

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT

The meeting was called to order by Chairman Carlos Mayans at 3:30 p.m. on March 9, 1999 in Room 521-S of the State Capitol.

All members were present except: Rep. Melany Barnes - excused
 Rep. David Huff - excused
 Rep. Jeff Peterson - excused
 Rep. John Toplikar - excused

Committee staff present: Mike 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:
 Rep. Jim Garner
 Pat McGuire, Montgomery County Resident
 Rep. Ted Powers
 Randy Allen, Executive Director, Kansas Association of Counties
 Michael Bertrand, Director of Planning and Development, Butler County
 James Weber, Director of Sewer Operations & Maintenance, Sedgwick County
 Dana Fenton, Intergovernmental Relations Coordinator, Johnson County

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

The minutes of the meetings held on February 16, February 18, and February 23, 1999 were distributed and approved.

Chairman Mayans stated the committee will hear **HB 2505** (sewer districts; governing body) and noted the remaining bills assigned to the committee will be held over and perhaps acted on next year. He then welcomed Rep. Jim Garner.

Rep. Garner, testifying in support of **HB 2505**, stated his purpose was to introduce Mr. Pat McGuire who brought the situation in Montgomery County to his attention. He gave a simplified explanation of the bill which allows for the creation and operation of a rural sewer district much like rural water districts. Under current law, sewer districts are controlled by the county commission and are formed and operated on their own autonomy.

Mr. McGuire, who lives between Coffeyville and Independence, stated the reason for **HB 2505** is that three years ago several residents in his area approached the county commission to gain authority to form a sewer district. Their response was they wanted to handle only their problem areas. He described the topography of the area and noted there is no soil suitable for lateral fields in the county, but that is what is being installed.

The bill does not authorize the board to levy taxes; the costs would be charged out by user fees (like water districts). Each parcel would be equal to one user and would have the same fee. Also, if the bill is adopted he believes more sewer districts would be formed in rural areas. He could not predict the impact of such districts on major population areas. (See testimony, [Attachment 2](#).)

Rep. Gwen Welshimer asked what type of system is being contemplated for Montgomery County. Mr. McGuire answered it will be a collection system with a two-step lagoon. The investment would be significant; requiring six to ten customers a mile in order to pay out the costs in 20 years. The size of the district depends on the locations of landowners who participate in the petition—the boundaries being drawn when the petition is collected. No petitions have yet been circulated for this new district.

It is estimated 300 to 500 houses in a 6-to-8 mile area are needed to feasibly establish such a district. The area being considered in Montgomery County has about 500 houses. He stated there is federal grant and loan money available for building sewer districts according to population, average financial gross, and

how critical the area is for sewer problems. Rep. Kay O'Connor asked where is the funding coming from for this district. Mr. McGuire answered after the district is formed, grant money will be applied for, as well as a low interest loan from the Kansas Department of Health and Environment. User fees would repay the loan.

Repr. Peggy Palmer asked why the bill is needed. Mr. McGuire indicated that the county commission was contacted three years ago about the situation and would not consider the request, indicating they wanted to only address problem areas in the county. The county counselor was recently called to inquire as to the county's response to this kind of request, with no response. Montgomery County has two or three small sewer districts, each covering a small area.

Rep. Ted Powers testified in support of **HB 2505**. He indicated there may be some concerns expressed about new section 1 of the bill regarding 51% of the owners petitioning for county action. He stated many people do not realize they have a problem coming until the problem is there. "Not in my backyard" is the rule – even Sedgwick County has some of this. As an example, the county to a certain extent has control over the lagoons being built. In the lapland areas—such as where he lives between Haysville and Mulvane—with urbanization in Sedgwick County and growing around other towns, there is a possibility they will need a vehicle like that proposed in **HB 2505**. In all due respect to Mr. McGuire, in view of the rural sewage situation, this option would be practical. The choices in his area are septic tanks or laterals. The water table between Haysville and Mulvane—in some places—is near 8 feet below the ground and people are installing septic tanks. They are the people saying they don't mind running the water lines, but do not want any sewer lines run because they might leak. They are the same people installing septic tanks with laterals on a water table that is high. In Sedgwick County he has noticed lagoons going in on individual sites and some are side-by-side to the neighbor's lagoon. He foresees problems with the present piecemeal response to sewage disposal in different parts of the state as urbanization takes place and suggests the committee may need to address the situation. Rep. Powers also suggested **HB 2505** may need to be localized to Montgomery County.

