

Approved

Ken Grotewiel

Date 3/3/92

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at
Chairperson

3:34 ~~am~~/p.m. on February 26, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

Representative Georgia Bradford
Dr. Ben Huie - BTH Consulting, Wichita
Joseph T. Pajor - Natural Resources Director, City of Wichita
Ron Hammerschmidt - Division of Environment, KDHE

Chairperson Grotewiel opened the hearing on HB 2958.

HB 2958 - An act concerning solid waste; requiring inspection of certain solid waste; requiring importers of solid waste to file certain security; amending KSA 65-3402 and KSA 1991 Supp. 65-3409 and repealing the existing section.

Representative Bradford testified in support of HB 2958, stating that this bill is designed to control the importation of garbage into the state of Kansas as well as to identify logical means for providing timely inspections. (Attachment 1)

Dr. Ben Huie, BTH Consulting, testified in support of HB 2958. He said that the inspection provisions of this bill are designed to insure that hazardous materials are not illegally commingled with household trash. (Attachment 2)

Joseph T. Pajor, City of Wichita, testified that the City supports the concept of continuous inspection of solid waste processing and disposal operations. They also support the requirement for financial assurance from, and inspection of, all out-of-state solid waste processing that will be disposed within Kansas. Mr. Pajor expressed several concerns by the city on HB 2958 as shown on (Attachment 3).

Ron Hammerschmidt, KDHE, testified on HB 2858, stating that the Department neither supports nor opposes this bill. He said that the intent of this bill is commendable, but the expenditure of resources required to fully implement it are tremendous. (Attachment 4)

The Chair closed the hearing on HB 2958.

Chairperson Grotewiel announced that there would be discussion and possible action on previously heard bills.

HB 2389 - Lighting by state agencies.

A motion was made by Representative Thompson, seconded by Representative Lynch, that HB 2389 be passed favorably. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:34 ~~xxx~~/p.m. on February 26, 1992.

HB 2408 - Certification of persons providing radon devices or services.

Representative McClure distributed and reviewed a balloon for HB 2408.
(Attachment 5)

A motion was made by Representative McClure, seconded by Representative McKechnie, to amend HB 2408 as shown on the balloon. The motion to amend carried.

A motion was made by Representative Glasscock, seconded by Representative McKechnie, to pass HB 2408 favorable as amended.

A motion was made by Representative Shore, seconded by Representative Lawrence, to table HB 2408. The motion failed, with a vote count of nine ayes to 10 nays.

The Chair called for a vote on the motion to pass HB 2408 favorable as amended. The motion carried, with a count of 10 ayes to 10 nays, and the Chair voting aye. Representative Gatlin requested to be recorded as voting nay. Representative McKechnie requested to be recorded as voting aye.

HB 2802 - Sewage discharge permits.

A motion was made by Representative Patrick, seconded by Representative Shore, to pass HB 2802 and put it on the consent calendar. The motion carried.

HB 2900 - Jurisdiction of the corporation commission over compressed natural gas.

A motion was made by Representative Shore, seconded by Representative Corbin, to amend HB 2900 to clarify that the compressed natural gas industry is not under the corporation commission. The motion carried.

A motion was made by Representative Shore, seconded by Representative Mollenkamp, to pass HB 2900 favorable as amended. The motion carried.

HB 2912 - Technical cleanup of Wildlife and Parks regulations.

A motion was made by Representative Patrick, seconded by Representative Lawrence to amend HB 2912 by striking in lines 36-38 on page 3 the words "and of violations, on department lands and waters, of the uniform act regulating traffic on highways." The motion carried.

A motion was made by Representative Patrick seconded by Representative Stephens, to include in HB 2912 language to remove the authority of Wildlife and Parks personnel to carry firearms. The motion failed.

A motion was made by Representative Shore, seconded by Representative Correll, to pass HB 2912 favorable as amended. The motion carried.

Written testimony on HB 2801 was submitted by the City of Wichita.
(Attachment 6)

The meeting adjourned at 4:52 p.m.

