

Approved 3-19-86
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at
Chairperson

8:00 a.m. ~~XX~~ on March 5, 1986 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Terry Eaton, Kansas City Power & Light and Kansas Gas & Electric
Kevin Davis, League of Municipalities
Ron Gaches, Boeing Military Airplanes
Hannes Zacharias, City of Lawrence
Steve Lackey, City of Wichita, Director of Operations & Maintenance
Bernard Sieracki, Vice president, Government Affairs for Waste Management of
North America
Bill Ramsey, City of Olathe, Director of Public Works
Chip Wheelen, Kansas Legislative Policy Group, Rural County Commissioners
Jim Hague, Dickinson County, Highway Administrator

SB 566 - Relating to the disposal of solid waste

Chairman Werts stated this bill has been re-referred to the Committee since information is available not previously considered and should be presented to the committee before full debate on the floor of the Senate occurs.

Terry Eaton testified as a proponent with some reservations about the proposed bill. Problems faced by electric utilities are distinct from typical disposal complexes and he feels coal burning waste from steam electric generating stations should be given separate consideration. Funding requirements contained in SB 566 will produce an unnecessary burden on rate payers. The electric utility industry recognizes the purpose of SB 566 but feel they should be granted exemption from the funding requirements being proposed. The KCP&L recommends insertion on Line 0071 of the following wording: except those facilities, disposing of high volume, special wastes generated primarily from combustion of coal in producing electricity." (Attachment A).

Kevin Davis testified the League supports the principle of SB 566 but has some concern about the standards and administration of the program. The League would like to be involved in development of rules and regulations and feels fees should be based on the option of either tonnage or volume measurement rather than just volume. (Attachment B).

Ron Gaches gave testimony proposing an amendment to modify the language to allow private solid waste disposal facilities presently in compliance with existing law to be exempt from paying into two separate fee funds if they provide required assurance. Mr. Gaches has discussed this proposal with KDHE and the Secretary found it acceptable.

Hannes Zacharias speaking as a proponent, stated establishment of the escrow and super fund accounts is a reasonable solution but feels the collection method for the two funds is inappropriate. Consistency and accuracy can best be attained by contributions based on weight rather than volume. Mr. Zacharias requested this bill be amended to allow collection of fees either on a per tonnage basis or volume equivalent as determined by KDHE. With closure fees based on a per tonnage basis, cost to the average household would be more affordable. (Attachment C).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
 room 123-S, Statehouse, at 8:00 a.m. ~~XXX~~ on March 5, 1986

Testifying as an opponent, Steve Lackey stated the city of Wichita currently has one landfill in operation and has funds set aside for closure of the facility and additional funds are being collected from revenue for closure of a second landfill. Through planning, Wichita is able to meet requirements without further legislation. Compliance with the proposed legislation would increase their tipping fees from 41% to 49%. Mr. Lackey also feels the cost of \$10,000 per acre reflected in the bill is an appropriate amount. The suggestion was made by Mr. Lackey for a provision in the bill to allow certain municipalities selectively to opt out. (Attachment D).

Bernard Sieracki stated waste management agrees with the concepts of SB 566 but is in serious disagreement with the mechanism provided. Closure and post closure activity should be treated as part of operating costs. Kansas law currently provides for a trust fund to be established that will cover costs of closure and post closure. The important point of the law is that financial assurance is the responsibility of the landfill operator. SB 566 removes the responsibility from the operator replacing it with a tax on the general public. Mr. Sieracki also expressed concern with the creation of a mini-super fund which duplicates current federal law and lacks adequate procedures, processes and jurisdictions. He further stated efficiency of operation will keep closure costs at a minimum and also feels the \$10,000 accrual fee is much too high. (Attachment E).

Bill Ramsey stated he concurs in the concept of funding post-closure but is concerned with the method of generating funds. Mr. Ramsey said use of scales by landfill operators is the only accurate method to determine the amount of solid waste processed. He supports the "either/or" concept on weight or volume. He also expressed concern with administration as defined in the proposed bill.

Chip Wheelen testified that since the initial hearing on SB 566, he has learned that liability insurance is available for landfill operators. Enactment of this bill would result in an increased property tax for counties which they can ill afford at this time. The problem could be addressed by delegating authority to KDHE to allow self insurance in lieu of other forms of indemnity as described in the bill. He suggested an appropriate amount could be transferred from the State General Fund if there is merit in the creation of the Contingency Fund. (Attachment F).

