

Approved: Carl Dean Holmes  
Date 3/13/96

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:37 p.m. on February 12, 1996, in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Marcia Ayres, Committee Secretary

Conferees appearing before the committee: Ron Hammerschmidt, Department of Health & Environment  
Chris McKenzie, League of Kansas Municipalities  
Doug Cochran, The City of Olathe  
David Waldo, Department of Health & Environment  
David Mueller, Kansas Rural Water Association  
Larry Knoche, Department of Health & Environment

Others attending: See attached list

Chairperson Holmes opened the meeting by allowing final bill introductions.

Representative Steve Lloyd moved to introduce two bills dealing with personal watercraft or boats in the State of Kansas. Representative Rich Becker seconded the motion. The motion carried.

Representative Sloan moved to introduce a bill dealing with water quality standards relative to the Clean Water Act and dealing with pollutants coming from municipal water supplies. Representative Richard Alldritt seconded the motion. The motion carried.

Representative Richard Alldritt moved to consider a bill that would designate the Kansas River as an outstanding natural resource. Representative Laura McClure seconded the motion. The motion carried.

The Chair drew the members' attention to a Wichita Eagle-Beacon article distributed by Representative Alldritt called "A goofy award to go along with some goofy bills." He said some of the bills may be familiar to members of this committee!

**Hearing on HB 2954: Water pollution prevention; powers and duties of the secretary of health and environment; expansion of sewer system without permit; discharge of mercury**

**Ron Hammerschmidt.** Mr. Hammerschmidt, Director of the Division of Environment, supported **HB 2954** but recommended striking some language on page 4. (Attachment #1)

**Chris McKenzie.** Mr. McKenzie appeared in support of **HB 2954**. (Attachment #2)

**Doug Cochran.** Mr. Cochran, environmental engineer for the city of Olathe, advocated the passage of **HB 2954**. (Attachment #3)

Discussion followed and the hearing was closed.

**Hearing on HB 2965: Public water supply system; expansion without permit; advisory committee abolished; financing of projects; fluoridation**

**David Waldo.** Mr. Waldo, Chief of the Public Water Supply Section, Bureau of Water, supported **HB 2965** with some minor modifications. (Attachment #4)

**Chris McKenzie.** Mr. McKenzie testified in support of **HB 2965**. (Attachment #5)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m.. on February 12, 1996.

**David Mueller.** Mr. Mueller, President of the Board of Directors of the Kansas Rural Water Association, opposed portions of **HB 2965**. (Attachment #6)

Questions followed after which the hearing was closed.

**Hearing on HB 2966: Decrease in maximum and minimum balances of aboveground petroleum storage tank release trust fund**

**Larry Knoche.** Mr. Knoche, Bureau Manager of the Bureau of Environmental Remediation, testified in support of **HB 2966** with an additional provision. (Attachment #7)

The hearing on **HB 2966** was closed after questions from the Committee.

Chairperson Holmes distributed a set of Minutes for the members to review while waiting for the Revisor. He also distributed the Proposed Substitute Bill for **HB 2617**. (Attachment #8)

**Action on HB 2617: Counties authorized to impose fees on disposal of solid waste**

Representative Sloan explained the Proposed Substitute Bill his sub-committee submitted.

Representative Tom Sloan moved that the Substitute Bill for HB 2617 be passed out favorably. Representative Richard Alldritt seconded the motion. Discussion followed. The motion failed.

The Chair distributed a fax received today from David Burnett, Administrator for the Southeast Kansas Solid Waste Authority, containing compromise language for **HB 2617**. (Attachment #9)

Discussion followed.

Representative Dennis McKinney moved to adopt the balloon to HB 2617 from the Southeast Kansas Solid Waste Authority proposal. Representative Joann Flower seconded the motion. Discussion. Representative McKinney withdrew his motion and Representative Flower withdrew the second.

Representative Tom Sloan moved to draft a conceptual motion with language that specifically counters the Attorney General's opinion and places no cap on fees collected. Representative Laura McClure seconded the motion. Discussion. The motion carried.

Chairperson Holmes announced the committee would work the proposed bill tomorrow.

The meeting adjourned at 5:50 p.m.

The next meeting is scheduled for February 13, 1996.

ENERGY AND NATURAL RESOURCES COMMITTEE  
COMMITTEE GUEST LIST

DATE: February 12, 1996

NAME	REPRESENTING
Dave Waldo	KDHE
Don Cochran	City of Olathe
Red Kessler	KDHE
DAVID MUELLER	KRWA
Ron Hoenig	KDHE
Ray Koeber	KDHE
Dick Lambley	
JOHN C. BOTTENBERG	DEFFENBAUGH FND.
Joe Lieber	ASLU Council
Tom Bruno	Allen & Assoc.
J.C. Long	UtiliCorp United, Inc.
DAVE HOLTZMAN	Western Resources Inc
STEVE KEARNEY	WMX TECHNOLOGIES, INC.
Anne Spiess	Ks. Assoc. of Counties
Mike Beam	Ks. LUSTK. ASSN.

