

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on January 25, 2000 in Room 423-S of the Capitol.

All members were present except: Rep. Henry Helgersen - excused
Rep. Douglas Johnston - excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Elmer Ronnebaum, General Manager, Kansas Rural Water Assoc., PO Box 226, Seneca, KS 66538
David Mueller, President, KRWA Board of Directors, Kansas Rural Water Assoc., PO Box 226, Seneca, KS 66538
Gary H. Hanson, Attorney, Stumbo, Hanson & Hendricks, 2887 SW MacVicar, Topeka, Kansas 66611
Norman Schmitt, Mayor, 805 Main, PO Box 187, Sabetha, Kansas 66534
Kim Gulley, Director of Policy Development & Communications, League of Kansas Municipalities, 300 SW 8th, Topeka, Kansas 66603-3912
Donald R. Seifert, Management Services Director, City of Olathe, PO Box 768, Olathe, Kansas 66051
Ron Appletoft, Gov. Affairs Coordinator, 5930 Beverly Street, Mission, Kansas 66202
Karl Mueldener, Bureau of Water, Kansas Department Health and Environment, Forbes Field, Bldg. 283, Topeka, Kansas 66620-0001

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She reminded the committee of an open house reception by the Kansas Water Office on February 2, 3:30 to 5:30 p.m. Also the Kansas Water Authority will be holding their quarterly meeting at the same location on February 2 and 3.

The Chairperson opened the floor for committee bill requests. No one responded. She asked if any of the Agencies had bill requests. No one came forward.

Chairperson Joann Freeborn made a motion to introduce a bill that would allow 12 and 13 year olds to hunt any game with the use of a bow or a firearm while under the supervision of an adult 21 years of age or older. Seconded by Representative Ray Merrick. Motion carried.

Chairperson Freeborn opened the hearing on **HB2659**.

HB2659: An act concerning public wholesale water supply districts; relating to the powers and duties thereof.

The Chairperson welcomed Elmer Ronnebaum, General Manager, Kansas Rural Water Association, to the committee. He appeared in support of the bill. (See attachment 1) The Association believes this legislation would allow city and rural water districts that are members of Public Wholesale Water Supply Districts to contract for operation or maintenance support service from the Public Wholesale Water Supply District from which they purchase water. Generally members of the Public Wholesale Water Supply Districts are smaller cities or rural water districts. It is the desire of some of these small utilities to contract the operation and

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 423-S of the Capitol
at 3:30 p.m. on January 25, 2000.

maintenance of their utilities to the Public Wholesale Water Supply District. This bill would grant Public Wholesale Districts the right to enter into service agreements with their member entities. Questions and discussion followed.

The Chairperson closed the hearing on **HB2659**. She opened the hearing on **HB2658**.

HB2658: An act concerning public water supply systems; concerning regulation and related fees; providing exemptions from certain fees and taxes.

A letter from the Mayor of the City of Holton, Janet L. Zwonizer, in support of the bill, was distributed to members. (See attachment 2) On behalf of the City of Holton, she believes the bill to be a responsible approach to clarifying state sales tax law and providing a funding mechanism for the regulation of and assistance to public water supplies in Kansas.

The Chairperson welcomed David Mueller, President, KRWA Board of Directors, Kansas Rural Water Association, Seneca, Kansas. He provided testimony in support of the bill and suggests it accomplishes two goals. First, it ensures funding for services that are needed and second, it ends the sales tax nightmare. (See attachment 3) A list of members of the Kansas Rural Water Association is included.

Gary Hanson, Attorney with the law firm of Stumbo, Hanson & Hendricks, Topeka, Kansas, was welcomed to the committee. He appeared in support of the bill. His firm serves as counsel for over thirty small public water supplies, as well as the Kansas Rural Water Association. He limited his comments to the issue of sales tax. He believes this bill imposes a fee based on water sales in exchange for an exemption from sales taxes for public water supplies' purchases and is a fair trade. (See attachment 4)

Norman D. Schmitt, Jr., Mayor, City of Sabetha, Kansas, appeared in support of the bill. The City of Sabetha believes this bill will result in generation of dedicated, reliable, and consistent revenue for use of the Bureau of Water at KDHE. The City of Sabetha does not see the proposed fee as a new tax. In fact, dependent on the amount of future construction and service improvements implemented, it will likely reduce the total cost to users in Sabetha. (See attachment 5) Questions and discussion followed.

