrey Wietharn, Kaw River Drainage District

Others attending:
See attached list.

Vice Chairman Ostmeyer opened the meeting by introducing a balloon amendment for **SB 474** intended to clarify the existing language on lines 25 and 27 of page 1. Senator Francisco motioned to approve the amendments, seconded by Senator Wysong. The motion carried.

Senator Huelskamp motioned to add "prairie dogs" to the "moles and gophers" listed on line 35. Senator Pyle seconded the motion. Senator Francisco objected to the amendment stating that the change was a significant one and would be made without public notice. Senator Ostmeyer motioned to move the bill out of committee, seconded by Senator Huelskamp. The motion passed with all in favor excepting Senator Francisco.

Chair McGinn announced the continued hearing for **SB 606**, invasive species management act and aquaculture advisory council.

Chris Tymeson, Chief Council, Kansas Department of Wildlife and Parks (KDWP), spoke in support of **SB 606**. Mr. Tymeson stated that, though the bill needs significant technical cleanup and an identified funding source, the issue it presents is one that must be addressed. In establishing a comprehensive program, KDWP would require additional funding for the necessary additional staff. Mr. Tymeson stood for questions.

In the event of the bill requiring significant work, Senator Francisco asked if it was possible to proceed with sections 8 and 21 of the bill which discuss the establishment of an aquaculture advisory council. Chair McGinn suggested that the bill be blessed in order to continue working on it; Senators Ostmeyer and Taddiken agreed. The Committee concurred to have the bill blessed. Chair McGinn closed the hearing on SB 606.

Chair McGinn opened the hearing on **SB 598**, drainage district excavation limitations.

Raney Gilliland, Legislative Research, commenced the hearing stating that the bill addresses the regulatory power of governing bodies of drainage districts in Kansas, specifically dealing with excavation.

Joe Marney, Builders Choice Aggregates, Concrete Supply of Topeka, spoke in favor of the bill. (Attachment 1) Mr. Marney stated he represents his family's concrete plant in north-east Kansas which dredges its sand from the Kansas river. After searching for and locating a possible extraction source in the Kaw River Drainage District (KDD), Mr. Marney was told he needed a permit to excavate the site because of the KDD's regulatory authority as defined in Kansas Statute 24-132. Mr. Marney stated that this is a misinterpretation of the statute and requested that the Committee clarify the statute's intended meaning. Mr. Marney stood for questions.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on February 22, 2008 in Room 423-S of the Capitol.

Clint Patty, Frieden and Forbes Law Firm, testified on behalf of the Kansas Aggregate Producers Association in favor of the bill ([Attachment 2](#)). Mr. Patty stated that, when KS 24-132 was amended in 1995, the clear intent of the statute was to limit a drainage district's regulatory authority to within one thousand feet of flood control works. All other drainage districts, he stated, have interpreted this statute to have this meaning. He requested that the Committee clarify the intent of the statute. Mr. Patty stood for questions.

Edward Moses, Kansas Aggregate Produces Association, also spoke in support of **SB 598** ([Attachment 3](#)) stating that the present bill was not intended to solve a local dispute, but has a much larger impact. Mr. Moses stated that since 1992, only one new project has been issued a permit in Kansas—the Valencia Road pit—which has been limited to thirty tons per day. Mr. Moses stated that Shawnee County currently has only one sand and gravel producer, thereby creating a monopoly and causing displacement of extraction and sales through the state. Furthermore, he stated, there are currently five to six permit applications halted in litigation, a situation which sustains monopolies and doubles the price of sand. Mr. Moses stood for questions.

Jeffrey Wietharn, Coffman, DeFries, and Northern Law Firm, testified in opposition to the bill on behalf of the Kaw River Drainage District ([Attachment 4](#)). Mr. DeFries stated that, if the original statute is clear, then there is no need for additional language. He added that it was important to also discuss the environmental impact of excavations in drainage districts including the involvement of seepage, levee systems, and berms. Mr. Wietharn stated that the current litigation has been pending since September of 2006 and will most likely have a hearing the summer of 2008. He requested that the Committee allow the courts to settle the matter. Mr. Wietharn stood for questions.

Written testimony was provided by:

Lawrence Brennan, Kaw Valley Drainage District ([Attachment 5](#))

Stephen Dailey, Fairfax Drainage District ([Attachment 6](#))

Chair McGinn stated that the hearing could be continued at a later date.

The meeting adjourned at 9:30 am.