

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 p.m. on March 2, 2004 in Room 231-N of the Capitol.

All members were present except:

Senator Nick Jordan- excused
Ms. Emalene Correll, Legislative Research

Committee staff present:

Ms. Terry Munchmore, Legislative Research
Mr. Norm Furse, Revisor of Statute
Mrs. Diana Lee
Ms. Margaret Cianciarulo

Conferees appearing before the committee:

Ms Kim Gulley, Director of Policy Development & Communications, League of Kansas Municipalities
Dr. Albert Bergstahler, Professor Emeritus of Chemistry, University of Kansas
Dr. Robert Hetrick, Psychologist, Wichita
Ms. Melody Scheel, Kansas Citizen from Winfield
Mr. Joe Walker, Constituent from Wichita
Mr. Wayne Logbeck, Kansas Citizen from Hutchinson
Mr. Denny Burgess, Lobbyist for the City of Wichita

Others attending:

Please See Attached List.

Hearing on SB530 - concerning public water supply; requiring fluoridation in certain public water supply systems

Upon calling the meeting to order, the Chair announced there would be a hearing today for the opponents of SB530, but first, called upon Mr. Furse to explain the bill. Highlights included:

- introduced by the Committee on Ways and Means and is the result of a sub-committee review by the Committee;
- the bill is based on part of the California law relating to the fluoridation of water supplies;
- would generally require fluoridation in certain public water supply systems;
- Sec. 1 and 2 are new and subsequent sections are amendatory;
- Sec. 1 provides that in order to promote the public health through the protection and maintenance of dental health the Secretary of Health and Environment could adopt rules and regulations requiring fluoridation in public water supply systems and specifically in public water supply systems with at least 10,000 service connections;
- the Secretary is given rule and reg authority in sub (b) in Sec. 1 to set certain minimum and maximum standards relating to concentration of fluoride requirements generally relating to fluoride and the schedule for fluoridation of public water supply systems;
- sub.©) defines "secretary" being secretary of health and environment
- new Sec. 2 provides that certain public water supply system would not be required to comply with Sec. 1 and those are those systems that are enumerated in capitol letter A, starting on line 40;
- on page 2, commencing on line 12, the Secretary is required to prepare and distribute a list of water supply systems that do not qualify under the section where the exemptions would qualify under this act;
- a system that has acquired the funds necessary for fluoridation and is not included in the list of those that are not able to meet the requirements to exercise their options pursuant to subparagraph (B) of paragraph (1) not to fluoridate during the following fiscal year by notifying the secretary;
- paragraph (4) addresses the permit issued by the secretary for the system and the specifics (is it required to fluoridate pursuant to Sec. 1 and amendments or has been granted an exemption
- the secretary, as the administering agency, is given the power to enforce Sec. 1 of the bill and the

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enforcement mechanism in sub. ©) the secretary determines that the provisions are not being carried, the secretary may notify the attorney general, who, upon request of the secretary, may institute proceedings in order to compel compliance with the order;

- on page 3, sub. (e), the secretary shall seek all sources of funding that are available for this purpose (ex. Federal block grants; donations from private foundations, etc.);

- sub (f) a system with less than 10,000 service connections may elect to comply with the provisions of the act and may do so on its own;

- sub (g) costs other than capital costs, incurred may be paid from federal transfer donations or private foundations for these particular purposes

- Sec. 3 commences the amendatory section and this is a public water statute of the state public water supply statutes, and is in here because of line 31, page 7, sec. 1 and 2 and makes those sections applicable to the definitions that are in Sec. 3, and also would apply to new Sections one and two;

- Sec. 4 amends a section giving the secretary authority currently to specify primary drinking water standards but also provides current law (lines 36 through 38) reading that no standard of rule or regulation may require the addition of fluorides to public water supplies, but Sec. 1 can now require the secretary to do so

(the new language in italicized creates an exception that is provided in Sec. 1, no primary drinking water standards *except as provided in section 1 and amendments thereto*;

- Sec. 5 is another amendatory section and is in the new bill with new language on page 5, lines 5 through 7, which provided that the secretary may grant variances for purposes of primary drinking water standards for various purposes because the water is unable to meet those standards even with modern technology, but an exception to that would be that no variance granted under this subsection *shall be construed to waive or modify any requirement of Sec. 1 and amendments thereto*.

- will take effect July 1 of this year.

As there were no questions of Mr. Furse, the Chair then called upon the first of six opponents of the bill, Ms. Kim Gulley, Director of Policy Development & Communications, League of Kansas Municipalities (LKM), who stated it was important to note that LKM is not opposed to the idea of fluoridation of the public water supply, however, because the bill mandates fluoridation in communities with at least 10,000 service connections, they must oppose the measure in its current form. She also stated that although the bill would only directly affect the cities of Wichita and Hutchinson, a number of other communities who buy water from these two public water suppliers would be indirectly impacted. A copy of her testimony is ([Attachment 1](#)) attached hereto and incorporated into the Minutes as referenced.