Kim Gulley, League of Kansas Municipalities, Topeka, Kansas, was welcomed to the committee. She appeared in a neutral position to the bill. The League is very supportive of increased training and technical assistance for public water supply systems. Many small cities in Kansas operate public water supplies and the expertise in this area varies greatly across the state. They support the portions of the bill that expand the uses of the fee fund revenues as well as the addition of a League representative on the advisory board that makes recommendations concerning the use of this fund. The League supports the concept of the bill but opposes the funding mechanism which has been proposed. (See attachment 6)

Don Seifert, City of Olathe, Olathe, Kansas, appeared in a neutral position. He addressed the committee with several concerns about the bill. First, he feels the proposed funding mechanism appears excessive and inequitable. The bill proposes a fifteen-fold increase in the water supply fee, increasing the present \$200,000 KDHE monitoring program to a \$3.3 million level with 19 new positions. The fiscal impact on their water customers is approximately \$100,000. The city would not expect to receive anywhere near this in services from the department. Secondly, the proposed fee increase seems to bear little relation to the regulatory burden. The states larger water utilities like Olathe will have a disproportionate share of the fee increase, although they account for a relatively small share of the department's workload and use of services. (See attachment 7)

Ron Appletoft, Coordinator Governmental Affairs, Water District #1 of Johnson County, appeared in a neutral position to the bill. Water District #1 is a political subdivision organized as a regional water utility to serve the suburban region in and around Johnson County. It is governed by a seven member elected Board and operates as a quasi-municipal corporation and currently serve over 330,000 consumers. He believes the proposed fees would cost Water District ratepayers approximately \$631,000 annually when fully implemented with very little, if any benefit. (See attachment 8)

CONTINUATION SHEET

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at 3:30 p.m. on January 25, 2000.

Karl Mueldener, Bureau of Water, Kansas Department Health and Environment, was welcomed to the committee. He offered comments in a neutral position to the bill. The Department believes Kansans are being confronted with new and complex requirements regarding water quality. This bill addresses the state's needs regarding drinking water. There are a host of significant needs regarding surface water and ground water programs which also need to be dealt with. Some of those needs include: storm water permitting, disinfection byproducts, radon, revolving loan fund management, source protection, enhanced surface water treatment, consumer confidence reports, technical assistance, management capacity assurance, arsenic and selenium standards, and requirements for unregulated contaminants. While the demands on the state and the public's expectations for water quality continue, Kansas has significantly downsized its oversight of water quality programs. The Bureau of Water is operating with one-third less people than a decade ago. (See attachment 9) Questions and discussion followed.

Shirley Sicilian, with the Policy and Research Department, Kansas Department of Revenue, was in attendance and answered questions concerning the fiscal note for **HB2658**. This bill would have a significant impact on the State General Fund. The Department of Revenue estimates that the passage of this bill would reduce state sales tax revenue by \$4.4 Million in FY 2001. Sales tax revenue would be reduced by a total of \$5.0 million in FY 2002, as the FY 2001 reduction would reflect only 11 months of collections.

Chairperson Freeborn closed the hearing on **HB2658**. She thanked conferees and guests for their participation and the committee for their attention.

The meeting adjourned at 5:40 p.m. The next meeting is scheduled for January 27, 2000.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: January 25, 2000

NAME	REPRESENTING
Karl Muehlener	KDHE
Elmer Rombbaum	Ks Rural Water
DAVID Muehl	"
Gary Hanson	"
Nancy Fast	Ks Water office
Sidny Orwall	"
Ron Appledoft	Water Dist No 1 of Jo Co.
Do Seferit	City of Platte
Jim Kang	City of Hays
Mike	Ks Pork
Tom Bruno	Allen & Assoc
Kevin Elbert	Kansas Dairy Association
Joe Duch	KCK BPU
Don Hollings	Western Resources
Wally Mores	Ks. Agg Prod Assn.
Kim Gulley	LKM
Mike Beam	Ks. LVSTK. Assn.
Doug Smith	City of Topeka
Bill Fuller	Kansas Farm Bureau

Charles Benjamin

Ks Sierra Club / KNRC



KANSAS
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association
Quality water, quality life

P.O. Box 226 • Seneca, KS 66538 • 785/336-3760
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**COMMENTS ON HOUSE BILL 2659
BEFORE THE HOUSE ENVIRONMENT COMMITTEE
JANUARY 25, 2000**

Madam Chairwoman and Members of the Committee:

The Kansas Rural Water Association appreciates this opportunity to present comments on House Bill 2659.

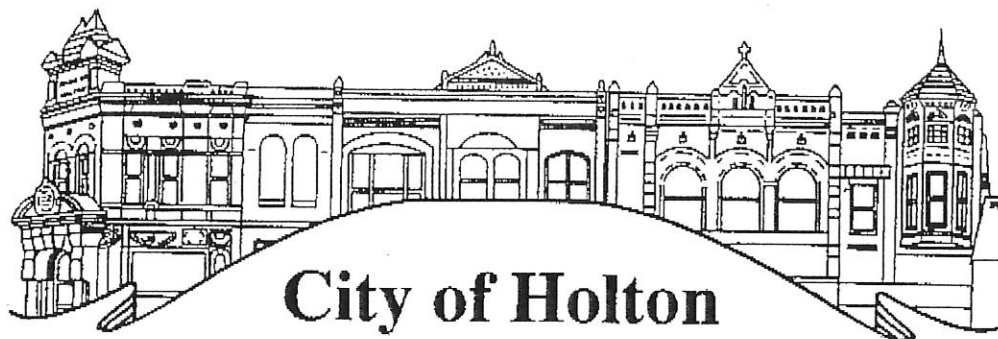
The legislation would allow city and rural water districts that are members of Public Wholesale Water Supply Districts to contract for operation or maintenance support service from the Public Wholesale Water Supply District from which they purchase water. Generally members of the Public Wholesale Water Supply Districts are smaller cities or rural water districts. It is the desire of some of these small utilities to contract the operation and maintenance of their utilities to the Public Wholesale Water Supply District.

