

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE.

The meeting was called to order by Chairman Robert Tyson at 8:35 a.m. on March 14, 2002 in Room 423-S of the Capitol.

All members were present except: Senator Tim Huelskamp - excused

Committee staff present: Raney Gilliland, Legislative Research Department
Lisa Montgomery, Office of Revisor of Statutes
Deborah McIntire, Committee Secretary

Conferees appearing before the committee:
Bill Bider, Director, Bureau of Waste Management
Woody Moses, Managing Director, Kansas Cement Council
Gary Hanson, Counsel, Kansas Rural Water Association
Representative Tom Sloan
Judy A. Moler, General Counsel/Legislative Services Director, Kansas
Association of Counties

Others attending: See attached list

Chairman Tyson opened the hearing on **HB 2686**.

Briefing by staff on HB 2686

HB 2686 was considered in the form of **SB 519**, which was heard by the committee on February 15, 2002. This bill would amend solid waste statutes with respect to the annual permit renewal fee for solid waste disposal areas which are owned and operated by facilities generating and disposing of their own industrial waste. Under the bill, the annual permit renewal fee for these disposal areas would be not less than \$1,000 nor more than \$4,000. The bill would also require the Secretary of the Kansas Department of Health and Environment to adopt a differential fee schedule based upon the characteristics of the disposal area sites. Other amendments would clarify that industrial waste disposed of at a permitted facility, owned and operated by the facility generating the waste and used only for waste generated by the facility, would be exempt from the statewide solid waste tipping fee. The bill would also clarify that this type of waste would be exempt from any locally imposed fee. Questions and discussion followed.

Testimony on HB 2686

The first conferee and proponent was Bill Bider (Director, Bureau of Waste Management). KDHE believes that this bill provides a fair method of fee collection for the facilities which operate on-site industrial landfills. (Attachment 1). Questions and discussion followed.

The second conferee and opponent was Woody Moses (Managing Director, Kansas Cement Council). He testified that the fee structure primarily benefits larger generators and would ask that the bill be amended to provide a fee cap of \$1500 per year for facilities managing only cement kiln dust. (Attachment 2). Questions and discussion followed.

Chairman Tyson closed the hearing on **HB 2686**.

Chairman Tyson opened the hearing on **HB 2624**.

Briefing by staff on HB 2624

This bill would allow public wholesale water supply districts to provide, by contract, to participating public agencies for the operation and maintenance of state-permitted wastewater treatment works, systems, and other facilities and services relating to the treatment of wastewater. The bill also would permit rural water districts the power to contract with cities or counties, or both, to operate and maintain

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:35 a.m. on March 14, 2002 in Room 423-S of the Capitol.

state-permitted wastewater treatment works, systems, and other facilities relating to the treatment of wastewater.

Testimony on HB 2624

The first conferee and proponent was Gary Hanson (Counsel to the Kansas Rural Water Association). He testified that this bill would allow Rural Water Districts and Public Wholesale Water Districts to contract to operate wastewater systems. The law currently does not allow for such contracts. (Attachment 3).

Written testimony was provided by Representative Tom Sloan (Attachment 4) and Judy A. Moler (General Counsel/Legislative Services Director, Kansas Association of Counties) (Attachment 5) in favor of this bill.

Chairman Tyson closed the hearing on **HB 2624**.

Senator Schmidt moved that the minutes from the March 7 and March 8, 2002, meetings be approved. Senator Lee seconded. The motion carried.

The meeting adjourned at 9:26 a.m.

The next meeting is scheduled for March 15 at 8:30 a.m.

**SENATE NATURAL RESOURCES COMMITTEE
GUEST LIST**

DATE: March 14, 2002

NAME	REPRESENTING
Joe Duk	KCKBPU
Paul Petero	LaFarge North America
Woody Moses	Ks. Cement Council
Wendy Harms	✓ ✓ ✓
John R. Botterling	Westar Energy
Keith Bradshaw	Div. of the Budget
Jenny Henry	St. Rep - Hutchinson
Gary Hanson	Kansas Rural Water Assoc.
Bill Bider	KDHE
Kara	Davis Office
Mark Whit	Kearney Law
Guth Green	KCPK



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

Testimony on House Bill 2686

to

Senate Natural Resources Committee

presented by

Bill Bider, Director, Bureau of Waste Management
Kansas Department of Health and Environment
March 14, 2002

The Kansas Department of Health and Environment appreciates this opportunity to provide testimony in support of House Bill 2686. This bill is identical to Senate Bill 519 which has already had a hearing this year in this committee. HB 2686 would eliminate the solid waste tonnage fee for all waste disposed of in on-site industrial landfills. The bill also establishes a new range for annual permit renewal fees. KDHE is directed to revise current regulations to include a fee schedule for permit renewal fees ranging from \$1,000 to \$4,000 depending upon facility characteristics and KDHE's anticipated level of effort to oversee facilities of varying complexity. Presently, all industrial landfills pay an annual fee of \$1,000 regardless of facility complexity.

