

Approved: 3-5-97
Date

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Steve Lloyd at 3:30 p.m. on February 13, 1997 in Room 526-S of the Capitol.

All members were present except: Rep. Eber Phelps - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Hank Avila, Legislative Research Department
Mary Torrence, Revisor of Statutes
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Bill Bider, Director, Bureau Waste Management KDHE
Sean White, Deffenbaugh Industries

Others attending: See attached list

Chairman Steve Lloyd called the meeting to order at 3:30 p.m. He announced that **HB 2204**, which had previously been scheduled, will not be heard today. He opened public hearing on **HB 2226**.

HB 2226: **An act concerning solid waste management; amending K.S.A. 65-3401, 65-3405, 65-3414 and 65-3415e and K.S.A. 1996 Supp. 65-3402, 65-3407, 65-3415, 65-3415a, 65-3415b, 65-3415f and repealing the existing sections; also repealing K.S.A. 65-3415c and 65-3422**

The Chairman asked Raney Gilliland, Legislative Research Department, to explain the bill.

The Chairman welcomed Bill Bider, Director, Bureau of Waste Management, KDHE, to the committee. Mr. Bider had distributed testimony, (See Attachment 1) in support of the bill. This bill was developed by the department based upon a thorough review of the statutes in light of many recent developments in Kansas and across the country. A "balloon" was attached to the testimony to show an addition and another change to the bill draft. Mr. Bider listed and discussed several important areas of change. He, in behalf of the department, believe the proposed changes to the solid waste law will benefit the regulated community, the department, and the environment. Discussion and questions followed. A Waste Tire Management Fund Status, (See attachment 2) that had been requested from Mr. Bider, in a previous tire update briefing, was distributed for the committee's review.

The Chairman welcomed Sean White, Deffenbaugh Industries, to the committee. Mr. White presented testimony, (See Attachment 3) in behalf Deffenbaugh Industries, which is generally supportive of clarifications contained in the definitions section of the bill and those provisions addressing financial assurance. He reviewed a list of concerns related to the solid waste planning provisions of the bill, and will follow up with more written details of those concerns, for the committee. Discussion and questions followed.

The Chairman, hearing no others to address the committee, closed the hearing on **HB 2226**.

Chairman Lloyd appointed a subcommittee to work on **HB 2226**, Rep. Joann Freeborn, Chairperson; Rep. Tom Sloan, Rep. Marti Crow, Rep. Peggy Palmer and Rep. Douglas Johnston.

The Chairman called attention to **HB 2219** for discussion and possible final action:

HB 2219: **An act concerning solid waste; relating to solid waste disposal areas exempt from certain requirements; amending K.S.A. 1996 Supp. 65-3406 and repealing the existing section.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 526-S Statehouse, at 3:30 p.m. on February 13, 1997.

The only changes made to the bill were on page 3 lines 20 through 23. Rep. Tom Sloan made a motion the bill be passed. Rep. Vaughn Flora seconded. Motion passed.

The Chairman announced there is no meeting scheduled for tomorrow and that there are a lot of bills to hear, which is why he is limiting the length of testimony.

The meeting adjourned at 4:40 p.m.

The next meeting is scheduled for February 17, 1997

HOUSE ENVIRONMENT COMMITTEE COMMITTEE GUEST LIST

DATE: 2-13-97

NAME	REPRESENTING
Risa Meyer	KS Gov. Consulting
Matthew Nowak	Leavenworth Audubon Soc.
Alan Myers	Burroughs (KC) Audubon Soc.
Cynthia Abbott	Kansas Audubon Council
Carol Hoguehem	Northern Flint Hills Audubon
David L. Hoguehem	Northern Flint Hills Audubon Manhattan
Jo. Deharde	Ks. Council, TROA
Shawn Henick	MATDA
Michelle Peterson	Peterson Public Affairs
DAVID B. SCHLOSSER	Pete McGau & Assoc.
Bill Bider	KDHE
John B. Scherby	Doffenbaugh
Sean White	Doffenbaugh Industries, Inc.
Kim Gully	League of KS Municipalities
Christine Cornelius	Ks. B.I.R.P.
STEVE KEARNEY	WASTE MANAGEMENT
Bill Jackson	Wolf River Envir. Society
Nancy Jackson	Sierra / Wolf River Environmental Society
Greg Bryant	KS Sierra / Mo. River Coalition

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

House Environment Committee

by

The Kansas Department of Health and Environment

House Bill 2226

The Kansas Department of Health and Environment appreciates this opportunity to present testimony in support of House Bill 2226. This bill was developed by the department based upon a thorough review of the statutes in light of many recent developments in Kansas and across the country. Examples of events which have prompted the need for changes include: recent court decisions; county decisions to shift from regional planning to individual county planning; an increased interest in recycling and waste reduction projects; and federal actions to amend solid waste laws and regulations. This bill does not focus on any particular issues. Instead it provides many miscellaneous recommendations for updating the solid waste statutes to improve clarity and to make our state law more practical, efficient, and service-oriented.

