

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairman Carlos Mayans at 3:30 p.m. on February 4, 1999 in Room 521-S of the State Capitol.

All members were present except: Rep. Cindy Hermes - excused
Rep. David Huff - excused
Rep. John Toplikar - excused

Committee staff present: Michael Heim, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:

Elmer Ronnenbaum, General Manager, Kansas Rural Water Association
Gary Hanson, Attorney, Topeka
Allan Soetaert, Manager, Johnson County Rural Water District No. 7
Tom Schaefer, Assistant City Administrator, Lenexa
Dorothea Riley, Bond Counsel to the City of Lenexa
Ronald Norris, Director of Public Works, City of Lenexa
Donald Seifert, Management Services Director, City of Olathe
Larry Kleeman, Assistant General Counsel, League of Kansas Municipalities
Written Testimony: Jim Kaup, City of Topeka
Written Testimony: Gerald Bennett, General Manager, Miami County Rural Water District No. 2

Others attending: See Guest List ([Attachment 1](#))

The minutes of the meeting held on February 2, 1999 were distributed and approved.

Chairman Mayans indicated that **HB 2241** (County officers and candidates for office; residency requirements) had been assigned to the committee. The Chairman then asked if anyone had a new bill to consider for introduction. There were none.

The Chairman then re-opened the hearing on **HB 2043** (Rural water districts; prohibiting certain charges). Elmer Ronnenbaum, General Manager of the Kansas Rural Water Association, testified in opposition to the bill by explaining the uniform bylaws and business practices of rural water districts (RWDs) which has been reinforced by the impact on their operations of the Kansas Supreme Court's decision in the *Dedeke v RWD No. 5* case (cited 229 KS 242). He specifically described a RWD patron's rights and responsibilities in the purchase of a benefit unit and payment of water services; the first being an equitable ownership of the RWD itself. He explained that the differences may not have been understood in the situation described by Rep. John Ballou in testimony he gave at the previous meeting. (See Mr. Ronnenbaum's written testimony, [Attachment 2](#)).

Chairman Mayans asked Mr. Ronnenbaum if he believed the \$4,000 benefit charge cited by Rep. Ballou was excessive. Mr. Ronnenbaum answered that the case was an isolated incident and he understood the Johnson County customers apparently had been delinquent in paying their water services account and did not respond to the RWDs notices of termination of their account. The charge actually was the cost of re-setting the hook up.

Rep. Ethel Peterson asked if there are statistics as to how many customers who lose their ownership rights. Mr. Ronnenbaum indicated none exist, but in his RWD with 670 customers, a total of 5 units were lost in 26 years. He also stated that the cost of a benefit unit for RWDs varies from \$2,000 to \$8,000, depending upon the size of the district and availability of water.

Gary Hanson, Topeka Legal Counsel to several Kansas RWDS, testified in opposition to **HB 2043** that the bill would impede the collection of money properly due RWDs and would prohibit collecting a new benefit unit fee as a condition to reinstalling service when the original fee had been forfeited. (See testimony, [Attachment 3](#).) The Chairman asked about the situation where a customer with a cognitive abnormality or dementia becomes delinquent in his account, what would be the RWDs response. Mr. Hanson stated that because of the daily monitoring of the RWD, employees will ordinarily recognize the

customers who are in need and assist them. He said because of the financial responsibilities of RWDs, there is no incentive to force forfeiture of ownership rights except in extreme circumstances. In response to questions, he compared the "reasonableness" standard required of RWDs with that standard required by the Kansas Supreme Court in rate cases; and stated a RWD establishes its minimum monthly billing amount for its accounts equal to its monthly debt service cost.

Allan Soetaert, Manager of RWD No. 7 in Gardner, profiled the Johnson County account that apparently triggered the proposed bill. He also indicated the people involved did not comprehend the differences between monthly charges for water services and the resulting loss of the benefit unit because of their delinquent account and abandonment of their residence. In response to a question about ownership of the benefit unit, he stated ordinarily the ownership remains with the residence as it changes owners.

