

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on January 23, 2007 in Room 526-S of the Capitol.

Committee members absent: Senator Janis Lee- excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department  
Tatiana Lin, KSU Legislative Fellow  
Mike Corrigan, Revisor of Statutes  
Ann McMorris, Committee Secretary

Conferees appearing before the committee: Ron Hein, Associated Builders & Contractors  
Elmer Ronnebaum, Kansas Rural Water Association, Seneca  
Tim Danneburg, City of Olathe  
Kim Winn, League of Kansas Municipalities

Others in attendance See attached list

Chairman Emler announced information requested by the committee has been included with the presentations as follows:

1. 1-18-2007 - Press Release on KEEP Program dated 11/20/06 (Attachment 1)
2. 1-18-2007 - Letter from Kansas Housing Resources Corporation with additional information on weatherization and KEEP (Attachment 2)
3. 1-23-2007 League of Kansas Municipalities memo dated 1/12/2007 sent to selected municipal water and sewer utilities (Attachment 3)

Hearing on SB 20 - Kansas Underground Utility Damage Prevention Act (continued)

Proponents

Ron Hein, Associated Builders and Contractors, Heart of America Chapter, was in favor of all utilities belonging to One Call in order for the system to work. Contractors must be prudent in trying to make sure they do not run into existing facilities causing delays, expensive repairs, down time and potential safety risks. (Attachment 4)

Much discussion on how liability is currently determined.

Written testimony was provided by:

Kim Brown, Smoky Hills, LLC (Attachment 5)

Chuck Hill, Cornejo & Sons, Inc., Wichita, KS (Attachment 6)

Christopher Rech, A. M. Cohron & Son, Inc, Emporia, KS (Attachment 7)

Dale Goter, City of Wichita (Attachment 8)

(Leo Haynos of the KCC provided locate information on the City of Wichita.)

Opponents

Elmer Ronnebaum, Kansas Rural Water Association, Seneca, stated their opposition to mandatory participation of public water and wastewater systems in Kansas One Call. It is important to improve the locate process without loading the burden onto the public water and wastewater utilities. (Attachment 9)

Discussion on maps correctly identifying the utilities and if contractors who lay lines should be asked to provide information for mapping.

Tim Dannenburg, City of Olathe, strongly opposes this unfunded mandate and stressed that it will increase costs to ratepayers with no return for customers. He noted contractors were required to apply for a permit to excavate in Olathe and that information was provided for utilities, other than Olathe-owned, that run through the city. (Attachment 10)

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on January 23, 2007 in Room 526-S of the Capitol.

Kim Winn, League of Kansas Municipalities, noted the following policy was adopted by LKM - "we support the inclusion of municipal utilities in the state one-call system on a voluntary basis." **SB 20** changes the liability standard so that excavators would have zero liability unless gross negligence could be proven. Technical assistance and training would be one direction toward getting accurate maps. The League supports mandatory provisions on locating all future construction projects. (Attachment 11)

Written testimony was provided by John Zutavern, City Commissioner, City of Abilene. (Attachment 12)

Chair closed the hearing on **SB 20**.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 12

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: JANUARY 23, 2007

Name	Representing
JIM BARTLING	ATMOS ENERGY
MIKE DEARMOND	ATMOS ENERGY
Leo Haynos	KCC
Bill Haistig	KCC
Dud Burke	City of Olathe
Tim Danneberg	City of Olathe
David Bries	City of Olathe
Elmer Rombbaum	Ks Rural Water
Pat Lehman	KRW A
Tom Shimon	Kansas One Call
Dini Carter	City of Manhattan
Jim Gardner	AT&T
Steve Johnson	Kansas Gas Service / ONEOK
JOHN C. BOTZENBERG	WESTAR
Bob Totten	Kg Contractors Association





FOR IMMEDIATE RELEASE

## **New Energy Efficiency Program to Help Kansans Reduce Fuel Costs**

**Topeka, KS** - Nov. 20, 2006 - The Kansas Housing Resources Corporation (KHRC) has launched a statewide initiative to promote energy conservation and reduce home heating costs. The initiative is the Kansas Energy Efficiency Program, or KEEP, which allows income-eligible homeowners to obtain low interest loans to purchase energy efficient heating systems and to make other energy conservation home improvements.

“The most effective way to help homeowners reduce skyrocketing heating bills is to help them save energy,” said Christine Reimler, KHRC’s Homeownership Manager. “KEEP provides immediate assistance to Kansans who need it most, and encourages homeowners to make long-lasting, energy conscious improvements to their homes.”

Funding for KEEP is \$2 million and is part of Governor Kathleen Sebelius’ Warm Homes Project. KHRC funds half of the loan amounts, up to a maximum of \$7500. Total loan amounts could be higher as determined by the lender. The zero interest rate on KHRC funds translates into a lower blended rate than obtained through a normal second mortgage loan. KEEP begins immediately and will continue as funding is available.

“This is a great way to help Kansans keep costs down, stay warm through the winter and conserve energy,” Sebelius said. “I hope many Kansas families consider this as an option.”

KHRC is pleased to announce that Sunflower Bank, a family-owned bank with 34 locations throughout Kansas and Colorado, is the official lender for KEEP. “Sunflower Bank is committed to the support of energy efficiency throughout our communities and the state of Kansas. We are extremely honored to be the official lender of KEEP,” said Mollie Carter, President & CEO of Sunflower Bank.

Home improvements allowed under KEEP include:

- Installing specified ENERGY STAR furnaces, central air conditioners, heat pumps, water heaters and ventilation systems.
- Installing wall & floor insulation, new doors and windows and weather-stripping.
- Air sealing, duct work and the purchase of certain ENERGY STAR appliances such as refrigerators, washers, dryers, dish washers and programmable thermostats.