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

HOUSE ENERGY AND NATURAL RESOURCES

by

The Kansas Department of Health and Environment

House Bill 2954

KDHE supports House Bill 2954 with a single exception to be discussed later in this testimony. The bill is a compilation of recommendations of the Task Force headed by the League of Municipalities. With the exception of the provisions for delisting a contaminated site, KDHE has considered requesting similar changes.

The bill deletes an outdated exception for sewage discharges prior to 1907, Page 1, Lines 17 to 26, and expands the authority of the Secretary to take immediate action in case of an imminent threat to public health rather than providing a 30 day notice, Page 3, Lines 35 to 37. The 1907 and 30 day notice provisions appear simply to be old clauses which were never updated.

The bill would also allow KDHE to establish a program of annual certifications of sewer system expansions instead of the present requirement of approving expansions individually, Page 3, Lines 5 to 8. KDHE is receptive to this concept and has previously discussed a similar approach with several municipalities. Larger municipalities have qualified professional staff and local review and approval programs to help assure proper design, construction, and conformance with local plans. This local utility review and approval system will remain unchanged, but KDHE and the municipality will not need to correspond and permit each expansion. Annual certification will still allow review by KDHE for potential problems, most importantly a review of the sewer and sewage treatment plant loadings. This will still allow KDHE regulatory action to address problems of sewer overflows or overloaded treatment plants.

In addition, HB 2954 also contains language to eliminate a fee on petroleum storage tanks for "plan approval, monitoring or inspecting..." Page 6, Lines 8 to 10. This \$5 fee has not been collected in recent years. The department would continue to collect a tank registration fee authorized under K.S.A. 65-34,105.

The repeal of K.S.A. 65-171j, Page 7, Line 28 removes a ban on mercury discharges. Current water quality standards and permit process make this unnecessary.

The Department is supportive of all the changes discussed to this point.

The language of HB 2954 on Page 4, Lines 18 to 24 would require the Secretary to adopt rules and regulations for removing sites from a registration of potential sources of pollution. We do not currently have a regulatory list of potential sites of pollution. The department periodically has published a listing of sites at which pollution is confirmed or suspected to exist. The original Contaminated Sites List was prepared in the early days of Superfund and consisted of approximately 200 sites where contamination was confirmed or suspected to exist; by 1988 that list had grown to more than 300 sites. In 1988 the Kansas Legislature

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appropriated Economic Development Initiatives Funds (EDIF), with Finance Council approval, to the Environmental Response Act (K.S.A. 65-3452a) for remedial activities on sites with saltwater as well as other pollution. The original site listing thereafter was employed to prioritize sites where the EDIF money was to be used for remediation activities. A later document entitled Summary of Environmental Remediation Sites in Kansas was developed to reflect sites with confirmed contamination. Presently, that document is used to respond to Open Records Act requests concerning environmental audits related to real estate transactions. None of the above documents were developed pursuant to K.S.A. 65-171d. Since 1988, the department has only included sites with known contamination in our site summaries.

Historically the Department has not interpreted K.S.A. 65-171d to provide adequate authority for the Secretary to promulgate regulations for registration of potential sources of pollution. Consequently, no rules or regulations have been promulgated to provide for such registration. In particular the preventive tone of K.S.A. 65-171d, does not anticipate remedial activities to address known contamination.

Therefore, if the added proviso at Page 4, Lines 18 to 24, is enacted, the Secretary will need to promulgate regulations to provide for such registration of potential sources as well as the removal of such sites as described in the proviso from that list. If legislative intent is to create authority for the development of a regulatory Kansas contamination registry, we suggest additional modification of the statute to explicitly give the Secretary this broad authority. Given the fact that no such regulations currently exist, their promulgation, with the consequent ramification of such a regulatory listing, will be extremely time-consuming due to the controversial nature of such an undertaking. Beyond its current information listing on a work document basis, the department does not consider establishment and maintenance of a new list to be a priority need to enhance program effectiveness. It will divert resources from higher priorities. It should be noted that no costs associated with the development and adoption of this regulatory package have been included in the Governor's budget.

The department, therefore, recommends the language on Page 4, Lines 18 to 24 be stricken.

Thank you for your attention.

Testimony presented by:                    Ronald Hammerschmidt, Ph.D  
    Director  
    Division of Environment  
    February 12, 1996



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** House Energy and Natural Resources Committee  
**FROM:** Chris McKenzie, Executive Director  
**DATE:** February 12, 1996  
**RE:** HB 2954

Thank you for the opportunity to appear today in support of HB 2954. This legislation contains provisions recommended by the 1995 Environmental Law Task Force. Those changes and the reasons for them are as follows:

K.S.A. 65-164

- **Page 1:** Lines 17 - 26 strike language contained in the this section when enacted in 1907 to provide a grandfather clause exempting pre-1907 facilities from state regulation. This is no longer needed and should be stricken.
- **Page 3:** Lines 5 - 8 authorize the secretary to establish a certification program to provide local approval of sewer system expansions without the cost and delay associated with the submission of the expansion to KDHE. The Task Force recommended this change to provide greater efficiency in the process of planning and implementing system expansions.
- **Page 3:** Paragraph (c) of K.S.A. 65-165 restricts the period in which KDHE may order compliance with an order concerning a sewage discharge permit to no less than 30 days, notwithstanding the public health may be at risk. Thirty (30) days may be too long of a time period to allow such a situation to persist, especially in cases of imminent danger. The Task Force recommends the amendment to this paragraph to allow the secretary to require immediate compliance in situations in which the public health is endangered. Suggested language is shown below.