GEORGIA WALTON BRADFORD

REPRESENTATIVE, NINETY-FOURTH DISTRICT

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ECONOMIC DEVELOPMENT
LOCAL GOVERNMENT
LEGISLATIVE EDUCATION PLANNING

TESTIMONY ON HOUSE BILL 2958
ENERGY AND NATURAL RESOURCES COMMITTEE
FEBRUARY 26, 1992
GEORGIA W. BRADFORD, REPRESENTATIVE 94TH DISTRICT

Chairman Grotewell, and members of the Committee, thank you for the opportunity to address you concerning HOUSE BILL 2958. This bill is a solid waste bill - designed to control the importation of garbage into the state of Kansas as well as to identify logical means for providing timely inspections.

The content of the bill is as follows:

1. SECTION 1. Amendment and definitions.
2. NEW SECTION 2. Inspections required by KDHE inspectors.
 - a. Prior to compression or baling.

No solid waste disposal area shall engage in processing or disposal of solid waste unless it has been inspected prior to compression or baling.

- b. Inspected prior to importation.

Garbage is inspected at the point of origin (outside the state) before importation.

- c. Secretary may adopt regulations to enforce the provisions of this section.

3. NEW SECTION 3. Fee structure developed.

- a. Annual fees necessary to pay the direct and indirect costs of inspections.

- b. Solid Waste Inspection Fee Fund established in the state

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treasury.

c. Fees used only for the purposes in this bill.

4. NEW SECTION 4. Surety bond or other security required to assure compliance with all laws of this state regarding solid and hazardous waste.

a. For importation into the state.

b. For anyone operating a solid waste disposal area in the state.

5. SECTION 5. Law amended 65-3409. Unlawful to dispose of wastes by open dumping.

a. The bill does not prohibit farming (or normal) disposal of wastes which does not create a public nuisance.

b. Must abide by standards to construct, alter or operate a solid waste storage.

Permits cannot be violated. Class A Misdemeanor.

Burning operations controlled.

No public nuisance.

Public record.

Prohibits waste disposal without inspection.

6. NEW SECTION 6. Severability.

7. SECTION 7. Laws repealed: KSA 65-3402 and DSA 1991 Supp. 65-3409.

8. SECTION 8. Takes effect from date of publication in statute book.

Ben T. Huie, Ph.D.
BTH CONSULTING
12011 Rolling Hills
Wichita, KS 67235-1303
(316) 721-5972

Comments Regarding H 2958

Last summer Kansans were dismayed at the sight of tens of thousands of tons of out-of-state trash being dumped in McPherson County. Making matters worse, we have no idea exactly what was in that trash and how severe a threat it poses to groundwater in the region. It is very likely that Kansas taxpayers will be forced to pay the cost of attempted clean-up and that our precious groundwater supplies will be permanently diminished. This episode, which was predicted, occurred largely due to the lack of regulation of solid waste here in Kansas.

Elsewhere in our state and throughout the nation, municipal landfills have been shown to be contaminating the environment and have been placed on the Federal "Superfund" list. The projected costs of cleaning up these sites are astronomical and extensive litigation is currently underway attempting to apportion those costs. Local taxpayers will carry a heavy burden. There is little that we can do about existing contamination, however we must act now to prevent future contamination of this sort.

The inspection provisions of H 2958 are designed to insure that hazardous materials are not illegally commingled with household trash. This must be done as close as possible to the point of origin of the solid waste and before any processing, especially baling. An inspector cannot feasibly look inside a compressed bale to determine its contents. The inspector must be an agent of Kansas rather than of the shipper to insure his diligence in enforcing our Solid Waste regulations. The recent disclosure that the federal Department of Energy has illegally shipped radioactive waste to a number of sites including one here in Kansas underscores the fact that we cannot rely on assurances from the shipper as to compliance.

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Funding of this inspection program will be raised by fees assessed upon the operators of solid waste facilities. Naturally these costs will be passed on to the generators of solid waste, whether in or out of Kansas. At the local level inspection is already taking place at some landfills with the costs being borne by the local taxpayers with no contribution from out-of-area shippers. It is not the intent of this Bill to duplicate these local efforts but rather to complement them.

The bonding provisions of this bill will allow for a reserve of funds in the event that an out-of-state entity fails to comply with our regulations and subsequently "vanishes" as occurred in McPherson. This bond should be of sufficient size to cover projected costs of post-closure maintenance of solid waste disposal areas involved.