Jim Hague stated according to SB 566, Dickinson County would see an 100% increase in expenditures per year and the user will have to pay this. Mr. Hague is also concerned about the need for two closure funds. (Attachment G).

Discussion of this bill by the committee will be held at a later date.

Meeting adjourned. The next meeting will be March 6, 1986.

Guest List
3/5/86

JOHN SHOCKLEY	SHAWNEE COUNTY REFUSE DEPT.
Chuck Levin	KD H & E
Dennis Murphay	KDHE
Steve Smith	H.R. Harwin Quarry, Inc.
JERRY CONRAD	KGOE
STEVE LACKEY	CITY of WICHITA
Judy Anderson	City of Wichita
Ray Davis	League of the Municip.
Howard Johnson	Rolling Meadows Landfill
Paul Molhouse	Waste Management Inc.
James A. Hague	Dickinson County
Chip Wheeler	Legis. Policy Group
Roy D. Shankel	H.C.P. & L. Co.
TERRY EATON	KANSAS CITY POWER LIGHT.
Rick Kready	KPL Gas Service
Bill Ramsey	City of Olathe
Shawn McGrath	KWRC
Tom Buryend	KNEA



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
DATE: March 5, 1986
SUBJECT: Senate Bill 566

The Water and Environmental Policy Committee of the League of Kansas Municipalities has taken a position in support of the principal of SB 566. We generally agree with the concept of providing an escrow account for closure and a contingency fund when required of all operators. This position is based on the public policy of insuring proper closure, environmental protection and liability compensation.

The League does have some concern about the standards and administration of the program. Generally, we would like to be involved in the development of any rules and regulations adopted to implement this bill. Hopefully this would allow for the most workable accounting and technical procedures to make accurate payments. Finally, we feel it would make more sense and be easier to administer if the fees were based on either a tonnage or an equivalent volume measurement as determined by regulation.

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(A)

KANSAS SOLID WASTE DISPOSAL SENATE BILL NO. 566
STATEMENT MADE BEFORE
ENERGY AND NATURAL RESOURCES COMMITTEE
BY
TERRY J. EATON, CHIEF ENVIRONMENTAL ENGINEER
KANSAS CITY POWER & LIGHT COMPANY
March 5, 1986

Chairman Werts, members of the committee, I am Terry Eaton, Chief Environmental Engineer for Kansas City Power & Light Company. I have reviewed the Solid Waste Disposal Bill and we are in favor of the bill, however, we do have some reservations and therefore, submit the following comments for your consideration.

Purpose of Senate Bill No. 566 is clearly defined in the New Section 1 as follows, "that it is necessary to guarantee that adequate funds are reserved to insure such closure". As written, this legislation will apply to electric utility ash products, which are defined as industrial solid waste in Kansas Regulations.

With respect to Solid Waste Management, the problems faced by the electric utilities are distinct from those of typical industrial complexes and I feel that coal burning waste from steam electric generating stations should be given separate consideration.

The quantities of solid waste by products generated at a coal fired power plant are significant. LaCygne Station rated at 1,316 MW generates approximately 750,000 to 1,000,000 tons of scrubber sludge, fly ash, bottom ash and boiler slag annually. These materials are disposed of at a 751 acre permitted, solid waste disposal facility, located on the plant property, KDH&E permit number 337.

The funding requirements for closure costs contained in Senate Bill No. 566 will increase LaCygne Station's operating costs approximately \$500,000 per year, which is an unnecessary burden on our rate payers. KCP&L is dedicated to the goals of clean air, clean water and the protection of the environment from any products produced. However, we also have the obligation to supply our customers adequate and reliable electricity at the lowest, reasonable cost.

Recognizing that the purpose of Senate Bill No. 566 is to insure that adequate funds are reserved to insure such closure for those companies in the business of solid waste disposal and further recognizing that the investor owned electric utility industry is fully regulated by the Kansas Public Service Commission, the electric utility industry should be granted an exemption from the closure funding requirements in Senate Bill No. 566.

Kansas City Power & Light recommends that the following wording be inserted on Line 0071 after the word facility, "except those facilities, disposing of high volume, special wastes generated primarily from combustion of coal in producing electricity".

