MAJOR WATER REFORMS PROPOSED

by Paul Johnson and Mary Fund

Work will continue next Monday in the House Water Committee on the most substantial legislation addressing water in Kansas since the 1980’s. The 283-page mega-bill (HB 2686), introduced just over a week ago, proposes to fundamentally alter the organizational chart of agencies involved with water policy and programs, and increase emphasis on budgets and funding for water protection and management in the state. Two days of briefings and two days of hearings were held this week.

HB 2686, as introduced, creates a new executive branch agency – the Kansas Department of Water and Environment (KDWE) – under a new cabinet level Secretary. The bill would increase water protection fees on public water, establish a new fee on water rights, modify groundwater management district election processes, and move to make the Chief Engineer of the Division of Water Resources under the Kansas Department of Agriculture, more independent by authorizing him or her to issue certain orders without review by the Secretary of KDWE.

The duties and powers of the Kansas Water Office and the Division of Environment (currently KDHE) and the Divisions of Conservation and Water Resources (currently of the Kansas Department of Agriculture, KDA) are moved to the new department (KDWE).

The Secretary of the KDWE would oversee the new agency and its reorganization with three divisions. The Kansas Water Office will be the new Division of Water & Environmental Planning. The new Division of Environment and Conservation will take on the responsibilities and tasks of the former Division of Environment at KDHE and Division of Conservation at Kansas Department of Agriculture. The new Division of Water Resources, formerly under KDA, will stand alone.

The bill also creates a new seven-member “water and environment maintenance board” and a new “water and environment maintenance fund” to oversee the new fees and the State Water Plan Fund. This bill would modify procedures for groundwater management district (GMD) elections allowing all qualified voters to elect GMD boards not just water right holders. It also requires GMD’s to submit conservation and stabilization plans to KDWE and certain reports to the Legislature. The bill increases water protection fees statewide on public water supply systems from $.03/1000 gallons to $.05/1000 gallons, and imposes a new water rights fee with a minimum of $25 and a maximum of $250 based on quantity of water right.

On Friday morning, the Committee discussed pulling the GMD section of the bill after hearing opponents testimony on Thursday about the confusion and complexity it would cause GMD’s local control authority, and establishing an Interim Committee to work out any changes. There was no consensus among committee members yet on the new fee structures. Furthermore, there still seemed to be some disagreement as to the need for new fees despite years of
underfunding the State Water Plan, and years of public meetings, regional and state planning to determine the State water needs.

The timing of the introduction and passage of this bill forces a very tight timeline. The House Water Committee - after two days of public testimony and one day of committee discussion - will work the bill again on Monday (February 21), but the Chair expressed it will be ready to pass until after turn around. The bill is exempt from the deadline, so some form of it could still move forward.

If it makes it out of committee and the full House, the Senate will have a very limited time to hold hearings, gain consensus of enough Senators and pass the Senate’s version back to the House by the end of March so final action could be taken in the veto session.

Major farm organizations and the Groundwater Management Districts have expressed strong opposition to the higher fees and particularly the imposition of fees on water right holders who now pay none but argue they pay indirectly through fertilizer and pesticide fees and permit fees on CAFOs. They also oppose moving the control of irrigation water rights from the Kansas Department of Agriculture. Allowing all qualified voters to elect GMD boards gets complicated quickly, and every GMD opposed the changes.

The actual fiscal note has yet to be unveiled but a best guess is $5 million from water rights fees and $2-3 million from water protection fees. This is still a far cry from the $50 to $55 million needed annually to meet the needs outlined in the State Water Plan, as found by the 50 Year Water Vision Plan and planning process begun by then Gov. Brownback.

Furthermore, the real battle of curtailing and probably buying back over appropriated groundwater rights in Western Kansas - to slow the decline of the Ogallala aquifer - is not addressed. The state's 1945 Water Appropriation Act declared the water of the state to belong to the people of the state while at the same time allowing for its use and declaring a water right a property right., thus the complicated water world of Kansas.