The time has come for Kansas to take control over our environment and our future which depends upon that environment. We must especially act to protect our state from certain out-of-state interests who have absolutely no concern about the quality of our state's environment. As the **Wichita Eagle** stated in its editorial January 10 "The trashing of Kansas must stop."

Thank you for your attention; I will gladly address any questions you may have.

each Kansas school district is trying to reach world-class academic levels.

The failure of the Educational Establishment, the state school board and most local school boards to make meaningful, comprehensive reforms leaves the Legislature as

alize that Kansans are tired of paying high taxes for schools that aren't doing the job. And, given the smug attitude of the Educational Establishment, that won't change without strong action from the 1992 session.

Saturday: Crime legislation

A loser Legislature should make dumping in Kansas bad business proposition

It was as predictable as any unnatural disaster Kansas has ever suffered.

Last March, two New Jersey men found a soft spot, a place to take advantage of the natural law of garbage dumping. It was Kansas, where politicians and regulators talk tough about trash, but do little.

The natural law is that garbage follows the path of least resistance. It goes where dumping is cheap and oversight and regulations are weak. So last March, it came from the East Coast to Kansas.

The New Jersey men "bought" the McPherson city landfill with little more than the hope that they could draw enough out-of-state garbage to turn a profit. They brought in the garbage, and they also brought in environmental problems on top of existing environmental problems.

Ten months later, they have vanished, leaving behind an unpaid fine for \$12,000, grave concerns about groundwater pollution in the area, unpaid bills and a lawsuit.

It's a mess that taxpayers will have to clean up. If it can be cleaned up.

The pollution threatens groundwater in McPherson County. It also threatens more distant water supplies, such as the water in the Equus Beds that supplies Wichita and

nearby cities.

Kansas was lucky. Had the dumping made more money, it might have gone on for years.

As environmental consultant Ben Huie pointed out earlier this week at a Sedgwick County legislative forum, it will happen again. Unless the state develops a comprehensive waste management plan aimed at protecting its borders, the garbage dumpers from cities such as Chicago and Philadelphia will show up with promises of "economic development" for depressed areas of the state such as southeastern Kansas. Already, dumping deals have been proposed to Linn, Greenwood and Elk counties.

Because of interstate commerce laws, Kansas can't simply ban trash from other states. But it can make the dumping of such garbage bad business by legislating and regulating it to death. One way: Force dumpers to pay for Kansas inspectors at stations wherever garbage is being packed.

Bringing waste into Kansas can be made too expensive to work. And that's exactly what the Legislature and the Kansas Department of Health and Environment should do.

The trashing of Kansas must stop.

No thanks Let politicians reapportion Legislature and Congress

DEPARTMENT OF
PUBLIC WORKS
OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

February 26, 1992

House Energy and Natural Resources Committee
Representative Ken Grotewiel, Chairman
State Capitol Building
Topeka, Kansas 66612

Dear Committee Members:

I am the Natural Resources Director for the City of Wichita. I would like to present to the committee the City's position on House Bill 2958 regarding solid waste inspections.

The City is in strong support of the concept of continuous inspection of solid waste processing and disposal operations. The City has recently hired two inspectors for the Brooks Landfill to provide just such coverage over the eighty hours the landfill is open each week. Because of this fact, we ask for consideration to amending the language of the bill to provide local units of governments the option of locally providing continuous inspections. These inspections would be to the level that the state would provide under the regulations that would result from the present bill.

The City is also very supportive of the requirement for financial assurance from, and inspection of, all out-of-state solid waste processing that will be disposed within our state.

We wish to express a caution on the application of the inspection function to solid waste processing alternatives, such as composting and recycling. We would oppose the application of the inspection requirements as contained in this bill to these types of operations where the protection is not required and where the costs might very well make them completely economically unworkable. A clarification is requested.

Thank you for the opportunity to present the City of Wichita's position on this bill. I would be happy to address any questions of the committee.