K.S.A. Supp. 65-171d

- **Page 4:** K.S.A. 65-171d(a) authorizes KDHE to make rules and regulations that include provisions for the registration of potential sources of pollution. There is no procedure, however, for the "delisting" of sites that no longer pose a significant risk to human health or the environment. The Task Force recommends the amendment in lines 18 - 24 to provide process for removal of sites from registration list.
- **Page 6:** K.S.A. 65-171(d)(f) authorizes the adoption of rules and regulations providing a permit fee for monitoring and inspecting buried or underground storage tanks. Since the enactment of K.S.A. 65-34,100, et seq., the Kansas Storage Tank Act, this authorization is no longer necessary. Contact with KDHE confirmed that all permitting and fees for UST's are completed and collected under that Act. The Task Force recommends repeal of the language shown in lines 8 - 10 to address this concern.

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Attachment 2

Testimony presented to the  
**House Energy and Natural Resources Committee**

by  
**The City of Olathe**

**House Bill 2954**

The city of Olathe advocates the passage of HB 2954. The capability for the Kansas Department of Health and Environment to establish a program of certification for wastewater system expansion will be an effective and efficient means of protecting public health.

The city estimates that it submits fifty plans a year to KDHE for issuance of a permit. The cost in time and money could be better used by both the city and KDHE. It would be anticipated that an annual report/certification would be required from public systems. The information provided could be streamlined to meet the needs of the KDHE. It is understood that the issues of system capacity and overall system plans are the primary interest of the agency rather than the daily view of system growth. The certification would include a requirement to ensure that the public system has codes in place that meet or exceed KDHE standards and specifications.

A program for certification of water system expansion is also supported by the city.

Testimony presented by:

Doug Cochran  
Environmental Engineer  
February 12, 1996

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2-12-96  
Attachment 3



State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

HOUSE ENERGY AND NATURAL RESOURCES

by

The Kansas Department of Health and Environment

House Bill 2965

This bill is one of several under consideration by the Committee to implement recommendations of the League of Kansas Municipalities task force. The bill recommends four changes to public water supply statutes. KDHE supports this bill, but requests minor modifications to the language intended to streamline permitting of public water supply system expansions.

The bill allows KDHE to establish a program where public water suppliers with qualified staff could approve the expansion of the system without the necessity of securing an additional permit for the expansion. KDHE requests modification of this language to clarify that extensions of distribution systems would qualify for this program. Public water supply system is defined at 65-162a to include source, treatment, storage, and distribution. KDHE believes modifications to sources, treatment, and storage should still go through the normal permitting procedures.

When the public water supply fee fund was created, the initial proposal was to set a maximum fee of 1.0 cents per 1000 gallons of water sold. The fee fund advisory committee was intended to guide the department on setting the amount of fee through regulation and advise the department on expenditures. The bill was amended by Senate committee to cap the fee at 0.2 cents per 1000 gallons, which was sufficient to pay for the 5 FTE and corresponding budget approved by then Governor Finney to implement new drinking water regulations. The committee has not met recently.

When the public water supply revolving loan fund was established by the 1994 legislature, the definition of project was limited to those projects which the secretary determined to be primarily for the purpose of compliance with the federal safe drinking water act or regulations adopted under the act. This definition unnecessarily limits the potential pool of applicants eligible to receive loans. Many worthwhile projects necessary to maintain and improve public water supply infrastructure will not qualify for the revolving loan program with the existing statutory definition of project. The Secretary has requested that my testimony take particular note of the fact that the proposed amendment of K.S.A. 65-163d(c), taken together with the provisions of K.S.A. 65-163u, will exempt public water supply projects from municipal general obligation bond elections and from legal bonded indebtedness limits.

The last change is to eliminate the language prohibiting the department from adopting any primary drinking water standard or rule and regulation requiring addition of fluorides to public water supplies. Mandatory fluoridation of public water supply systems serving more than 3300 individuals is proposed under HB 2714.

KDHE supports HB 2965 with the requested modification concerning approval of extensions to distribution systems.

Testimony presented by:

David F. Waldo  
Chief, Public Water Supply Section  
Bureau of Water  
February 12, 1996

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2-12-96  
Attachment 4



# HOUSE BILL No. 2965

By Committee on Energy and Natural Resources

2-7

9 AN ACT concerning public water supply systems; amending K.S.A. 65-  
10 171m and K.S.A. 1995 Supp. 65-163 and 65-163d and repealing the  
11 existing sections.  
12

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

14 Section 1. K.S.A. 1995 Supp. 65-163 is hereby amended to read as  
15 follows: 65-163. (a) (1) No person shall operate a public water supply  
16 system within the state without a public water supply system permit from  
17 the secretary. An application for a public water supply system permit shall  
18 be submitted for review and approval prior to construction and shall in-  
19 clude: (A) A copy of the plans and specifications for the construction of  
20 the public water supply system or the extension thereof; (B) a description  
21 of the source from which the water supply is to be derived; (C) the pro-  
22 posed manner of storage, purification or treatment for the supply; and  
23 (D) such other data and information as required by the secretary of health  
24 and environment. No source of water supply in substitution for or in  
25 addition to the source described in the application or in any subsequent  
26 application for which a public water supply system permit is issued shall  
27 be used by a public water supply system, nor shall any change be made  
28 in the manner of storage, purification or treatment of the water supply  
29 without an additional public water supply system permit obtained in a  
30 manner similar to that prescribed by this section from the secretary.