While the waters of Kansas are owned by the residents and legislatively prioritized for the most beneficial use, meeting the challenge and goal of sustainable and generational future use of water is still a long way off. However, the House Water Committee has done a huge service to elevate the critical importance of water and begin the necessary debate.

Testimony for proponents February 16 can be found here

Testimony for opponents February 17 can be found here

Zack Pistora. Kansas Sierra Club's testimony can be found here.

Kent Askren, Kansas Farm Bureau's Testimony can be found here.

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REDISTRICTING UPDATE
by Paul Johnson

In terms of congressional redistricting, Kansas is entering uncharted terrain. With a gerrymandered Congressional map passed over the veto of the Governor, two lawsuits have been filed in Wyandotte County requesting a judicial review of this Congressional map by a state district court. It seems certain that whatever the decision is, it will be appealed up to the Kansas Supreme Court.

The Kansas Supreme Court has never ruled on a Congressional map. The Kansas Supreme Court is not prohibited from reviewing a Congressional map but the Constitution of the State of Kansas – Article 10 Apportionment of the Legislature – does not speak to a procedure for deciding on a Congressional map. The language in this section 10 for ‘state redistricting’ has the Attorney
Thursday, February 24th (Turnaround Day)
Last day to consider non-exempt bills in house of origin.

Wednesday, March 23rd (Second Chamber Consideration) Last day to consider non-exempt bills not in originating chamber.

Friday, April 1st (First Adjournment) No bills considered after this date except bills vetoed by governor, omnibus appropriations act and omnibus reconciliations spending limit bill.

Veto session is anticipated to begin on April 25th. *********

Exempt committees:
House and Senate Federal and State Affairs, Senate Ways and Means, Senate Assessment and Taxation, House committees on Calendar and Printing, Appropriations, Taxation or select committees of either house when so authorized.

General petitioning the Court to ‘determine the validity thereof’. If the Court determines that the reapportionment statute (map) is invalid, the legislature ‘shall enact a statute of reapportionment conforming to the judgement of the supreme court within 15 days’.

There are no Kansas statutes that define the term ‘valid’. There is no crystal ball for how this process moves forward on this Congressional map. Will the Wyandotte court expedite the process given the timelines of an election year and candidate filing deadlines in early June? Will the Kansas Supreme Court reach down and take these two cases?

In Article 10, ‘Whenever a petition or application is filed under this section, the Kansas Supreme Court, in accordance with its rules, shall permit interested persons to present their views’. In 2012, the Kansas Legislature was unable to settle on a Congressional or legislative district map, so the matter was settled by three Federal Justices who produced the maps now in place. This decision was not brought back to the Kansas Supreme Court. It seems unlikely that if this Congressional map was declared “invalid” that the map drawing process would be sent back to the Kansas Legislature. In terms of defining ‘valid’, do the legislative redistricting guidelines - adopted by a bi-partisan committee vote in the House and Senate – carry substantial importance in how the final Congressional map was created?

To this point, the state legislative redistricting maps for 40 Senate seats and 125 House seats have not been presented in the House or the Senate. It looks like next week maps will be finally presented by Republican and Democrat leaders.

The League of Women Voters of Kansas have submitted Senate and House redistricting maps that follow the legislative guidelines and value compact districts to protect communities of interest.

LWVK Proposed Senate District map
https://davesredistricting.org/maps#viewmap::70df1c4e-888a-4d7f-8123-94b230a5812b

LWVK House District map
https://davesredistricting.org/maps#viewmap::1a0df095-f164-4ae6-8b85-5eae2a55633d

WEALTH DAY MARCH 3!

**WEALTH Day: For the Good of ALL Kansans** will be a virtual event this year. Please show your support by joining us and inviting your communities to join, too!

This year, WEALTH Day will focus on ways to show support from afar for policies related to the WEALTH topics: Water, Energy, Air, Land, Transport, and Health. Co-sponsors include: Climate and Energy Project, Kansas Natural Resource Council, Ks. Chapter of the Sierra Club, Friends of the Kaw, Metropolitan Energy Center, Kansas Rural Center, and more.