Chairman Mayans asked about the current status of the Johnson County case. Mr. Soetaert answered that the former patron has been invited to come before their board, but has not responded. The Chairman asked if the board has offered an installment plan to alleviate the impact of the cost of another hook-up. Mr. Soetaert answered it had not been offered. Chairman Mayans stated it would behoove the RWD board to offer such a plan to alleviate the situation. He stated that in the meantime, the committee will withhold action on the bill to allow time for the RWD to contact Rep. Ballou and develop a settlement.

There being no others present to testify, the hearing on **HB 2043** was closed.

Chairman Mayans opened the hearing on **HB 2073** (Cities and counties; storm water drainage improvements). Tom Schaefer, Lenexa Assistant City Administrator, in support of the bill, explained the bill's provisions and its necessity to allow cities to finance required drainage improvement projects through issuance of general obligation bonds. (See testimony, Attachment 4.)

Dorothea Riley, Lenexa's bond counsel, explained the bill's provisions in her written testimony (see Attachment 5) and recommended the bill be amended to authorize interlocal agreements between cities for storm water management improvement projects similar to those now authorized between cities and counties.

Ronald Norris, Lenexa's Director of Public Works, supported enactment of **HB 2073** (see Attachment 6) and heartily endorsed Ms. Riley's suggested amendment.

Donald Seifert, Olathe's Management Services Director, supported enactment of the bill, stating it will facilitate the formation of extended storm water drainage projects and add a financial tool to manage the costs of such projects. He also indicated support of the suggested amendment (see Attachment 7).

Larry Kleeman, Assistant General Counsel for the League of Kansas Municipalities, offered the support of the League's 527 member cities for **HB 2073** (see Attachment 8). Representative Horst asked why this bill was needed in view of Home Rule authority. Ms. Riley answered that cities and counties are authorized to enact interlocal agreements but they cannot issue debt for these kinds of projects. Mr. Norris indicated the individual governmental units can only tax those in their own specific taxing unit. He also indicated that new federal water management requirements will be in place by 2002 and this legislation was proposed to be prepared for those new regulations.

Chairman Mayans indicated that a similar issue was raised in an earlier legislative session by Rep. William Mason for El Dorado. He then asked the conferees to work with committee staff to prepare the amendment for consideration at the next meeting, when the committee plans to act on the bill.

The written testimonies of Jim Kaup, on behalf of the City of Topeka, Attachment 9, and Gerald Bennett, General Manager of Rural Water District No. 2, Miami County, in support of **HB 2073**, Attachment 10, were distributed to committee members.

No others were present to testify on **HB 2073**, so the hearing was closed.

Chairman Mayans indicated the committee will meet twice next week.

The meeting was adjourned at 5:10 p.m. The next meeting is scheduled for February 9, 1999.



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COMMENTS ON
HOUSE BILL No. 2043
BEFORE THE HOUSE COMMITTEE ON LOCAL GOVERNMENT
February 11, 1999

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present comments on House Bill No. 2043. I am Elmer Ronnebaum, General Manager of the Kansas Rural Water Association. The Association provides technical assistance to both rural and municipal public water and wastewater systems and a variety of training opportunities for operators, board and council members.

The Kansas Rural Water Association is opposed to House Bill 2043. Rural water districts in Kansas have uniformly adopted bylaws which prescribe methods for termination of water service for non-payment of a water bill. It is easy to confuse the termination of water service with the termination of a benefit unit (sometimes referred to as a "meter"). A Kansas Supreme court case *Dedeke v. Rural Water District No. 5, Leavenworth County*, cited as 229 Kansas 242 resulted in rural water districts becoming extremely cautious when terminating a water service because of account delinquency or terminating the benefit unit. The Kansas Supreme Court held that the owner of a benefit unit certificate issued by a rural water district owns a property interest protected by the requirements of due process. In other words, benefit unit certificates represent property rights owned by the person or persons in whose name they are issued and such rights can not be removed arbitrarily. Due process means fundamental fairness and water service can not be terminated without given adequate notice to the interested party and an opportunity to contest the action which the board of directors proposes to take. Such opportunity to contest must precede the termination of water service.