HB 2659 would grant Public Wholesale Districts the right to enter into service agreements with their member entities. The Kansas Rural Water Association encourages your support of this legislation.

Respectfully submitted,

Elmer Ronnebaum
General Manager

*House Environment
1-25-00
Attachment 1*



January 25, 2000

The Honorable Joann Freeborn, Chair
Environment Committee
Kansas House of Representatives
State Capitol
Topeka, Kansas 66612

RE: House Bill No. 2658

Dear Chairman Freeborn:

On behalf of the City of Holton, we would like to express our support for House Bill No. 2658. The bill provides what we believe to be a responsible approach to clarifying state sales tax law and providing a funding mechanism for the regulation of and assistance to public water supplies in Kansas.

The bill in its current form brings a level of certainty to state sales tax law as it applies to public water systems. Current state sales tax law is confusing for many public water systems in determining what is taxable and what is not. The bill provides an exemption for tangible personal property or services purchased by any public water supply system that are used in the construction, renovation, operation, or maintenance of the water system which would clarify the application of the state sales tax.

The increase in fees to the Public Water Supply Fee Fund provides a reasonable funding alternative to offset the sales tax exemption proposed in the bill. It is necessary to provide a funding mechanism for the regulatory role of the State to assure water quality. Funding water regulation based upon the amount of water sold at retail provides an equitable and uniform way of distributing those costs among Kansas water systems. With the continued increase in water related regulations, the State of Kansas needs to assist public water suppliers in understanding those regulatory requirements. As important as water is to this state, we need to assure that the State and public water suppliers work closely to manage this resource.

Thank you for the opportunity to express our support for H.B. 2658, and we would urge your committee's support of the bill.

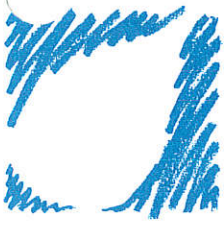
Sincerely,

Janet L. Zwonitzer
Mayor

430 Pennsylvania Avenue, Holton, Kansas 66436
(785) 364-2721 FAX (785) 364-3887

RECEIVED FROM: 7853643887

House Environment
1-25-00 P. 02
Attachment 2



KANSAS
RURAL
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association
Quality water, quality life

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FAX 785/336-2751 • <http://www.krwa.net>

**COMMENTS ON HOUSE BILL 2658
BEFORE THE HOUSE ENVIRONMENT COMMITTEE
JANUARY 25, 2000**

Madam Chairwoman and Members of the Committee:

The Kansas Rural Water Association appreciates this opportunity to present comments on House Bill 2658. The Association has active membership of over 365 cities and 300 rural water and public wholesale water districts in the state. In addition we provide services and training to virtually every public water system, other than the very largest municipal systems.

The Kansas Rural Water Association supports HB 2658. This bill does two things that are needed: 1) It provides a funding mechanism so that the Kansas Department of Health & Environment can have access to needed resources to support the myriad of very complex regulations which affect all public water systems, and it provides additional on-site help and other services to water utilities which the smallest systems generally cannot afford to purchase and 2) it will clarify the issue of state sales tax application on public water systems.

Public water systems appreciate the staff and resource needs of the Bureau of Water and District Offices of KDHE. Public water supply regulations are onerous and complex. Second, public water supply systems have complained and have demonstrated that the application of state sales on public water systems presents one of the most difficult administrative tasks by both cities and water districts. Many people believe that cities are exempt from sales tax on their municipal water systems. They are not. We are confident that some pay double what they should; others may get by for much less. A component may be taxable or it may be tax-exempt, all depending on what its function is in the water system. Often a single component serves multiple functions, some which are taxable and some which aren't.

Public water systems want to be responsible citizens. Cities and rural water districts do not want to impose a financial burden on the state. HB 2658 would ensure that all systems support the State and related drinking water issues. We believe larger systems will have financial benefit; smaller systems may pay more – but they in turn are likely to benefit from increased support and services. We believe the utilities do not necessarily need to pass the fee on to customers but instead make the payment from their operating account. The utilities after all will have reductions in costs otherwise paid to sales tax. Plus, by having the fee based on water sold at retail, the painful headaches associated with the application of sales taxes on public water systems will be eliminated.

The Kansas Rural Water Association respectfully suggests that HB 2658 accomplishes both goals. First, it ensures funding for services that are needed. Second, it ends the sales tax nightmare. We encourage your support of HB 2658. We see this bill as a “package” – it benefits the State and it benefits systems. I have attached a listing of our membership for your reference.