Participants will receive a Digital Toolkit that offers specific actions, messaging, and talking points to be used in advocacy efforts throughout the day - they may pick and choose which topics to support and actions to take.

Register HERE
KANSAS WATER OFFICE BUDGET OVERVIEW

This detailed budget overview starts with the agency purpose, agency priorities and agency programs. See KWO budget overview.

The Kansas Water Office (KWO) - created in 1981 - is the water planning, policy, and coordination agency for the State of Kansas. KWO is made up of two primary programs – Water Planning & Administration and the Public Water Supply Program. The agency’s budget is comprised of three funding sources – State General Fund, user fees form the Public Water Supply Program, and the State Water Plan Fund.

Water Planning & Implementation includes the Kansas Water Authority (KWA), the Regional Advisory Committees (RACs), and the State Water Plan Fund. Under the Public Water Supply Program is future use storage, the water marketing fund, water assurance fund, and the access district fund.

KWA is comprised of 24 members (13 voting and 11 ex-officio). There is a map on page 4 of the overview listing the 13 voting members and their affiliations. KWA is responsible for advising the Governor, the Legislature, and Director of the Kansas Water Office (KWO) on water issues. KWA approves the Kansas Water Plan, the annual legislative report, federal and state contracts, public water supply contracts, and public water supply rates as well as State Water Plan Fund recommendations.

There are 14 Regional Planning Areas - established in December 2014 – depicted on page 5. Since 1991, the State Water Plan Fund was pledged to receive $6 million from the State General Fund (SGF) and $2 million from EDIF (lottery funds). The SWP Fund has been shortchanged over 30 years to a total of $84 million. The Governor’s FY 2023 recommends full restoration. The budget overview lists the specific State Water Plan Fund Programs & Projects administered by KWO.

KWO has contracts with the Army Corps of Engineers for purchase of water supply storage in 14 reservoirs. 11 of the 14 have storage currently committed to, and being paid for by, the customers of the Water Marketing Program. 8 of the 14 have storage that has been sold to Assurance Districts for district members. 5 of the 14 have Future Use storage that has been purchased by the State but has not yet been called into service. This budget overview explains the contractual arrangements with the Corps regarding capital costs plus operation, maintenance and repair costs. Two out of three Kansans depend on the public water supplies coming from these reservoirs. There is now a debate in Kansas to lock down public water storage capacity - specifically in Perry and Milford - for future water needs from the Corps at a cost of $112 million.

KANSAS DEPARTMENT OF AGRICULTURE BUDGET OVERVIEW

The Kansas Department of Agriculture (KDA) provides a detailed budget overview to the Kansas Legislature. See overview here.

The budget overview document is usually not put up on KDA’s homepage, but can be downloaded via legislative committee documents. This overview has the most detailed look at each program in terms of budget, staffing, statutory authority and performance measures.

The budgetary numbers include actual expenditures for Fiscal Year (FY) 19, FY20, FY21, FY22 Program adjustments, and the FY 23 Budget – Governor’s Recommendations. The program expenditures for FY 19 were $50.3 million, FY 20 was $51.7 million, FY 21 was $52.8 million, FY 22 adjusted budget $55.1 million, and the Governor’s recommended budget for FY 23 - $54.2 million.

Sixteen budgetary line items are listed. The largest line item is conservation at $11.6 million followed by water structures at $8.1 million, and administration at $6 million. There are two pages for each program that lists purpose, statutory authority, total employees, program expenditures and a performance-based budget. There is a fund analysis showing revenue
sources from the State General Fund to State Water Plan to federal funds to fees for programs. For animal health, there is a listing of the fees for inspection, brands and disease control. Under program expenditures, there is a listing of salaries, fees-professional services, grants, aid to locals and other operating expenditures. On the final page is a listing of the legislative team and key program contacts.

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**ENERGY BRIEFS: Anti-Wind Bills Stall**

The Senate Utility Committee worked three bills this past week: [SB 353](#) on Wednesday, and SB323 and SB 324 on Thursday. All failed to have enough Committee support to make it out of Committee.