As a result of this case, rural water districts have uniformly adopted procedures requiring notice and an opportunity for hearing prior to every cut-off notice and every notice of the forfeiture of a benefit unit. Generally, rural water districts were originally financed through the Farmers Home Administration. At the time of the Supreme Court case referred to earlier, the FmHA recommended that its borrowers amend their bylaws to give further assurance that procedures for terminating service or forfeiture would be afforded.

Here is how the bylaws of rural water districts generally address the account delinquency:

"Failure to pay the minimum monthly meter charge, or failure to pay for water used through a meter, shall constitute a forfeiture of the Benefit Unit on behalf of which failure occurs: Provided, that such Benefit Unit shall be reinstated if within three months after such failure all back charges are paid in full, plus 10% interest and reasonable labor charges necessary to effect such reconnection: Provided, further that the Board may permit such reinstatement within 6 months after such failure upon payment of all back charges, plus 10% interest, and reasonable labor charges necessary to effect such reconnection. Provided, further, that if the defaulting water subscriber is a tenant, the time set out above shall not commence to run until the Secretary of the District has mailed or caused to be mailed, by registered or certified mail, notice of such default of the tenant to the landowner at his last known address as shown on the books of the District.

"Water service may be terminated for failure to make payments when due as stated or for willful violations of the rules and regulations of the District. Before terminating water service, the Board shall notify the water subscriber and the benefit unit holder, if different from the subscriber, of the determination of the Board that there has been a failure to pay for water service or willful violations of the rules and regulations of the District, and that water service shall be terminated and the benefit unit shall be forfeited.

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"Such notice shall:

- (1) Be sent by certified mail to the last known address of the subscriber and the benefit unit holder;
- (2) Contain a statement of the determination of the board and the specific reasons therefore;
- (3) Contain a statement substantially as follows:

"Upon your request within 20 days, you will be notified of the time and place of a hearing before the Board at which hearing you may present evidence as to why such water service should not be terminated and present objections to water bills said to be unpaid, or to any determinations of the Board given as reasons for termination of water service.

"Upon receiving such request, the board shall notify the interested parties of the time and place of hearing. At such hearing, the water subscriber and land owner may appear in person and may be represented by counsel. The Board shall provide for a written summary of the proceedings at such hearing. Written notice of the Board's determination shall be served upon all parties by certified mail within 10 days after such hearing."

In 1992, Kansas Rural Water Association provided each of the nearly 300 rural water districts in Kansas with a proposed set of revised bylaws which would allow for employees to act on behalf of the boards of directors when discussing payments of accounts rather than having to require that the user need to appear at a meeting of the board of directors.

In the case of the termination of the benefit unit (membership), the question is not just payment of the account delinquency but also, the purchase of the membership. With few exceptions, rural water districts have increased the price of these memberships to reflect to some extent the amount of equity paid in by original customers and also, to keep pace with inflation. The possibility of a patron losing status as a member of the system is the ultimate penalty a district can impose on a patron. This is good reason for the patron to maintain a current account. The assurance that patrons will continue to pay for services is essential to maintaining the financial integrity of many bond issues and loans which have been made to rural water districts in Kansas. If HB 2043 were to become state law, it would supersede the bylaws of every existing rural water district in Kansas.

Kansas Rural Water Association suggests that the people who serve on the governing boards of rural water districts and employees do not make a practice of shutting off water service on their neighbors without attempts to contact the parties or afford opportunities for the delinquent patron to bring the account current. This process generally requires a lapse of at least 60 days if not more and speaking from personal experience on a rural water board, there have been cases when the customer has simply ignored the payment requests and all other notices and continued to use water while the utility stands by helpless because of the due process requirements. Rural water districts will generally work with a customer as any other business will, so that patrons have essential services.

We would also suggest that user fees, penalty rates, etc. should be handled by the local water utilities. These utilities are governed by persons elected by the membership of the districts.