For more information about KEEP, interested applicants should contact Sunflower Bank directly at (888) 827-5564 or visit the bank’s website at [www.sunflowerbank.com](http://www.sunflowerbank.com). Certain restrictions apply to KEEP improvements. Applicants should consult KHRC’s website for details.

KHRC’s mission is to enhance Kansas communities with housing opportunities using a variety of strategies and approaches, including increasing homeownership opportunities, promoting energy efficiency improvements for owner-occupied and rental housing and providing affordable housing through rent assistance to low-income families and senior citizens.

Media Contact: Catherine Couch, 785-296-0081 or [ccouch@kshousingcorp.org](mailto:ccouch@kshousingcorp.org)



Date: Jan. 17, 2007

To: Ann McMorris, Committee Secretary  
Senate Utilities Committee, Kansas State Legislature

From: Catherine Couch, Communications Specialist  
Kansas Housing Resources Corporation

**RE: Weatherization Assistance Program & Kansas Energy Efficiency Program**

Ann, as a follow-up to the presentations by Kansas Housing Resources Corporation regarding the Weatherization Assistance Program (WAP) and the newly launched Kansas Energy Efficiency Program (KEEP), we would like to provide Senate utility committee members with additional information.

**Weatherization Assistance Program**

During today's presentation, committee members asked about methods Kansans may use to easily determine if weatherization measures are needed for their home and if complaint procedures exist to monitor customer satisfaction once weatherization improvements have been completed on a home.

A home's energy efficiency level depends on several factors which include the building's age, the type and efficiency of the home's heating system, water heater and household appliances, whether or not the house is insulated, as well as the family's lifestyle. Because so many factors are involved, energy efficiency is best determined by professional energy auditors trained to conduct whole-house energy check ups. Energy auditors utilize specialized equipment such as infrared cameras and blower doors to determine where energy is being lost and what a homeowner should do to address the problems.

In regards to complaint resolution discussed at the hearing, the weatherization program contracts with trained inspectors who conduct a final inspection within a week or two after all work is completed. Inspectors ensure that improvements meet federal, state and KHRC materials and installation standards. Clients sign off on a statement either affirming or denying that the work was completed satisfactorily.

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If a complaint arises during the installation process, program application forms provide phone numbers for clients to contact the sub-grantee's weatherization director. If the weatherization director is unable to resolve the complaint, clients may then contact that agency's executive director. If the problem still remains unresolved, clients may lodge a complaint directly with KHRC and we will investigate the situation.

In addition, KHRC plans to implement a customer satisfaction survey to be distributed to weatherization clients within one year after work is completed. The survey will ask clients to rate their satisfaction with improvements made and their home's comfort level. The questionnaire will also ask clients to determine if their family's energy usage has decreased, if the homeowner received all improvements requested and if damages were made to the home during the weatherization process.

### **Kansas Energy Efficiency Program**

Per a request by committee members, attached is the KEEP news release. You may also follow [this link](#) to view the KEEP brochure posted on the KHRC website. Once printing is completed, KHRC staff will forward hard copies of the KEEP brochure to committee members to keep for their records.

As mentioned during today's hearing, KHRC is working to distribute KEEP brochures to Sunflower Bank locations to our community action program agencies across the state. Westar Energy is also partnering with KHRC to promote KEEP to their utility customers through bill inserts and by posting information on Westar's website. KHRC will reach out to other utilities, such as Kansas Gas Service, Midwest Energy and the Rural Electric Cooperatives in an attempt to conduct the same type of promotion.

In addition, KHRC will contact city/county governments about promoting the program via their websites and effort producing a Public Service Announcement highlighting the benefits of KEEP which could air on radio stations around the state.

For more information or to apply for KEEP loans, homeowners may call Sunflower Bank directly at 888-827-5564 or visit the bank's website at [www.sunflowerbank.com](http://www.sunflowerbank.com). They may also call Christine Reimler, KHRC Homeownership Manager at 1-800-752-4422 or 785-296-4818. Christine's email address is [creimler@kshousingcorp.org](mailto:creimler@kshousingcorp.org).



To: Selected Municipal Water and Sewer Utilities

From: Kim Winn, LKM and Mark Tomb, LKM

Date: January 12, 2007

Re: SB 20 Places Costly Mandates on Water and Sewer Utilities

**Your City is one of 308 cities that will be impacted by Senate Bill 20.** This proposed piece of legislation would mandate participation in the Kansas One-Call program for all water and sewer utilities. One-Call is the State's call before you dig program for underground utilities. **This bill will be considered by the Senate Utilities Committee at 9:30 a.m. on January 18, 2007 in Room 526-S of the State Capitol.**

Currently, membership in One-Call for water and sewer utilities is voluntary, this bill would force your city to join the program and bear all the costs associated with membership. These costs would include:

- All costs associated with locating existing water and sewer lines and producing a reliable map for locate requests.
- A yearly \$25.00 membership fee.
- A \$1.14 charge every time the One-Call Center receives a request from within your jurisdiction to support overhead of the system.
- Additional staff time and equipment costs associated with locating and marking underground water and/or sewer lines when requests are made to the One-Call Center. This cost is estimated by existing voluntary members at approximately \$15 per locate.
- The legislation would significantly erode the liability of excavators that damage water and sewer lines. This would result in the costs associated with damages to be passed on to utility ratepayers.

In most jurisdictions that are not already voluntary members of Kansas One-Call system, the cost of complying with this mandate will far exceed the annual damage caused by excavation.

***Action requested:*** It is important that city officials who are interested in this issue contact members of the Senate Utilities Committee and ask them to **oppose SB 20**. Even if your Senator is not a member of this Committee, we request that you contact Committee members and let them know your position on this issue (contact information on back).

