



2016 KANSAS LEGISLATIVE E-REPORT #3

Paul Johnson – January 22, 2016

WATER BATTLES

Water legislation is starting to move. Hearings were held before the Senate Natural Resources committee on three bills that will generate debate. One bill – SB 322 – is the first salvo in a battle over unclaimed surface water leaving the State. The second bill – SB 329 – is far less controversial in allowing some changes in multi-year water rights. The third bill – SB 330 – is the expansion of the conservation reserve enhancement program statewide. Two bills have now been introduced in the House – HB 2510 & HB 2511 – which would increase funding for the state water plan and split the water plan into two parts – an eastern Kansas water plan and a western Kansas water plan.

SB 322 proposes new lower fees to appropriate surface water that otherwise leaves the state. Under existing law to appropriate a million-acre feet of water for beneficial use, the fee would be \$200,240. Under SB 322, the fee would be \$1,400. There is an on-going discussion over building an aqueduct across Kansas with a plan to draw 4 million-acre feet from the overflow of the Missouri River. Upfront fees for this project drops from close to \$1 million to just \$5,600. These reduced fees would grossly undercompensate the work by the Kansas Department of Agriculture required to evaluate such an application. Prematurely lowering filing fees for a large water transfer project will not protect existing water users nor improve communication with neighboring states. SB 322 jump starts the debate over easing the transfer of water from one region to another. The saying goes that Kansas is not short of water but that some water just happens to be in the wrong place.

SB 329 is a very simple bill that is supported by all stakeholders. A 'multi-year flex account (MYFA)' allows a farmer to vary their water use over five years but does not allow total use of water to increase. In certain areas of Central Kansas, a few farmers want to transition to more efficient irrigation systems by moving from a flood system to

a center pivot system but they must pay fees to make this transition if it occurs in the midst of their five year MYFA. SB 329 waives those fees and helps to conserve water.

SB 330 provides statutory authority for the Kansas Department of Agriculture to enter into conservation agreements with the U.S. Department of Agriculture (USDA) under a specialized section of the Conservation Reserve Program (CRP) known as the Conservation Reserve Enhancement Program (CREP). CREP is a federal/state partnership that targets high priority conservation concerns identified by local, state, tribal governments or non-governmental organizations. Kansas' first CREP was created for enhancing water conservation efforts along the Upper Arkansas River corridor from Hamilton County to Rice County. Today, Kansas has 99 CREP contracts on 17,176 acres conserving - in permanent retirement - more than 34,500 acre feet of annual water appropriations.

The authority for the CREP program in Kansas is not in statute but is put into a proviso yearly in the State budget. This proviso is very specific as to what parts of Kansas are open to CREP's and limits the number of acres. With SB 330, CREPs could go statewide. The *Vision for the Future of Water Supply in Kansas* calls for the development and implementation of a sediment and nutrient reduction CREP in watersheds above targeted federal reservoirs and watersheds with excessive nutrient runoff. The Kansas Grain and Feed Association oppose SB 330 because CREP's mandate the idling of land and prevent dryland farming thus reducing the sales of agricultural chemicals and seeds. The CREPs in eastern Kansas would be partial field enrollments put in buffer strips next to streams and waterways. In context, Kansas has over 28 million acres in farmland so putting a few hundred thousand acres into buffer strips to help offset the soil and sediment run-off into reservoirs that supply two-thirds of all Kansans with their drinking water is sound and sane water policy.

SCHOOL FUNDING FORMULA UPDATE

The Special Committee on K-12 Student Success finished its work with a final report that recommends major changes to school funding. The final report – that was adopted on a partisan vote – recommends overhauling the way funding is calculated for at-risk students, requiring legislative approval of proposed local school board bonding issues, providing funds for each student to take the ACT, setting up a test that is aligned with the Rose capacities and is independent of the state and federal education departments, and requires annual audits of school districts. A minority report by the Democrats stated the final report failed to recommend a foundation for a school finance system that is fair to all students and also impinged on state and local school board authority. This final

report will be reviewed by the standing education committees in the House and Senate. Time will tell what specific legislation will be proposed in this legislative session.

ELECTION STATISTICS

Campaign contributions are surging. From the most recent campaign reports, the incumbents in the House along with a few challengers have \$2.711 million in their campaign accounts. House winners spent \$2.838 million in their 2014 elections. Incumbents in the Senate and a few challengers have \$2.99 million in the bank. January 11 campaign reports show that Senators raised \$1.47 million last year while House members raised \$1.533 million. While individuals can contribute year round, lobbyists, political committees or unions cannot contribute during the legislative session. Campaign finance reports are for candidates and do not reflect third-party campaign assistance from political parties and special 'interest group' campaign expenditures.