Repr. Margaret Long asked Mr. McGuire if he would agree to localizing the bill. He agreed and suggested it may be amended to fit a population capacity.

The Chairman asked if the bill had some problems. Theresa Kiernan, noting Rep. Powers concerns about section 1, stated that since the sewer district had not been created, there was nothing in the bill that changes current law to require the board of county commissioners to form a district. Further amendment is needed to require the commission to act.

Randy Allen, Executive Director, Kansas Association of Counties, presented testimony in strong opposition to **HB 2505** because it removes power from the elected board of county commissioners and places it (including taxation) in a board not elected by the voters. (See testimony, Attachment 3.)

Michael Bertrand, Director of Planning and Development for Butler County, represented the county commissioners and the Public Works Director in opposition to **HB 2505**. He stated concern with the comingling of county and private rule for the new districts. There may be a need to give some powers to private development (including sewer systems) and suggested it not be connected to counties in any way. For health reasons, Butler county defines a subdivision as four or more lots and they must be tied into a public or private group system. (See Attachment 4.)

James Weber, Director of Sewer Operations and Maintenance for Sedgwick County, presented opposition to the bill and listed several areas where problems may occur as a result of its enactment. (See testimony, Attachment 5.)

Dana Fenton, Johnson County Intergovernmental Relations Coordinator, testified on behalf of the county commissioners in opposition to **HB 2505** by setting out the cost efficiencies of that county's Unified Wastewater Districts. Johnson County does not want to deny sewer service in Montgomery County and suggested the bill could be localized. (See Attachment 6.)

There being no others present to testify, the hearing on **HB 2505** was closed.

Chairman Mayans announced that future meetings of the committee this session are on call of the chairman. The meeting was adjourned at 4:30 p.m.

**PAT MCGUIRE
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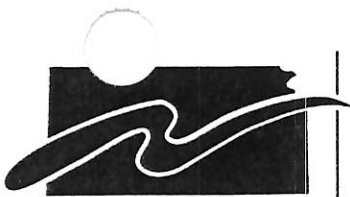
This bill will enable a sewer district to be governed by a Board of Directors or the County Commission.

This will be determined by the petitioners of said sewer district.

A good example of organizations that have operated efficiently is Rural Water Districts, these Districts have generally been well managed financially and physically, throughout the state of Kansas.

Most County Commissioners have enough on their plate, with all of there other obligations. It has been my experience that most county commissioners only want to deal with problem sewer areas, and not the whole problem.

By adopting this bill I feel more sewer districts will be organized and operated properly.



**KANSAS
ASSOCIATION OF
COUNTIES**

**TESTIMONY
concerning House Bill No. 2505
presented by Randy Allen
House Local Government Committee
March 9, 1999**

Chairman Mayans and members of the committee, I am Randy Allen, Executive Director of the Kansas Association of Counties. I appreciate the opportunity to comment on House Bill No. 2505, concerning sewer districts.

Currently, K.S.A. 19-270 authorizes the elected board of county commissioners to create or enlarge special districts, including sewer districts. K.S.A. 19-27a02 provides that the board of county commissioners shall be the governing body of any sewer district it creates. As such, the elected board of commissioners acting as the sewer district governing board has several powers, including the power to 1) create and maintain a sewer system in the sewer district; 2) acquire, by purchase or condemnation, property necessary to provide an adequate sewage system; 3) construct and maintain sewage disposal plants; and 4) sue and be sued. Another statute, K.S.A. 19-27a09, provides authority for the sewer district governing body to levy property taxes within the district to maintain the sewer system facilities.

HB 2505 would provide a process whereby a petition, signed by the owners of at least 51% of the land in a sewer district, could be filed with the board of county commissioners requiring that a meeting be called to hold an election for the purpose of electing a board of directors to replace the board of county commissioners as the governing board for the sewer district. HB 2505 provides that the "owners of land within any such district shall select from their number a board of directors." The newly constituted board would have the powers as the board of county commissioners, acting as governing board for the sewer district, currently has.

We strongly oppose HB 2505, because it removes power from the popularly elected board of county commissioners (elected by the voters and not merely the landowners) and places the same powers (including taxation and eminent domain powers) in a board that has not been popularly elected and one that has no staff at its disposal. Further, HB 2505 would seem to run a higher risk of fragmented land use and capital facility planning in rural areas since autonomous sewer district governing boards could independently make facility decisions which, in consideration of adjoining properties outside of an immediate sewer district, could be viewed differently. Under current law, the board of county commissioners, sitting as the governing body for a sewer district, has a big-picture perspective on land use, development, and planning issues on a countywide level. This serves the people well, and if there are problems with the current system, they should be discussed in a forum with county commissioners around the state before the Legislature considers a bill of this nature.