Because no state general funds are used to pay for solid waste program expenses, fees must cover all program costs. This includes expenditures related to inspections, inspection report preparation, permit modifications, groundwater monitoring oversight, groundwater sampling and analysis, insurance and financial assurance reviews, public notices, and compliance and enforcement activities when necessary. Preliminary calculations indicate that a \$1,000 annual fee would be appropriate for the least complex landfill and \$4,000 would be appropriate for the most complex landfill.

In addition to the current \$1,000 per year annual permit renewal fee, some on-site industrial landfills pay the \$1 per ton disposal fee which ranges from just a few hundred dollars per year to about \$25,000 per year. Industries which presently landfill waste that is partially or totally exempt from tonnage fees may pay higher annual renewal fees under the proposed scenario, if they operate a complex landfill. However, nearly all businesses that pay tonnage fees will pay less in total fees.

The net impact of this bill on revenue to the solid waste management fund should be minor. Overall, it is estimated that about \$5,000 to \$10,000 less will be collected from affected businesses; however, that estimate is based upon several assumptions which are uncertain. About 20 industrial

Testimony on HB 2686

March 14, 2002

Page 2

landfill owners that paid tonnage fees in 2000 would no longer be subject to those fees. These landfill owners paid a total of \$65,000 in 2000. About 30 facilities will be subject to a higher annual permit renewal fee in the future. If we assume that the average increase will be about \$2,000, they will pay \$60,000 more per year yielding a net reduction in revenue of only \$5,000. However, if the average increase is only \$1,000, revenue will decrease by \$35,000 per year.

KDHE believes that the substitute bill provides a fair method of fee collection for the facilities which operate on-site industrial landfills. It has the added benefit of allowing landfill owners to submit all of their fees as part of the annual permit renewal process which they are already carrying out. They will not need to submit monthly or quarterly reports with tonnage fee payments. Much less paperwork will be required.

I would be happy to answer any questions.

KANSAS CEMENT COUNCIL

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TESTIMONY

Date: March 14, 2002
By: Woody Moses, Managing Director,
Kansas Cement Council
Regarding: HB 2686 – Solid Waste Tonnage Fees
Before: The Senate Committee on Natural Resources

Good Morning Mr. Chairman and Members of the Committee:

My name is Edward R. (Woody) Moses, representing the Kansas Cement Council. We thank you for the opportunity to provide our comments on House Bill No. 2686 as amended.

The Kansas Cement Council is a coalition comprised of the Ash Grove Cement Co., Heartland Cement Co., Lafarge North America and the Monarch Cement Co. all of whom operate cement manufacturing plants in Southeast Kansas. At the beginning of the last century, Kansas, blessed with good limestone and abundant natural gas, was a national leader in the production of cement; the basic ingredient used in the manufacture of concrete. At its peak the Kansas cement industry operated seventeen kilns and mills and shipped product to both coasts. Since that time market forces, more efficient production and lately environmental regulation have conspired to reduce that number to four active plants operating today. In order to compete with more modern and efficient plants in Oklahoma, Missouri and Mexico all of these facilities, having antiquated plants, experience a constant struggle to remain as efficient as possible. Most notably, employing an amazing variety of techniques in the area of waste energy recovery. Were it not for the regulatory programs approved by previous legislatures these facilities would probably not be operational today.

The intent of previous legislatures to provide sensible regulatory programs is evident in the current provisions of K.S.A. 2001 Supp. 65-3415b, which provides for the exemption of certain wastes from fees when managed internally by certain generators. These exemptions first approved in 1993 were granted as an incentive to encourage cement mills to keep Cement Kiln Dust, a waste product of the cement manufacturing process, out of Municipal Solid Waste facilities. As a result three of the four operating kilns in Kansas constructed private landfills for the management of solid waste. HB 2686 as drafted would reverse this policy and impose fees. As such we reluctantly appear before you today in opposition to HB2686 as drafted. While we support the effort of one industry to seek fairness in the assessment of regulatory fees, we do not think it should happen at the expense of another.

Senate Natural Resources Committee

Date 3-14-02

Attachment # 2

1. We disagree with the assertion that HB2686 is a fairer method of assessing the burden of regulation among owners of industrial landfills. For example a \$4,000 fee assessed against a generator of 150,000 tons of flyash per year will cost the generator \$.026 per ton. While the same fee assessed against the 20,000 tons of CKD generated by the Heartland Cement Co. in will equal \$.20 per ton.
2. In order to take advantage of these exemptions and operating under the current rules the Kansas cement industry undertook to construct and maintained private landfills. Once again the expense of these facilities are amortized over 20,000 not 150,000 tons per year.