The Kansas Rural Water Association wishes to emphasize the difference between the termination of water service and termination of the benefit unit. The latter is by far the more extreme penalty but one which is necessary to have to ensure that patrons do not become selective as to when charges for water service are payable. The benefit unit represents the patron's equity in the system -- and it is a property right that can only be forfeited because of non-action by the patron.

Respectfully submitted,


Elmer Ronnebaum
General Manager

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February 4, 1999

TO: Members of the House Committee on Local Government
RE: House Bill No. 2043
Testimony of Gary Hanson

Our office serves as counsel to approximately 25 rural water districts in Kansas. I oppose House Bill 2043 for the following reasons:

1. Impair Ability to Collect Money Rightfully Due.

House Bill 2043 could be used to prevent rwds from collecting money properly due to them for water usage, minimum or service fees, etc., as a condition to reinstalling the customer's water meter. This would be most unusual as utilities generally will not reconnect service due to nonpayment until the balance has been paid or adequate payment arrangements made.

2. Threat to Viability of Certain Systems.

The Bill would apparently prohibit rwds from collecting a new benefit unit fee (where the previous benefit unit had been forfeited) as a condition to reinstalling a customer's meter. The Act authorizing and creating rural water districts provides that the total benefits of the district be divided into a suitable number of "benefit units" and that landowners within the district may subscribe to the number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. Where capacity permits, additional benefit units may be issued. According to by-laws universally adopted by rwds (by-laws promulgated by the USDA/Rural Development, the agency that finances most new rwds), a benefit unit carries with it the duty to pay for water used and a monthly minimum fee. It is the threat of loss of this benefit unit, having a cost of several hundred dollars ranging to several thousand dollars, that encourages owners to make their monthly payments. This stream of monthly income produces the cash needed to support operations and importantly, make payments on the USDA/RD loans. USDA/RD makes its feasibility determinations based on a projection of these revenues. The importance of this revenue stream to USDA/RD is evidenced by the provision in the standard by-laws it promulgates which requires forfeiture of benefit units for nonpayment.

The effect of House Bill 2043 would apparently be to lose this incentive to timely make these payments. Cumulatively, the effect would be to make some new projects unfeasible that formerly were feasible, and to force USDA/RD to reevaluate its feasibility criteria for other new projects.

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3. Adequate Protections Already Exist.

The courts have established protections for customers of rural water districts. The right to receive water may be terminated only after due process has been afforded the customer. Ordinarily, this means written notice with an opportunity for hearing prior to termination. The rates, fees and charges are subject to a reasonableness standard.

4. Matter for Determination by Local Government.

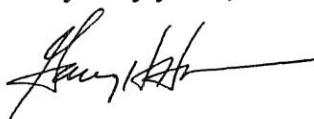
Rural water districts are quasi municipal corporations formed by action of the county commissioners. They are governed by boards of directors elected by the participating members of the district. By-laws are adopted by the participating members. The board of directors is required to act in accordance with law as well as the by-laws and rules and regulations of the district. As quoted by the Kansas Supreme Court in reviewing a case involving water rates charged by a rural water district:

. . . while the legislature possesses all the legislative power of the state, it is impracticable for them to exercise that power in minute detail. It is their function to enact general provisions, leaving to those who know their local problems best the right way to fill in the details in carrying out the general provisions granted by the legislature. *Shawnee Hills Mobile Homes, Inc. v. Rural Water District* 217 Kan. 421, 435 (1975) quoting *State, ex rel. v. City of Topeka*, 176 Kan. 240, 270.

How much a particular rural water district charges in any given situation in order to reconnect a customer to its system should be determined by the board of directors of that district, subject to the customer's right of due process and the reasonableness standard. There is no precedent in the statutes governing rural water districts for this degree of control of the fees charged.

For the reasons stated above, I respectfully request that the Committee decline to approve HB No. 2043.

Very truly yours,



GARY H. HANSON

GHH:de



TESTIMONY TO THE HOUSE LOCAL GOVERNMENT COMMITTEE

ON HB 2073

FEBRUARY 4, 1999

Good afternoon Mr. Chairman and members of the Committee.

