

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCESThe meeting was called to order by Senator Werts at
Chairperson8:00 a.m./p.m. on January 30, 1986 in room 123-S of the Capitol.

All members were present except:

Senator Eric Yost - Excused

Committee staff present:

Ramon Powers - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:

Kevin Davis, League of Kansas Municipalities
Sharad Bhatia, KDHE, Director, Division of Environment
Fred Allen, Kansas Association of Counties
Joe Harkins, Director, Kansas Water Office
Senator Alicia SalisburySB 482 - An act concerning the development of county wide water/wastewater management plans.

Sharad Bhatia presented testimony on SB 482, reviewing the position of KDHE on this bill through background information on the development of the county wide plan. He discussed the primary problems that have developed as well as the strengths and weaknesses of the county plans. (Attachment A). He further stated the primary significance of this bill is to repeal the section requiring federal funds must be available for implementation of the county wide plan and require all counties, regardless of size, to prepare the county wide plan. To date under present statute, only eight counties out of nineteen identified as requiring the management plan have begun their planning. The ramification of not developing a plan would be loss of construction grant money.

Senator Feleciano suggested rather than exempt small population counties, which cannot afford county wide plan because of their limited tax base, federal grant funds be used to aid these counties rather than concentrate on urban areas. It was explained that under SB 486 the problems of counties without county wide plans will be addressed through required compliance with the standards and regulations established by KDHE. There will be no federal funds available for county wide planning under this bill, so state funds would be necessary. In answer to a question by Senator Feleciano, determination of recipients of federal grants is made by KDHE, primarily on the basis of priorities.

Senator Werts inquired if the request of \$350,000 by the Department is included in the Governor's tax increase budget. Secretary Sabol stated it is not in the investment budget, only in the C Level budget.

Kevin Davis testified the League takes no formal position either in support of or in opposition to SB 482 and SB 486. They would expect to review minimum standards developed by KDHE to resolve potential problems municipalities might face and suggest a time table be established for development of the standards to meet the July 1, 1989 effective date. The League has a special concern regarding areas adjacent to cities. He further stated "adjacent" could mean whatever might be currently within a municipality's ability to add by annexation. (Attachment B).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m. ~~XXX~~ on January 30, 19 86.

Joe Harkins testified this issue is a part of the original water quality plan, and after indepth study, endorsement has been given to the county wide plan with encouragement to continue it in order to have better protection for people outside municipal boundaries. Both the Kansas Water Authority and the Kansas Water Office strongly support SB 482 and SB 486. Mr. Harkins also stated the Kansas Water Authority endorses the recommendation that the state step in with additional assistance for local entities.

Fred Allen testified the Association desires to be involved in preparation of the minimum standards as they have some reservations. All counties have the same problems regardless of size and it is their hope that small population counties may apply for exemption from the county wide plan and the state will then exercise good judgement as to the need for a plan. The county clerk or county engineer, with approval of the county commissioners, would apply for any exemption.

SCR 1632 - Concerning surface water quality standards

Senator Salisbury presented the resolution to the committee, stating it simply deletes "maps" from the rules and regulations on surface water quality standards, as the inclusion of maps is not required.

Secretary Sabol stated KDHE does concur with the resolution.

SB 486 - An act requiring subdivision water and wastewater plans

Sharad Bhatia reviewed the position of KDHE giving background information showing the need for authority to address needs in new subdivisions. This bill would negate double and triple jeopardy of construction in subdivisions. The Department supports SB 486 as recommended by the Kansas Water Authority. (Attachment C).

Joe Harkins stated that SB 486, in addition to added protection of public health, which is primary, gives consideration to individual home owner costs of water and wastewater systems.

Senator Gordon expressed concerns regarding the financial aspect of this plan for counties some of which are already burdened with a high mill levy. Mr. Bhatia stated the cost of preparation of the water-wastewater plans would be from \$100,000 to \$200,000 per county, depending upon population density and magnitude of the problem. As introduced, SB 486 would spread the cost to counties over a three year period to ease the fiscal burden and anticipates 50% state financing.

Meeting adjourned. The next meeting will be February 4, 1986.

Guest List

1-30-86

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|-----------------------|-----------------------|-------------|
| Rich McKee McHanna | K.L.A Top. Cap-Jud | Topeka " |
| Sharon Ghata | KDHE | Topeka |
| Joe Harkins | RWD | TOPEKA |
| Kevin Davis | League of Ks Muncie | Topeka |
| J.H. Schaefer | TSCMPC | " |
| Harold Main | Sa Co. | |
| Barry Swanson | Inten | " |
| Connie Irbhe | KNRC | Topeka |
| Janet Stubbs | HBAK | " |

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON: SB 482

PRESENTED TO: Committee on Energy and Natural Resources, January
30, 1986

This is the official position taken by the Kansas Department of Health and Environment on SB 482.