While amendments added by the House substitute have improved the fee structure these improvements primarily benefit larger generators. We believe the simply remedy is to amend this bill further by providing a fee cap of \$1,500 on per year for facilities managing only cement kiln dust. As the Kansas Department of Health & Environment has estimated its inspection costs at \$1,000 per year for simple landfills we think such an amendment would allow the agency to recover its base cost while providing a level of cost protection for our industry. If such an amendment were made we would be able to support this measure.

Once again we wish to express our reluctance in taking opposition to a measure that has an overall worthy purpose. Had we been allowed to participate in the discussions held on this subject prior to the introduction of this bill our opposition may have been unnecessary. Once again, thank you for the opportunity to provide these comments. I will be happy to respond to any questions you may have at this time.

1 this act.

2 (2) The annual permit renewal fee for a solid waste disposal area
3 which is permitted by the secretary, owned and operated by the facility
4 generating the waste and used only for industrial waste generated by such
5 facility shall be not less than \$1,000 nor more than \$4,000. In establishing
6 fees for such disposal areas, the secretary shall adopt a differential fee
7 schedule based upon the characteristics of the disposal area sites.

For any other such disposal area

(A) Not less than \$1,000 nor more than
\$1,500 for any such disposal area which
is a monofill for disposal of cement
kiln dust from the manufacture
of portland and masonry cement;
and (B)

8 (f) Plans, designs and relevant data for the construction of solid waste
9 processing facilities and disposal sites shall be prepared by a professional
10 engineer licensed to practice in Kansas and shall be submitted to the
11 department for approval prior to the construction, alteration or operation
12 of such facility or area. In adopting rules and regulations, the secretary
13 may specify sites, areas or facilities where the environmental impact is
14 minimal and may waive such preparation requirements provided that a
15 review of such plans is conducted by a professional engineer licensed to
16 practice in Kansas.

17 (g) Each permit granted by the secretary, as provided in this act, shall
18 be subject to such conditions as the secretary deems necessary to protect
19 human health and the environment and to conserve the sites. Such con-
20 ditions shall include approval by the secretary of the types and quantities
21 of solid waste allowable for processing or disposal at the permitted
22 location.

23 (h) As a condition of granting a permit to operate any processing
24 facility or disposal area for solid waste, the secretary shall require the
25 permittee to: (1) Provide a trust fund, surety bond guaranteeing pay-
26 ment, irrevocable letter of credit or insurance policy, to pay the costs of
27 closure and postclosure care; or (2) pass a financial test or obtain a finan-
28 cial guarantee from a related entity, to guarantee the future availability
29 of funds to pay the costs of closure and postclosure care. The secretary
30 shall prescribe the methods to be used by a permittee to demonstrate
31 sufficient financial strength to become eligible to use a financial test or a
32 financial guarantee procedure in lieu of providing the financial instru-
33 ments listed in (1) above. Solid waste processing facilities or disposal
34 areas, except municipal solid waste landfills, may also demonstrate finan-
35 cial assurance for closure and postclosure care costs by use of ad valorem
36 taxing power. In addition, the secretary shall require the permittee to
37 provide liability insurance coverage during the period that the facility or
38 area is active, and during the term of the facility or area is subject to
39 postclosure care, in such amount as determined by the secretary to insure
40 the financial responsibility of the permittee for accidental occurrences at
41 the site of the facility or area. Any such liability insurance as may be
42 required pursuant to this subsection or pursuant to the rules and regu-
43 lations of the secretary shall be issued by an insurance company author-

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TESTIMONY

Date: February 15, 2002

By: Woody Moses, Managing Director,
Kansas Cement Council

Regarding: Solid Waste Fees, SB 519

Before: The Senate Committee on Natural Resources

Good Morning Chairman and Members of the Committee:

My name is Edward R. (Woody) Moses, representing the Kansas Cement Council. We thank you for the opportunity to provide our comments on Senate Bill No. 519.

The Kansas Cement Council is a coalition comprised of the Ash Grove Cement Co., Heartland Cement Co. and the Lafarge Corporation all of whom operate cement manufacturing plants in Southeast Kansas. At the beginning of the last century, Kansas, blessed with good limestone and abundant natural gas, was a national leader in the production of cement; the basic ingredient used in the manufacture of concrete. At its peak the Kansas cement industry operated seventeen kilns, shipping cement to both coasts. Since that time market forces, more efficient production and lately environmental regulation have conspired to reduce that number to four active plants operating today. In order to compete with more modern and efficient plants in Oklahoma, Missouri and Mexico, all of these facilities have employed an amazing variety of techniques in the area of waste energy recovery. Were it not for the regulatory programs approved by previous legislatures these facilities would not be in operation today.