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S. ENR

(B)



City of Lawrence

KANSAS

BUFORD M. WATSON, JR., CITY MANAGER

CITY OFFICES 6 EAST 6th
BOX 708 66044 913-841-7722

CITY COMMISSION

MAYOR

MIKE AMYX

COMMISSIONERS

ERNEST E. ANGINO

HOWARD HILL

DAVID P.J. LONGHURST

SANDRA K. PRAEGER

Memorandum To: Senate Energy and Natural Resources Committee
From: Hannes Zacharias, Management Analyst,
City of Lawrence, Kansas
Date: March 5, 1986
Subject: Support for Senate Bill 566, Fees for Closure of
Solid Waste Facilities

Mr. Chairman, members of the committee, I am Hannes Zacharias, Management Analyst for the City of Lawrence, Kansas, here speaking in support of Senate Bill 566.

It is our feeling that this bill addresses the need for state-wide assistance in the closure and clean-up of solid waste facilities. The establishment of both a local closure escrow account and a state-wide "super fund" account are reasonable solutions to this increasing problem.

While the philosophy of the bill is appropriate, the collection method as established in the bill, is not. The bill provides for establishing funds with contributions based on the volume of refuse received. We disagree with the premise that estimates of volume are unacceptable basis for establishing fees particularly where accurate weights are available. Publications from the American Public Works Association have emphasized consistently over the past 20 years that "the only accurate data for comparison purposes are based on weight -- not volume". It is considered that weight is the only consistent, reliable, and precise measure of refuse quantity. Volume metric measures are an estimate at best.

In light of this information, we request that the bill be amended to allow for the collection of fees either on a per tonnage basis or an equivalent value as determined by the Department of Health and Environment. This amendment would allow operators who use scales to directly pass on to the consumer the cost of the solid waste closure fee. Other operators within the state that assess user fees on other than a per tonnage basis could use an equivalent charge as determined by Health and Environment.

It is our feeling that if the closure fees are based on a per tonnage basis, the cost to the average household in Lawrence, Kansas, would be affordable. The City of Lawrence deposits

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approximately 38,000 tons of solid waste per year. Approximately 40% of this tonnage is from resident users. With the maximum charges that are proposed in the bill, this would mean an approximate fiscal note of \$38,000 per year or approximately 10¢ per month to the average household.

Again, we support the concept of Senate Bill 566. It is our hope that the bill will be amended as recommended to allow for a more equitable and accurate assessment of the closure fees.

Thank you for your time and concern in this matter.

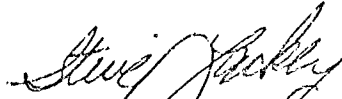
SENATE BILL #566

CITY OF WICHITA'S POSITION: OPPOSES SB #566

REASON FOR OPPOSITION:

The City of Wichita currently operates one landfill and is closing a second. The revenues for closing the second landfill are derived from the current operation. The current operating landfill is the only permitted operation in Sedgwick County which is open. The current operation will be closed out by contract in which the tipping fees will fund the closure of the site. As a result of the proposed closure fund, the City of Wichita and Sedgwick County would need to raise the tipping fees 12-29%. The second proposed fund would further increase current tipping fees. The aggregate total percentage increase would be approximately 41-59%, equating to approximately \$1,000,000 to \$1,330,000 annually.

It is the City of Wichita's position that Wichita and Sedgwick County has properly planned for closeout of its landfills and has adequate resources to fund remedial actions which might be necessary. Therefore, the City of Wichita opposes Senate Bill #566.



Steve Lackey, P.E., Director
Department of Operations and Maintenance
CITY OF WICHITA

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Testimony Before the
Senate Committee
on Energy & Natural Resources

March 5, 1986

SENATE BILL 566

Mr. Chairman, members of the Committee, my name is Bernard Sieracki. I am Vice President of Government Affairs for the Waste Management Corporation. May I express my appreciation for the opportunity to appear before you this morning.

Waste Management is the largest waste disposal firm in the world. In the United States we are engaged in the collection and disposal of solid, chemical and nuclear waste. We are also engaged in municipal street cleaning operations. We operate over 90 disposal sites in the United States and employ over 22,000 people.

After reviewing the context of SB 566 we (Waste Management) find that we agree with the concepts of financial assurance for closure and post-closure that appear to be the directions of the bill. We do however, find serious disagreement with the mechanisms provided in SB 566 as written.

Initially may I express our agreement with the philosophy of financial assurance. We believe it absolutely imperative that all entities, both the private sector and local governments, that engage in the business of waste disposal have the financial ability to insure proper closure and extended post-closure care of the site. Concern for, and financial accounting of, closure and post-closure care is a major factor of day-to-day operations. Closure and post-closure activity is a normal cost of doing business and should be treated as a part of operating costs.

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Closure is not something you think about when your landfill reaches capacity, it is something you plan for when you apply for a permit to do business. As a part of normal operating costs, the expenses for closure should be reflected in the rate charged at the landfill gate.