My name is Tom Schaefer and I am the Assistant City Administrator in Lenexa. Thank you for this opportunity to speak to you today IN SUPPORT OF House Bill 2073. This bill, if passed, would grant cities and counties the authority to issue general obligation bonds to finance large storm water drainage improvement projects in those cities, between cities and between cities and adjacent counties. First let me thank Representative Huff for bringing this bill to the committee for consideration and to the Committee for approving introduction of the bill. I am here today along with Ms. Dotty Riley, our bond attorney with the firm of Logan, Riley, Carson and Kaup and Mr. Ron Norris, Public Works Director for the city of Lenexa. I will make a few brief introductory remarks and then would like you to hear from Ms. Riley and Mr. Norris concerning the legal, financial and engineering implications of this bill for local governments in Kansas.

As you may know Lenexa is a suburban city in Johnson County with a population of about 38,000 people. Lenexa is a rapidly growing community. Last year we experienced a boom in building construction in both the residential and commercial sectors. In fact, our 1998 building permit valuation totals hit an all time record of nearly \$150 million. This record growth is being fueled by a strong regional and state economy that is creating demand for new housing and commercial buildings. While this growth is a very positive factor in increasing the tax base of the city it does not come without some new challenges.

One of the most significant of these challenges for the city is maintaining an effective system to manage the increased storm water run-off from newly developed areas. Like many cities all over Kansas, Lenexa has areas within the city that are prone to flooding during storms involving heavy rainfall. For the last several years Lenexa has been working diligently through participation in the Johnson County Storm Water Management Advisory Council (SMAC) grant program to address these issues. While this is an effective program to address drainage problems at the neighborhood level, this program is not currently set up to address broader stormwater issues such as retention basins for large drainage areas. To undertake a project of this type will involve a great deal more planning and considerably more cost. The ability to bond finance such a project will make actual construction more feasible.

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As Lenexa plans for more intense development in the western portion of our city we will be taking a much more comprehensive approach to storm water management to guide the systematic development of storm water structures and facilities. This legislation is needed to provide an important tool for local governments to use in developing a more regional approach to storm water management. In the end we will be better able to serve our citizens through this regional approach because as Mr. Norris will explain further in a few minutes, storm water run-off has little respect for the boundary lines on a map that separate jurisdictions.

Thank you for your kind attention. We will be happy to try to answer questions after Ms. Riley and Mr. Norris give their testimony.

LOGAN RILEY
CARSON & KAUP, L.C.

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February 4, 1999

Honorable Chairperson and Members
of the House Committee on
Local Government
State House
300 West 10th Avenue
Topeka, Kansas 66612-1504

Re: House Bill No. 2073

Ladies and Gentlemen:

As bond counsel to the city of Lenexa, Kansas, we strongly support the passage of House Bill No. 2073. House Bill No. 2073 repeals and replaces K.S.A. 12-631r and 12-631s which were originally enacted in 1911 and were last amended in 1975. The existing legislation provides for the governing body of any city to construct storm sewers or drains for the purpose of carrying storm water from streets, avenues and alleys of such city after the city designates by ordinance the point at which the storm sewer or drain will commence and the point of outlet for the storm sewer or drain. The existing legislation also permits cities to issue general obligation bonds to pay the cost of the construction of such storm sewers or drains. In simpler terms, K.S.A. 12-631r and 12-631s essentially provides authorization for cities to construct and finance "drainage ditches" next to roads within the city to control storm drainage.

In working with the city of Lenexa and numerous other cities and counties in Kansas, we understand that modern storm drainage management necessitates more than the construction of drainage ditches. Approaches to contemporary storm drainage management include the construction of channels that divert runoff in a controlled fashion away from roads, infrastructure and other property and the construction of retention basins to safely accumulate storm water runoff. House Bill No. 2073 adds channels and retention basins to the types of storm drainage improvements that may be constructed and financed by cities which, we believe, provides a more comprehensive approach to storm water management.

