

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson Joann Flower at 9:00 a.m. on March 17, 1997, in Room 423-S of the Capitol.

All members were present except: Representative Compton - excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Kay Scarlett, Committee Secretary

Conferees appearing before the committee:  
Don Moler, General Counsel, League of Kansas Municipalities

Others attending: See attached list

**Hearing on SB 146 - Cities; weed abatement; procedure**

Chairperson Flower opened the hearing on **SB 146**. Raney Gilliland, Legislative Research Department, explained that this bill would amend a statute dealing with weed abatement by cities which contains two options for notification of property owners regarding the need to mow weeds. He said this bill deletes the requirement under the second notice option which requires a city to annually adopt and publish its weed abatement ordinance. He reported that the Senate committee amended the first notice option to property owners to make individual notice permissive and deleted references to "noxious" weeds so the law would simply cover weed abatement.

Don Moler, General Counsel, League of Kansas Municipalities, testified in support of **SB 146**. He said the League of Kansas Municipalities requested this legislation to remove the yearly publication requirement as a method to reduce the costs to Kansas cities and Kansas taxpayers. He knew of no other statute which required a city to republish an ordinance year after year. He estimated that by eliminating the yearly publication requirement, cities, collectively, would save between \$40,000 and \$50,000, annually. (Attachment 1)

This concluded the hearing on **SB 146**.

**Further discussion and possible action on SB 120 - Regulation of feedlot sewage discharges; swine weighing 55 pounds or less.**

Chairperson Flower opened discussion on Representative Faber's substitute amendment to **SB 120** made at the March 13 meeting.

Representative Faber, with Representative Freeborn's consent, withdrew his substitute motion concerning an amendment to Subsection (k) of **SB 120**. He then offered a new substitute motion to strike all of Subsection (k) as written, and to adopt a new Subsection (k) with language set forth in his balloon amendment. (Attachment 2)

Karl Mueldener, Director, Bureau of Water, Department of Health and Environment, answered committee questions on the amendment. Staff explained that design standards for confined feedlot facilities are not currently set out in statute or in rules and regulations; however, the agency does have guidelines for design standards and seepage tests. It was pointed out that guidelines do not have the force of law. The committee was informed that the agency is in the process of putting these design standards in rules and regulations. Staff noted that point source pollution statutes are already in place, and thought confined feeding operations would be point source pollution.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE, Room 423-S Statehouse, at 9:00 a.m. on March 17, 1997.

Following committee discussion, the amendment passed.

Representative Schwartz reported that she had prepared a modification to her amendment to **SB 120** that was adopted March 13. (Attachment3)

Due to time limitations, Chairperson Flower said further discussion and action on **SB 120** would be rescheduled for a later date.

The meeting adjourned at 10:00 a.m. The next meeting is scheduled for March 18, 1997.





League of  
Kansas  
Municipalities

Legal Department  
300 S.W. 8th  
Topeka, Kansas 66603  
Phone: (913) 354-9565/ Fax: (913) 354-4186

**LEGISLATIVE TESTIMONY**

**TO:** House Agriculture Committee  
**FROM:** Don Moler, General Counsel  
**RE:** Support for SB 146; Amendment to Weed Abatement Statutes  
**DATE:** March 17, 1997

First let me thank the Committee for allowing the League to appear before you to support SB 146, which is legislation to amend the weed abatement statutes of the State of Kansas. Currently, K.S.A. 12-1617f requires that a city using a weed abatement ordinance publish the ordinance on a yearly basis. We are unaware of any other statute which requires an ordinance of a city to be republished year after year which contains the same information. We are suggesting a change removing the yearly publication requirement as a method to reduce the costs to Kansas cities and Kansas taxpayers for this needless publishing on a yearly basis. The League estimates that between \$40,000 and \$50,000 is wasted each year needlessly republishing ordinances as required under this statute. We would request that the House Agriculture Committee favorably report SB 146.

*House Agriculture Committee  
March 17, 1997  
Attachment 1*

1 such reduction of separation distances.

2 (h) Any new construction or new expansion of a confined feeding

3 facility shall meet or exceed the following requirements in separation

4 distances from any habitable structure:

5 (1) 1320 feet for facilities with an animal unit capacity of 300 to 999;

6 and

7 (2) 4000 feet for facilities with an animal unit capacity of 1,000 or

8 more.

9 (i) The separation distance requirements of subsection (h) shall not

10 apply if such person newly constructing or newly expanding a confined

11 feeding facility obtains a written agreement from all owners of habitable

12 structures which are within the separation distance stating such owners

13 are aware of such construction or expansion and have no objections to

14 such construction or expansion. The written agreement shall be filed in

15 the register of deeds office of the county in which the habitable structure

16 is located. The secretary may reduce separation distance requirements if:

17 (1) No substantial objection from owners of habitable structures within

18 the separation distance is received in response to public notice; or (2) the

19 board of county commissioners of the county where the confined feeding

20 facility is located submits a written request seeking a reduction of separation

21 distances.