Several mechanisms for assuring financial responsibility were first presented in Subtitle 'C' of the Resource Conservation Recovery Act (RCRA). Since then several states, in anticipation of Subtitle 'D', the solid waste operating regulations due from US EPA in 1987, have adopted variations of Subtitle 'C' to cover closure and post-closure of solid waste facilities.

Kansas law currently provides for a trust fund to be established that will, over time equal the costs of closure and post-closure. Cost estimates are presented by the landfill operator to the Department of Health for review at the time of permit application. These costs can be evaluated by the department and accepted or revised based upon its review of closure and post-closure plans.

Kansas has a valid financial mechanism to assure landfill operators have the financial ability to close a site and to monitor it and take remedial action through the post-closure period. The important point of current law is that financial assurance is the responsibility of the landfill operator and is assumed to be part of normal business expenses.

SB 566 alters the closure, post-closure financial responsibility. It removes responsibility from the landfill operator and replaces it with a tax on the general public. It seeks an inflationary tax to provide closure and post-closure funds. It seeks to remove a normal operating cost from a business and subsidize it with a tax on the general public.

SB 566 also sets an arbitrary amount of \$10,000 as closure costs per acre. This amount is set regardless of actual closure costs. It prohibits efficiency in landfill operations.

Landfill operators function in a competitive environment. Competition promotes efficiency of operation. Efficient and economical use of resources, i.e. material, people, equipment, ect., leads to lower rates to consumers. Thus if closure can be accomplished at lower costs the consumers benefit. Consumers in the case of waste disposal includes everyone, local governments, business, the general public.

The important point is that assurance for closure and post-closure should reflect actual costs, not an arbitrary amount. With a valid mechanism already in place, I am a bit perplexed as to why an initiative would be forthcoming to alter a workable mechanism with a system of taxation, a system that increases everyone's costs of disposal.

The intent of SB 566 to alter present financial mechanisms is not only unnecessary, it is ill-advised. It seeks a burdensome tax to replace what is already being provided by private sectors of society.

The second category of SB 566 concerns the creation of a mini-superfund. This section is broadly written and presents many questions concerning duplication of current federal law. This section in SB 566 is void of due process references, procedures for the expenditure of the mini-superfund, and liability limits of the landfill owners. Federal Superfund of course, currently covers contingency operations with several provisions relating to process and procedure. A thorough analysis of what is currently covered under Comprehensive Environmental Resource Conservation Liability Act (CERCLA) and what is the intent of the legislation would work to prohibit a duplication of tax. It is difficult to comment on the validity of a state 'mini-superfund' without an analysis of need by the state and an analysis of what is already

Bernard Sieracki
March 5, 1986
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provided for in current law. Liability for damages from waste disposal, in fact joint and several liability, is currently accommodated under CERCLA.

In summary therefore, SB 566 contains a closure, post-closure tax that is totally unnecessary and burdensome to the public in review of current law. It also contains the creation of a mini-superfund without adequate procedures, processes, or jurisdictions. SB 566 as written should be rejected.



Kansas Legislative Policy Group

301 Capitol Tower, 400 West Eighth, Topeka, Kansas 66603, 913-233-2227

TIMOTHY N. HAGEMANN, Executive Director

March 5, 1986

TESTIMONY
to
SENATE COMMITTEE
on
ENERGY and NATURAL RESOURCES
Senate Bill 566

Mr. Chairman and members of the Committee, I am Chip Wheelen of Pete McGill and Associates. We appear today on behalf of the Kansas Legislative Policy Group which is an organization of county commissioners from primarily rural areas of the State.

We sincerely appreciate this second opportunity to offer some comments on SB 566. When the initial hearings were conducted, we were lead to believe that this legislation was needed because commercial bonding and liability insurance were no longer available to private or public owners of solid waste disposal sites.

Since that time, a member of the KLPG Executive Council has provided additional information that we would like to share with you. First, the bonding and insurance requirements do not currently apply to local units of government but counties and cities oftentimes purchase liability insurance. We are told that such insurance does remain available.

Second, another statute (K.S.A. 65-3410) authorizes Boards of County Commissioners to establish schedules of fees and do other things necessary "for a proper effective solid waste management system". Furthermore, that statute allows such fees to be based on ownership of different categories of real property and allows each fee to be billed on the property owner's annual ad valorem tax statement. In other words, the fee for solid waste disposal is almost identical to a property tax.