The next conferee to be called upon was Dr. Albert Burgstahler, Professor Emeritus of Chemistry, University of Kansas and editor of "Fluoride, a quarterly scientific journal of the International Society for Fluoride Research. Dr. Burgstahler stated that with the recommended 1ppm fluoride in drinking water, fluoridation delivers 100 times more fluoride in a baby formula than is present in mothers' milk and no where in the bill does it identify what kind of "fluoride is proposed to be added to municipal drinking water. He also stated that in Missouri, a State Dental Health Department comparison of life-long resident 2nd and 6th grade children in seven geochemical regions found no statistically significant differences in tooth decay rates between localities with optimal or sub-optimal levels of fluoride in the drinking water. A copy of his testimony is ([Attachment 2](#)) attached hereto and incorporated into the Minutes as referenced.

The third conferee was Dr. Robert Hetrick, a psychologist from Wichita who offered eight problems inherent to putting a people-altering chemical into a municipal water system and stating that toothpaste is inexpensive and that according to the CDC and the ADA, this form of delivery is more effective than drinking it. A copy of his testimony is ([Attachment 3](#)) attached hereto and incorporated into the Minutes as referenced.

The fourth opponent was Ms. Melody Scheel, a Kansas citizen from Winfield who also provided a letter from Professor Roger Masters of Dartmouth College containing scientific data, graphs, and a list of references to peer reviewed scientific publications of his work with Senior Chemist Myron J. Coplan. Ms. Scheel went on to state that because of the high cost of Sodium Fluoride today, more than 90% of all fluoridated cities now use Silicofluorides even though they are toxic waste-products from plants that

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produce phosphate fertilizer. A copy of her testimony and Dr. Master's letter and his attachments are (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

The fifth conferee was Mr. Joe Walker, constituent from Wichita, who stated he has been a fluoridation researcher since 1964 and who also provided information with his testimony including highlights of the congressional testimony of fluoride, and excerpts from a September 9, 2002 letter from the U.S. Environmental Protection agency responding to a U.S. House Senate Committee on science inquiry into fluoridation. Mr. Walker stated that the CDC, in 2001, admitted that any benefits from fluoride are topical, not systemic and the ADA in their July 2000 JADA, which said ingestion of fluoride does not provide any significant reduction of tooth decay, that any beneficial effect is a result of topical application directly to the tooth. A copy of his testimony, the congressional testimony, and excerpts from the U.S. Environmental Protection agency are (Attachment 5) attached hereto and incorporated into the Minutes as referenced.

The sixth conferee to testify was Mr. Wayne Logbeck, a Kansas citizen from Hutchinson, who offered two excerpts from a paper by Dr. J. William Hirzy, Senior Vice President, NTEU Chapter 280 Washington office of the EPA, including, "Recent peer-reviewed toxicity data, when applied to EPA's standard method for controlling risks from toxic chemicals, require an immediate halt to the use of the nation's drinking water reservoirs as disposal sites for the toxic waste of the phosphate fertilizer industry. A copy of his testimony is (Attachment 6) attached hereto and incorporated into the Minutes as referenced.

The final opponent conferee was Mr. Denny Burgess, Lobbyist for the City of Wichita, who stated that the City is concerned that the state is denying local control through the wording of the bill and would violate the spirit of the Home Rule which is the foundation of local government and the bedrock of our belief in independence. He also stated that the issue of fluoridation was put to vote of the people in 1978, in the form of the proposed ordinance "that the Wichita public water supply shall not be fluoridated without a binding vote of the people, and the voters adopted the prohibitory ordinance 45,314 to 38,825. A copy of his testimony is (Attachment 7) attached hereto and incorporated into the Minutes as referenced.

As this meeting was for opponents only, questions came from Senators Haley, Barnett, Jordan, and Wagler for Ms. Gulley, Dr. Hetrick, Dr. Burgstahler, Mr. Walker, and Mr. Logbeck including: has there ever been another bill to mandate local control, does Great Bend and Winfield have 10,000 connections, direct the Committee to some of the warnings of the ADA and the Canadian Dental Association, do we have a survey of the cities that do have fluoridation now and any comparative study of their decay situation to non fluoridated cities in the state, page 2 of Mr. Walkers testimony where he listed a number of organizations, are you implying that at one point in time they officially supported having fluoridated water and now they no longer support it or did they just not take a stand on it, how much would it cost Wichita and Hutchinson to implement this legislation, the 1999 official study, and lastly, could you provide any or more material:

- 1) to support Dr. Hirzy's excerpt regarding the phosphate fertilizer industry, could you provide material;
- 2) reference the court case where Mr. Walker testified under oath the results were in error;
- 3) on xyletol and the FDA approved sodium fluoride;
- 4) showing where the organizations that had endorsed fluoridation and then actually changed their positions.

Adjournment

As there were no further questions, the Chair said that they would continue tomorrow, March 3, 2004, with testimony from the proponents.

The Committee was adjourned. The time was 2:30 p.m.

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The next meeting is scheduled for Wednesday, March 3, 2004.