31 (2) Whenever application is made to the secretary for a public water  
32 supply system permit under the provisions of this section, it shall be the  
33 duty of the secretary to examine the application without delay and, as  
34 soon as possible thereafter, to grant or deny the public water supply sys-  
35 tem permit subject to any conditions which may be imposed by the sec-  
36 retary to protect the public health and welfare.

37 (3) The secretary may adopt rules and regulations establishing a pro-  
38 gram of annual certification of public water supply systems that have staff  
qualified to approve the expansion of the system without the necessity of  
securing an additional permit for the expansion. ←

41 (b) (1) Whenever a complaint is made to the secretary by any city of  
42 the state, by a local health officer, or by a county or joint board of health  
43 concerning the sanitary quality of any water supplied to the public within

4-2

by  
extension of distribution  
systems  
extension.

\* **65-163u.** Same; general obligation bond issuance authority for municipalities; election not required and not subject to bonded debt limitations. (a) A municipality may issue general obligation bonds for the purpose of paying all or part of any project costs of a public water supply system operated by such municipality. Such bonds shall be issued, registered, sold, delivered and retired in accordance with the general bond law.

(b) Notwithstanding any other provision of law to the contrary, no election shall be required for the issuance of general obligation bonds or revenue bonds by a municipality for the purpose of paying all or part of any project costs of a public water supply system operated by such municipality and such bonds shall not be subject to or within any bonded debt limitation provided by law.

**History:** L. 1994, ch. 349, § 18; July 1.

**65-166a.** Fees for administering water pollution control permit system; expiration of permits; reissuance; permits and fees for confined feeding facilities; disposition of monies. (a) The secretary of health and environment is authorized and directed to establish by duly adopted rules or regulations a schedule of fees to defray all or any part of the costs of administering the water pollution control permit system established by K.S.A. 65-165 and 65-166 and amendments thereto. The amount of the fees so established shall be based upon the quantity of raw wastes or treated wastes to be discharged, units of design capacity of treatment facilities or structures, numbers of potential pollution units, physical or chemical characteristics of discharges and staff time necessary for review and evaluation of proposed projects. In establishing the fee schedule, the secretary of health and environment shall not assess fees for permits required in the extension of a sewage collection system, but such fees shall be assessed for all treatment devices, facilities or discharges where a permit is required by law and is issued by the secretary of health and environment or the secretary's designated representative. Such fees shall be nonrefundable.

(b) Any such permit for which a fee is assessed shall expire five years from the date of its issuance. The secretary of health and environment may issue permits pursuant to K.S.A. 65-165 and amendments thereto for terms of less than five years, if the secretary determines valid cause exists for issuance of the permit with a term of less than

five years. The minimum fee assessed for any permit issued pursuant to K.S.A. 65-165 and amendments thereto shall be for not less than one year. Permit fees may be assessed and collected on an annual basis and failure to pay the assessed fee shall be cause for revocation of the permit. Any permit which has expired or has been revoked may be reissued upon payment of the appropriate fee and submission of a new application for a permit as provided in K.S.A. 65-165 and 65-166 and amendments thereto.

(c) A permit shall be required for:

(1) Any confined feeding facility with an animal unit capacity of 300 to 999 if the secretary determines that the facility has significant water pollution potential; and

(2) any confined feeding facility with an animal unit capacity of 1,000 or more.

(d) At no time shall the annual permit fee for a confined feeding facility exceed:

(1) \$25 for facilities with an animal unit capacity of not more than 999;

(2) \$100 for facilities with an animal unit capacity of 1,000 to 4,999;

(3) \$200 for facilities with an animal unit capacity of 5,000 to 9,999; or

(4) \$400 for facilities with an animal unit capacity of 10,000 or more.

(e) The secretary of health and environment shall remit all moneys received from the fees established pursuant to this act to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

(f) Any confined feeding facility with an animal unit capacity of less than 300 may be required to obtain a permit from the secretary if the secretary determines that such facility has significant water pollution potential.

(g) Any confined feeding facility not otherwise required to obtain a permit or certification may obtain a permit or certification from the secretary. Any such facility obtaining a permit shall pay an annual permit fee of not more than \$25.