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Members of the Senate Utilities Committee:

Jay Emler	Chairperson	(785) 296-7354	<a href="mailto:emler@senate.state.ks.us">emler@senate.state.ks.us</a>
Pat Apple	Vice Chairperson	(785) 296-7380	<a href="mailto:apple@senate.state.ks.us">apple@senate.state.ks.us</a>
Janis Lee	Ranking Member	(785) 296-7366	<a href="mailto:lee@senate.state.ks.us">lee@senate.state.ks.us</a>
Marci Francisco		(785) 296-7364	<a href="mailto:francisco@senate.state.ks.us">francisco@senate.state.ks.us</a>
Mike Petersen		(785) 296-7355	<a href="mailto:petersen@senate.state.ks.us">petersen@senate.state.ks.us</a>
Roger Pine		(785) 296-7372	<a href="mailto:pine@senate.state.ks.us">pine@senate.state.ks.us</a>
Dennis Pyle		(785) 296-7379	<a href="mailto:pyle@senate.state.ks.us">pyle@senate.state.ks.us</a>
Roger Reitz		(785) 296-7360	<a href="mailto:reitz@senate.state.ks.us">reitz@senate.state.ks.us</a>
Mark Taddiken		(785) 296-7371	<a href="mailto:taddiken@senate.state.ks.us">taddiken@senate.state.ks.us</a>

For more information on this issue, please contact Kim Winn at [kwinn@lkm.org](mailto:kwinn@lkm.org) or Mark Tomb at [mtomb@lkm.org](mailto:mtomb@lkm.org) or by phone at (785) 354-9565.

# HEIN LAW FIRM, CHARTERED

5845 SW 29<sup>th</sup> Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

*Ronald R. Hein*

*Attorney-at-Law*

Email: rhein@heinlaw.com

**Testimony re: SB 20  
Senate Utilities Committee  
Presented by Ronald R. Hein  
on behalf of  
Associated Builders & Contractors Heart of America Chapter  
January 18, 2007**

**Mr. Chairman, Members of the Committee:**

My name is Ron Hein, and I represent the Associated Builders and Contractors Heart of America Chapter (ABC). The ABC is a professional association of builders and contractors concerned with labor management and other issues effecting the commercial construction industry.

In today's world of construction, most all utilities – gas, electricity, water, sewer, communications, data, cable TV – are expected to be installed underground. Contractors are charged with the responsibility of installing them and the contractor chosen is usually selected based on low bid.

Competitive forces in the market dictate that we perform this work as efficiently and quickly as possible. As part of this process, contractors must be prudent in trying to make sure they do not run into existing facilities causing delays, expensive repairs, down time and potential safety risks.

The One Call system works well in providing them a resource to avoid these situations, but as you have already seen, not all utilities are covered. Contractors are, pretty much, flying blind when it comes to the location of some water and gas lines.

Contractors do their best to compensate for these gaps in the system, but when you work in many different cities and counties it is almost impossible to know every utility that might possibly have facilities in a given area.

If damage is done to a utility line that is not a part of the One Call system, contractors are responsible for the damages even if they had no way of knowing it was there. This can be a very expensive proposition in terms of dollars and lost time.

Contractors consider the situation serious as it is today. More and more facilities are being installed under ground every day. If the Legislature doesn't do something now to

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start addressing these issues, the problem will be even greater in the future. Either all utilities need to be brought under the One Call system, or the law must be changed so that the responsibility for personal and property damage resulting from excavation is on the utility which doesn't participate in the One Call system, rather than the contractor who has no control over the situation.

Associated Builders and Contractors urges you to support of SB 20.

I would be happy to yield to any questions.

TESTIMONY - RE: S.B.20  
SENATE UTILITIES COMMITTEE  
PRESENTED BY  
Kim Brown  
Smoky Hill, LLC

Our company constructs municipal water and sewer projects throughout the state. We would like for these issues be considered during discussions of SB20.

1. We have had instances where we did not know a line was in the area, risking damage to the facility and danger to our crews. This is especially true in the country where there might be rural water facilities -but we don't not even know where to call for assistance

2. Our problems have been with inaccurate locates-especially where services, stubs, abandoned lines and multiple lines are not located. This applies to any type of facility, but especially gas and communications. Paragraph B, section 3 (lines 32-36 on page 4) refer to sewer and water only. The same requirements should apply to gas, power and communications.

3. Sewer forcemains are a greater risk than gravity sewers. It is not clear to me that forcemains are included in the facility definition.

4. We believe in the system and support Kansas One Call. In fact, we would support being charged for locate requests

Thanks very much

Kim Brown  
Smoky Hill, LLC  
Ph 785-825-1224 Fax 785-825-7416  
Cell 785-819-6310  
[www.smokyhillconst.com](http://www.smokyhillconst.com)

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Testimony - re: SB 20  
Senate Utilities Committee

Presented by:

Chuck Hill, Director of Regulatory Affairs  
Cornejo & Sons, Inc., Wichita, Kansas

As a major paving contractor in Wichita, Cornejo & Sons, Inc. wishes to express our full support of Senate Bill 20, which will require that all sanitary sewer and potable water facilities installed after January 1, 2008 shall be locatable and thereafter marked upon a request to Kansas One Call.

While water lines installed by the City of Wichita have been locatable for quite some time, we realize that excavators in other locations are not as fortunate. Sanitary sewer lines are located only on the basis of old plans and drawings, and the marking of sanitary sewer lines are frequently inaccurate to a substantial degree.

In addition to potential liability to the excavator for the cost of repair of sanitary sewer and water lines, excavators also suffer lost productivity on job sites due to delays in construction, not to mention the disruption to the public when water and sewer services are interrupted due to line damage.

We believe that passage of SB 20 will eventually result in less damage to sanitary sewer and water lines, to the benefit of the operators, excavators, and the general public.

