

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:15 A.M. on February 11, 2008 in Room 783 of the Docking State Office Building.

All members were present except:

Oletha Faust-Goudeau-excused

Committee staff present:

Mary Galligan, Kansas Legislative Research
Carol Toland, Kansas Legislative Research
Melissa Doeblin, Revisor's Office
Renaе Hansen, Committee Administrative Assistant

Conferees appearing before the committee:

Elmer Ronnebaum, Kansas Rural Water District
Brad Mears, Kansas Municipal Utilities
Darci Meece, Water One
Kim Winn, League of Kansas Municipalities

Others attending:

Seventeen including the attached list.

Chairman Holmes noted that Tom Moxley and Mary Torrence won the gas guessing quiz the committee participated in and were given gift cards to Chiles.

Hearing on:

HB 2638-Location and mapping requirements for underground water facilities.

Proponents:

Elmer Ronnebaum, Kansas Rural Water Association, (Attachment 1), spoke to the committee in support of **HB 2638**.

Darci Meece, Water One, (Attachment 2), offered testimony in support of **HB 2638**.

Written Proponents:

Levi J. Henry, City of Horton, (Attachment 3), presented testimony in support of **HB 2638**.

Questions were asked and comments made by Representatives: Margaret Long, Tom Sloan, and Terry McLachlan.

Opponents:

Kim Winn, League of Kansas Municipalities, (Attachment 4), presented testimony in opposition to **HB 2638**. She noted that most League members are in favor of any new water lines being regulated. Additionally she offered a compromise to the bill that would make it amicable to small municipalities. It was noted they were most opposed to the unfunded mandate portion of the bill.

Kimberly Gencur-Svaty introduced, Brad Mears, Kansas Municipal Utilities, (Attachment 5), who offered testimony in opposition to **HB 2638**.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on February 11, 2008 in Room 783 of the Docking State Office Building.

Questions were asked and comments made by Representatives: Tom Sloan, Vern Swanson, Carl Holmes, Cindy Neighbor, Rocky Fund, Terry McLachlan, Rob Olson, Annie Kuether, Forrest Knox, Tom Moxley, Carl Holmes, and Bill Light.

Earl Lewis, assistant director, Kansas Water Office, also helped to answer questions asked by members of the committee.

The hearing was closed on **HB 2638**.

The next meeting is scheduled for February 12, 2008 where the committee is scheduled to work **HB 2711**.

Meeting adjourned at 10:16 a.m.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: February 11, 2008

| NAME | REPRESENTING |
|-----------------------|---------------------------|
| Tom Day | KCC |
| Kimberly DeLeon Svaty | KMU |
| Brad Means | KMU |
| Chris Meese | Water One. |
| Callie Coco | Kearney & Associates Inc. |
| Ron Secher | Sun Law Firm |
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**Comments on HB 2638
Before the House Utility and Energy Committee
February 11, 2008**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to provide comments on HB 2638. My name is Elmer Ronnebaum; I am general manager of the Kansas Rural Water Association. The Association has 422 municipal members, 261 public wholesale and rural water district members and 235 active Associate Members. The Kansas Rural Water Association supports HB 2638.

Public water and wastewater systems operate tens of thousands of miles of pipelines in Kansas, from transmission mains to service lines to individual homes. There is a need for all these entities, no matter how large or small, to be able to locate their facilities. While pipelines made of conductive materials such as ductile iron can be traced from the surface with metal detectors, non-conductive materials cannot be traced. More and more communities are using non-conductive materials such as PVC or other plastics in their distribution systems.

HB 2638 would require that all new or substantially rebuilt water and wastewater pipelines and service laterals be locatable on or after July 1, 2008. To achieve having non-conductive facilities to be considered as locatable, industry standards call for properly installed tracer wire and/or mapping of the utility using GPS or other technology. Many systems are already doing so and many have good quality maps; this bill would not result in any change for those. Also, HB 2638 would require that regulatory agencies place additional emphasis on having locatable facilities and good mapping when reviewing projects for certain loans and grants.

The requirement that water and wastewater utilities install tracer wire and/or utilize technologies that allow for more accurate utility locates has been passed by various states as long as ten or more years ago. Examples include Wisconsin, Oklahoma, Arkansas, Minnesota and others.