**History:** L. 1973, ch. 255, § 1; L. 1974, ch. 352, § 28; L. 1984, ch. 222, § 1; L. 1994, ch. 213, § 2; July 1.

**65-171d.** Prevention of water pollution; standards; permits; exemption; orders; hearings; appeals; fees; confined feeding facilities; registration prior to construction, sepa-



**League  
of Kansas  
Municipalities**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 300 S.W. 8TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

**TO:** House Energy and Natural Resources Committee  
**FROM:** Chris McKenzie, Executive Director  
**DATE:** February 12, 1996  
**RE:** HB 2965

Thank you for the opportunity to appear today in support of HB 2965. This legislation contains provisions recommended by the 1995 Environmental Law Task Force. Those changes and the reasons for them are as follows:

K.S.A. Supp. 65-163

■ **Page 1:** New paragraph (3) (line 37) would allow the Secretary of Health and Environment to establish a certification program to provide for local approval of water system expansions without the cost and delay associated with the submission of the expansion to KDHE. The Task Force recommended this change to provide greater efficiency in the process of planning and implementing system expansions.

■ **Page 3:** Lines 23 - 35 strike the authorizing language for the advisory committee on water supply fee of \$.002 per 1,000 gallons provided for in subsection (e) of this statute. The committee has been inactive since 1992, and unless KDHE is going to make use of the committee it should be considered for repeal.

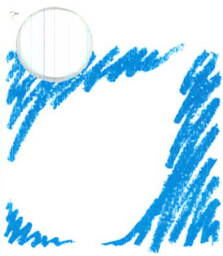
K.S.A. Supp. 65-163d

■ **Page 4:** K.S.A. Supp. 65-163d, et seq. was enacted in 1994 to provide for the financing of water supply system projects through a public water supply loan fund similar to the successful wastewater loan program administered by KDHE. It also authorizes municipalities to issue general obligation bonds to finance such system costs. The definition of a water supply system project in paragraph (c) of K.S.A. Supp. 65-163d which restricts the act to financing projects "which the secretary determines to be primarily for the purpose of compliance with the federal safe drinking water act (42 U.S.A. 300f et seq.) or regulations adopted under such act" acts as a limitation on these financing options. Some water system projects simply involve repair, replacement, expansion, etc., and can not always be said to be tied directly to the purposes of the Safe Drinking Water Act. Therefore, this amendment is recommended.

K.S.A. 65-171m

■ **Page 5:** This 1977 legislation authorizes the secretary of KDHE to adopt primary drinking water standards applicable to public water supply systems, but prohibits such standards from requiring the addition of fluorides to public water supplies. The Task Force recommends that this prohibition be eliminated to provide the secretary with the fullest possible latitude to address health concerns that may be reduced by the addition of fluorides.

House E+NR  
2-12-96  
Attachment 5



KANSAS  
RURAL  
WATER  
*association*

Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 913/336-3760 • FAX 913/336-2751

COMMENTS ON  
HOUSE BILL No. 2965  
BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE  
February 12, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 2965. I am David Mueller. I am President of the Board of Directors of the Kansas Rural Water Association and also Chairman of the Board of Directors of Rural Water District No. 1, Marion County. The Kansas Rural Water Association provides technical assistance to public water and wastewater systems and training to system operators and governing bodies. The Association has active members of over 300 cities and 293 rural water districts.

The Kansas Rural Water Association opposes the repeal of the Advisory Committee that was created to make recommendations regarding the \$.002 cent fee that was authorized by HB 3167 in the 1992 Kansas Legislature. This \$.002 fee was requested by the Kansas Department of Health & Environment which solicited support of the Kansas Rural Water Association and other organizations to establish this fee. We were told that if this fee were not approved, that KDHE would propose to turn over administration of the lead/copper testing to EPA. KDHE testified the fee would cover the "salary and operating expenses for five FTE positions in the Bureau of Water for a program to detect and regulate lead, copper and pesticides in drinking water." KDHE also testified that the new personnel would provide technical training and assistance to water suppliers on new federal rules, among other things."

The Kansas Rural Water Association supported this legislation, contingent on there being an advisory committee to ensure that funds paid by systems would be used only for appropriate purposes.

Even after repeated inquiries to KDHE, only one meeting was ever held to discuss the use of the proceeds in this fund. There was no printed report available then nor ever made available subsequent to that meeting. It is our opinion that KDHE has violated the spirit under which the legislation was promoted, supported and adopted by the Kansas Legislature.

Our Association staff routinely contacts KDHE about systems which may be having problems. Last Fall, KDHE informed the Association that 17 systems were out of compliance with the lead/copper sampling and they were being turned over to EPA. Association staff immediately contacted these systems. We found that the main problem was that in the lead/copper sampling, KDHE's lab conducts the analysis and sends the report to system. The city or water district is then required to send that report back to KDHE. In all but two of these systems, there was no one in these cities or rwds aware that the system was out of compliance. The information had simply fallen through the cracks due to operator turn-over or the correspondence was not understood by the recipients. I have attached a copy of a thank you letter the Association received from KDHE for our help to these systems and in which KDHE provides additional referrals. KDHE's letter refers to the need for "on-site" assistance.

It is the opinion of the Kansas Rural Water Association that the \$.002 fee should be directed towards expanded on-site assistance program to help public water systems with operation, management and regulatory issues. Kansas public water systems did not support paying a fee that does not provide the types of assistance they clearly need. This assistance should be provided by uniquely qualified organizations who have demonstrated capabilities in providing such assistance.