Chuck Hill  
Director of Regulatory Affairs  
Cornejo & Sons, Inc.

316-522-5100  
Fax 316-522-8187

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January 19, 2007

Senate Utilities Committee Members,

We ask for your support of SB 20, and specifically a provision thereof which adds water and wastewater system owners to the required list of utility owners participating in the "Kansas One Call" program. At this time it should be named the "Kansas One of Many Calls" program - below I'll explain why. I personally attended the hearings and wish to provide support for the bill, as well as offer you another contractor's perspective.

Under the current One Call system:

1. We contact One Call and provide the locate information.
2. We are provided a list of the utility owners they will contact, and then are advised to contact any other utility owners in the area. That may be the water and sewer utilities.
3. We start to determine who may own utilities in the area.
  - a. Attached is the list of RWD for the state. There are 53 of them, and many counties have more than one. See <http://www.krwa.net/membership/rwd.htm> for the complete list.
  - b. There are 700 water and wastewater utilities that belong to the Kansas Rural Water Association. See <http://www.krwa.net/membership/wwu.asp> for the complete list.
4. We then start making phone calls and hopefully get in touch with the right person(s).

Once we make contact, we have excellent service from the Water Districts. At issue here is the unnecessary amount of time that it takes to find the correct office / person to contact and arrange for the locate.

We were dismayed to hear some of the misinformation being supplied by the representative from the Johnson County Water District. Namely:

1. Concerns were expressed about JCWD receiving as many as 800,000 requests in a single year. KS One Call received 481,000 locate requests for the entire state of Kansas. The Johnson County Sewer District (I'm not sure if I have the name right) voluntarily participates in One Call and received ~ 80,000 locate requests in 2006. JCWD should expect a similar number.
2. Concerns were expressed about needing a ticket for each property owner. This is not correct as One Call locates are based on areas defined by nearest intersecting streets and/or coordinates. Tickets do not include property owner information, nor are they limited to property boundaries.

There were a couple of other items which are easily refuted, but you get the point. It was apparent to me that the JCWD is looking for every excuse it can find to not participate.

We are a general contractor which specializes in building bridges across our state. During construction we impact the daily activities and routines of many citizens who may live near, or

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travel through, the project. One of our goals is to keep this impact to a minimum. A damaged water or sewer line has the potential to impact many more citizens. Therefore, we feel it is important that these utility owners be included in the One Call program to reduce the chance that we unnecessarily impact those living around our project.

In conclusion, we ask for your support for this bill. Please feel free to contact me if you have any questions or comments.

Sincerely,

A.M. Cohron & Son, Inc.  
Emporia, KS

Christopher J. Rech  
Area Manager



Dale Goter  
Government Relations Manager

# TESTIMONY

City of Wichita  
455 N Main, Wichita, KS. 67202  
Wichita Phone: 316.268.4351  
dgoter@wichita.gov

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## Senate Utilities Committee

### Senate Bill 20

### Underground Utility Damage Prevention

**January 23, 2007**

The City of Wichita has been a voluntary member of Kansas One-Call system for a number of years, and has found membership very beneficial. The City is concerned that the proposed legislation **not** make changes that could affect any of the procedures currently employed by the City to respond to location requests.

At this time, the City does not respond to all parties that call the One-Call system. Staff reviews excavation requests, and makes an initial determination in the office as to whether that excavation poses a threat to any of its water or sewer lines. If it poses a threat, it is transmitted to field staff that locates the utility lines that may be at risk. At this time, only approximately 25% of the locate requests received actually result in a field line location. Any component of this Bill that would require direct notification in response to a locate request would result in a significant increase in staff time and expense, and would not improve the operation of the locate system. Under the current system, the City is responsible for damages if it receives a location request and then fails to mark its utility lines. The City supports its current practices that have worked well for over two decades. The City does not and will not support a positive response to each locate request.

The City also believes that the existing tolerances for locates are adequate to protect its utility lines, and a more precise standard would not improve the locate system. The subject Bill appears to grant the KCC the opportunity to reduce location tolerances, and the City will not support a reduction of the existing tolerances.

The City receives over 72,000 locate requests pre year, and last year only 36 utility lines were hit and damaged by excavators. Of those that were hit, only 14 of them were as a result of improper locations provided by the City. A system that works 99.98% of the time for the City of Wichita is not in need of repair.

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From: "Leo Haynos" [<mailto:l.haynos@kcc.state.ks.us>]  
Sent: Friday, January 19, 2007 2:52 PM  
To: <[emler@senate.state.ks.us](mailto:emler@senate.state.ks.us)>, <[apple@senate.state.ks.us](mailto:apple@senate.state.ks.us)>, <[lee@senate.state.ks.us](mailto:lee@senate.state.ks.us)>, <[petersen@senate.state.ks.us](mailto:petersen@senate.state.ks.us)>  
Subject: Information on the City of Wichita

Dear Senators:

2006 Locate information on the City of Wichita is as follows:

Received 72,149 requests for locates  
Performed 38,598 actual locates or 53% of those requested.

Wichita has the following utilities  
2142 miles of water lines  
1752 miles of sewer lines  
900 miles of stormwater sewer lines  
5 miles of fiber optics.

Wichita is planning to come up and talk at the committee hearing.

Regarding the letter from the City of Lawrence, you may find the following link interesting.

[http://www2.ljworld.com/news/1999/dec/15/gas\\_leak\\_evacuates\\_school/](http://www2.ljworld.com/news/1999/dec/15/gas_leak_evacuates_school/)

Regards,

Leo

8-2



P.O. Box 226 • Seneca, KS 66538 • 785/336-3760  
FAX 785/336-2751 • <http://www.krwa.net>

**Comments on SB 20  
Before the Senate Utilities Committee  
January 23, 2007**

Mr. Chairman and Members of the Committee:

My name is Elmer Ronnebaum. I am General Manager of the Kansas Rural Water Association. The Association has membership of nearly 295 rural water districts and 465 cities. The Association appreciates the opportunity to comment on Senate Bill 20.

