

TESTIMONY

Concerning House Bill 2072

Presented by Darryl C. Lutz, P.E., Butler Director of Public Works/County Engineer

February 12, 2013

Mr. Chairman and Members of the House Local Government Committee:

I am Darryl Lutz, Butler County Director of Public Works and County Engineer. I appreciate the opportunity today to present comments on behalf of Butler County and in support of all County operated solid waste management programs. Butler County opposes HB 2072 in its entirety as being poor and detrimental public policy and respectfully urges this committee to find likewise.

In the State of Kansas, the legislature has assigned the responsibility for solid waste management to the Boards of County Commissioners of their respective Counties. These Counties by virtue of the same set of statutes can delegate this responsibility to a city or can join as a region with neighboring counties. Solid waste management primarily addresses the methods by which trash is disposed of for the County, but, also includes a myriad of other waste management issues such as recycling, or collection methods, or types and extent of local regulations that govern such things as self-management of waste, to storage or transportation of waste, to the review or approval process for new or proposed changes to existing waste management systems within a jurisdiction. The basis for this legislative delegation is the fact that safe and effective solid waste management including disposal is an essential service necessary to sustain a civilized society. Solid waste management is a function that is akin to providing safe drinking water supply or sanitary sewer service or basic transportation infrastructure.

Many counties and in some cases cities in this state have made commitments to their citizens to assure that there is a safe, effective and affordable means of managing end disposal of trash by being in the landfill business. This is a long term major capital investment and in many cases it is an investment that was made to serve a regional area. Counties by virtue of sheer economics and in some cases as a result of making a regional commitment accept trash from outside their boundaries or perhaps provide other types of waste management services. The existence of privatized solid waste management in the State of Kansas came about as a result of some Counties or municipal entities making a local decision to allow waste to be managed privately. These privately operated solid waste management companies once established seek opportunities out of their own self-interest and profit motives to capture market.

Butler County has been in the landfill business serving primarily its own citizens since 1973. In 1996 with the promulgation of new federal legislation under the 1972 Federal Clean Water Act, Butler County like many other Counties and Cities had to make a decision whether to stay in the

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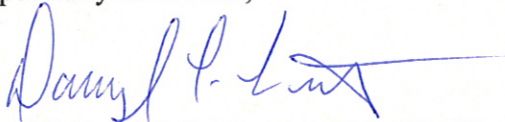


landfill business or not. With promulgation of the new rules for building and for operating landfills, KDHE openly and publicly envisioned the waste disposal model for this state to be regional. They envisioned a state that at that time had a landfill in virtually every one of the 105 Counties across the state to being a state that would have fewer than 25 landfills that would serve larger regional areas. Butler County having no other landfill options remotely near in location made the decision to stay in the landfill business to assure that our citizens had access to and control of a cost effective means of safely disposing of trash. Our neighbors chose not to stay in the business and opened the door for private operators to move in. These private operators have not only established for-profit landfills, they have established for-profit transfer stations which they control and have gradually taken over a majority of the trash collection business which directly compete with municipally operated or owned facilities. The trash collection business has spilled over into Butler County which has diverted trash from the waste flow and resulting revenue stream that makes our landfill viable and affordable. To offset this loss of revenue and to deal with a more pressing issue of sustaining the proper biological function of the landfill, Butler County accepts waste from outside its boundaries from municipal entities as well as private collection contractors. This waste disposal opportunity exists because the Butler County landfill is an economical option for the out-of-county entities.

The language in SB 2072 seems explicit that as long as a private hauler or a municipality outside our County boundaries has reasonable access to solid waste management services of a private company that Butler County cannot offer that service to those entities. The public hearing and County resolution option proposed would likely generate expensive and time consuming legal challenges to a County's determination of reasonableness. At the same time, there is no prohibition on a private company coming into the County to collect and divert trash away from our facility to their own for-profit facilities. The crux of this model is that if Counties cannot sustain their local landfills, they are forced to close which places the burden of the long term post-closure care costs back on its local taxpayers rather than the users of the landfill. Once a County or City is forced out of the waste management business, the private venture now has no competition. This bill represents poor public policy and will do nothing but serve the interests of for-profit companies at the expenses of citizens of this state. Counties have a statutory obligation to provide safe, effective and affordable means of managing solid waste. Do not artificially tie our hands by dictating who we can serve, and, thus putting at risk our ability to meet the "affordable" aspect of our responsibility.

I respectfully urge this committee to find in opposition to this bill and any legislation that ties a County's hands in being able to effectively and affordably manage solid waste and to vote down this piece of legislation.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Darryl C. Lutz", with a long horizontal flourish extending to the right.

Darryl C. Lutz, P.E. Director of Public Works/County Engineer, Butler County