House Bill No. 2037 also permits cities to determine the necessity of storm drainage improvements based on the need for improvements to manage storm drainage areas rather than just managing storm water runoff from roads. This change from the existing legislation is intended to address the need for cities and counties to provide adequate storm water management for entire drainage areas, not just from roadways. Because damaging storm water runoff does not stop at a city's boundaries, House Bill No. 2037 further

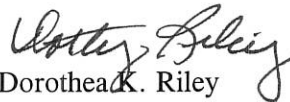
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Honorable Chairperson and Members
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permits cities to construct the storm water management improvements in an area within three miles outside the corporate limits of a city if the board of county commissioners of the affected county approves the construction by adopting a resolution. In our opinion, this Bill recognizes the regional nature of storm water problems and updates the existing legislation by providing cities and counties with contemporary storm drainage management tools.

If we may be of any assistance to the Committee on this matter, please let me know.

Very truly yours,


Dorothea K. Riley

DKR:mkr

**TESTIMONY TO THE HOUSE LOCAL GOVERNMENT COMMITTEE
ON HB 2073
February 4, 1999**

Thank you for the opportunity to appear before you today. My name is Ronald Norris. I am the Director of Public Works for the City of Lenexa. By way of introduction, I am a professional engineer, with a degree in Civil Engineering and a Masters degree in Public Administration. Prior to coming to this job, I was Director of Design and Construction for the state of Missouri, and am past National President of the American Public Works Association.

Today I want to speak to you about the need for cities and counties to be able to fund, and hence bond, stormwater facilities outside their immediate jurisdictional boundaries. In order to address this, I want to first speak briefly about the nature of stormwater issues. I then want to focus on the changing nature of stormwater regulation and solutions, and the opportunities these approaches afford. Finally, I want to explore an example of why a multi-jurisdictional approach in today's regulatory and public environment is desirable.

Stormwater, by its very nature does not lend itself to solutions that are based on section lines, property lines, or jurisdictional boundaries. The only "law" storm water knows is that of gravity. The only boundary it respects is that of the watershed. The watershed derives its geographical boundaries from the topography and because most jurisdictional boundaries are derived from section lines, roadways, or other man-made lines, stormwater is almost always a multi-jurisdictional problem. Most stormwater solutions, however are single jurisdiction issues. Shawnee tries to address its problems, Olathe and Overland Park work on their issues individually, and Lenexa attacks its own problems. When the problems being addressed are small, isolated "parcel level" concerns, or even involves a few parcels; this approach may work on a limited scale for those specific parcels. It does little, however, to address the system wide issues of increased run-off due to development, environmental degradation or the enhancement of water quality.

Parcel level solutions are those solutions directed at localized, limited problems. Typical parcel level solutions include paving a channel in order to reduce flooding, stabilizing a channel with riprap or concrete in order to prevent localized erosion, or constructing small individual retention basins to prevent increased runoff rates from an individual property. Until recently in Kansas, as in most of the United States, parcel level solutions were, with few exceptions, the norm.

New regulations are in place and, for many cities, even newer regulations are on the way. Presently the Corps of Engineers requires jurisdictions to obtain a "404" permit to construct stormwater improvements on most channels. These permits focus solutions toward environmentally friendly approaches and away from the traditional paved channel, paved slope approach. They tend toward natural, "bio-engineered" solutions which respect the environment and also have as goals the preservation or enhancement of water quality.

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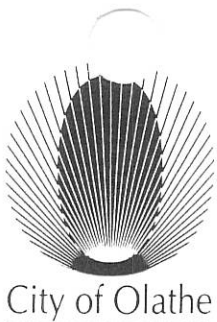
Within the next two or three years many cities in Kansas will fall under the new National Pollutant Discharge Elimination System (NPDES) Phase II requirements. Under these requirements, all cities in metropolitan areas of more than 50,000 and most cities of 10,000 or more in non-metro areas will fall under this program. They will be required to address minimum measures in at least six specified areas. My purpose today is not to take an in-depth look at the pending NPDES Phase II regulations, but to point out these regulations, together with those already in place, will result in jurisdictions needing to move from parcel level problem solving to system level solutions.

