

**Testimony on Senate Bill 152  
House Agriculture Committee**

**William J. Carr, Assistant Director  
Bureau of Water  
Kansas Department of Health and Environment**

**March 9, 2020**

Good morning Chairman Highland and Members of the Committee. I am William Carr, Assistant Director for the Bureau of Water in the Kansas Department of Health and Environment. I appreciate this opportunity to provide testimony in support of Senate Bill 152. As amended by the Senate, this legislation accomplishes several initiatives:

1. Amends K.S.A 65-171d to authorize the Secretary of Health and Environment to establish, via rules and regulations, fees for the permitting, monitoring, testing, inspecting and regulating Class I and Class V Underground Injection Control (UIC) wells.
2. Places caps on those new fees depending upon the type and status of injection well.
3. Directs the Secretary to discount the new fees for facilities that already pay fees for Underground Hydrocarbon Storage or Salt Solution Mining.
4. Directs the revenue raised by the new fees to be placed in KDHE's Water Program Management Fund, created by K.S.A. 65-166b.
5. Amends the existing cap on fees charged to individual water and wastewater certified operators from \$25 to \$125.
6. Places a cap of \$100 on fees charged on water well contractor applications and drilling rigs and a cap of \$200 on fees charged for water well contractor licenses.
7. Redirects the revenue raised by the fees on certified operators and water wells from the State General Fund to the KDHE Water Program Management Fund.

The motivation for Senate Bill 152 is threefold: to provide adequate resources to meet growing needs and challenges in water resource management and pollution control; to stabilize the funding support for the associated programs in the Bureau of Water addressing those needs; and, to reduce the subsidization of several of these programs by the Underground Hydrocarbon Storage Fund. The water and wastewater certified operator program is required under the Federal Safe Drinking Water Act and the Kansas water and wastewater statutes. Successful and compliant operations of water and wastewater treatment systems requires a knowledgeable and responsible workforce. The certification program ensures the integrity of that workforce through routine training and testing. The program has historically been supported by State General Funds and Federal grants. Both revenue sources have declined over time. Fees, capped at \$25, have not been raised since 1975.

The Underground Injection Control program and the water well licensing program have been largely supported by the Underground Hydrocarbon Storage fee fund. There has been a disconnect between staffing and associated duties under those two programs from the funding support. The proposed UIC fees and placement of the revenue into the Water Program Management Fund create more equitable support of those programs from the facilities and operators directly subject to their regulations. Class I injection wells dispose of hazardous and non-hazardous wastes into deep formations below underground fresh water aquifers. Class V wells place fluids into shallower formations and can include complex septic fields, aquifer recharge and reinjection of remediated ground water. The Water Well program licenses water well contractors and requires they have continuing education. It also licenses drilling rigs and sets standards for the construction and plugging of water wells to prevent the contamination of aquifers. In contrast, the fees raised for Underground Hydrocarbon Storage were intended to support the management and protection of salt caverns used for storage of hydrocarbon products.

Over the past two years, KDHE has engaged numerous interests associated with these programs on the need for fee increases. These interested parties include the Kansas Rural Water Association, Kansas Municipal Utilities, Kansas League of Municipalities, Kansas Section of the American Water Works Association, companies operating Class I injection wells, such as ONEOK, and the Kansas Ground Water Association. General support for the initiatives in Senate Bill 152 has been forthcoming, but not without conditions. Among those conditions:

1. Fees need to support the regulatory programs for which they are levied.
2. Fees need to be capped.
3. Operations already paying into a fee fund, should get some relief from any additional fees.
4. Increases in fee support should be reflected in correspondingly increased services and benefits, such as technical assistance, from the supported programs.
5. As applicable, fee increases should be increased gradually over time.

Provisions of Senate Bill 152 address the first three conditions of support from the affected permittees. As an example of improved program service, concurrent changes to the regulations governing water and wastewater certified operators will separate certification testing for ground water and surface water treatment systems. Testing operators on both ground water and surface water has been a factor in low passage rates of tests in Kansas. Additionally, a provisional certificate will be allowed for operators, technical providers and regulators to demonstrate knowledge of more advanced water and wastewater treatment systems without operating those systems. Finally, KDHE, in consultation with technical providers, has agreed not to impose increased certified operator fees until a year after regulations implementing the fee cap in Senate Bill 152 are adopted.

Expanding the suite of operator tests, creating new certification categories, expanding e-reporting by permittees, enhanced database management and addressing emerging administrative and management issues while maintaining staff continuity within the regulatory programs requires the stable funding support provided by Senate Bill 152. The fees from the Certified Operator program deposited \$49,000 into the State General Fund last fiscal year. Average deposits into the State General Fund from water well licensing was \$55,500 the past two fiscal years. Fee increases under the caps provided by Senate Bill 152 will be used to maintain those programs. New fees on UIC wells are expected to initially raise \$187,500, which combined with Federal grants, will reduce the UIC program use of the Underground Hydrocarbon Storage fee fund.

Strong state programs provide regulatory certainty for municipalities, industries and commercial economic interests. Diminished state oversight invites increased litigation or intervention by Federal regulators. Senate Bill 152 provides the authority to ensure KDHE maintains its strong programs and gives the regulatory community certainty in environmental expectations and conduct. As such, KDHE stands in support of Senate Bill 152 and urges its passage as a step in maintaining State autonomy in protecting its surface and ground water resources. I would be happy to answer questions from the Committee at this time and thank you for your time.