

Proposed Legislation: HB 2072 (Hearing February 12, 2013)

Organization Taking a Position: Kansas Chapter of Solid Waste

Association of North America (SWANA)

Presenter: Mike Fraser: KS Chapter President (mike.fraser@salina.org)

KS SWANA Membership: 83 persons

Position: Opponent to HB 2072



Situation:

Proposed Legislation from the National Solid Waste Management Association (NSWMA) would restrict the governing body of any municipality to engage in, sell, or otherwise provide material management services to a private person, private entity, or a municipality outside of its incorporated limits. These provisions shall not apply if the governing body has, after public notice and public hearing, made a determination that such material management is not readily available from a non-governmental entity, or adoption of a resolution declaring the existence of a disaster or an emergency.

In December 2012, word surfaced of possible legislation proposed by NSWMA (a private solid waste management association). This legislation would limit any "municipality" (city, county, township, other local government) from operating outside of its boundaries. For publically run solid waste operations, this could have a negative impact on local governments that run operations which haul trash or have regional facilities that accept trash from outside their boundaries.

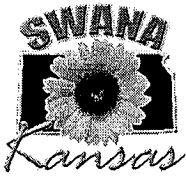
The scope of this solid waste legislation would include: collection, disposal, recycling, composting, or other solid waste services. However, it does not involve transfer station operations.

Problem Areas:

- The full impact of this proposed legislation has not yet been defined. No research has been completed on how many Kansas governing agencies would be affected, what services could be impacted by the change, or how these changes would affect the cost of service and user fees.
- There has been no analysis on what would happen to Kansas government agencies that would have to discontinue providing or receiving solid waste services from their preferred provider. Some communities have limited resources to absorb additional costs and this legislation could force them to pay more for the same service they receive today.
- There is no definition of the meaning of "readily available" in line 12 of the bill.
- This legislation limits the free market system and takes away the right of a city or county to choose who they do business with.
- Replacing government services with private services will not always create a stable community service. Private companies are more vulnerable to profit margins more than a local government.
- Some local governments would have to haul their waste much farther resulting in increased costs and higher user fees.
- Reducing the number of service providers would raise costs for local governments resulting in higher user fees for citizens.

Recommendation:

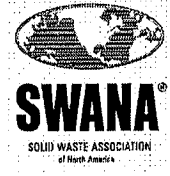
- The Kansas Chapter of SWANA is in opposition to this legislation.
 - Additional research needs to be made to understand the issues and define the impacts on Kansas local governments. The Kansas Department of Health and Environment could be a good source to assist in providing information and analysis of the impacts of this legislation.



Kansas Sunflower Chapter of SWANA Positions Statement

Presented by: **Mike Fraser, SWANA KS Chapter President**
(mike.fraser@salina.org)

Date of Statement: January 25, 2013



Issue:

House Bill No. 2072 (HB 2072), proposed by the state chapter of National Solid Waste Management Association (NSWMA), and would prevent a municipal government from providing material management services outside the incorporated limits. "Material Management" is defined as processing/collecting/disposal, etc., of solid waste and recyclable materials. However, a municipality may engage in this activity if it provides notice, holds a public hearing, and there are no other private companies to provide the service. Another exception allows for a municipality to engage in the business of solid waste and recyclables in an emergency.

Background:

The Kansas Chapter of the Solid Waste Association of North America (SWANA) believes **HB No. 2072** would have a deep effect on many Kansas local governments. **HB No. 2072** would limit the ability of any municipality to provide solid waste services outside their jurisdiction. Many Kansas local and county municipal governments are concerned that if this legislation is passed, it could eliminate local government solid waste services and/or cut into their revenues. The legislation establishes an unfair advantage for privately run solid waste operations over municipally run operations and could result in fewer solid waste services offered to the public. The end result could be higher user fees across the State of Kansas for citizens. A form of grandfather clause is included in the language; however, this would only allow a newly restricted government contract and/or agreement to continue until the contract or agreement has expired.

Kansas Statutes and other information related to this matter are as follows:

- Kansas Counties are statutorily responsible for solid waste management in their counties per K.S.A. 65-3405. All plans currently spell out how that responsibility is carried out including the area being served by the respective facilities described in said plan.
- K.S.A. 3410(c) gives authority and says: Cities or Counties may contract with any person, city, county, or other political subdivision or state agency in this or other states to carry out their responsibilities.
 - This proposed legislation is in direct conflict with current Kansas statutes regarding solid waste management
- Current Subtitle "D" regulations reduced the amount of large landfills in Kansas to 18. 10 of the facilities are public owned by counties or cities. All of these landfills currently contract or take solid waste from outside their incorporated limits.
 - This legislation would eliminate the ability of those 10 facilities to take out of county waste.
- According to KDHE reports, **59 Kansas counties** currently transfer waste out of county.
 - This proposed legislation would eliminate that and leave no reasonable disposal option for those counties.

Recommended Action:

The Kansas Sunflower Chapter of SWANA, representing solid waste management officials and consultants, is opposed to this proposed legislation because it limits solid waste services to the public which in turn would result in higher fees. This type of legislation creates an unfair advantage for privately run solid waste operations over municipally run operations. We do not believe all the ramifications of this legislation have been explained or examined. We ask that this legislation be defeated.