Respectfully submitted,

*David Mueller*

David Mueller  
President, Board of Directors

House E+NR  
2-12-96  
Attachment 6

State of Kansas

Bill Graves



Governor

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Department of Health and Environment

James J. O'Connell, Secretary

November 21, 1995

Mr. Elmer Ronnebaum, Program Manager  
Kansas Rural Water Association  
Box 226  
Seneca, Kansas 66538

Dear Mr. Ronnebaum:

This is to acknowledge the receipt of your November 6, 1995 letter reporting your contact with public water supply systems that violated some part of the Lead/Copper rule. Your staff did such a great job soliciting responses from the systems we are requesting KRWA's assistance in addressing problems with several more public water supplies. A list of these water supplies is enclosed. Through the on-site assistance program, we hope these systems can be returned to compliance.

Several of these supplies are close to becoming significant violators under EPA's definition.

Please advise us if an offer of assistance is declined by any of the water suppliers. Reporting on KRWA's efforts can be made through the routine monthly report, with emphasis on the unique problem of each supply.

You may check in with our Topeka or district offices regarding details of these facilities. Please report the results of your visits to us on your "Field Assistance Record".

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Darrel R. Plummer".

Darrel R. Plummer, Chief  
Compliance Unit  
Public Water Supply Section  
Bureau of Water

DRP/dp

Enclosures

pc: KDHE District Offices  
Karl Mueldener, BOW  
Dave Waldo, PWS  
Jerry Grant, TSS

6-2



State of Kansas

Bill Graves



Governor

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Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to  
House Committee on Energy and Natural Resources  
by  
The Kansas Department of Health and Environment  
House Bill 2966

We thank the committee for the opportunity to testify in support of this bill. Since the establishment of the Aboveground Storage Tank Fund, the remedial activities associated with this fund have been lower than anticipated by the department. This reduced level of activity has resulted in accumulation of a large fund balance which has been carried forward for the last three years.

The department supports lowering the fund balance limits to \$1.5 million and \$500,000 with the following additional recommendation: "At any time when the unobligated principal balance of the aboveground fund exceeds \$1,500,000, the excess funds shall be transferred to the underground fund." This is needed because the delay in notification to the environmental assurance fee payers usually results in an additional month of fee collection, which causes the fund to recoil above the maximum by the amount collected in that additional month. This additional provision will keep the unobligated fund balance from exceeding the maximum. This revision has been submitted to the Revisor of Statutes.

The only reservation that the department has regarding lowering the fund limits is the potential of a catastrophic release from a storage tank site where the remedial action could exceed the limit of the aboveground fund.

Testimony presented by: Larry Knoche  
Bureau Manager  
Bureau of Environmental Remediation  
February 12, 1996

House E+NR  
2-12-96  
Attachment 7

7-2

HOUSE BILL No. 2966

By Committee on Energy and Natural Resources

2-7

9 AN ACT concerning certain limits on the aboveground petroleum storage  
10 tank release trust fund; amending K.S.A. 65-34,117 and repealing the  
11 existing section.  
12

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

14 Section 1. K.S.A. 65-34,117 is hereby amended to read as follows:  
15 65-34,117. (a) There is hereby established on and after July 1, 1992, an  
16 environmental assurance fee of \$.01 on each gallon of petroleum product,  
17 other than aviation fuel, manufactured in or imported into this state. The  
18 environmental assurance fee shall be paid by the manufacturer, importer  
19 or distributor first selling, offering for sale, using or delivering petroleum  
20 products within this state. The environmental assurance fee shall be paid  
21 to the department of revenue at the same time and in the same manner  
22 as the inspection fee established pursuant to K.S.A. 55-426, and amend-  
23 ments thereto, is paid. The secretary of revenue shall remit daily the  
24 environmental assurance fees paid hereunder to the state treasurer, who  
25 shall deposit the same in the state treasury to the credit of either the  
26 aboveground fund or underground fund, as provided by subsection (b).  
27 Exchanges of petroleum products on a gallon-for-gallon basis within a  
28 terminal and petroleum product which is subsequently exported from this  
29 state shall be exempt from this fee.

30 (b) Moneys collected from the environmental assurance fee imposed  
31 by this section shall be credited as follows:

32 (1) At any time when the unobligated principal balance of the un-  
33 derground fund is equal to \$2,000,000 or less, the moneys shall be cred-  
34 ited to the underground fund until the unobligated principal balance of  
35 underground fund equals or exceeds \$5,000,000.

36 (2) At any time when the unobligated principal balance of the above-  
37 ground fund is equal to ~~\$2,000,000~~ \$500,000 or less and the moneys are  
38 not required to be credited to the underground fund under subsection  
39 (b)(1), such moneys shall be credited to the aboveground fund until the  
40 unobligated principal balance of the aboveground fund equals or exceeds  
41 ~~\$5,000,000~~ \$1,500,000 or until subsection (b)(1) requires moneys to be  
42 credited to the underground fund, whichever occurs first.

43 (3) At any time when the moneys cease to be credited to aboveground

At any time when the unobligated principal balance of the aboveground fund exceeds \$1,500,000  
the excess funds shall be transferred to the underground fund.