Such an approach is a significant departure from the parcel level thinking of the past. It will involve water shed planning and land use controls, establishing regulations governing set-backs from streams, erosion control on construction projects, environmentally sensitive solutions for streamway erosion control, regional detention basins as opposed to individual retention on each property, the preservation and establishment of wet lands, and numerous other strategies. These solutions will not be effective in meeting stormwater goals nor in complying with regulations if they are not implemented in a coordinated, watershed basis, across jurisdictional boundaries. In our immediate area, most public works officials have recognized the need for such an approach and are beginning the process of establishing those mechanisms that will serve us across our respective boundaries.

A system approach will afford a wide range of benefits beyond the immediate goals of stormwater management. Wider streamway setbacks enhance the opportunity for trails and openspace. Regional stormwater detention basins gives rise to amenities such as increased park area, lakes and recreation. The emphasis on nature and natural solutions will serve to enhance the quality of life in cities and suburban areas while at the same time meeting increasingly stringent stormwater regulations.

The key to all of this is to approach the problem not from a perspective of artificial jurisdictional boundaries, but on a systemic, watershed basis. With a system approach, many of the solutions will of necessity involve more than one jurisdiction. For example, in western Lenexa, one of our major watersheds is Cedar Creek. Water from Lenexa flows into Cedar Creek. Cedar Creek flows through portions of DeSoto and into the unincorporated portions of Johnson County. There are few opportunities within Lenexa to create effective detention facilities. I believe the same is true for DeSoto. A major detention facility in the unincorporated area would make more sense and be much more effective than multiple small facilities in the cities. However, the County would not likely want to construct such a facility to serve needs arising from Lenexa or DeSoto. It would therefore make much more sense for the cities to jointly construct a facility outside their boundaries, in the County.

Such a solution would be possible through an interlocal agreement. Under present law, however it could not be debt financed. Such a large undertaking would likely need debt financing. The legislation you are presently considering will allow our city and others the opportunity to do debt financing for such facilities if and when the need should arise. I urge your favorable consideration of this legislation.



MEMORANDUM

TO: Members of the House Local Government Committee
FROM: Donald R. Seifert, Management Services Director *DRS*
SUBJECT: **HB 2073** - City and County Storm Water Drainage Improvements
DATE: February 4, 1999

On behalf of the city of Olathe, thank you for the opportunity to appear today in support of **HB 2073**. The management of storm water is an important, yet generally unseen local government function. As we all know from recent events last October, storm water management can also be a life and death matter. The city of Olathe believes this bill will help clarify and expand one of the financing tools available for local governments to better manage storm water.

The city of Olathe is fortunate in that geographically it is located at the top of several drainage basins. Olathe's storm water generally finds its way to the Kansas and Blue Rivers by way of our neighboring cities of Lenexa and Overland Park. In 1991, the city created a storm water utility fund that raises approximately \$1 million annually to cash fund storm water improvement projects within our city. However, some projects are too large to be totally cash funded, and storm water does not respect city boundaries. The city supports this bill because it clarifies bond issuance requirements, broadens the scope of improvements eligible for bond financing, and allows improvements to be extended outside the city limits. The city would also suggest the committee consider adding language to authorize adjacent cities to jointly undertake storm water improvement projects.

Thank you again for the opportunity to support this bill.

rc



LEAGUE OF KANSAS MUNICIPALITIES

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Legislative Testimony

To: House Local Government Committee

From: Larry Kleeman, Assistant General Counsel

Date: February 4, 1999

Re: League Support of HB 2073

Thank you for allowing me to appear on behalf of the League's 527 member cities to offer their support of HB 2073.

One of the most important prerogatives of a city is to provide for the welfare and safety of their citizens, and for the most part they have the ability to do that. However, today's hearing highlights one of a few situations where a city's power to act within its own boundaries is not enough to fully protect its citizens. As we've seen several times this past year, the threat posed by rising floods and uncontrolled storm waters can cause great harm to a community – resulting in damage to property, physical injuries, and even loss of life. Rushing waters can begin in unincorporated areas outside of a city and build to a crescendo with devastating affects upon city residents and their property. Unfortunately, rushing waters don't pay heed to a city's boundary line. Cities must be able to protect against this hazard not only within their borders but also without.