While there is concern by utilities and contractors alike to avoid damage to underground facilities, many city and rural water districts are unable to locate their pipelines, and certainly not with the 2-foot tolerance as required by the present One Call process. If water systems are unable to locate their lines the risk of loss to their lines or damages shifts to them, even if the line is in private easement. A water system could not show negligence (triggering liability on the excavator) if the water supply cannot locate its lines. However, the zone of tolerance and the time frames involved add to the responsibilities of the utilities and their potential for failure to meet those standards increases substantially as members of One Call. While it may be beneficial for a uniform notification process, the mandatory participation will not help any system locate their facilities. Those are the reasons the Kansas Rural Water Association opposes mandatory participation of public water and wastewater systems in Kansas One Call.

The situation could be much more palatable for water and wastewater systems if they could charge excavators for locate charges. There may be some difference between those located in private easement compared to those that are in public right-of-way.

The Kansas Water Office, the Data Access & Support Center (DASC) and the Kansas Rural Water Association recently completed the re-mapping of all service areas of all rural water districts in Kansas. These are available electronically in pdf format and could be transferable to One Call. Presently, the project is also being printed in a county-by-county format to show the overlaps of the individual water systems. The individual water system pdfs include all points of interconnection, all transmission lines from those interconnects to pumps, tanks and from wells or treatment plants, basically any major feeder line going to another facility in that system. Those would be the most important to the utility to protect.

As far as not being able to determine who to call in the systems, I commented during the interim hearing that KRWA has a publicly accessible database online that provides a variety of contacts and phone numbers for every member water system in Kansas -- and the 125 non-members of the Association could

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be easily added. It would be simple to have the utility identify a special contact for notification purposes. Kansas Rural Water Association would make that database available to One Call. This database could be provided transparently, online.

Again, the frustration with the present One Call process is the number of wasted tickets and time involved in attempting to make locates and to deal with callbacks. In many cases, the contractor who is making the request is not aware of the location of the excavation. Often, the contractor who is to perform the actual work has not yet been provided a work order.

It is important to improve the process without further loading the burden totally onto the public water and wastewater utilities. There would be support for membership if One Call would advise the excavator making the request to contact the respective RWD or city to further determine the locates. Public water and wastewater utilities take seriously the responsibility to attempt to locate their facilities.

Kansas Rural Water Association supports having all new facilities be locatable. Most cities and rural water districts have difficulty locating their water or wastewater utilities based on the conventional 'as-built' maps. More accurate technologies are available and should be utilized. Approving agencies could implement such requirements in regulation.

Thank you for your consideration.

Respectfully submitted,



Elmer Ronnebaum  
General Manager



January 18, 2007

To: Senate Utilities Committee

From: Tim Danneberg  
City of Olathe

Subject: Opposition to Senate Bill 20

The City of Olathe works very hard to ensure water and sewer services are as affordable as possible for customers. We recognize this is a cost that must be born by all residents, and we are proud to have very reasonable rates.

Avoiding the costs of repairing damaged sewers caused by digging is important as it could impact customers. However, one-call mandates proposed in SB 20 will not result in fewer damages but unnecessary rate increases for our customers.

Olathe continues to be one of America's fastest growing cities, and we experience a great deal of construction. However, problems with damage to city water and sewer utilities from digging are minimal. In fact between 2005 and 2006, there were only five known hits of lines, and in each case, the individual digging was already aware of the aware locations.

Based on that fact, one call mandates would have made no difference in Olathe other than forcing customers to pay more.

Other important information includes:

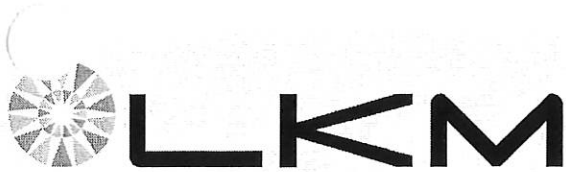
- An estimated 50% of the Kansas One Call calls for locates are for locates in the back yard or for hand excavation, neither of which are going to damage water and or sewer facilities. However, the city would be charged Kansas One Call fees for these requests. This is based on experience from the City of Olathe Public Work (OPW) Department, which is required to participate in Kansas One Call for areas of the city that we have street lights and traffic signals.
- Waterlines are constructed of materials that are not easily damaged by property owners digging in their yards and are buried 3.5 feet deep, which is deeper than property owners are digging to plant a tree, till a garden or erect a fence. Sewer lines are typically 8+ feet deep and are in a straight line between visible

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manholes. And, water and sewer facilities do not present near the safety hazard as electrical utilities.

The City of Olathe strongly opposes this unfunded mandate. It will increase costs to ratepayers, add bureaucracy and have little to no return for customers.



League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
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To: Senate Utilities Committee  
From: Kim Winn, Director of Policy Development & Communications  
Date: January 18, 2007  
Re: Opposition to SB 20

On behalf of the 576 member cities of the League of Kansas Municipalities (LKM), we thank you for the opportunity to offer our comments regarding SB 20. After an extensive policy process involving city officials from around the state, the LKM Convention of Voting Delegates adopted the following policy regarding participation by water and sewer utilities in the state one-call program:

*"We support the inclusion of municipal utilities in the state one-call system on a voluntary basis." 2007 Statement of Municipal Policy*

**No-Cost Benefit Analysis.** As we begin discussions on this issue, we find it particularly difficult to craft an appropriate solution when the scope of the problem is so unknown. Anecdotal evidence that some contractors have hit water and sewer lines from time to time has been offered. However, there has been no data collected regarding the number of hits in Kansas or the cost of such hits. Before a costly mandate is passed on to water and sewer customers in the state, we believe a cost-benefit analysis would be appropriate.