## PROPOSED Substitute for HOUSE BILL NO. 2617

By Committee on Energy and Natural Resources

AN ACT concerning solid waste; authorizing counties to impose certain fees on disposal of solid waste.

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

Section 1. (a) As used in this section, terms have the meanings provided by K.S.A. 65-3402 and amendments thereto.

(b) (1) In addition to any other fee provided by law, the board of county commissioners of any county may impose, by resolution, a solid waste tonnage fee not exceeding \$.50 for each ton or equivalent volume of solid waste generated within the county and disposed of at a solid waste disposal area in the state. Such fee shall be collected at the solid waste disposal area where the solid waste is disposed of and, unless otherwise provided by interlocal agreement, shall be remitted at least quarterly to the county treasurer of the county imposing the fee.

(2) If solid waste is collected and transported to a solid waste disposal area in a single load that includes solid waste collected in more than one county, the transporter of such solid waste shall certify to the operator of the solid waste disposal area the county where the largest portion of the solid waste was collected. The fee imposed on such solid waste pursuant to subsection (b)(1) shall be imposed and collected as if all such solid waste were collected in the county so certified. Neither the transporter of the solid waste nor the operator of the solid waste disposal area shall incur any liability arising from the imposition of a fee in accordance with this subsection (b)(2).

(c) In addition to any other fee provided by law, the board of county commissioners of any county may impose, by resolution, a solid waste tonnage fee not exceeding \$.50 for each ton or equivalent volume of solid waste generated outside the state and disposed of at a solid waste disposal area in the county, but

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2-12-96  
Attachment 8

such fee shall not exceed the lowest fee imposed by any county imposing a fee pursuant to subsection (b) on solid waste disposed of at such solid waste disposal area. Such fee shall be collected at the solid waste disposal area where the solid waste is disposed of and, unless otherwise provided by interlocal agreement, shall be remitted at least quarterly to the county treasurer of each county imposing a fee pursuant to subsection (b) in the proportion that the amount of waste generated in such county and disposed of at such disposal area bears to the aggregate of all solid waste generated in counties imposing fees pursuant to subsection (b) and disposed of at such solid waste disposal area.

(d) No fee imposed pursuant to this section shall apply to:

(1) Any waste tire, as defined by K.S.A. 65-3424 and amendments thereto, disposed in or at a permitted solid waste disposal area;

(2) any of the following wastes when disposed of at a monofill permitted by the department: (A) Sludges from public drinking water supply treatment plants; (B) cement kiln dust from the manufacture of portland and masonry cement; (C) flue gas desulfurization sludge, fly ash and bottom ash from coal-fired electric generating facilities; and (D) foundry sand;

(3) clean rubble;

(4) solid waste solely consisting of vegetation from land clearing and grubbing, utility maintenance and seasonal or storm-related cleanup but such exception shall not apply to yard waste;

(5) construction and demolition waste generated before January 1, 1996, from federal facilities as provided for under contract with the U.S. army corps of engineers before the effective date of this act; or

(6) construction and demolition waste disposed of by the state or any city or county, or by any person on behalf of the state or any city or county.

(e) Revenue collected from fees imposed pursuant to this

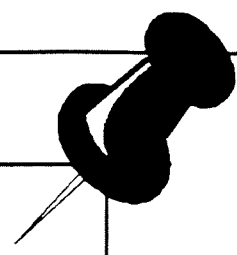
section shall be used by the county, or by the regional solid waste entity in which the county participates, only for the following solid waste management purposes:

- (1) Public education and training;
- (2) worker training relating to recycling and composting;
- (3) solid waste reduction, reuse, recycling and composting projects; and
- (4) household hazardous waste collection projects.

(f) If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and, to this end, the provisions of this section are severable.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

# FAX MEMO



## SUBJECT:

**Rep. Holmes;**

**We urge you to consider the compromise language on HB 2617 attached. We feel that the present Subcommittee substitute bill is too cumbersome, confusing, and complicated to be recieved favorably on the House floor.**

**PLEASE DO NOT SEND THE PRESENT SUBCOMMITTEE BILL TO THE HOUSE FLOOR.**

**PLEASE TAKE ANOTHER FEW DAYS TO ADOPT A BILL THAT IS PASSABLE.**

**Thanks for your time,**

**David T. Burnett, Administrator  
SEKSWA**

*House E+NR*

To: Rep. Carl Dean Holmes - 115-S	From : Dave Burnett	<i>2-12-96</i>
For Information Call: 316-431-0080	At: SEKRPC	<i>Attachment 9</i>
Pages: 4	My Fax Number : 316-431-4805	

**SEKSWA**  
TRANSMITTAL

to: **Parties Interested in HB 2617**

date: February 12, 1996

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**WHY IS IT SO TERRIBLE TO GIVE EACH COUNTY  
THE OPTION  
TO IMPOSE A TONNAGE FEE???**

HB 2617 resembles the corporate hog farming issue in many respects. Some counties find the benefits of being able to adopt a tonnage fee is most desirable, while a vocal few seem to think that this would not be suited to their needs. All indications are that the majority of the proponents of HB 2617 want a bill that is optional to each county.