Storm water management beyond a city's borders is necessary to ensure the safety of its citizens. The only impediment is that cities cannot act outside their jurisdiction without state authorization. HB 2073 would change that and grant cities the power to fully protect its citizens. Under this bill, cities would be authorized to act outside their boundaries for purposes of constructing storm drainage improvements.

HB 2073 recognizes that storm water management is not solely a city problem – nor is it solely a county problem. Cities and counties should be able to work together to solve storm drainage problems, and this bill makes it clear that they have this authority. This bill also acknowledges that storm water management involves much more than building a drain into a street side curb. Modern management techniques also have goals of protecting homes, businesses, school grounds, and parks – not just streets and alleys. Construction of retention basins and channels are also an essential part of a storm water management system. The means available to cities to accomplish these tasks should not be limited in any way.

This bill clarifies the authority of cities to fully protect their citizens from storm water hazards, and the League urges favorable passage of HB 2073.

HOUSE LOCAL GOVERNMENT
Attachment 8
2-4-99



CITY OF TOPEKA

Joan Wagnon, Mayor
215 S.E. 7th Street Room 352
Topeka, Kansas 66603
Phone 785-368-3895
Fax Number 785-368-3850

LEGISLATIVE TESTIMONY – HOUSE BILL 2073

TO: Chairman Mayans and Members of the House Local Government Committee
FROM: Jim Kaup, on behalf of the City of Topeka
RE: **HB 2073; Stormwater Drainage Improvement Authority for Cities**
DATE: February 4, 1999

I am pleased to present this testimony on behalf of the City of Topeka in support of HB 2073.

The City agrees with the position of the City of Lenexa that changes are appropriate to the current limitations in K.S.A. 12-631r and 12-631s as to both (1) the types of stormwater improvements that may be undertaken and (2) the means of financing those improvements.

The flow of stormwater does not honor the narrow parameters of the current law. Contemporary techniques for managing stormwater, likewise, cannot be fully realized due to the wording of those statutes.

The proposed amendments would enable cities to use these statutes to undertake construction of stormwater channels and retention basins as well as drainage ditches.

Perhaps most important, HB 2073 would amend these statutes to enable cities to use them as legal authority for the management of stormwater on a “drainage area” basis. This will allow a city to make stormwater management improvements outside its corporate limits, on the condition that such is agreeable to the board of county commissioners.

The City respectfully requests this Committee’s favorable consideration of HB 2073 and looks forward to the opportunity to better protect lives and property by adding this new legal authority to the City’s public improvements toolchest.

HOUSE LOCAL GOVERNMENT
Attachment 9
2-4-99

February 3, 1999

Representative Carlos Mayans
Chairman, Local Government Committee
State of Kansas
State Capitol Building
Topeka, Kansas 66612

Representative Mayans:

Proposed HB #2043 has caught the attention of Miami County Rural Water District No. 2. It is our understanding that the Local Government Committee is currently reviewing this bill. Please be aware that Miami County RWD 2 strongly opposes this bill because of its negative impact on rural water districts and other utilities across the State of Kansas.

As you are aware, rural water districts are quasi-municipal organizations as specified by statute. Benefit unit holders elect a board of directors to create rules, regulations and bylaws of their respective water districts. Each rural water district has the distinct advantage of creating these rules, regulations and bylaws to meet the exclusive needs of their district.

Representative Ballou's proposal of HB #2043 removes the water district's ability to adopt certain rules that have proved effective for many years. The ability to create specific rules for payment is necessary to operate business efficiently. A customer cannot be allowed to determine when payment is necessary for services received.

I am familiar with the facts of the case that caused this bill to be presented. It does not appear to me that due diligence was given prior to it being presented. Passage of this bill will most certainly place an undue burden on rural water districts across Kansas. During your deliberations, please note that Miami County Rural Water District No. 2 is very much opposed to the passage of HB #2043.

Thank you very much for your consideration.

Very truly yours,

Rural Water District No. 2, Miami County

Gerald Bennett
General Manager

cc: Rep. Jene Vickrey