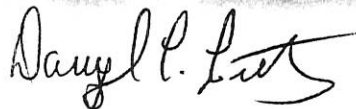
We respectfully urge the committee to reject this bill.

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HOUSE LOCAL GOVERNMENT
Attachment 3
3-9-99

TESTIMONY

To: Honorable Committee Chairperson
Members of the Committee
From: Darryl C. Lutz, Director of Public Works
Butler County
Date: March 9, 1999
RE: Testimony against HB 2505



This testimony is presented in the behalf of the Board of County Commissioners of Butler County. Butler County appreciates the opportunity to present concerns related to the proposed legislation.

Butler County over the course of the last 30 years has created or been involved in the creation process at least 18 rural sewer districts. Presently, 9 of these rural sewer districts remain under the governance of the Board of County Commissioners. The other 9 districts have been annexed into adjacent incorporated cities.

Butler County is opposed to any legislation that gives governing authority of a rural sewer district to an individual board that represents only the interest of one individual sewer district. Furthermore, Butler County opposes the creation of additional layers of government that result in more bureaucracy and a loss of efficiency and use of shared resources.

The most efficient means of operating similar types of special benefit district is with consistent standards and policies and with the use of shared resources. The Board of County Commissioners is the engine that allows for both. The Department of Public Works, under the policy direction of the Board of County Commissioners, provides maintenance, management, budgeting recommendations, engineering services, regulatory oversight, material and equipment specifications, public relations, inter-district coordination and new connection coordination for each rural sewer district. Furthermore, the Board of County Commissioners already has the statutory and constitutional authority to levy special assessments and user fees and to place these on the tax rolls, to acquire easements and property through the powers of eminent domain, to efficiently collect delinquent payments and to govern and manage each sewer district fairly, consistently and efficiently.

Allowing the creation of a governing board for individual rural sewer districts separate from the Board of County Commissioners is likened to the establishment of rural water district boards. Each district would have their own authority, have the ability to create their own standards, hire their own maintenance, provide health code and regulatory enforcement, supply bookkeeping and a separate means of fee collections and special assessment collections and so on and so on. This results in a duplication of services and is very inefficient. Furthermore, creation of individual governing boards tend to result in the creation of "turfs". Turfs often result in governing boards protecting their power and domain at the expense of efficiency and the best interest of the people being served by the governing board. The Board of County Commissioners inevitably will become the body that is called by the people to solve these problems which will likely arise if this legislation passes.

If this legislation is being proposed as a result of a specific issue, this committee is urged to seek and consider alternate solutions. Butler County strongly opposes this legislation and any legislation that results in the creation additional layers of governance and further separates the people from County Government.

Thank you again for this opportunity to present our concerns. If this committee or if any legislators have any questions, please feel free to contact the Butler County Director of Public Works at 316-322-4101 or the Butler County Director of Planning and Zoning at 316-322-4330.

Testimony on House Bill No. 2505
Before
Committee on Federal and State Affairs

By
James Weber, P.E.
Director of Sewer Operations and Maintenance
Sedgwick County, Kansas
March 9, 1999

The Sedgwick County Sewer Districts currently serve over 4500 homes and businesses. Our largest district, the Four Mile Creek District, has 3800 customers and our smallest district serves 11 industrial customers. We have one joint district that collects wastewater from 553 homes and businesses for treatment by the City of Wichita under an interlocal agreement. On average, 10 new lateral sewer districts are created each year in Sedgwick County within the Four Mile Creek District. These lateral districts generally overlay existing main sewer districts that were created to provide overall collection and treatment services in the Four Mile Creek area.

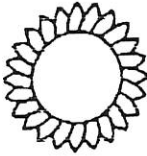
The Sedgwick County Department of Sewer Operations and Maintenance provides management, engineering, financial and operating services for all sewer districts in Sedgwick County. This is accomplished by a staff of 15 people as well as our intergovernmental relationship with Sedgwick County at large. The sewer districts are self supporting and user fees are reasonable due to the cost sharing which can be accomplished under the umbrella organization.