Sincerely,

Joseph T. Pajor
Joseph T. Pajor

Natural Resources Director

JTP:gr

*2/26/92
House E+NR
Attachment 3*



Department of Health and Environment

Azzie Young, Ph.D., Secretary

Reply to:

296-1535

Testimony presented to
House Energy and Natural Resources Committee

by
The Kansas Department of Health and Environment
HB 2958

Good afternoon, my name is Ron Hammerschmidt. I am here today to appear on behalf of the Department of Health and Environment concerning House Bill 2958. The department appears in neither support or opposition to this bill. The apparent intent of this bill is to place a KDHE inspector at each sanitary landfill and at locations at which solid waste is prepared for shipment to Kansas landfills regardless of origin. The restrictions in HB 2958 appear to be framed to discourage the shipment of solid waste into Kansas landfills from other states. The effect of this bill would be to greatly increase the presence of KDHE at the solid waste landfills throughout the state. It would definitely give the department a greater oversight at these landfills.

The intent of this bill is commendable. There are concerns within the state over importation of out-of-state waste and landfill operation. This bill may partially address these concerns. However the expenditure of resources required to fully implement the provisions of HB 2958 are tremendous. With approximately 130 landfills in operation within the state, there will be a need for 100 or more KDHE landfill inspectors in the field five or six days each week of the year. These resources would be expended solely to the examination of solid waste entering the landfills and the deposition of these materials.

The resources expended to meet the provisions of HB 2958 will not move Kansas landfills toward meeting the federal Subtitle D criteria for operation of municipal solid waste landfills.

In summary, the positive items in HB 2958 are an increased regulatory presence at landfills and solid waste processing facilities; establishment of monitoring on out-of-state facilities; and cost recovery procedures. The negative items associated with this bill are: expenditure of a very large amount of resources in an amount which may exceed \$5 million in fees each year; little progress by landfills in meeting the Subtitle D criteria; and creation of a large staff with limited results. This concludes my remarks. I would be happy to attempt to answer any questions that you may have.

Testimony presented by:

Ronald F. Hammerschmidt, Ph.D.
Division of Environment
February 26, 1992

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Attachment 4

HOUSE BILL No. 2408

By Committee on Energy and Natural Resources

2-20

8 AN ACT requiring certification of certain persons providing devices
9 or services related to radon testing or mitigation; prohibiting cer-
10 tain acts and providing penalties for violations.

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. This act shall be known and may be cited as the radon
13 certification act.

14 Sec. 2. As used in this act:

15 (a) "Mitigate" means to repair or alter a building or design for
16 the purpose in whole or in part of reducing the concentration of
17 radon in the indoor atmosphere.

18 (b) "Person" means any individual, corporation, partnership,
19 firm, association, trust, estate, public or private institution, group,
20 agency, state, political subdivision or agency of a state or political
21 subdivision, or any legal successor or representative thereof.

22 (c) "Radon" means the radioactive noble gas radon-222 and the
23 short-lived radionuclides produced by the decay of radon-222, in-
24 cluding polonium-218, lead-214, bismuth-214 and polonium-214.

25 (d) "Secretary" means the secretary of health and environment.

26 (e) "Test" means: (1) Examination of a building, soil or air for
27 the presence of radon, including taking air or soil samples; (2) man-
28 ufacture, sale or laboratory analysis of radon testing devices; or (3)
29 diagnosis of the cause of radon contamination.

30 Sec. 3. (a) The secretary shall establish a certification program
31 for persons performing radon tests or mitigation in the state.

32 (b) The secretary shall adopt rules and regulations necessary to
33 administer and implement the provisions of this act.

34 (c) Within the limitations of appropriation acts, the secretary is
35 authorized to employ appropriate personnel necessary to carry out
36 the provisions of this act and rules and regulations adopted
37 hereunder.

38 (d) The secretary may enter into agreements with a public or
39 private agency in carrying out the provisions of this act.

40 (e) The secretary may deny, suspend or revoke certification is-
41 sued under this act for a violation of any provision of this act or any
rule and regulation adopted under this act, after notice and hearing

Delete

(1)

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1 by the secretary which are related to the purposes of this act.

2 Sec. 5. (a) Beginning 30 days after the establishment of the cert-
3 ification program under this act, no person shall ~~perform radon tests~~
4 ~~or mitigation in this state~~ without first being certified by the secretary
5 for such purpose.