Background Information:

SB 482 amends K.S.A. 65-3308 through 3313 to require preparation of countywide water/wastewater management plans with or without federal funds. Language is also included to clarify that the scope of the plans is to cover water service as well as sewerage service. The proposed legislation sets forth how KDHE will use the plans, and directs the secretary to develop rules and regulations for counties which are exempted from the requirement to prepare plans. The countywide water/wastewater plans are to define areas where water and sewer systems will be constructed to meet population growth. The plan would also define the areas where individual sanitary facilities would not be acceptable. It is intended that EPA grants and approval of facilities would be coordinated with approved countywide plans.

County governments, in cooperation with other local governments in the respective counties, should develop comprehensive water/wastewater management plans, to address provision of these services to developing areas. Scattered subdivisions with their own systems are often allowed to develop randomly around urban centers with little or no long-range planning to provide permanent, economical water and sewerage service, or to avoid the creation of nuisance conditions and public health problems.

During development of the Kansas Water Quality Management Plan it became evident that continuing population growth and relocation is a characteristic of many of the larger urban counties in the state. These shifts in population result from new or improved employment opportunities, improved highway systems and new airports, recreational and second-home potentials of reservoirs and privately constructed lakes, and the general availability of water through the rural water districts. This continuing shift in population has produced numerous problems for city and county administrators; residents of cities, suburban and rural areas; and landowners, builders, developers and realtors. These problems have included:

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1. failure of septic tank systems with resulting recriminations against local health departments, county boards of commissioners, and contractors;
2. a lack of coordination in development of sewerage and water supply systems in existing municipal areas and surrounding suburban or rural areas, with a tendency towards development of costly, redundant systems;
3. establishment of numerous small sewerage and water supply systems which are costly and difficult to maintain and which are frequently replaced within a short period of time; and
4. multiple discharges of treated sewage into small urban streams or water courses.

Development of countywide water/wastewater management plans should help assure that water and sewerage systems of cities and adjacent suburban water and sewer districts will be complementary, will be sized so they will meet public needs for a reasonable period of time, will be located so they will not become a nuisance or hazard to public health, and will be economical to operate and maintain.

In 1979, the passage of Senate Concurrent Resolution No. 1640, adopted the Kansas Water Quality Management Plan. One of the specific plan elements provided that the state program for control of pollutants from municipal and domestic sources should include a program requiring development of wastewater management plans in urban or high-growth counties. In 1980 and again in 1981, the legislature passed statutes (K.S.A. 65-3308, *et. seq.*) that required counties to develop countywide wastewater management plans to address the provision of acceptable wastewater management contingencies in developing areas of the respective counties.

The statutes provided that counties with populations less than 30,000 could apply to the Secretary of the Department of Health and Environment for an exemption from preparing a plan. The statutes also included a provision that plans were required only if federal funds were available to assist local governments in their preparation. In addition to the anticipated 75% federal share, the legislature provided 12.5% state money to assist the counties thereby leaving a 12.5% local share. The 1981 amendments to the Federal Clean Water Act removed planning money from the act. Therefore, the unavailability of federal funds negated the requirement to prepare the plans.

As a result of the statutory screening process which addressed both population and potential water and sewerage problems, 19 counties were identified with immediate needs to prepare plans: Barton, Butler, Cowley, Crawford, Douglas, Ellis, Finney, Geary, Harvey, Johnson, Leavenworth, Lyon, Montgomery, Reno, Riley, Saline, Sedgwick, Shawnee and Wyandotte. Of the 19 counties identified, only 8 received federal grants and began their planning efforts: Butler, Cowley, Crawford, Ellis, Finney, Geary, Harvey, and Shawnee. No planning was initiated by the other 11 counties.

In completing their respective countywide wastewater management plans, the county governments were required to define areas where water and sewerage systems would be constructed. The plan was to also define any areas where individual sanitary facilities would not be accepted. The regulations required the plan must be updated at least every five years to reflect any changes. Also, in accordance with Sections 208(d) and 208(e) of the Federal Clean Water Act as amended, no permits for discharge of treated sewage or no grants for construction of sewerage facilities will be issued in the county unless the improvements are consistent with the approved plan. This, in effect, requires the county and municipal officials to coordinate provision of water and sewerage service with other comprehensive development planning the county may have. By having local government set these service areas, the state can then support the local plan, rather than intervening or imposing, on local development issues.

The water quality element of the state water plan supports the concept of this legislation.

Strengths:

The county plans would have a significant effect on the streams of our state in providing for future discharge of treated sewage. Through long-range planning, regional facilities can be developed to provide adequate and cost-effective systems.

Weaknesses:

Counties may argue the plans are not needed.