One of the primary reasons that LKM opposes the mandatory participation in one-call is that it results in a significant unfunded mandate on the smallest cities in Kansas. I have attached a list of the 308 cities that would be forced to participate in the state one-call program should SB 20 pass as written. You will note that 222 of the cities that would be affected by this legislation are under 500 in population, 42 are between 500 and 999, 30 are between 1,000 and 4,999, 6 are between 5,000 and 9,999, and only 8 are over 10,000. To add such an administrative burden, especially in cities that have not seen significant development in a number of years, merely forces the taxpayers in those small communities to pay an even higher price in the form of utility bills or property taxes.

**Current One-Call System is a Good One.** We believe that the current law with regarding to participation in the state one-call system is appropriate. In fact, a recent survey conducted by the National Telecommunications Damage Prevention Council ranked Kansas among the top "3" programs in the country (see attached summary).

Kansas is not alone in our treatment of water and sewer utilities. In fact, according to information provided by the Kansas Corporation Commission (KCC), a number of states treat water and sewer utilities differently. For example, some states require information about a utility to be posted regarding water and sewer utilities, but do not require locates (CO); some states exempt "small municipalities" (in FL they are exempted if they have 10,000 residents or fewer); Louisiana exempts all incorporated municipalities; and so on.

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LKM supports the mandatory participation in one-call for gas and electric utilities and the voluntary participation by water and sewer utilities. We believe that this difference in treatment is appropriate for two key reasons:

- (1) **Water and Sewer are Different.** Simply put, gas and electric lines are inherently more dangerous than water lines. The current policy acknowledges this difference.
- (2) **Water and Sewer Lines are Buried Deeper.** As a general rule, water and sewer lines are at least three feet deep. The KCC estimates that an excavator is 10 times more likely to hit a gas or telecom line than he is a water or sewer line. Again, this clearly indicates the need for a difference in the treatment of these utilities.

**KCC Jurisdiction.** Literally since statehood, water and sewer utilities that are operated by cities have been managed by locally elected officials. SB 20 would essentially grant the KCC jurisdiction over these utilities. This represents a serious policy shift away from a system that has worked successfully for over 100 years. LKM opposes granting the KCC such authority over municipalities.

**Solution Doesn't Fit the Problem.** One of our primary concerns with SB 20 is that the solution, mandatory participation in one-call, does not solve the stated problem of contractors who hit water and sewer lines that are not locatable. Even if cities are forced to participate in one-call, they still will not know exactly where all the water and sewer lines are in their community. Many of these lines were put into place before currently location technology was available. Section 2 of the bill is the only section which will directly address the stated problem. With the current low-cost locator technology that is now available, we believe that the small mandate found in this portion of the bill meets the cost benefit analysis and should be implemented. We believe that all sanitary sewer facilities and water facilities that are installed after a date certain should be locatable and we wholeheartedly support this portion of the bill.

**Training and Assistance is Needed.** Rather than the mandate approach to the stated problem, we believe that a training and assistance approach would be far more effective. LKM stands ready to commit time and resources to work with interested parties to train water and sewer utilities on the importance and technical aspects of doing accurate facility locates. In addition, we would support any efforts to provide grant funds and technical assistance to small communities to help them to map their systems so that they can provide more accurate locates.

In conclusion, we believe that SB 20 is an unwarranted mandate on the smallest communities in Kansas. For these reasons, we respectfully request that you do not recommend SB 20 favorably for passage. I would be happy to work with the Committee on this issue and I would stand for questions at the appropriate time.

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# NTDPC State One-Call Law Summary Page

Summary last update: 5/13/2005

Number of States that Meet or Exceed NTDPC Minimum Guidelines	
Excavator Notice	21
White-Line Required	33
Hand-Dig/Soft Excavate Required	44
Monitor Back Ream Required	9
Non-Delegable Duty	41
Operator Response	34
Tolerance Zone	49
Positive Response	30
Mandatory Reporting	44
Design Request	35
Mandatory Participation	43
Emergency Clause Definition	48
Exemptions	11
Penalties/Fines	35
Attorney's Fees	14
Enforcement Agency	51

Tolerance Zone Counts	
0"	1
12"	1
18"	25
24"	20
30"	4

State(s) that meet the most guidelines	
Florida	14
Illinois	14
Hawaii	13
Arkansas	13
Kansas	13

State(s) that meet the least guidelines	
Montana	6
North Carolina	6
Ohio	7
Michigan	7
Vermont	7

Enforcement Agency Breakdown			
PUC	AG	Other	None
13	5	10	23

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City	Class	Population	Water Utility	Sewer Utility
Speed	3	41	YESNO	
Brownell	3	42	YESNO	
Waldo	3	46	YESNO	
Elmdale	3	52	YESYES	
Cedar Point	3	55	YESNO	
Susank	3	57	YESYES	
Matfield Green	3	62	YESNO	
Paradise	3	62	YESYES	
Wallace	3	62	YESNO	
Clayton	3	64	YESNO	
Willis	3	66	YESYES	
Elsmore	3	68	NO YES	
Lost Springs	3	68	NO YES	
Oneida	3	69	YESYES	
Alexander	3	70	YESYES	
Hunter	3	72	YESYES	
Randall	3	74	YESYES	
Bluff City	3	76	YESNO	
Spivey	3	77	YESYES	
Elgin	3	78	YESNO	
Timken	3	81	YESNO	
Narka	3	84	YESYES	
Oketo	3	84	YESNO	
Coolidge	3	85	YESYES	
Havana	3	85	NO YES	
Powhattan	3	86	YESYES	
Huron	3	88	NO YES	
Willowbrook	3	88	NO YES	
Savonburg	3	90	NO YES	
Ramona	3	91	NO YES	
Wheaton	3	93	NO YES	
Liberty	3	94	NO YES	
Gove	3	95	YESYES	
Raymond	3	95	YESYES	
Cullison	3	97	YESYES	
Reserve	3	97	YESNO	
Roseland	3	97	YESNO	
Vermillion	3	98	YESYES	
Mahaska	3	100	YESYES	
Cambridge	3	101	YESYES	
Manchester	3	103	YESYES	
Simpson	3	103	YESNO	
Englewood	3	104	YESYES	
Severance	3	104	NO YES	
Stark	3	105	NO YES	
Glade	3	106	YESNO	
Nashville	3	106	NO YES	
Chautauqua	3	107	YESYES	
Liebenthal	3	108	YESYES	
Alton	3	109	YESYES	
Durham	3	110	YESYES	
Mayfield	3	110	YESYES	
Munden	3	110	YESYES	
Virgil	3	110	YESYES	
Woodston	3	111	YESYES	