House Bill 2213 passed the House Elections committee last year and now sits on General Orders in the House. HB 2213 increases contribution limits by doubling them in all cases except state senator (\$1,000 to \$2,500) and certain county officers where district population exceeds 75,000. HB 2182 is also on General Orders. This bill allows certain recognized political committees to accept PAC and lobbyist contributions during the legislative session. The bill also allows a general public solicitation for campaign contributions during the legislative session not targeted toward a specific individual and which is distributed via social media. There are twelve states that have no limits on individuals giving to candidates and six of these twelve states – Alabama, Missouri, Nebraska, Oregon, Utah and Virginia – have no limits on any entity contributing to a candidate. From recent federal court cases, states can impose limits on contributions to candidates but the limits cannot be too low and states cannot impose individual aggregate limits. Also, independent expenditures cannot be limited.

NOXIOUS WEED LAW WAR

The plan to expand the chemical war on more noxious weeds and increase the toxicity of chemicals used is on the fast track. House Bill 2479 was filed on January 19 and is now scheduled for a one day hearing before the House Agriculture and Natural Resources committee on Tuesday January 26 at 3:30 pm in Room 346-S. The first step is to take the authority to list noxious weeds away from an elected legislature and give the authority to an appointed bureaucrat. In this case, the Kansas Secretary of Agriculture becomes the 'weed czar' and takes recommendations from a 'hand-picked' advisory committee while the counties are responsible to enforce this law.

HB 2479 is a complete revision of existing noxious weed law that has been on the books for decades. "Noxious weed" means any species of plant the secretary shall determine to be a noxious weed. The Secretary is to do a 'risk assessment' to list a plant but no details explaining this assessment. The Secretary has emergency power to list any plant for 18 months without a recommendation from the advisory committee. The bill allows county commissioners to request any plant - outside of the noxious weed list - be controlled with the Secretary's approval. The Secretary is to require the 'best and most practical methods' for noxious weed control and eradication but no details given on these practices. For landowners, criminal fines for violating this act increases from \$100 to \$200 a day with no limit on the fine. County weed personnel shall have at all reasonable times, free access to enter upon premises and to inspect property to administer this act. After notice and inaction by the landowner, county weed departments can spray your property and put the cost as a tax lien on your property taxes.

As toxic chemicals – such as 2-4D – are used to fight 'glyphosate' (Roundup Ready) resistant weeds, there will be more drift damage to specialty crops such as grapes or vegetable gardens. There is no definition of 'drift' in any Kansas statute today and not addressed in this bill. There is also no provision in statute today affording a landowner the right to post their land as a 'spray free' zone as long as the noxious weeds are controlled. County weed control employees are protected from most liability claims if they are spraying ditches and rights-of-ways without intent to purposely damage private property. The 'hand-picked' 11 member advisory committee has party line neutered environmentalists from state agencies or KSU, the chemical salesmen, county weed directors and three private landowners. There is no mission statement to consider and value wildlife habitat or the loss of pollinators (bees) while killing wildflowers.

LOCAL FOOD AND FARM TASK FORCE LEGISLATIVE REPORT

Statutory Directive: The Local Food and Farm Task Force shall prepare a Local Food and Farm Plan containing policy and funding recommendations for expanding and supporting local food systems and for assessing and overcoming obstacles necessary to increase locally grown food production.

This seven member task force presented this December 2015 report to the House Agriculture and Natural Resources committee on January 21 and will present the report to the Senate Agriculture committee on January 26 at 8:30 am in Room 159-S. The primary functional recommendations included 1) Kansas Department of Agriculture Local Foods Systems Coordinator, 2) Determine the current abilities, impacts and needs of local food system businesses in Kansas and 3) Continue Local Food and Farm Task

Force in 2016. Under the four directives of the statute creating this task force, there are 23 specific recommendations for information and action. Kansas imports 96% of the fruits and vegetables consumed in the state. Kansas has only 45 state inspected meat plants that can provide local, natural meats. Kansas has just 10-12 small dairies that are bottling milk on farm. The consumer demand for locally sourced foods is exploding and Kansas needs a coordinated plan to meet that demand and keep those local food dollars in the millions circulating through the Kansas economy. (Once this report is put on line, I will provide the link.)