6 (b) The provisions of this section shall not apply to: (1) A person
7 performing tests ~~on a building which such person owns or occupies;~~
8 (2) a person performing tests or mitigation without remuneration; or
9 (3) persons engaged solely in the retail sale of radon testing devices.

10 Sec. 6. (a) Any person ~~certified pursuant to section 4 who per-~~
11 ~~forms radon tests or mitigation in this state~~ shall, within 30 days of
12 performance of such tests or mitigation, report to the secretary the
13 address or location of the services provided and the type and results
14 of any tests or mitigation performed.

15 (b) All information obtained pursuant to this section shall be
16 confidential and shall not be subject to the open records act.

17 (c) The secretary may, in conjunction with other persons, conduct
18 research studies utilizing the data required to be reported in sub-
19 section (a). No report or publication shall include names or addresses
20 of individuals.

21 Sec. 7. (a) Willful violation of any provision of this act or any
22 rules and regulations adopted pursuant to this act is a class C
23 misdemeanor.

24 (b) In addition to any other penalty provided by law, any person
25 who violates any provisions of this act or any rule and regulation
26 adopted hereunder may, after notice and a hearing in accordance
27 with the Kansas administrative procedure act, incur a civil penalty
28 in an amount not to exceed \$500 for each violation. In the case of
29 a continuing violation, every day such violation continues shall be
30 deemed a separate violation.

31 Sec. 8. The provisions of this act shall expire on October 1, ~~1993.~~

32 Sec. 9. This act shall take effect and be in force from and after
33 its publication in the Kansas register.

(1) test for radon in this state; (2) manufacture or sell radon testing devices for use in this state; (3) analyze radon testing devices used in this state; or (4) perform radon mitigation in this state

or mitigation on a building at which such person resides.

who tests for radon in this state; analyses radon testing devices used in this state; or performs radon mitigation in this state

analysis.

1995.

5-2

DEPARTMENT OF
PUBLIC WORKS
OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

February 24, 1992

House Energy and Natural Resources Committee
Representative Ken Grotewiel, Chairman
State Capitol Building
Topeka, Kansas 66612

Dear Committee Members:

Please allow this letter to provide additional response in regard to the questions following my testimony on HB 2801.

The question concerned the City of Wichita's position regarding state aid if an environmental problem was discovered with the Brooks landfill. I indicated the City would prefer to address such a problem locally. At least one of the committee members' response indicated skepticism that that would be the City's response in such a hypothetical situation. I feel the need, therefore, to present the reasons I believe this would be the case.

The first reason I believe this would be our response is that it has been our response over the years. Consider, for example, the clean up of the John's Sludge Pond Superfund Site. Here the City has successfully remediated a site which has since been delisted and recognized by the Region 7 EPA Administrator as an outstanding example of successful local initiative.

The second reason I believe this would be our response is it continues to be our approach in other current local environmental contamination problems. Here the City's very innovative and proactive approach to the Gilbert/Mosley groundwater pollution site is an example. The City has intervened locally to even keep this site from being listed as a federal superfund site; has accepted responsibility for the problem; has undertaken investigations and negotiations with the responsible parties; and used an innovative financing approach to remediate the problem.

The third reason I believe this would be our response is that we have created a Waste Management Trust Fund within the City budget that is intended to address both present and post closure, unanticipated expenses

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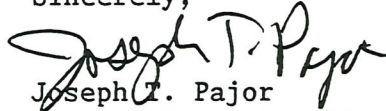
House Energy and Natural Resources Committee
Representative Ken Grotewiel, Chairman

February 24, 1992

resulting from our ownership of two area landfills. This fund is financed by a portion of the City's share of the tipping fees at the Brooks landfill. The current fund balance is \$1,372,307. In 1991, \$535,000 was added to this fund.

In conclusion, the City has demonstrated, through its historical actions and current efforts, that it is our practice and intent to address environmental remediation at the local level. We continue to petition the Committee to amend HB 2801 to require local units of government to take financial responsibility for remediation of environmental problems within there jurisdictions.

Sincerely,



Joseph T. Pajor
Natural Resources Director

JTP:gr