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Formoso	3	116	YESYES
Portis	3	116	YESNO
Zenda	3	118	YESYES
Barnard	3	119	YESYES
Zurich	3	121	NO YES
Bartlett	3	124	YESYES
Soldier	3	124	YESYES
Collyer	3	125	YESYES
Hudson	3	127	NO YES
Gaylord	3	128	YESYES
Horace	3	129	YESYES
Jennings	3	130	YESYES
Prairie View	3	131	YESYES
Esbon	3	133	YESYES
Lorraine	3	133	YESYES
Randolph	3	135	YESYES
Herndon	3	136	YESYES
Windom	3	136	YESYES
Park	3	137	YESYES
McDonald	3	138	YESYES
Redfield	3	138	NO YES
Olmitz	3	139	YESYES
Green	3	140	YESYES
Barnes	3	142	YESYES
Tampa	3	142	NO YES
Treece	3	144	YESYES
Long Island	3	145	YESYES
Republic	3	145	YESYES
Damar	3	150	YESYES
Galesburg	3	150	YESYES
Rexford	3	151	YESYES
Fall River	3	152	YESYES
New Cambria	3	152	NO YES
Hepler	3	153	NO YES
Morrowville	3	157	YESYES
Haddam	3	158	YESYES
Norcatur	3	158	YESYES
Alden	3	161	NO YES
Preston	3	162	YESYES
Latham	3	164	YESYES
Culver	3	165	YESYES
Corning	3	167	YESYES
Westphalia	3	168	NO YES
Bogue	3	169	YESYES
Fontana	3	169	YESYES
Peru	3	173	YESYES
Rush Center	3	174	YESYES
Goff	3	175	YESYES
Admire	3	178	YESYES
Denton	3	178	NO YES
Netawaka	3	178	YESYES
Fulton	3	181	YESYES
Kincaid	3	181	YESYES
Albert	3	183	YESYES
Circleville	3	185	YESYES
Selden	3	185	YESYES
Garfield	3	186	NO YES
Luray	3	186	YESYES

Bushton	3	298	YESYES
Grainfield	3	298	YESYES
Grinnell	3	299	YESYES
Sylvan Grove	3	301	YESYES
Everest	3	304	YESYES
Parker	3	306	YESYES
Ingalls	3	312	YESYES
Otis	3	319	YESYES
Copeland	3	321	YESYES
Princeton	3	327	YESYES
Greenleaf	3	328	YESYES
Natoma	3	329	YESYES
Tescott	3	331	YESYES
Dwight	3	332	YESYES
Greeley	3	333	YESYES
Gorham	3	334	YESYES
Bronson	3	341	YESYES
Severy	3	352	YESYES
Leonardville	3	354	YESYES
Easton	3	357	YESYES
Mayetta	3	359	YESYES
Williamsburg	3	359	YESYES
Gridley	3	365	YESYES
South Haven	3	368	YESYES
Scandia	3	374	YESYES
Linwood	3	382	YESYES
Arcadia	3	387	YESYES
Linn	3	388	YESYES
Colony	3	390	YESYES
Gypsum	3	399	YESYES
Edna	3	422	YESYES
Lucas	3	422	YESYES
McCune	3	424	YESYES
Melvern	3	430	YESYES
Moline	3	431	YESYES
Turon	3	436	YESYES
Bird City	3	438	YESYES
Jewell	3	439	YESYES
Assaria	3	444	YESYES
Delphos	3	449	YESYES
Dearing	3	452	YESYES
Almena	3	454	YESYES
Quenemo	3	455	YESYES
Altoona	3	472	YESYES
Lewis	3	475	YESYES
Scammon	2	475	YESYES
Kensington	3	490	YESYES
Maple Hill	3	492	YESYES
Macksville	3	494	YESYES
St George	3	495	YESYES
White City	3	499	YESYES
Thayer	3	500	YESYES
Hartford	3	505	YESYES
Olpe	3	509	YESYES
Richmond	3	514	YESYES
Kanopolis	3	516	YESYES
Norwich	3	522	YESYES
Protection	3	541	YESYES