Respectfully submitted,

David Mueller

President, KRWA Board of Directors

*House Environment
1-25-00
Attachment 3*

members, Kansas Rural Water Association
 January 25, 2000 Page 1

Allen RWD #10	City of Andale	City of Coffeyville	City of Grainfield
Allen RWD #4	City of Anthony	City of Colby	City of Greeley
Allen RWD #7	City of Arcadia	City of Coldwater	City of Green
Allen RWD #8	City of Argonia	City of Collyer	City of Greenleaf
Anderson RWD #2	City of Arlington	City of Concordia	City of Grenola
Anderson RWD #3	City of Ashland	City of Conway Springs	City of Gridley
Anderson RWD #4	City of Assaria	City of Cottonwood Falls	City of Grinnell
Anderson RWD #6	City of Atlanta	City of Courtland	City of Gypsum
Arnold Waterworks	City of Attica	City of Cullison	City of Halstead
Atchison RWD #1	City of Atwood	City of Culver	City of Hamilton
Atchison RWD #2	City of Auburn	City of Cunningham	City of Hanover
Atchison RWD #3	City of Axtell	City of Damar	City of Hardtner
Atchison RWD #4	City of Barnard	City of Dearing	City of Hartford
Atchison RWD #5	City of Bazine	City of Deerfield	City of Harveyville
Atchison RWD #6	City of Beloit	City of Delia	City of Haviland
Barber RWD #1	City of Bennington	City of Delphos	City of Hays
Barber RWD #2	City of Bentley	City of Denison	City of Hazelton
Barber RWD #3	City of Benton	City of DeSoto	City of Herington
Barber RWD #4 (proposed)	City of Bern	City of Dighton	City of Herndon
Barton RWD #1	City of Beverly	City of Downs	City of Hesston
Barton RWD #2	City of Bird City	City of Dwight	City of Hiawatha
Blue River Hills Imp. Dist.	City of Bison	City of Edgerton	City of Highland
Bourbon RWD #2 Cons.	City of Blue Mound	City of Edna	City of Hill City
Brown RWD #1	City of Blue Rapids	City of Effingham	City of Hillsboro
Brown RWD #2	City of Bogue	City of Elgin	City of Hoisington
Butler RWD #1	City of Bonner Springs	City of Elk City	City of Holcomb
Butler RWD #2	City of Brewster	City of Elkhart	City of Holton
Butler RWD #3	City of Bronson	City of Ellinwood	City of Hope
Butler RWD #4	City of Brockville	City of Ellis	City of Horton
Butler RWD #5	City of Brownell	City of Elmdale	City of Howard
Butler RWD #6	City of Bucklin	City of Elwood	City of Hugoton
Butler RWD #7	City of Buffalo	City of Emmett	City of Humboldt
Butler RWD #8	City of Buhler	City of Enterprise	City of Inman
Caldwell Utilities	City of Bunker Hill	City of Erie	City of Isabel
Chase RWD #1	City of Burden	City of Esbon	City of Iuka
Chautauqua RWD #1	City of Burlingame	City of Eskridge	City of Jamestown
Chautauqua RWD #2	City of Burlington	City of Eudora	City of Jennings
Chautauqua RWD #3	City of Burns	City of Everest	City of Kanorado
Cherokee RWD #2	City of Burrton	City of Fall River	City of Kechi
Cherokee RWD #3	City of Bushton	City of Florence	City of Kensington
Cherokee RWD #4	City of Caldwell	City of Fontana	City of Kingman
Cherokee RWD #5	City of Cambridge	City of Fort Scott	City of Kinsley
Cherokee RWD #7	City of Caney	City of Frankfort	City of Kiowa
Cherokee RWD #8	City of Carbondale	City of Fulton	City of Kismet
Cherokee Water Corporation	City of Cawker City	City of Galesburg	City of LaCygne
City of Admire	City of Cedar Vale	City of Galva	City of LaHarpe
City of Agenda	City of Centralia	City of Garden City	City of Lancaster
City of Agra	City of Chapman	City of Garden Plain	City of Lane
City of Alexander	City of Chase	City of Gardner	City of Larned
City of Allen	City of Cherryvale	City of Gas	City of Lebanon
City of Alma	City of Cimarron	City of Gaylord	City of Lebo
City of Almena	City of Circleville	City of Geneseo	City of Lecompton
City of Alta Vista	City of Claflin	City of Girard	City of Lehigh
City of Alton	City of Clay Center	City of Glen Elder	City of Lenora
City of Altoona	City of Clifton	City of Goessel	City of Leon
City of Americus	City of Clyde	City of Goff	City of Leoti