22 (j) The separation distances required pursuant to subsection (h) shall

23 not apply to:

24 (1) Confined feeding facilities which are permitted or certified by the

25 secretary on the effective date of this act;

26 (2) confined feeding facilities which exist on the effective date of this

27 act and register with the secretary before July 1, 1996; or

28 (3) expansion of a confined feeding facility, including any expansion

29 for which an application is pending on the effective date of this act, if:

30 (A) In the case of a facility with an animal unit capacity of 1,000 or more

31 prior to the effective date of this act, the expansion is located at a distance

32 not less than the distance between the facility and the nearest habitable

33 structure prior to the expansion; or (B) in the case of a facility with an

34 animal unit capacity of less than 1,000 prior to the effective date of this

35 act and, the expansion is located at a distance not less than the distance

36 between the facility and the nearest habitable structure prior to the expansion

37 the animal unit capacity of the facility after expansion does not

38 exceed 2,000.

39 ~~(k) All plans and specifications submitted to the department for~~

40 ~~new construction or new expansion of confined feeding facilities~~

41 ~~with an animal unit capacity of 1,000 or more may be prepared by~~

42 ~~a professional engineer or qualified consultant [approved by the~~

43 ~~department]. Soil permeability tests or seepage tests for waste water~~

*House Agriculture Committee  
 Report 17, 1997  
 Attachment 2*

1 ~~retention structures may be performed by a professional engineer~~

2 ~~or qualified soil scientist [approved by the department].~~

3 Sec. 2. K.S.A. 1996 Supp. 65-171d is hereby repealed.

4 Sec. 3. This act shall take effect and be in force from and after its

5 publication in the Kansas register.

(k) All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be prepared by a professional engineer or a consultant. Soil permeability tests or seepage tests for waste water retention structures may be, but are not required to be performed by a professional engineer or a consultant.

- 1 (1) 1320 feet for facilities with an animal unit capacity of 300 to 999;
- 2 and
- 3 (2) 4000 feet for facilities with an animal unit capacity of 1,000 or
- 4 more.

5 ~~(i) The separation distance requirements of subsection (h) shall not~~  
 6 ~~apply if such person newly constructing or newly expanding a confined~~  
 7 ~~feeding facility obtains a written agreement from all owners of habitable~~  
 8 ~~structures which are within the separation distance stating such owners~~  
 9 ~~are aware of such construction or expansion and have no objections to~~  
 10 ~~such construction or expansion. The written agreement shall be filed in~~  
 11 ~~the register of deeds office of the county in which the habitable structure~~  
 12 ~~is located. The secretary may reduce separation distance requirements if:~~

- 13 ~~(1) No substantial objection from owners of habitable structures within~~  
 14 ~~the separation distance is received in response to public notice; or (2) the~~  
 15 ~~board of county commissioners of the county where the confined feeding~~  
 16 ~~facility is located submits a written request seeking a reduction of separa-~~  
 17 ~~tion distances.~~

18 (j) The separation distances required pursuant to subsection (h) shall  
 19 not apply to:

- 20 (1) Confined feeding facilities which are permitted or certified by the
- 21 secretary on the effective date of this act;
- 22 (2) confined feeding facilities which exist on the effective date of this
- 23 act and register with the secretary before July 1, 1996; or
- 24 (3) expansion of a confined feeding facility, including any expansion
- 25 for which an application is pending on the effective date of this act, if:
- 26 (A) In the case of a facility with an animal unit capacity of 1,000 or more
- 27 prior to the effective date of this act, the expansion is located at a distance
- 28 not less than the distance between the facility and the nearest habitable
- 29 structure prior to the expansion; or (B) in the case of a facility with an
- 30 animal unit capacity of less than 1,000 prior to the effective date of this
- 31 act and, the expansion is located at a distance not less than the distance
- 32 between the facility and the nearest habitable structure prior to the ex-
- 33 pansion the animal unit capacity of the facility after expansion does not
- 34 exceed 2,000.

35 Sec. 2. K.S.A. 1996 Supp. 65-171d is hereby repealed.  
 36 Sec. 3. This act shall take effect and be in force from and after its  
 37 publication in the Kansas register.

*House Agriculture Committee  
 March 17, 1997  
 Attachment 3*

(i)(1) The separation distance requirements of subsection (h) shall apply to new construction of a confined feeding facility if the facility obtains a written agreement from all owners of habitable structures that are within the separation distance stating such owners are aware of and have no objections to the construction.

(2) The separation distance requirements of subsection (h) shall not apply to expansion of an existing confined feeding facility if the facility obtains a written agreement from all owners of habitable structures that were in existence at the time that the facility was constructed and are within the separation distance stating such owners are aware of and have no objections to the expansion.

(3) No habitable structure, and no <sup>swine production</sup> ~~confined feeding~~ facility that is required to be registered or obtain a permit pursuant to this section, shall be newly constructed or located within the applicable separation distance from an existing confined feeding facility unless the person proposing to so construct or locate the structure or facility first obtains a written agreement from the facility stating that the facility is aware of and has no objections to the construction or location of the structure.

(4) All written agreements required by subsections (i)(1), (2), and (3) shall be filed in the register of deeds office of the county in which the habitable structure is located.

(5) The secretary may reduce separation distance requirements if: (A) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or (B) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.