House Bill 2505 proposes to amend the process of sewer district creation to allow the implementation of separate boards of directors as governing bodies for County Sewer Districts. As written, the law would allow property owners in every existing county sewer district and in every new county sewer district to force creation of a separate board of directors. Sedgwick County opposes this change. I want to outline for you a number of problems that may occur with the new law.

1. Hinders Regional Planning. Planning of wastewater collection and treatment systems is most effective when done on a regional basis. Today, planning is done on a countywide basis. Coordination of existing governmental entities within the county is already difficult. Allowing the creation of separate governing bodies for each sewer district will hinder the planning process.
2. Circumvents Regional Plans. Through the modified petition process, developers might try to circumvent the county planning processes by submitting petitions for creation of sewer districts, getting them approved by the Board of County Commissioners and then submitting a petition for creation of a separate governing body. Once the new governing body was created, they could modify proposed collection and treatment system plans and effectively circumvent the county planning process.

3. Disruption of Contracts and Fee Structures. Under Section 1, property owners in an existing sewer district would be able to petition for a separate governing body. If this occurred in a lateral sewer district or part of a joint sewer district that utilized a regional collection or treatment system, there could be disruption of contracts and user fee structures within the larger district.
4. Increased Cost of Financing. Most county sewer districts are small. Financing of improvements through bonds will be more difficult and more costly for small districts. Currently, even the smallest districts in Sedgwick County enjoy the benefits of the high bond rating and low interest cost that can be obtained in our bond issues.
5. Lack of Professional Services. The current law helps to provide professional management and operation of sewer districts at a reasonable cost. The creation of separate governing bodies requires that each district obtain management, accounting, engineering and maintenance services. This is generally more costly and less effective.
6. Consolidation? There has been a great deal of discussion of consolidation issues within Sedgwick County. At a time when there seems to be interest in less government why create more government.
7. If It's Not Broken, Don't Fix It. I have worked with the sewer districts in Sedgwick County for over 10 years. I can not think of any time when a property owner or group of property owners has asked about creating a separate governing body. We fail to see where the proposed change adds any value to the existing law. If it's not broken, don't fix it.

Sedgwick County opposes the changes proposed by House Bill 2505. We can not figure out the rationale for the proposed changes, we can find no benefit from the changes and we have outlined a number of significant problems which could occur from the law.



**Johnson County
Kansas**

MARCH 9, 1999

HOUSE LOCAL GOVERNMENT COMMITTEE
TESTIMONY IN OPPOSITION TO HB 2505

TESTIMONY OF DANA FENTON
INTERGOVERNMENTAL RELATIONS COORDINATOR FOR JOHNSON COUNTY

Mister Chairman, members of the Committee, thank you for the opportunity to testify today. My name is Dana Fenton, Intergovernmental Relations Coordinator for the Johnson County Board of Commissioners.

I am here today to testify in opposition to HB 2505 which would enable the landowners of 51% of the land area in a sewer district to petition to have a Board of Directors govern that district instead of the Board of County Commissioners.

The Johnson County Board of Commissioners is the governing body of the Unified Wastewater Districts of Johnson County. In 1945, the first sewer district governed by the Board of Commissioners, known as Mission Township #1 was created. Soon afterward, construction commenced on the first wastewater treatment plant. Four years after its completion, this plant was doubled in size due to tremendous population growth in the County. Soon thereafter, construction of a second treatment plant was started.

From a humble beginning of one plant and one sewer district in 1945, the Unified Wastewater Districts now encompass nine plants and over 1000 districts. If the landowners of each of the districts added since the first district was created in 1945 had the option of creating a Board of Directors in lieu of the County Commission, then surely the cost of wastewater services would have been tremendously higher.

One reason the cost of service would have been tremendously higher is that more staff would have had to have been hired to coordinate service contracts between the main sewer district and the 1000 sewer districts. Each of these contracts would have had to have been approved by the Johnson County Board of Commissioners.

The cost efficiencies realized as a result of having one governing board, one administrative staff and one cost structure have resulted in some of the lowest costs available for wastewater services. In fact, the cities of Leawood, Kansas and Lenexa, Kansas have recently merged their wastewater systems with the Unified Wastewater Districts. One reason their councils made these decisions was to take advantage of the cost efficiency of a large system.

The Johnson County Board of Commissioners respectfully request the Committee to oppose this bill.

Mister Chairman, thank you for this opportunity to testify. I will be glad to stand for any questions.