No new requirements are added to the solid waste regulatory program through these changes except for a simple notification requirement for local solid waste planning committees. Following the completion of the statutorily required annual plan reviews and the local public hearings held every five years, local committees will be required to notify KDHE of their actions. The applicability of certain provisions related to permitting requirements will be clarified and these changes could also be perceived by some persons to be new requirements.

As part of drafting this bill, the revisor did an excellent job of improving the department's proposed language in several areas. However, we did find one omission from our bill draft which needs to be added to the bill. This addition as well as another change to delete an obsolete provision identified during our final bill review are shown in the attached "balloon."

It is difficult to briefly summarize the many changes to the solid waste law which are recommended in this bill. Therefore, for the purposes of this testimony, we will list several important areas of change with a brief description of the purpose for each change:

- (1) **General Policy** - A brief statement has been added to emphasize the importance of encouraging the wise use of natural resources and efforts to reduce waste generation and disposal.

- (2) **Definition Changes** - Several definitions are changed primarily to establish clear requirements related to permitting facilities which process and reclaim materials which have the potential to adversely impact the environment, if mismanaged. This could include wastes such as used oil filters and fluorescent lamps. Another definition change works the opposite way. Small composting operations of less than one half acre in size would no longer require an operating permit.
- (3) **Planning** - Two primary amendments related to local solid waste planning are recommended. First, local planning committees would be required to notify KDHE when they complete the statutorily required annual plan reviews or the public hearing held every five years. Currently, committees only notify KDHE if it is determined that amendments are necessary. Second, increased flexibility would be granted to KDHE to authorize counties to withdraw from regional planning authorities. It is currently a difficult and costly process to withdraw from a region after local plans are approved.
- (4) **Financial Assurance** - This change is made to make Kansas law consistent with federal law and regulations. The amendment establishes the financial assurance mechanisms available to local governments operating municipal solid waste landfills. Ad valorem taxing power is no longer an allowable mechanism for this group. Now, a federally established test of financial strength must be passed. The law maintains the ad valorem taxing option for other types of solid waste permits not regulated at the federal level.
- (5) **Enforcement** - Authority would be given to counties or district attorneys to independently enforce the provisions of the solid waste law without being requested to do so by the secretary of KDHE.
- (6) **Grants** - Sections of the law related to the now obsolete solid waste base grant program are deleted. A provision is also being added to officially allow the governor's solid waste grants advisory committee to recommend that statewide projects be eligible for funding, even if the location of the projects are in counties without their own approved solid waste plans.
- (7) **Fees** - A section of the law which allows counties to establish special fees for landfilling of out of county waste is deleted. The U.S. Supreme Court has ruled that this provision is unconstitutional with respect to the Commerce Clause. Another fee related change is shown in the KDHE balloon. This change is the deletion of an old exemption in the list of wastes not subject to the solid waste tipping fee of one dollar per ton. The obsolete provision allows an exemption for certain waste generated before January 1, 1996.
- (8) **Flow Control Issues** - The U.S. Supreme Court has ruled that the flow of solid waste to certain preferred facilities cannot be dictated by public or private owners of those facilities. The generators or collectors of waste are free to select where they will dispose or process their waste. Some provisions of our solid waste law give authority to counties or regions to direct waste flow which conflicts with the court decisions. This issue continues to be debated in the U.S. Congress and a new federal law covering this issue may be established in the future.

KDHE Testimony - HB 2226

February 13, 1997

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Overall, the department believes the proposed changes to the solid waste law will benefit the regulated community, the department, and the environment. Costs to plan and manage solid waste systems should be lower and local control of some issues will increase.

Thank you for this opportunity to explain our recommendations related to updating the solid waste law.

Testimony presented by:

Bill Bider

Director

Bureau of Waste Management

Kansas Department of Health and Environment

February 13, 1997

1 agreement entered into pursuant to K.S.A. 12-2901 et seq., and amend-
 2 ments thereto. The membership of the committee shall not exceed 30
 3 members and shall include: (1) Representatives of incorporated cities
 4 located in the county or counties, equal in number to five members rep-
 5 resenting any cities of the first class, three members representing any
 6 cities of the second class and one member representing any cities of the
 7 third class; (2) one representative of unincorporated areas of the county
 8 or counties; (3) representatives of the general public, citizen organiza-
 9 tions, private industry, any private solid waste management industry op-
 10 erating in the county or counties and any private recycling or scrap ma-
 11 terial processing industry operating in the county or counties; (4) the
 12 recycling coordinator, if any, of the county or counties; and (5) any other
 13 persons deemed appropriate by the county or counties or designated city
 14 or cities including, but not limited to, county commissioners, county en-
 15 gineers, county health officers and county planners. Members of the com-
 16 mittee shall be appointed by the board of county commissioners or gov-
 17 erning body of the designated city, or by agreement of the boards of
 18 county commissioners or governing bodies of the designated cities co-
 19 operating in the plan. Members appointed to represent cities shall be
 20 nominated by the mayor of the city represented, or by agreement of all
 21 mayors of the cities represented if more than one city of the class is
 22 located in the county or counties. If the nominee is not appointed or
 23 rejected within 30 days after nomination, the nominee shall be deemed
 24 appointed.

25 (c) The solid waste management committee shall: (1) Be responsible
 26 for the preparation of the solid waste management plan of the county or
 27 group of counties participating in the committee; (2) review the plan at
 28 least annually and submit to the secretary or the secretary's designee any
 29 recommendations for revision of the plan; and; (3) at least every five years
 30 hold a public hearing on the plan and future goals of solid waste man-
 31 agement in the county or group of counties; and (4) notify the secretary
 32 that the committee has completed the review.

or public hearing

33 (d) Each county or group of counties is required to adopt and imple-
 34 ment a solid waste management plan pursuant to this section and is re-
 35 sponsible for continued and ongoing planning for systematic solid waste
 36 management within the boundaries of such county or group of counties.
 37 Each county or group of counties shall demonstrate that its planning
 38 process includes regular communication with other counties or groups of
 39 counties and reflects consideration of planning and solid waste manage-
 40 ment practices that are ongoing in the state. The solid waste management
 41 plan of each county or group of counties or designated city or cities shall
 42 provide for a solid waste management system plan to serve the residents
 43 of all townships and cities all generators of solid waste within the county

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1 made in accordance with appropriations acts upon warrants of the direc-
2 tor of accounts and reports issued pursuant to vouchers approved by the
3 secretary or a person designated by the secretary.

4 (f) On or before the 10th of each month, the director of accounts and
5 reports shall transfer from the state general fund to the solid waste man-
6 agement fund interest earnings based on:

7 (1) The average daily balance of moneys in the solid waste manage-
8 ment fund for the preceding month; and

9 (2) the net earnings rate of the pooled money investment portfolio
10 for the preceding month.

11 (g) The solid waste management fund shall be used for the purposes
12 set forth in this act and for no other governmental purposes. It is the
13 intent of the legislature that the fund shall remain intact and inviolate for
14 the purposes set forth in this act, and moneys in the fund shall not be
15 subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and
16 amendments thereto.

17 Sec. 8. K.S.A. 1996 Supp. 65-3415b is hereby amended to read as
18 follows: 65-3415b. (a) Except for construction and demolition landfills
19 and industrial solid waste landfills, there is hereby imposed a state solid
20 waste tonnage fee of \$1.00 for each ton or equivalent volume of solid
21 waste disposed of at any solid waste disposal area in this state.

22 (b) There is hereby imposed a state solid waste tonnage fee of \$1.00
23 for each ton or equivalent volume of construction and demolition waste
24 disposed of at any construction and demolition landfill and solid waste
25 disposed at any industrial solid waste landfill, other than waste enumer-
26 ated in subsection (c).

27 (c) The fees imposed by this section shall not apply to:

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

31 (2) any of the following wastes when disposed of at a monofill per-
32 mitted by the department:

33 (A) Sludges from public drinking water supply treatment plants;

34 (B) cement kiln dust from the manufacture of portland and masonry
35 cement;

36 (C) flue gas desulfurization sludge, fly ash and bottom ash from coal-
37 fired electric generating facilities; and

38 (D) foundry sand;

39 (3) clean rubble;

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

43 ~~(5) construction and demolition waste generated before January 1,~~

1 ~~1996, from federal facilities as provided for under contract with the U.S.~~
2 ~~army corps of engineers before the effective date of this act; and~~

3 (6) construction and demolition waste disposed of by the state and of
4 Kansas, or by any city or county in the state of Kansas, or by any person
5 on their behalf thereof.

6 (d) The operator of a solid waste disposal area shall pay the fee im-
7 posed by this section.

8 (e) The secretary of health and environment shall administer, enforce
9 and collect the fee imposed by this section. Except as otherwise provided
10 by subsections (a) and (b), all laws and rules and regulations of the sec-
11 retary of revenue relating to the administration, enforcement and collec-
12 tion of the retailers' sales tax shall apply to such fee insofar as they can
13 be made applicable, and the secretary of health and environment shall
14 adopt such additional rules and regulations as necessary for the efficient
15 and effective administration, enforcement and collection thereof.