SB 353 would establish setback and construction requirements for wind energy facilities that wind energy proponents argue would effectively stop all future wind development in the state. It requires setbacks of 10 times the turbine height of 5,280 feet whichever is greater, from non-participating landowners, public buildings, airports, federal wildlife refuges, public hunting or public parks.

The Chair held “informational hearings” early in the week relying on primarily anti-wind advocates. However, on Wednesday he announced he could not get support to move the bill out of committee.

[SB 323](#) and [SB 324](#) both dealt with wind or solar leases, disclosures, measurements, and termination of leases. On Thursday, the Chair could not get seconds on motions to move the bills out of committee. While this should kill the bills for this year, the Chair has indicated his determination to leave them “open”. Some are concerned that there may be an attempt to use the “gut and go” process to insert bill language into another bill later in the session.

Read more at: [https://kansasreflector.com/2022/02/16/kansas-senate-committee-unable-to-advance-anti-wind-bills-chairman-says/](https://kansasreflector.com/2022/02/16/kansas-senate-committee-unable-to-advance-anti-wind-bills-chairman-says/)

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**KANSAS SLAUGHTER FACILITY MAP**

The past two years under the Pandemic revealed early on the weaknesses and limitations of the state’s meat processing plants as existing small to mid-sized plants were overwhelmed by demand. KDA testified that prior to 2020, there were around 60 plants and 40 new since 2020. KDA used $8-10 million in pandemic funding to assist these new or expanding slaughter facilities. State inspected plants can process meat that can be sold commercially in Kansas but not across state lines. Custom plants are inspected annually, and the meat processed cannot be sold commercially.

KDA now has produced a map listing the state slaughter facilities statewide. [https://www.google.com/maps/d/u/0/edit?mid=16U73Np0K9QaT2losTr1BE28sUvbSx7dP&usp=sharing](https://www.google.com/maps/d/u/0/edit?mid=16U73Np0K9QaT2losTr1BE28sUvbSx7dP&usp=sharing)

The map has four layers: 1) state inspected plants; 2) state custom plants; 3) current plants working towards full inspection; and 4) potential plants under construction. All four layers can be viewed at once, or separately.

One iteration shows the existing state inspected plants which total 51. A second map shows the custom plants that number 41. Another map shows 10 current plants working towards full state inspection. A final map shows 16 potential plants. Under each category there is a marker that says ‘all items’ which lists the plants name found on the map and provides details.

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**CALENDAR Week of February 21**
As Turn Around Day in the house of origin approaches (Feb. 24), committees will be working bills, then floor action on bills in both House and Senate will take center stage. We suggest you consult the daily calendars for most timely information.

FEDERAL FOOD AND FARM

CHARTING THE PATH AHEAD

(From NSAC Feb, 16, 2022)

Over the course of the first week of February, members of the National Sustainable Agriculture Coalition (NSAC) worked to simultaneously “dream big” and nail down the specific tasks and tools necessary to ensure a sustainable and equitable Farm Bill.

Every year, NSAC comes together to set policy priorities based on needs identified by members and informed by the work of issue committees to firmly establish the Coalition’s positions and “asks” on issues. Policy priorities address critical issues across the food and farming system. Some of the issues NSAC is advocating for include key structural reforms to safety net programs like crop insurance, expanded programs and policies targeted to serve BIPOC, beginning, and socially disadvantaged farmers, the reform of procurement standards, and the implementation of programs and policies to support working lands conservation and sustainable research.

To read more about NSAC priorities, click HERE

Contributors to KRC are automatically on the Policy Watch e-list, if they provide an e-mail address. KRC provides Updates to the sponsoring organizations including League of Women Voters of Kansas, Kansas Natural Resource Council, Kansas Farmers Union, Climate and Energy Project, Audubon of Kansas, and Friends of the Kaw, who make the Updates available to their memberships.

If you are receiving KRC Policy Watch through one of these organizations and have questions, contact the organization directly.

If you wish to be removed from the KRC list, contact info@kansastruralcenter.org

For questions about Policy Watch content, contact Paul Johnson at pdjohnson@centurylink.net or Mary Fund at ksrc@rainbowtel.net
Try email marketing for free today!