The subcommittee that has reformatted HB 2617 has tried very hard to accommodate all 105 counties. Their present version of HB 2617 needs some cleaning up. The proponents of HB 2617 are working to develop language that will clean it up.

I am attaching a copy of the subcommittee's substitute bill and our suggested revisions to clean up the substitute bill. Please phone, fax, or E-Mail your comments.

From the desk of...

**David T. Burnett**  
Administrator

**Southeast Kansas Solid Waste  
Authority**

P.O. Box 664  
Chanute, Kansas 66720-0064

316-431-0080  
Fax: 316-431-4805  
Internet: [TexBurnett@aol.com](mailto:TexBurnett@aol.com)

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PROPOSED Substitute for HOUSE Bill NO. 2617

By Committee on Energy and Natural Resources

AN ACT concerning solid waste; authorizing counties to impose certain fees on disposal of solid waste.

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

Section 1. (a) As used in this section, terms have the meanings provided by K.S.A. 65-3402 and amendments thereto.

(b) (1) In addition to any other fee provided by law, the board of county commissioners of any county may impose, by resolution, a solid waste tonnage fee not exceeding \$.50 for each ton or equivalent volume of solid waste generated within **{or outside}** the county and disposed of at a solid waste disposal area in the **{county}** state. Such fee shall be collected **{by the operator of}** at the solid waste disposal area where the solid waste is disposed of and, unless otherwise provided by interlocal agreement, shall be remitted **{by the operator}** at least quarterly to the county treasurer of the county imposing the fee.

(2) **{ The Board of County Commissioners of any county may, by interlocal agreement with any other county, impose a solid waste tonnage fee not to exceed \$0.50 per ton or equivalent volume of solid waste generated from within the county and disposed of at a disposal facility within a county which is a party to the interlocal agreement. Such fee shall be collected and remitted pursuant to subsection (b) (1).}** ~~If solid waste is collected and transported to a solid waste disposal area in a single load that includes solid waste collected in more than one county, the transporter of such solid waste shall certify to the operator of the solid waste disposal area of the county where the largest portion of the solid waste was collected. The fee imposed on such solid waste pursuant to subsection (b)(1) shall be imposed and collected as if all such solid waste were collected in the county so certified. Neither the transporter of the solid waste nor the operator of the solid waste disposal area shall incur any liability arising from the imposition of a fee in accordance with this subsection (b)(2).~~

(c) In addition to any other fee provided by law, the board of county commissioners of any county may impose, by resolution, a solid waste tonnage fee not exceeding \$.50 for each ton or equivalent volume of solid waste generated outside the state and disposed of at a solid waste disposal area in the county, but

5 RS 2131

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such fee shall not exceed the ~~lowest~~ fee imposed by any that county **{on solid waste generated within the county}** imposing a fee pursuant to subsection (b) on solid waste disposed of at such solid waste disposal area. Such fee shall be collected **{by the operator of}** at the solid waste disposal area where the solid waste is disposed of and, unless otherwise provided by interlocal agreement, shall be remitted **{by the operator}** at least quarterly to the county treasurer of each county imposing a fee pursuant to subsection (b){.} ~~in the proportion that the amount of waste generated in such county and disposed of at such disposal area bears to the aggregate of all solid waste generated in counties imposing fees pursuant to subsection (b) and disposed of at such solid waste disposal area.~~

(d) No fee imposed pursuant to this section shall apply to:

(1) Any waste tire, as defined by K.S.A. 65-3424 and amendments thereto, disposed in or at a permitted solid waste disposal area:

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(2) any of the following wastes when disposed of at a monofill permitted by the department: (A) sludges from public drinking water supply treatment plants; (B) cement kiln dust from the manufacture of portland and masonry cement; (C) flue gas desulfurization sludge, fly ash and bottom ash from coal-fired electric generating facilities; and (D) foundry sand;

(3) clean rubble;

(4) solid waste solely consisting of vegetation from land clearing and grubbing, utility maintenance and seasonal or storm-related cleanup but such exception shall not apply to yard waste;

(5) construction and demolition waste generated before January 1, 1996, from federal facilities as provided for under contract with the U.S. army corps of engineers before the effective date of this act; or

(6) construction and demolition waste disposed of by the state or any city or county, or by any person on behalf of the state or any city or county : {;or

**(7) other waste as specified the county resolutions or interlocal agreement providing for this fee.}**

(e) Revenue collected from fees imposed pursuant to this

5 RS 2131

-3-

section shall be used by the county, or by the regional solid waste entity in which the county participates, only for the following solid waste management purposes:

**(1) Public education and training {as delineated within the respective county or regional solid waste management plan(s) as approved by the Bureau of Waste Management of the Kansas Department of Health and Environment;}**

(2) worker training relating to recycling and composting;

(3) solid waste reduction, reuse, recycling and composting projects; and

(4) household **{and conditionally exempt}** hazardous waste collection projects; and

**{{(5) matching funds for grants for items (1) through (4).}**

(f) If any provision of this section or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and, to this end, the provisions of this section are severable.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

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