

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on March 14, 2002 in Room 231-N of the Capitol.

All members were present except: Representative Clay Aurand - excused  
Representative Daniel Thimesch - excused  
Representative Jeff Peterson - excused

Committee staff present: Raney Gilliland, Kansas Legislative Research Department  
Mary Torrence, Revisor of Statute's Office  
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: David M. Traster, 700 Bank of America Center, Wichita, KS 67202  
Jim Spencer, Waste Connections Inc. 2745 N. Ohio, Wichita, KS 67219  
David Lies, 4631 S. Palisade, Wichita, KS 67217  
Larry Connell, Sunflower Sanitation, 208 SE 21<sup>st</sup> Street, Topeka, KS 66612  
Rick Lemons, Waste Management, 3611 NW 16<sup>th</sup>, Topeka, KS 66618  
Terry Stone, 3901 S. West Street, Wichita, KS 67202  
Mark Raccuglia, 2915 N. Emporia Circle, Wichita, KS 67219  
Michelle Mendoza, 566C S. Oliver, Wichita, KS 67218  
Randy Allen, 6206 SW 9<sup>th</sup> Terr., Topeka, KS 66615  
Robert W. Parnacott, County Courthouse, 525 N. Main, Suite 359, Wichita, KS 67203  
Leroy D. Alsup, PO Box 1629/7th & Walnut, Coffeyville, KS 67337  
Kim Gulley, 300 SW 8<sup>th</sup> Avenue, Topeka, KS 66603-3912  
Lee Parker, City Attorney, Bel Aire, KS  
Bruce Snead, Mayor, Manhattan, KS  
Mike Lechner, Chisolm Trail  
Joel Elsea, 8918 W. 21<sup>st</sup> N. Suite 200, PMB 232, Wichita, KS 67205  
Gilbert Ballinger, 405 Baehr, Wichita, KS 27212

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She welcomed 26 members from the Kansas Environmental Leadership Program (KELP) attending the committee meeting today.

The Chairperson opened **SB504** for discussion and possible action.

**SB504: Repeals sunset provision allowing hunting in controlled shooting area without hunter education.**

Rep. Bill Light made a motion to amend SB430 - "Physicians from other states to certify disabilities for hunting permits" and SB431 - "Issuance of wild turkey permits to person's under 14", into SB504. Rep. Jonathan Wells seconded the motion. Motion carried.

Rep. Ray Merrick made a motion SB504 be passed favorably as amended. Rep. Bill Light seconded the motion. Motion carried. Rep. Ray Merrick will carry the bill on the House Floor.

Rep. Sharon Schwartz was recognized. She worked with Mary Torrence, Legislative Revisor of Statutes, to clarify language in **HB2710** as to the authority of Groundwater Management Districts. Rep. Schwartz explained the rationale to adopt a substitute bill. She believes during discussion of the bill there seemed to be confusion among conferees as to the authority of the GMD's and believes it comes down to the interpretation of current law. Policies that are being enforced as law today are being done without being

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approved by the Chief Engineer. She called attention to page two, section (o), "Such rules and regulations shall be of no force and effect unless and until adopted by the Chief Engineer to implement the provisions of article 7 of chapter 82a of the Kansas Statutes Annotated". (See attachment 1)

Mary Torrence, Revisor of Statutes, distributed a proposed substitute bill and explained Rep. Schwartz's amendment and the concept of **HB2710** which was amended into **House Substitute for SB430**.

Rep. Sharon Schwartz made a motion to adopt language for House Substitute for SB430. The motion was seconded. Motion carried.

Rep. Tom Sloan made a conceptionsal motion "to provide for GMD's to submit proposed rules and regulations to state agencies other than the division of water resources when the rules and regulations are not within the authority of the chief engineer. Standards, policies and orders of a GMD which are within the authority of a state agency other than DWR would be void after January 1, 2004, unless adopted by rules and regulations of that agency". Rep. Bruce Larkin seconded the motion. Motion carried.

Rep. Sharon Schwartz made a motion House Substitute for SB430 be passed favorably as amended. Rep. Tom Sloan seconded the motion. Motion carried. Rep. Sharon Schwartz will carry the bill on the House Floor.

Written comments on **House Substitute for SB430** were distributed from Wayne Bossert, Manager GMD #4, in opposition to the bill. (See attachment 2)

The Chairperson opened the hearing on **HB3002**.