Members, Kansas Rural Water Association
 January 25, 2000 Page 2

City of LeRoy	City of Ness City	City of Sawyer	City of Winchester
City of Lewis	City of Netawaka	City of Scammon	City of Windom
City of Liebenthal	City of New Strawn	City of Scandia	City of Winfield
City of Lincoln Center	City of Newton	City of Sedan	City of Winona
City of Lincolnville	City of Nickerson	City of Sedgwick	City of Woodston
City of Lindsborg	City of Norcatour	City of Seneca	City of Yates Center
City of Linwood	City of North Newton	City of Severance	Clay RWD #2
City of Little River	City of Nortonville	City of Severy	Cloud RWD #1
City of Logan	City of Norwich	City of Sharon Springs	Coffey RWD #2
City of Long Island	City of Oakley	City of Silver Lake	Coffey RWD #3
City of Longford	City of Oberlin	City of Simpson	Comanche RWD #1
City of Longton	City of Ogden	City of Smith Center	Comanche RWD #2
City of Louisburg	City of Oketo	City of Soldier	Cowley RWD #1
City of Luray	City of Olmitz	City of South Hutchinson	Cowley RWD #2
City of Lyndon	City of Olpe	City of Spearville	Cowley RWD #3
City of Lyons	City of Onaga	City of Spring Hill	Cowley RWD #4
City of Macksville	City of Oneida	City of St. George	Cowley RWD #5
City of Madison	City of Osage City	City of St. John	Cowley RWD #6
City of Manchester	City of Oskaloosa	City of St. Paul	Cowley RWD #7
City of Manhattan	City of Oswego	City of Sterling	Cowley RWD #8
City of Mankato	City of Overbrook	City of Stockton	Crawford Chicopee Corp.
City of Manter	City of Oxford	City of Strong City	Crawford Cons. RWD #1
City of Maple Hill	City of Ozawkie	City of Sublette	Crawford RWD #1
City of Marion	City of Palco	City of Summerfield	Crawford RWD #2
City of Marquette	City of Park City	City of Sylvan Grove	Crawford RWD #3
City of Marysville	City of Parker	City of Sylvia	Crawford RWD #4
City of Matfield Green	City of Parsons	City of Thayer	Crawford RWD #5
City of Mayetta	City of Pawnee Rock	City of Toronto	Crawford RWD #6
City of McCune	City of Paxico	City of Towanda	Crawford RWD #7
City of McDonald	City of Peabody	City of Tribune	Dickinson RWD #1
City of McFarland	City of Perry	City of Troy	Dickinson RWD #2
City of McLouth	City of Phillipsburg	City of Turon	Doniphan RWD #1
City of Meade	City of Plains	City of Ulysses	Doniphan RWD #2
City of Medicine Lodge	City of Pleasanton	City of Utica	Doniphan RWD #3
City of Melvern	City of Pomona	City of Valley Center	Doniphan RWD #5
City of Meriden	City of Portis	City of Valley Falls	Douglas RWD #1
City of Milford	City of Powhattan	City of Vermillion	Douglas RWD #2
City of Miltonvale	City of Preston	City of Victoria	Douglas RWD #3
City of Minneapolis	City of Pretty Prairie	City of Virgil	Douglas RWD #4
City of Moline	City of Protection	City of Wakefield	Douglas RWD #5
City of Moran	City of Quenemo	City of Waldo	Douglas RWD #6
City of Morganville	City of Quinter	City of Wallace	Elk RWD #1
City of Morland	City of Randall	City of Walton	Ellis RWD #1
City of Morrill	City of Rantoul	City of Wamego	Ellis RWD #2
City of Morrowville	City of Raymond	City of Washington	Ellis RWD #6
City of Moscow	City of Republic	City of Waterville	Ellis RWD #7
City of Mound City	City of Reserve	City of Wathena	Ellsworth RWD #1
City of Mound Valley	City of Rexford	City of Waverly	Franklin RWD #1
City of Mount Hope	City of Richmond	City of Weir	Franklin RWD #2
City of Mulberry	City of Riley	City of Wellsville	Franklin RWD #3
City of Mullinville	City of Rolla	City of Westmorland	Franklin RWD #4
City of Munden	City of Rossville	City of Wetmore	Franklin RWD #5
City of Muscotah	City of Rozel	City of White City	Franklin RWD #6
City of Narka	City of Russell	City of Whitewater	Franklin RWD #7
City of Natoma	City of Sabetha	City of Whiting	Geary RWD #4
City of Neodesha	City of Satanta	City of Williamsburg	Greenwood RWD #1