The efficient operation of water and wastewater utilities is not possible without having locatable facilities. The Kansas Rural Water Association provides on-site assistance to water and wastewater systems statewide. Our staff members know that the lack of accurate maps is a widespread problem for the operators of the municipal water and wastewater systems. Not having locatable facilities can also hinder other construction when needing to obtain locates to cross water and wastewater facilities.

It may be suggested that requiring cities and water districts to improve their capacity to locate their own facilities is an unfunded mandate. Having that capacity is however a local responsibility to ensure the efficient operation of the utilities. There is also the potential for a future program of financial assistance to be available to the smaller systems to help offset some of the costs associated with developing improved mapping.

The Kansas Rural Water Association encourages your support for HB 2638.

Respectfully,

Elmer Ronnebaum
General Manager

HOUSE ENERGY AND UTILITIES

DATE: 2/11/08

ATTACHMENT 1

**TESTIMONY IN
IN SUPPORT OF HOUSE BILL 2638**

To: Members of the Utility and Energy Committee
From: Darci Meese, Governmental Affairs Coordinator
Date: February 11, 2008
RE: House Bill 2638 – Mapping requirements for water supply systems.

On behalf of Water District No. 1 of Johnson County, Kansas, (“WaterOne”), I would like to thank you for consideration of our comments regarding House Bill 2638.

As a public water supply system operating approximately 2600 miles of water transmission and distribution mains, we endorse the notion of locating water mains to protect the integrity of systems but we also understand the practical barriers that come into play. WaterOne constructs all new installations with conductive material and, in most, if not all cases, we are using GPS technology to record the location of existing and new mains. We understand that smaller rural districts and municipalities may not have the funding to use the methods. As is the case with most issues that come before this Committee and the Legislature as a whole, a balance between cost v. benefit must be stricken.

WaterOne supports making new facilities locatable. We would however request the Committee consider the practical problems with locating facilities within 24 inches of accuracy. All water supply systems, including WaterOne, have facilities that are not conductive and/or have been installed years ago and the institutional knowledge of the facilities’ location has since retired. In those cases it can be virtually impossible to determine the location of the main within 2 feet without digging the facility up. We would urge the Committee to broaden the definition of “locatable” as the ability to locate facilities within 5 feet. Likewise, it seems prudent to reconsider requiring systems to locate existing facilities that are difficult to find for the same reasons.

Darci Meese, Governmental Affairs Coordinator
Water District No. 1 of Johnson County, Kansas
913-895-5516 direct
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dmeese@waterone.org

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ATTACHMENT 2



Tim Lentz, Mayor
Kenneth Krug, Finance Commissioner
Paul Luscombe, Streets & Public Utilities Commissioner
Jeremy Forkenbrock, Police Commissioner
Steve Davies, Parks & Recreation Commissioner

Levi J. Henry, City Administrator
Candy S. Schmitt, City Clerk
Carol Stirton, Deputy City Clerk

WRITTEN TESTIMONY IN SUPPORT OF HB 2638

TO: Hon. Chairman Holmes and Other Members, House Energy & Utilities Committee

FR: Levi J. Henry, JD, City Administrator, City of Horton, Kansas

RE: Written Testimony in *Support* of House Bill 2638

DATE: Monday, February 11, 2008

On behalf of the City of Horton, Kansas, I would like to thank this Committee for its consideration of House Bill 2638, requiring new water and wastewater lines to be locatable by July 1, 2008, and all existing lines to be mapped by 2013.

The City of Horton, Kansas (the "City"), is a community of approximately 2,000 residents located in south-central Brown County, sharing its southern border with Atchison County. The City operates municipal electrical, water and wastewater utilities. While the electric is limited solely to in-town distribution, the City has waterlines that reach nearly three-miles outside of the community and has over 125 miles of water distribution and over 75 miles of wastewater gathering lines.

The City has been fortunate in the last decade to have had progressive City Commissions willing to re-invest utility profits in capital improvements for the utilities, which has exponentially improved operations and management of the utilities. The chore of capital improvements in Horton, however, is a daunting task, because prior City Commissions allowed water and wastewater infrastructure to deteriorate without any capital maintenance or improvements. Water and wastewater infrastructure inventory and mapping is the first step in developing capital maintenance plans (CMP) and capital improvement plans (CIP) for water and wastewater utilities.