The department's FY 1987 C Level budget requests \$350,000 to assist counties in preparation of plans

Department's Position:

KDHE supports SB 482

Presented by:

Sharad Bhatia
Director
Division of Environment
Kansas Department of Health & Environment



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 WEST SEVENTH ST., TOPEKA, KANSAS 66603/AREA 913-354-9565

TO: Senate Committee on Energy and Natural Resources
FROM: Kevin R. Davis, League of Kansas Municipalities
DATE: January 30, 1986
SUBJECT: SB 482 and SB 486

The League of Kansas Municipalities takes no formal position either in support or opposition of these two bills. The League has an adopted policy position on this issue which states:

J-3. Environmental Health. ...The state department of health and environment should be authorized to adopt minimum standards for water supply and sewerage facilities not subject to city or county regulation...Cities should adopt and enforce comprehensive sanitary codes applicable to areas not subject to municipal regulation.

In regard to SB 482 we are in support of the principle of establishing and requiring minimum standards for water-wastewater facilities in areas where there are currently no standards. We have some question about developing minimum standards which might be different from or inconsistent with sanitary codes currently in effect in municipalities throughout the state. We also have some concern that any rules and regulations which might be developed would not preclude the imposition of a higher or more stringent standard in any municipality which may be addressing a special concern.

Therefore, in principle we have no opposition to SB 482 and we would expect to review the minimum standards developed by KDHE in order to resolve any potential problems municipalities might face.

In regard to SB 486, our comments are basically the same. The bill requires the adoption of a plan or an approved sanitary code as specified under existing law. In either event the plan or code must meet the requirements and be approved by KDHE. We are in support of lines 60-65 which requires KDHE to establish procedures for the approval of subdivision plats in counties without a plan or sanitary code. This is assuming the intent is to impose minimum standards for water and sewerage facilities in these areas. We do have some question on how these regulations will be administered to ensure compliance by KDHE.

Since there is a deferred effective date for the plan requirement, we again feel that we can work with KDHE to resolve any concerns with the actual standards developed. We suggest that some time-frame be established for the development of the standards so that municipalities will have ample time to develop the plan to meet the July 1, 1989 effective date.

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In regard to both of these bills the League has a special concern about the standards in areas adjacent to cities which may be subject to future annexation.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON S.B. 486

PRESENTED TO COMMITTEE ON ENERGY AND NATURAL RESOURCES, JANUARY 30, 1986

This is the official position taken by the Kansas Department of Health and Environment on S.B. 486.

BACKGROUND INFORMATION:

S.B. 486 creates a new statute to provide the Kansas Department of Health and Environment authority to adequately address provision of water and sewer service to new subdivisions.

Community officials are interested in growth of their respective communities. In many cases, local governments have allowed subdivision development within or surrounding their borders without addressing the needs to provide adequate sanitary and water service to the areas. This has resulted in failing on-site systems (septic tanks), overloaded sewer lines, inadequate water distribution pressure, and overloading or undersizing water and wastewater treatment facilities.

The statutes currently allow local governments to develop subdivision regulation and planning requirements. While most subdivision regulations address sanitary requirements, the regulations are largely ignored or inadequate to encourage growth.

For counties without a countywide water and wastewater plan (K.S.A. 65-3301 et seq.) or an approved sanitary code (K.S.A. 19-3701 et seq.), the Department would promulgate regulations to define the minimum sanitary services (water/sewerage) for new subdivisions. A standard certification form would be developed and furnished to local officials. The local government having jurisdiction over the proposed subdivision would be required to provide certification to the Secretary, Kansas Department of Health and Environment, that sanitary needs were reviewed and were adequate.

In counties with a countywide plan and sanitary code, the local government having jurisdiction over the proposed subdivision would certify to the Kansas Department of Health and Environment Secretary that the proposed development and sanitary facilities are consistent with the countywide water and wastewater management plan, state regulations and county sanitary codes.

The Kansas Water Authority endorsed certification by local governments that subdivision plans meet state and/or local water and wastewater plan standards. This was contained in the Water Quality Element of the State Water Plan which was submitted to the 1985 Session of the Kansas Legislature. This was noted as recommendation 63 by the Kansas Water Authority.

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STRENGTHS:

This bill would help negate the double and triple jeopardy that some people are experiencing from building in subdivisions. This would also complement the countywide water and wastewater plans required in SB 482.

WEAKNESSES:

Local units of government may argue this is an unnecessary infringement of local prerogatives. The intent is that local officials maintain responsibility for certifying that sanitary services meet the intended water supply and sewerage needs in the subdivision.

DEPARTMENT'S POSITION:

The Department supports SB 486 as recommended by the Kansas Water Authority, requiring certification by local governments that subdivision plans meet state and/or local water and wastewater plan standards.

Presented by: Sharad V. Bhatia, Director
Division of Environment
Kansas Department of Health
and Environment