16 (f) The secretary of health and environment shall remit daily to the
17 state treasurer all moneys collected from fees imposed pursuant to sub-
18 sections (a) and (b). Upon receipt thereof, the state treasurer shall deposit
19 the entire amount in the state treasury and credit it to the solid waste
20 management fund created by K.S.A. 65-3415a and amendments thereto.

21 Sec. 9. K.S.A. 65-3415e is hereby amended to read as follows: 65-
22 3415e. (a) ~~Except as provided by subsection (e), on and after July 1, 1993,~~
23 ~~any county or group of counties operating a solid waste disposal area shall~~
24 ~~levy a special charge on solid waste generated outside such county or~~
25 ~~counties and deposited at such disposal area. Such charge may be higher~~
26 ~~than charges levied on solid waste generated within the county or coun-~~
27 ~~ties. The revenue from such charge may be used by the county or group~~
28 ~~of counties for the development and implementation of its solid waste~~
29 ~~management plan and the costs of closure and postclosure cleanup of~~
30 ~~solid waste disposal areas within the county or group of counties.~~

31 ~~(b)~~ Except as provided by subsection ~~(e)~~, on and after July 1, 1993
32 ~~(b)~~, any county or group of counties operating a solid waste disposal area
33 shall levy a charge on any solid waste, whether generated within or outside
34 such county or counties, that is deposited at any privately owned solid
35 waste disposal area located in such county or counties. The revenue from
36 such charge may be used by the county or group of counties for the
37 development and implementation of its solid waste management plan and
38 the costs of closure and postclosure cleanup of solid waste disposal areas
39 within the county or group of counties.

40 ~~(e)~~ ~~(b)~~ The board of county commissioners of any county by unani-
41 mous vote may determine not to impose the fee provided for by subsec-
42 tion (a) or ~~(b)~~.

43 ~~(d)~~ ~~(c)~~ Any charges imposed by counties under this section shall be

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**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
Bureau of Waste Management**

WASTE TIRE MANAGEMENT FUND STATUS

YEAR	REVENUES	EXPENDITURES					
		Program Administration	Grants			Direct Cleanup Contracts	Total Expenditures
			Awarded	Expenses	Balance Returned		
1991	\$ 736,173	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
1992	1,105,070	108,587	0	0	0	0	108,587
1993	1,178,070	109,311	902,099	900,824	1,275	0	1,010,135
1994	1,137,022	62,424	625,084	594,711	60,747	0	657,135
1995	1,206,147	101,266	1,930,350	1,117,908	812,442	43,871	1,263,045
1996	1,258,778	171,106	1,125,867	688,237	437,630	367,766	1,225,334
1997 (Budgeted)	1,250,000	197,084	1,325,000	1,325,000	0	750,000	2,272,084
Totals	\$ 7,871,260	\$ 749,778	\$ 5,908,400	\$ 4,626,680	\$ 1,312,094	\$ 1,159,862	\$ 6,536,320

Net Balance = Revenue - Total Expenditures = \$ 1,334,940 (End of SFY 97)

<u>Contracts</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
Armstrong Site - Muscotah	\$ 43,871		
Osage Tire Site - Basehor		\$ 367,766	
Scott Auto Salvage - Atchison			\$ 4,500
West Street Tire - Wichita			614,500
Minks Site - Greensburg			80,955
Niles Site - Syracuse			45,000
Remaining Balance	<u> </u>	<u> </u>	<u>5,045</u>
	\$ 43,871	\$ 367,766	\$ 750,000

House Environment
 2-13-97
 Attachment 2

TO: House Environment Committee

FROM: Sean White
Deffenbaugh Industries



DATE: February 13, 1997

RE: HB 2226

Technical Provisions

Deffenbaugh Industries is generally supportive of clarifications contained in the definitions section of HB 2226 and those provisions addressing financial assurance.

Solid Waste Management Planning

Deffenbaugh Industries has the following concerns related to the solid waste planning provisions of HB 2226:

- reduced flexibility for counties and cities
- decreased authority for counties and cities to act independently
- significant expansion in responsibility of counties and cities (i.e. extension of planning activities to commercially generated wastes)
- new provisions mandating implementation of solid waste management plans
- increased requirements for communities that wish to withdraw from regional plans
- fundamental and broad reaching changes could alienate communities

Grant Program Issues

Deffenbaugh Industries is generally supportive of the proposed changes concerning grants from the Solid Waste Management Fund. However, we are opposed to a blanket removal of the 20% cap on grant expenditures from the Fund.

*House Environment
2-13-97
Attachment 3*

TO: House Environment Committee

FROM: Sean White
Deffenbaugh Industries



DATE: February 13, 1997

RE: HB 2226

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