Members, Kansas Rural Water Association
 January 25, 2000 Page 3

Greenwood RWD #2	Marion RWD #2	Public Wholesale #13	Wilson RWD #9
Hamilton RWD #1	Marion RWD #4	Public Wholesale #4	Woodson RWD #1
Harper RWD #1	Marshall RWD #1	Public Wholesale #5	
Harper RWD #2	Marshall RWD #2	Public Wholesale #8	
Harper RWD #3	Marshall RWD #3	Reno RWD #1 (101)	
Harper RWD #4	McPherson RWD #2	Reno RWD #3	
Harper RWD #5	McPherson RWD #4	Reno RWD #8	
Harvey RWD #1	Miami RWD #1	Republic RWD #1	
Jackson RWD #1	Miami RWD #2	Republic RWD #2	
Jackson RWD #2	Miami RWD #3	Rice RWD 1	
Jackson RWD #3	Miami RWD #4	Riley RWD #1	
Jefferson RWD #1	Mitchell RWD #1	Rooks RWD #1	
Jefferson RWD #10	Mitchell RWD #2	Rooks RWD #2	
Jefferson RWD #11	Mitchell RWD #3	Rooks RWD #3	
Jefferson RWD #12	Montgomery RWD #1	Rush RWD #1	
Jefferson RWD #13	Montgomery RWD #10	Russell RWD #1	
Jefferson RWD #2	Montgomery RWD #12	Russell RWD #3	
Jefferson RWD #3	Montgomery RWD #13	Saline RWD #1	
Jefferson RWD #6	Montgomery RWD #14	Saline RWD #2	
Jefferson RWD #7	Montgomery RWD #14	Saline RWD #3	
Jefferson RWD #8	Montgomery RWD #2	Saline RWD #4	
Jefferson RWD #9	Montgomery RWD #3	Saline RWD #6	
Jewell RWD #1	Montgomery RWD #4	Saline RWD #8	
Johnson RWD #6 Cons.	Montgomery RWD #5	Sedgwick RWD #2	
Johnson RWD #7	Montgomery RWD #6	Sedgwick RWD #3	
Kingman RWD #1	Montgomery RWD #8	Sedgwick RWD #4	
Labette Montgomery RWD #3	Montgomery RWD #9	Shawnee RWD #1 Cons	
Labette RWD #1	Morris RWD #1	Shawnee RWD #3	
Labette RWD #2	Nemaha RWD #1	Shawnee RWD #4	
Labette RWD #4	Nemaha RWD #2	Shawnee RWD #6	
Labette RWD #6	Nemaha RWD #3	Shawnee RWD #7	
Labette RWD #7	Nemaha RWD #4	Shawnee RWD #8	
Labette RWD #8	Neosho RWD #12	Smith RWD #1	
Lane RWD #1	Neosho RWD #3	Suburban Water Co.	
Leavenworth Cons. RWD 1	Neosho RWD #5	Sumner RWD #1	
Leavenworth RWD #10	Neosho RWD #6	Sumner RWD #2	
Leavenworth RWD #2	Neosho RWD #7	Sumner RWD #3	
Leavenworth RWD #5	Neosho RWD #8	Sumner RWD #4	
Leavenworth RWD #6	Neosho RWD #9	Sumner RWD #5	
Leavenworth RWD #7	Neosho-Allen RWD #2	Sumner RWD #6	
Leavenworth RWD #8	Norton RWD #1	Trego RWD #1	
Leavenworth RWD #9	Osage RWD #2	Trego RWD #2	
Leavenworth RWD 1	Osage RWD #3	University Park Imp. District	
Linn RWD #1	Osage RWD #4	Wabaunsee RWD #1	
Linn RWD #2	Osage RWD #5	Wabaunsee RWD #2	
Linn RWD #3	Osage RWD #6	Washington RWD #1	
Linn Valley Lakes	Osage RWD #7	Washington RWD #2	
Lyon RWD #1	Osage RWD #8	Washington RWD #3	
Lyon RWD #2	Osborne RWD #2	Wilson RWD #1	
Lyon RWD #3	Osborne RWD 1A	Wilson RWD #10	
Lyon RWD #4	Ottawa RWD #1	Wilson RWD #11	
Lyon RWD #5	Ottawa RWD #2	Wilson RWD #12	
Marion County Improvement Dist. #2	Pottawatomie RWD #1	Wilson RWD #3	
Marion RWD #1	Pottawatomie RWD #2	Wilson RWD #5	
	Pottawatomie RWD #3	Wilson RWD #6	
	Public Wholesale #12	Wilson RWD #7	

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Gary H. Hanson
Larry D. Hendricks

Tom R. Barnes II
Karen T. Poulton
Todd A. Luckman
Wesley F. Smith

**COMMENTS ON HOUSE BILL 2658
BEFORE THE HOUSE ENVIRONMENT COMMITTEE
JANUARY 25, 2000**

Madam Chairwoman and Members of the Committee:

Our firm serves as counsel for over thirty small public water supplies, as well as the Kansas Rural Water Association. I support House bill 2658.

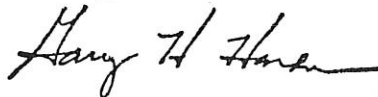
My comments will be limited to the issue of sales tax. HB 2658 imposes a fee based on water sales in exchange for an exemption from sales taxes for public water supplies' purchases. I believe this is a fair trade. Municipally owned and operated public water supplies are not exempt from sales taxes on purchases, but may claim the same kinds of exemptions that any manufacturer and distributor of products may claim. However, these rules are complex and extremely difficult to apply to small water systems. For example, if a city buys a pickup truck for exclusive use by the street department, it is sales tax exempt. If it is used in part by the street department and in part by the water department, it is not sales tax exempt. In small cities where the same employee does both jobs, the result is confusing.

Even the Revenue Department and Board of Tax appeals has trouble applying these rules to public water supplies. In a Kansas Court of Appeals decision of August, 1999¹, the court ruled that electricity consumed in the pressurization of water was tax exempt, thereby overruling the BOTTA and reversing a long-standing KDOR policy. The court's decision could prompt a wave of disputes between the hundreds of Kansas public water supplies and the KDOR over the application of this and related exemptions.

I find this web of rules hard to apply fairly to public water supplies in the best of circumstances. Coupled with the fact that many public water systems are relatively unsophisticated (some rural water districts have no full time staff), I believe that there is relatively poor compliance, or at least non-uniform compliance. By contrast, the fee fund is simple. I would expect compliance to be relatively easy to insure. Less time would be spent by all in trying to comply with a complex taxation and exemption scheme.

For these reasons, I respectfully suggest favorable action on HB 2658.