In 2004, the City of Horton mapped its entire water and wastewater distribution systems. Upon my arrival to Horton in 2005, approximately 5 percent of the City's 200 valves fully-functioned. Since 2005, the City Commission, Administration and Water and Wastewater Utility operators and technicians have implemented a nearly 15-year CIP to replace all valves and gathering sub-systems that do not operate as designed. We have successfully replaced 31 valves and 14 wastewater gathering interconnections, and have greatly improved the safety and reliability of our systems.

As the City began its CIP, however, water and wastewater operators and technicians began to find that the mapping developed in 2004 was not always correct. In 2007, in order to increase precision of water and wastewater utility mapping, the City began GPS devices to GIS map municipal utilities. This data is available to not only municipal staff, but to all entities, such as the Kansas Department of Transportation and private general and sub-contractors.

In the City of Horton, we have found that proper location and identification of water distribution and wastewater gathering lines is the minimum threshold for proper operation and management of a water or wastewater utility. Proper location and identification reduces overall costs, mitigates unnecessary construction delays, decreases delays and costs associated with in the municipal utilities in identifying leaks or other disturbances within the lines, and provides the basis for which water and wastewater utilities perform the infrastructure inventory essential for the development of capital maintenance planning and performance.

I urge you to support HB 2638 to provide for a minimum acceptable threshold for operations and management of water and wastewater utilities and to decrease costs for consumers of these utilities.

END OF DOCUMENT



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: House Environment and Utilities
From: Kimberly Winn, Director of Policy Development & Communications
Date: February 11, 2008
Re: Opposition to HB 2638

On behalf of the member cities of the League of Kansas Municipalities, thank you for the opportunity to offer our comments regarding HB 2638. We oppose this legislation in its current form. Over the course of our policy process last fall, the concept of this legislation was discussed with each of our policy committees and our Governing Body. Ultimately, the membership agreed to support a requirement that all new and substantially rebuilt water and wastewater facilities be locatable. For this reason, we can support Section 1 of this bill. However, LKM member cities also determined that we cannot support a mapping requirement that is retroactive in any way. Our primary concerns are:

- **Unfunded Mandate.** Requiring all cities to map their water and wastewater systems would be a tremendous unfunded mandate. Even those small communities that see very little development and have rarely seen a water or sewer line break of any kind would be required to comply. The cost of compliance in these small communities would be paid by the utility customers in those cities.
- **Liability Concerns.** We have previously expressed a concern about the establishment of a mapping requirement in statute. Under current law, if a break occurs, the courts would look at the totality of the circumstances to determine where to assign negligence. However, Section 4 of HB 2638 creates a situation where not having a map would be considering not exercising ordinary care, and that by definition is considered negligence. Therefore, even in the situation where a city did an appropriate locate, the city could be held liable simply by not having updated a map in a timely fashion.

For these reasons, we must oppose HB 2638 in its current form. We would offer the Committee two options for consideration:

- **Keep Section 1 Only.** If the Committee were to choose to keep only section 1 of this bill, which is the portion that requires locatable lines in the future, LKM and our member cities would support this legislation.
- **Exempt Cities.** It is our understanding that the Kansas Rural Water Association supports this legislation on behalf of their members and we certainly respect their position as an organization. However, our member cities have made it very clear that such a mandate would have a tremendous negative impact on the smallest cities in Kansas. Should the Committee choose to exempt cities from this unfunded mandate, LKM and our member cities would remain neutral on this legislation.

Thank you in advance for your consideration. I would be happy to stand for questions at the appropriate time.