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Delia	3	188	YESYES
Dorrance	3	189	YESYES
Olsburg	3	191	YESYES
Wilsey	3	191	YESYES
Beverly	3	193	YESYES
Morganville	3	196	YESYES
Utica	3	198	YESYES
Ensign	3	199	YESYES
Robinson	3	199	YESYES
Bern	3	200	YESYES
McCracken	3	203	NO YES
Muscotah	3	203	YESYES
Summerfield	3	204	YESYES
Geuda Springs	3	205	YESYES
Woodbine	3	207	YESYES
Cuba	3	208	YESYES
Elbing	3	208	YESYES
Lehigh	3	208	YESYES
Louisville	3	211	NO YES
Smolan	3	211	NO YES
Paxico	3	212	YESYES
Schoenchen	3	212	YESYES
Kirwin	3	214	YESYES
Allen	3	216	YESYES
Whiting	3	216	YESYES
Grenola	3	217	YESYES
Lincolnville	3	218	NO YES
Bison	3	220	YESYES
Walnut	3	220	YESYES
Tyro	3	222	NO YES
Belvue	3	223	YESYES
Burr Oak	3	226	YESYES
Kanorado	3	228	YESYES
Tipton	3	230	YESYES
White Cloud	3	230	YESNO
West Mineral	3	234	YESYES
Burdett	3	241	YESYES
Rantoul	3	245	YESYES
Moscow	3	251	YESYES
Brookville	3	253	YESYES
Fairview	3	259	NO YES
Lane	3	259	YESYES
Brewster	3	262	YESYES
Hanston	3	262	YESYES
Bazine	3	263	YESYES
Beattie	3	267	YESYES
Emmett	3	270	YESYES
Geneseo	3	271	YESYES
Burns	3	275	YESYES
Buffalo	3	277	YESYES
Agra	3	278	YESYES
Lebanon	3	278	YESYES
Prescott	3	283	YESYES
Lenora	3	285	YESYES
Blue Mound	3	291	YESYES
Courtland	3	291	YESYES
Toronto	3	291	YESYES
Ransom	3	292	YESYES

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Waverly	3	556	YESYES
Haviland	3	574	YESYES
Ozawkie	3	574	YESYES
Fowler	3	578	YESYES
Leroy	3	579	YESYES
Linn Valley	3	581	NO YES
Effingham	3	582	YESYES
Winchester	3	582	YESYES
Strong City	3	583	YESYES
Marquette	3	585	YESYES
Lecompton	3	589	YESYES
Nortonville	3	598	YESYES
Hoyt	3	600	YESYES
Leon	3	648	YESYES
Florence	2	650	YESYES
St Paul	3	657	YESYES
Cedar Vale	3	669	YESYES
Minneola	3	681	YESYES
Onaga	3	683	YESYES
Clafin	3	688	YESYES
Riley	3	692	YESYES
Meriden	3	708	NO YES
Cherokee	3	718	YESYES
Tribune	3	722	YESYES
Wilson	3	767	YESYES
Madison	3	799	YESYES
Canton	3	812	YESYES
Perry	3	883	YESYES
Jetmore	3	914	YESYES
Americus	3	932	NO YES
Downs	3	938	YESYES
Highland	3	941	YESYES
Cottonwood Falls	3	959	YESYES
Overbrook	3	971	YESYES
Rossville	3	996	YESYES
Lyndon	3	1041	YESYES
Blue Rapids	3	1048	YESYES
Solomon	3	1056	YESYES
Hoxie	3	1149	YESYES
Erie	3	1167	YESYES
Valley Falls	3	1209	YESYES
Chetopa	2	1231	YESYES
Sedan	3	1269	YESYES
Ness City	3	1326	YESYES
Buhler	3	1335	YESYES
Pleasanton	3	1368	YESYES
Ogden	3	1432	YESYES
Leoti	3	1440	YESYES
Carbondale	3	1451	YESYES
Yates Center	2	1493	YESYES
Belle Plaine	3	1618	YESYES
Wellsville	3	1631	YESYES
Sedgwick	3	1644	YESYES
Caney	2	1975	YESYES
Elkhart	2	2036	YESYES
Cherryvale	2	2266	YESYES
Fredonia	2	2455	YESYES
Eureka	2	2739	YESYES

Ellsworth	3	2887	YESYES
Galena	2	3163	YESYES
Basehor	3	3287	NO YES
Scott City	2	3474	YESYES
Tonganoxie	3	3774	YESYES
Fairway	2	3840	NO YES
Spring Hill	3	4494	YESYES
DeSoto	3	5170	YESYES
Valley Center	2	5508	YESYES
Abilene	2	6409	YESYES
Bonner Springs	2	6942	YESYES
Roeland Park	2	6975	NO YES
Andover	2	9114	NO YES
Lansing	2	10214	NO YES
Junction City	1	16402	YESYES
Hays	2	19632	YESYES
Derby	2	20543	NO YES
Salina	1	45956	YESYES
Manhattan	1	48668	YESYES
Lawrence	1	81816	YESYES
Olathe	1	111334	YESYES

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January 22, 2007

The Honorable Jay Scott Emler  
Kansas State Senator  
Capitol Building  
Topeka, KS 66612

Subject: Senate Bill 20

Dear Jay:

While I cannot speak for the entire Abilene City Commission, I feel that they will agree with me when I ask that you vote to oppose this proposed legislation.

Abilene and approximately 300 other Kansas cities will be impacted by this legislation, which mandates participation in the Kansas One-Call program for all water and sewer utilities. At the present time, participation is voluntary.

There are many reasons why this legislation is not in the best interests of so many of our cities including the following: paying for all costs related to locating all existing water and sewer lines, production of a reliable map for locate requests, paying a yearly membership fee, paying for every charge for each request received, plus.... our cities just should not be required to cover the staff time and equipment costs caused by inclusion in One-Call.

It appears that additional costs of complying with this mandate will significantly exceed the annual damage done by excavation. As I understand the legislation, it would greatly reduce excavators' liability for damage to water and sewer lines. As is the case for municipally provided water and sewer services, we must pass costs on to our users (our citizens), who, in the case of our city are already receiving huge increases (approximately 45%) in sewer charges due to the required construction of a new wastewater plant.

Jay, I hope you will vote for the best interests the cities of Kansas, as you have done in the past.

Very truly yours,

John R. Zutavern, City Commissioner

Cc: Abilene City Commission and City Manager

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