



Testimony on House Bill 2072
presented to
House Committee on Local Government
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KDHE appreciates this opportunity to provide testimony on House Bill 2072, a bill that would restrict solid waste management services that are provided by local governments to persons or businesses outside of their incorporated limits. Our testimony today is intended to provide the committee with information related to the implications of the bill, the affected parties, and apparent conflicts with other provisions of state solid waste laws.

Types and Magnitude of Impacted Operations

The primary impact of this legislation would be on publically-owned **regional** municipal solid waste landfills; however, there are other types of government solid waste services that are provided by many cities or counties outside of their incorporated limits. Attachment 1 provides some information about this universe of impacted facilities. Attachment 2 is a map that shows the location of public and private regional landfills and all of the counties that transfer to each landfill.

There are nine government-owned landfills that provide regional disposal service to 22 other counties. In 2011, about 112,000 tons of waste was transferred to these regional landfills either in large semi-tractor trailers loaded in permitted transfer stations or by direct haul in normal trash trucks. It is unknown as to how much of this activity would be exempt from the transfer prohibition due to existing “grandfathering” contracts or the shift to applicable status when contracts are renewed or modified.

Attachment 1 also shows that there are seven privately-owned regional landfills that received nearly 1.1 million tons of waste from 33 other counties through transfer (nearly ten times the amount transferred to publically-owned landfills). It is noteworthy that the private regional landfills disposed of about six times more solid waste than the publically owned regional landfills in 2011 (3.0 million tons compared to 520,000 tons).

In addition, this bill is applicable to all county-operated household hazardous waste facilities (17 facilities serving 59 other counties) and multiple recycling facilities that serve as regional hubs to consolidate and market recyclables. These regional centers typically serve small cities and rural areas which need to work together to make these kinds of operations feasible.

Other Considerations

This bill inhibits cities and counties from planning for and implementing regional solid waste services. However, existing state laws encourage regional planning and implementation. For example, K.S.A. 65-3405 provides extensive details regarding how counties can plan together to address solid waste management needs and K.S.A. 65-3410 provides clear authority for cities or counties to work together to implement their solid waste plans and waste management practices. Regional planning and implementation would almost always require solid waste to cross county lines to arrive

at a selected processing or disposal location. K.S.A. 65-3410(a) authorizes cities or counties or “combination of cities and counties” to provide for the collection, storage, transportation, processing, and disposal of solid waste and recyclables. This statute in paragraph (c) also authorizes cities and counties to contract with one another to carry out solid waste management operations as stated below:

(c) Cities or counties may contract with any person, city, county, other political subdivision or state agency in this or other states to carry out their responsibilities to implement and approved solid waste management plan including any operations necessary to administer the plan and carry out its purposes and provisions; and for the collection, transportation, processing and disposal of solid wastes and recyclables.

HB 2072 provides an exemption for the disposal of solid waste generated by a natural disaster, but only if the governing body of the city or county providing service outside of their limits has a resolution declaring the disaster. In times of natural disasters, many cities and counties quickly mobilize equipment and staff to the site to provide mutual aid. Or debris could begin to flow, possibly across county lines, within a day or two. Each of the cities and counties that were assisting in the debris management response would need to first pass a resolution before mobilizing those resources or opening their facility doors to debris. This requirement could result in undesirable delays in the response efforts.

Competitive Advantages of Publically-Owned Landfills

Public and private landfills are subject to the same design, construction, and operating requirements; however there is one important competitive advantage granted to publically-owned landfills related to the requirement to establish adequate financial assurance to cover the costs of closure and post-closure at a facility. Private landfill owners must establish a mechanism to cover these costs if they were to go out of business, or they must pass a rigorous corporate financial test. There can be some cost associated with establishing a payment mechanism with the State of Kansas being the beneficiary (e.g., letter of credit, surety bond, insurance). Publically-owned landfills satisfy this requirement by showing that they have ad valorem taxing authority.

It is also possible that some publically-owned landfills can be subsidized in various ways by other government activities. For example, some managerial staff, accounting staff, legal staff, or others can have responsibility for solid waste operations in addition to other public functions. In addition, it is possible for other government resources to be shared such as electronics technology equipment and staff, vehicles, etc.

Attachment 1
Types of Solid Waste Operations Impacted by HB 2072

Publically-Owned Regional MSW Landfills (potential loss of tonnage)

- Nine landfills (eight county-owned, one city-owned)
- 22 counties are served outside of host counties
- Total tons of MSW disposed in 2011 – 521,594 tons
- Total tons transferred into landfills from Kansas counties in 2011 – 111,774 tons (21 percent) – Estimated

Privately-Owned Regional MSW Landfills (potential gain in tonnage)

- Seven landfills
- 33 counties are served outside of host counties
- Total tons of MSW disposed in 2011 – 3,009,682 tons
- Total tons transferred into landfills from Kansas counties in 2011 – 1,090,151 tons (36 percent) – Estimated

If 100% of transfers to public landfills (111,774 tons) shifted to private landfills:

- *Transfers would increase by 10 percent*
- *Total disposal would increase by 3.7 percent (as would disposal revenue)*

Other Publically-Owned Solid Waste Facility Types that Provide Regional Service

Household Hazardous Waste Facilities

- 17 HHW facilities provide regional service
- 59 counties are served outside of the counties that serve as the regional “hub”
- Collected HHW passes through the hub before shipped for disposal/recycling

Recycling Centers/Processors

- Number of facilities and counties served is uncertain
- Coordinated operations usually found in rural areas (Colby, Pratt, Dodge City, etc.)

Private Waste Haulers

Many collect waste in 22 counties served by publically-owned landfills and directly haul waste across county lines. Contracts for disposal may or may not exist.

Attachment 2

Regional Municipal Solid Waste Landfills in Kansas