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If SB 566 were enacted, some counties would be compelled to increase their solid waste fees in order to accrue \$10,000 and then pay the State \$6 Million. This would result in an increased property tax statement at a time when our counties are experiencing a shrinking tax base.

The timing could not be worse for KLPG member counties. Our tax base consists primarily of agricultural real estate and minerals. Neither the farmers nor the oil industry need a property tax increase when both are in the midst of a recession.

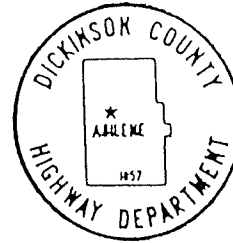
We respectfully submit that the provisions of Senate Bill 566 are unnecessary. Perhaps what is needed to address the problem described by Senator Winter and Mr. Smith is discretionary authority delegated the Secretary of Health and Environment to allow self insurance in lieu of the other forms of indemnity described in subsection (f) of Section 10.

We would also suggest that if the Legislature perceives merit in the concept of a state solid waste disposal contingency fund, that need could be accommodated by simply transferring an appropriate amount from the state general fund. We believe this would be preferable to a property tax increase.

Thank you for your valuable time. We respectfully urge you to substantially amend SB 566 before again recommending the bill for passage.

OFFICE OF THE
Highway Administrator

Dickinson County Court House
ABILENE, KANSAS 67410
913/263-3093



February 24, 1986

Senator Ross Doyen
Representatives Elaine Hassler
Jane Aylward

RE: SB566 and SB626

SB566 concerns our solid waste facilities and their closure when we are through with a landfill site. First of all Dickinson County has two landfill sites and we do not have a scale at either site because of the expense. We submit our volume estimates annually as required. Our landfills handle approximately 100,000 cubic yards of solid waste annually. According to SB566 we would have to set aside fifty cents for the County and Fifty cents for the State. Using the figures for solid waste this would amount to \$50,000 annually for Dickinson County and \$50,000 for the State. Dickinson County spends \$100,000 per year to operate their landfills so what we are looking at is a one hundred percent increase in expenditures. This means we would have to double our rate to cover this increased fee. We are the ones who will take the heat for this rate increase so I do not like the large increase as it will be hard to rationalize this to the public. I would also wonder about the duplication of both the County and State having "Closure Funds". When we close the landfills if there are no problems then we do not need the "Closure Fund". If there are problems we will be sued and that is what we have insurance for is to pay to have the problem rectified. If under Section 3 (d) being a public entity exempts us for the first fifty cent fee would be fine with us as we are financially sound, but we would still be liable for the second fee due the State. This still seems redundant to me. Also this covers only those that participate in the fund (Sec.4(b), what about the others? Under Section 4 (d) claims are to be filed within one year. Does this circumvent the two year statute of limitations? What about the Federal Funds for a problem such as this? If the State feels that it has to have a closure fund let's have only one and that at State level and hopefully the rate would not be as steep as proposed.

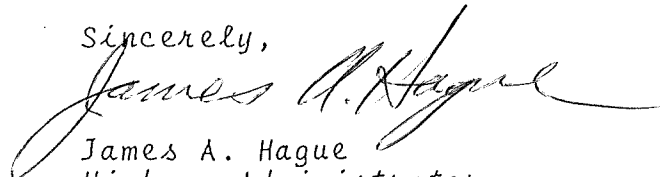
I would also like to comment on SB626. As I think I understand the bill, the County would pay from the general fund monies equivalent to the registration fees of County owned or leased vehicles to a fund for roads and bridges, unless we paid the regular registration fee.

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I talked to our vehicle department and I find that even with the reduced fee that we pay for our tags the County does not lose any money. When a vehicle is tagged the County gets \$1.75 and since the County still gets its \$1.75 when we pay the reduced fee we are not out any money. The Highway Department then uses the money saved for roads and bridges. If this bill was passed the County Highway Department, which in this County has the most vehicles and the most expensive to tag at regular fees, would have to make up the difference, which in our case would be five to six thousand dollars, and pay the County Treasurer. The County Treasurer then would turn around and transfer the money to a special fund for roads and bridges. This maneuvering in the long run costs the County, because the monies taken from the Highway Departments are basically transferred right back and we have to pay for the bookwork. If we used option (c) and paid the full registration fee the County would get their \$1.75 and the State would get the rest, so I would be foolish to use this option. Myself, the County Treasurer and the County Clerk feel this bill should be killed. Thank you for your efforts and if you have any questions I would be glad to answer them.

Sincerely,



James A. Hague
Highway Administrator