The intent of previous legislatures to provide sensible regulatory programs is evident in the current provisions of K.S.A. 2001 Supp. 65-3415b, which exempts certain wastes from fees when managed internally by generators. SB 519 as drafted would reverse this policy. Consequently, we oppose SB 519, in its current form, for the following reasons:

1. Adoption of SB 519 would significantly increase operating costs for cement mills.
2. Adoption of SB 519 would significantly alter state policy encouraging the responsible handling of wastes in an environmentally friendly manner.
3. The Kansas cement industry, unlike utilities with a protected rate base, would be unable to pass new costs along as they must compete in the free market against more modern cement mills.
4. Our industry already pays KDHE over \$500,000 per year in fees. Fees which have been raised significantly in the past few years.

The Kansas Cement Council is aware the proposed substitute for SB 519, which would address many of the concerns listed above. We are prepared to provide limited support for this compromise pending the receipt of more detailed information on how the fees in the substitute would be assessed. Specifically, we support language that would cap the fees for Cement Kiln Dust at \$1,000 per anum.

In closing, we simply urge this committee and the legislature to carefully consider the impacts a policy change may have upon this industry, which provides employment to over 400 people, and products that keep construction costs competitive in Kansas communities.

Thank you for the opportunity to provide these comments. I will be happy to respond to any questions you may have at this time.

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March 14, 2002

Senator Robert Tyson, Chairman
Committee on Natural Resources
Room 423 S.

Re: Testimony in Support of House Bill 2624

Dear Chairman Tyson and Members of the Committee:

This firm serves as counsel to the Kansas Rural Water Association (KRWA), and is an associate member of that association.

We are testifying in support of House Bill 2624, as amended, because it would allow Rural Water Districts (RWD's) and Public Wholesale Water Districts (PWWSD's) to contract to operate wastewater systems. The law currently does not allow for such contracts.

Some wastewater systems are ill-equipped to carry out their operational responsibilities. Efficiencies could be achieved in some of those instances by contracting with an RWD or PWWSD to provide the necessary operational and maintenance services. House Bill 2624 would give these systems the statutory tool needed in order to realize these efficiencies.

The Bill does not create any new obligations or responsibilities, either on property owners or wastewater systems. It merely gives wastewater systems another option to consider as a means to operate and maintain such systems. Wastewater systems currently have the ability to contract with cities and counties for these responsibilities. This Bill allows for the additional options of contracting with RWD's and PWWSD's.

For the reasons described above, we urge the Committee to give favorable consideration to HB 2624.

Very truly yours,



GARY H. HANSON

GHH:de

TOM SLOAN

REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

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HOUSE OF
REPRESENTATIVES

Testimony on HB 2624 – Senate Natural Resources Committee

Mr. Chairman, Members of the Committee:

HB 2624 was introduced in response to two complementary interests: 1) a recognition that suburban development with concentrated septic systems has a very real potential to cause pollution problems, and 2) an acknowledgment by several local governments that they are not positioned to operate and provide monthly billing services for sanitary wastewater systems.

The House Environment Committee correctly amended the bill to remove the ability of a rural water system to construct a wastewater system. Testimony from local government officials indicated that such systems generally are financed by municipal bonds, something a rural water system cannot issue because they have no taxing authority. However, those same local government representatives indicated support for having the potential to contract with rural water districts and public wholesale water supply systems to operate the wastewater system.

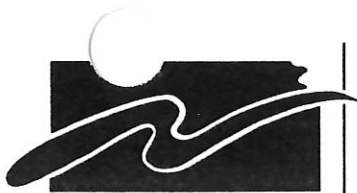
Under current statutes, rural water districts and public wholesale water supply districts are prohibited from providing this service. The bill does not require rural water districts to operate a wastewater system, nor does it require cities and counties to contract with a RWD. It simply provides a management tool to better ensure ground water is protected and taxpayers receive the best value for their investment.

Thank you for the opportunity to provide this testimony.

Senate Natural Resources Committee

Date 3-14-02

Attachment # 4



KANSAS
ASSOCIATION OF
COUNTIES

WRITTEN TESTIMONY
Before the Senate Natural Resources
HB 2624
March 14, 2002

By Judy A. Moler, General Counsel/Legislative Services Director

Thank you Chairman Tyson and Members of the Committee for allowing the Kansas Association of Counties to provide written testimony on HB 2624.

The Kansas Association of Counties supports the passage of HB 2624. The KAC has worked with Representative Sloan and the House Environment Committee on this bill to make it agreeable to all.

The Kansas Association of Counties respectfully urges the committee to pass out of committee HB 2624.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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Senate Natural Resources Committee

Date 3-14-02

Attachment # 5