Sincerely,



GARY H. HANSON

¹ In re Water District No. 1 of Johnson County, 1999 WL 607913 (Kan. App. 1999)

House Environment
1-25-00
Attachment 4



CITY OF SABETHA, KANSAS

Request for Support from

THE HOUSE ENVIRONMENT COMMITTEE

for Approval of
HOUSE BILL 2658

January 25, 2000

Madam Chairwoman and Distinguished Members of the Committee:

As elected officials representing the best interests of our community, the City of Sabetha Governing Body appreciates this opportunity to express our encouragement to the honorable members of the House Environment Committee to support approval of House Bill 2658 for the State of Kansas.

The present sales tax laws that apply to public water systems are exceedingly confusing to cities, rural water districts, contractors and even the Department of Revenue. Determining which products and services are used in "production" of water (non-taxable), and which are "distribution" expenses (taxable), has led to an accounting nightmare for the City of Sabetha. Because it is so difficult for even the most experienced professionals to determine which components are used in production and which are used in distribution, many of which are shared resources for both functions, it is certain that some cities and systems pay sales tax on all purchases, while others pay no sales tax on water system purchases.

The City of Sabetha and other water systems in Kansas are willing to pay their fair share to fund regulatory duties. We also strongly feel that it is imperative the procedure of determining the "fair share due" is uniform and proportionally equivalent for all Kansas public water systems.

Approval of House Bill 2658 will result in generation of dedicated, reliable, and consistent revenue for use of the Bureau of Water at KDHE. The City of Sabetha does not see the proposed fee as a new tax. In fact, dependent on the amount of future construction and service improvements implemented, it will likely reduce the total cost to users in Sabetha.

It is the City of Sabetha's hope that the Legislature will agree that House Bill 2658 is a reasonable compromise between KDHE's Bureau of Water, municipalities and water systems throughout Kansas. With all respect, the City of Sabetha appeals to the House Environment Committee and Kansas Legislature to support House Bill 2658.

Respectfully,

Norman D. Schmitt, Jr.
Mayor, City of Sabetha, KS

CITY OF SABETHA, KANSAS

805 Main • P.O Box 187 • Sabetha, Kansas 66534 • (785) 284-2158 • Fax (785) 284-2112

*House Environment
1-25-00
Attachment 5*



League of Kansas Municipalities

To: House Environment
From: Kim Gulley, Director of Policy Development
& Communications
Date: January 25, 2000
Re: Comments Concerning HB 2658

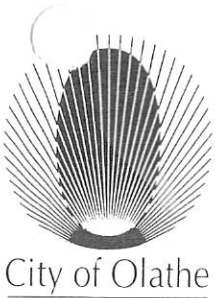
Thank you for allowing me to appear today on behalf of the League of Kansas Municipalities and our 530 member cities. The League is very supportive of increased training and technical assistance for public water supply systems. Many small cities in Kansas operate public water supplies and the expertise in this area varies greatly across the state. Therefore, we support the portions of HB 2658 that expand the uses of the fee fund revenues as well as the addition of a League representative on the advisory board that makes recommendations concerning the use of this fund.

We have two primary areas of concern:

- Funding Mechanism. The proposed funding in this bill involves a 10-fold increase in the fee which is currently paid by retail water users. Because the fee is based upon the gallons of water sold at retail, water users in the largest cities in this state will bear the greatest burden. However, it is the smallest cities in the state which are in need of the most training and technical assistance. It is likely that those citizens which will contribute the most under this proposal will see the least return for their investment.
- Sales Tax Exemption. Because the operation of a public water supply system is a governmental enterprise, the League has long supported the notion that these systems should not be subject to the retail sales tax. In fact, HB 2011, which would have accomplished the same goal, passed the House last year by a margin of 120 to 4. It remains in Senate Assessment and Taxation. Because it would only apply to direct purchases made by a public water supplier, HB 2658 is a narrower exemption than that which was included in HB 2011. In addition, because HB 2658 leaves the word "water" on Pg. 5, line 13, it creates an ambiguity which should be clarified. Should the Committee decide to proceed on this portion of the bill, we would recommend using the language of HB 2011 as it passed out of the House Taxation Committee and the House Committee of the Whole.

In summary, we support the concept of HB 2658, but respectfully oppose the funding mechanism which has been proposed. For this reason, we ask that you not report HB 2658 in its current form favorably for passage.

Thank you.



MEMORANDUM

TO: Members of the House Environment Committee
FROM: Donald R. Seifert, Management Services Director *DRS*
SUBJECT: **HB 2658**; Public Water Supply Fee
DATE: January 25, 2000

On behalf of the City of Olathe, thank you for the opportunity to appear this afternoon to express concern about **HB 2658**. This bill would increase the current public water supply fee, enacted in 1992, from \$.002 to \$.03 per thousand gallons of water sold at retail. The bill would also broaden the duties and membership of the committee charged with advising the Secretary of KDHE on expenditures from the public water supply fee fund, and exempt public water systems from certain lab fees. The bill also exempts purchases made by public water utilities from the state and local sales tax, an action already passed by the House last year in **HB 2011**.