kansas municipal utilities

Submitted Testimony Provided the

House Energy & Utilities Committee

February 11, 2008

*Brad Mears, Government Relations Director
Kansas Municipal Utilities*

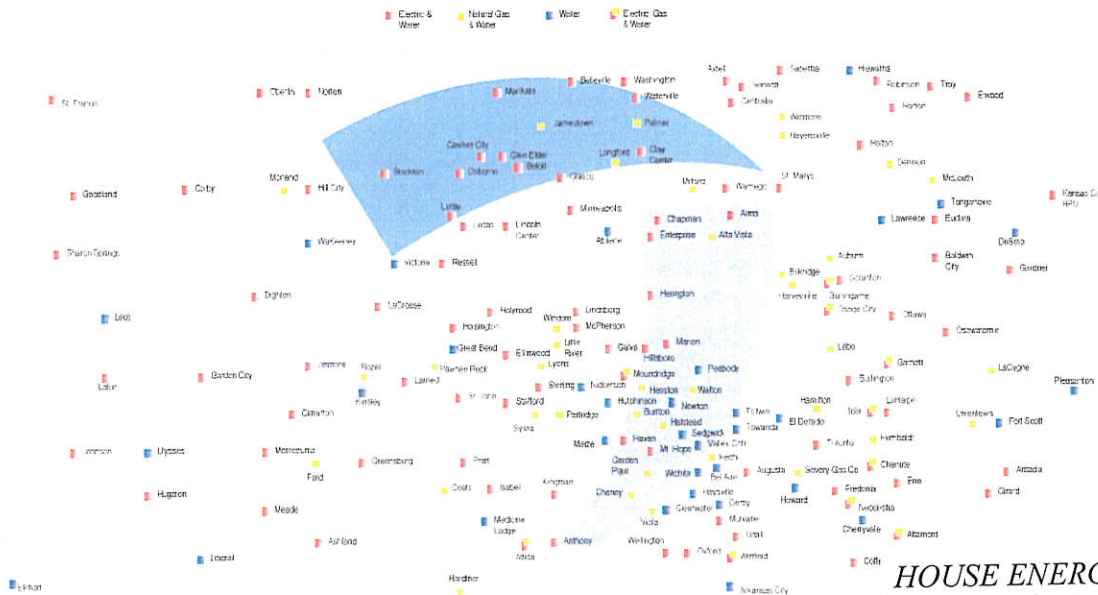
House Bill 2638

Chairman Holmes and Members of the Committee:

On behalf of Kansas Municipal Utilities (KMU), I appreciate the opportunity to provide testimony to the committee regarding House Bill 2638.

Formed in 1928, Kansas Municipal Utilities (KMU) is the statewide association that represents the interests of 170 municipal electric, natural gas, water and wastewater utilities across the state. KMU's members that serve as public water suppliers provide safe, reliable drinking water to over 452,000 customer accounts with the largest serving 135,000 meters and the smallest 67 meters.

KMU generally supports the concept of locating and mapping of underground utilities, including water and wastewater, but we are opposed to the bill in its present form. The mapping and locating of underground water and wastewater systems represents good operating and construction practice. We have found that the vast majority of our members recognize the importance of having accurate maps of their water and wastewater systems and are already moving forward in this direction on a voluntary basis. It has become the generally accepted practice to have tracer wire installed while constructing water and sewer mains or when extensive sections of line are repaired or replaced. It is also becoming increasingly common to utilize GPS technology for locating infrastructure.



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ATTACHMENT 5-1

However, we oppose the bill in its present form as it applies to existing lines. KMU would support the concept of applying locating and mapping efforts to newly constructed lines as we move forward. We don't believe the resources required to map all existing infrastructure to be feasible for all public water and wastewater systems, particularly for the very small communities.

As the proposed legislation recognizes, KMU has found that although wastewater utilities may have good maps of their sewer mains, they may not have completely accurate information on the individual service taps along the main. In some cases, those service connections were installed when the sewer mains were originally constructed. Some date back nearly 100 years. Many utilities are now documenting those service connection locations through camera inspection of their sewer mains and when repairs or replacements are made. With that in mind, it is very difficult for some utilities to locate all service line taps without specialized equipment or attempting to dig up every potential service location. KMU could support the same application of requirements for water lines as is provided for existing wastewater lines allowing the system to be mapped as lines are located for repair, reconstruction, or other reasons.

KMU can support the general concept of the bill encouraging a formalized locating and mapping program but on a forward looking basis. We would ask that there be some flexibility when it comes to existing lines and service taps. Many of our communities will have to work to locate and identify decades' worth of installations. Communities are continuing to recognize the importance of being able to accurately locate its infrastructure and are moving forward on a voluntary basis to map their systems, and KMU would encourage that approach toward existing infrastructure. It continues to be our charge along with other statewide associations to promote good operating and construction practices. KMU will continue to promote these concepts including system mapping to our municipal utility members, but we have some reservation about requiring it by statute.