The City of Olathe is one of the larger municipal water utilities in the state, currently serving about 27,000 retail water customers. **HB 2658** would provide a funding stream to significantly increase the staffing and resources of KDHE to regulate all public water suppliers, respond to federal drinking water requirements, and provide technical assistance and training. These are all proper responsibilities of a state regulatory agency. Reasonable regulatory fees are an appropriate and accepted means of partially funding regulatory activities. The city is certainly sympathetic to unfunded federal mandates; however, we have several concerns with this bill.

First, the proposed funding mechanism appears excessive and inequitable. The bill proposes a fifteen-fold increase in the water supply fee, increasing the present \$200,000 KDHE monitoring program to a \$3.3 million level with 19 new positions. The fiscal impact on our water customers is approximately \$100,000. The city would not expect to receive anywhere near this in services from the department. Currently, we spend about \$8000 annually with KDHE on regulatory testing fees that are not handled internally in our own lab. This fee increase is a rather ambitious, immediate expansion to address clean water standards that have been on the horizon for years. A longer transition period should be considered.

Secondly, the proposed fee increase seems to bear little relation to the regulatory burden. The state's larger water utilities like Olathe will have a disproportionate share of the fee

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increase, although they account for a relatively small share of the department's workload and use of services.

Finally, **HB 2658** should be viewed in context of other environmental regulations that are facing state and local governments. Our city, like others across Kansas and the nation, faces costly requirements not only in drinking water, but also wastewater, stormwater, and solid waste. Will the future also bring new regulatory fees to these areas? Would the public interest be better served by state and local government looking in partnership at these issues in a larger context?

As a final observation, the city believes the sales tax exemption provision in Section 3 of the bill tends to confuse the fee increase issue. Last year the city supported HB 2011, which almost unanimously passed the House. In our view, it still makes sense today. Application of sales tax to purchases made by our water utility adds to the operating and capital cost of this basic service, and is the only area of municipal government subject to the sales tax. However, even if the Senate were to pass HB 2011, we estimate the sales tax savings are far outweighed by the water supply fee increase.

The City of Olathe has been in the water business since 1884 and is strongly committed to protecting public health through quality, safe drinking water. We respectfully suggest the regulatory fee concept in **HB 2658** needs additional study. Our staff is willing to devote time to this effort.

Thank you again for the opportunity to comment on this bill.



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**Testimony Presented on Behalf of
WATER DISTRICT NO. 1 OF JOHNSON COUNTY
Regarding House Bill 2658**

Presented at the
House Committee On Environment
On January 25, 2000

Water District No. 1 is a political subdivision organized as a regional water utility under K.S.A. 19-3501 et seq. to serve the suburban region in and around Johnson County. It is governed by a seven (7) member elected Board and operates as a quasi-municipal corporation. We currently serve over 330,000 consumers.

The stated purpose of the proposed fee is to raise enough money to fund 19 new positions at KDHE. The new positions would regulate, inspect and provide technical assistance to public water systems. KDHE has indicated that the services would primarily benefit small water systems. The proposed fees would cost Water District ratepayers approximately \$631,000 annually when fully implemented with very little, if any benefit. The District operates its own laboratory and uses very little technical assistance from KDHE. The proposed fee structure is therefore inequitable to larger water utilities like Water District No. 1. There is no correlation between the resources necessary to regulate individual utilities and the gallons of water sold by that utility. A more equitable fee structure would be either a user fee, whereby the users of the services pay for the services they need or to annually charge each of the 930 permitted water systems in the state a flat fee to raise the necessary funds. If the fee is restructured in a more equitable manner we could support the additional funding being proposed by KDHE.

Section 3 of the bill attempts to provide a complete sales tax exemption to public water suppliers in exchange for this inequitable fee structure. This section is similar to House Bill 2011, which was adopted by the House last session, however, it contains technical problems that make it less desirable than House Bill 2011. In particular, it does not provide any exemption for indirect purchases by contractors doing work for the public water utilities.

Therefore, Water District No. 1 of Johnson County can not support this bill in its present form.

*House Environment
1-25-00
Attachment 3*



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony presented to
House Environment Committee
January 25, 2000
by
Karl Mueldener
House Bill 2658

KDHE is here to comment on HB 2658. KDHE, following legislative encouragement and approval, utilizes a number of dedicated funds to help support environmental programs. Fee funds are widely used by many states. Examples now established in Kansas include funds for tires, solid waste tipping, hazardous wastes, coal mining, petroleum storage tanks, dry cleaners, and air emissions.

Kansans are being confronted with new and complex requirements regarding water quality. This bill addresses the state's needs regarding drinking water. There are a host of significant needs regarding surface water and ground water programs which also need to be dealt with. Some of those needs include: stormwater permitting, disinfection byproducts, radon, revolving loan fund management, source protection, enhanced surface water treatment, consumer confidence reports, technical assistance, management capacity assurance, arsenic and selenium standards, and requirements for unregulated contaminants. While the demands on the state and the public's expectations for water quality continue, Kansas has significantly downsized its oversight of water quality programs. The Bureau of Water is operating with one-third less people than a decade ago.

DIVISION OF ENVIRONMENT
Bureau of Water

Forbes Field, Building 283
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