**HB3002: Procedures required for municipalities to discontinue use of existing private solid waste services providers.**

David Traster, Attorney, Foulston Siefkin, was welcomed to the committee. He testified in support of the bill which he drafted for Waste Connections of Kansas. The focus of this bill is to make it clear that to provide solid waste and recyclable collection services when doing so excludes preexisting private enterprise is a taking which entitles the private enterprise to compensation. The bill then provides an escape clause for cities who want to take over this function without providing compensation to the affected businesses. By providing seven years notice, cities can take over this function without having to pay for it. This period of time allows private industry time to recoup their investments, pay off loans and make other adjustments so they are not injured by the city's decision. (See attachment 3)

Jim Spencer, Waste Connections of Kansas, was welcomed to the committee. He presented testimony in support of the bill. He believes this legislation is very straightforward and sorely needed. Similar legislation has been passed by more than fifteen states over the past seven years. What each of the legislatures in those respective states saw in reviewing, and ultimately passing similar legislation, was the obvious benefits to the local government of just compensation legislation, as well as the fairness to the private industry of such legislation. (See attachment 4)

David Lies, Lies Trash Service, was welcomed. He testified in support of the bill and believes this bill would help protect their company from cities franchising to single-hauler contracts. Single-hauler contracts take away the \$3,000,000 business they've worked over 40 years to build. Without this bill their customers would be taken from them, given to another company without compensation to them. (See attachment 5)

Larry Connell, Sunflower Sanitation, was welcomed. He testified in support of the bill. (No Written Testimony)

Rick Lemmons, Waste Management, Inc., was welcomed to the committee. He testified in support of the bill. (No Written Testimony)

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Terry Stone, Automated Waste Services, was welcomed to the committee. He testified in support of the bill and believes the foremost reason that the committee's decision here today is vitally important to his business, as well as the businesses of the other speakers, is that if other municipalities are allowed to pass ordinances similar to that enacted by the City of Bel Aire, these collective decisions will eliminate the local waste hauler and deprive Kansas residents of any choice in waste service providers. Eliminating competition in the industry is ultimately bad for the consumer and detrimental to this state. (See attachment 6)

Mark Raccuglia, Wichita Sanitation Services, Inc., was welcomed and testified in support of the bill. He feels the bill would fairly compensate the haulers or give them time to recuperate their investment without infringing on the cities' freedom to franchise. The bill provides an option for immediate enactment through compensating the haulers or future enactment if the cities wish to avoid the cost of compensation. All this bill really does is to make the city plan ahead. (See attachment 7)

Michelle Mendoza, Mendoza Services, was welcomed to the committee. She testified in support of the bill. She is the owner of Mendoza Trash Services, which has been in operation for four years now. She believes she and her family are taking advantage of the American dream by working together to secure their future. Her business now has 900 customers in the city of Wichita and has three employees at this time. All the groundwork has been laid and she is ready to take this business to the next level. She supports the bill to protect her investment and would greatly appreciate the committee's support by passing it. (See attachment 8)

Committee discussion and questioning of the proponents followed.

The Chairperson welcomed Randy Allen, Kansas Association of Counties, to the committee. He testified in opposition to the bill. He believes this bill would provide extraordinary protections to solid waste service providers at the expense of the home rule authority of counties. In addition to their concern about restricting the ability of county commissioners to do what they believe to be in the best interest of the public through their home rule powers, they listed three other issues and believe this bill to be an unreasonable and unworkable solution to what may be an isolated issue which is currently in litigation. (See attachment 9)

Robert W. Parnacott, Assistant County Counselor, Sedgwick County, was welcomed. He testified in opposition to the bill. He believes this bill would limit the ability of counties and cities to effectively plan for and manage local solid waste collection; drive up the cost of solid waste collection, which in turn would be passed on to the consumer; and would encourage other private commercial interests to seek legislation to further restrict local governments from controlling matters of public health and safety concerns and create additional property rights not currently recognized by law. (See attachment 10)

Leroy Alsup, City Manager, Coffeyville, was welcomed to the committee. He testified in opposition to the bill and believes the City of Coffeyville has determined that if they want to continue the momentum that they have experienced over the last few years that it is critical they substantially enhance the initial image projected by their community. The City has initiated several activities to clean up and improve the general appearance and overall attractiveness of their community. Based on input from the Chamber of Commerce, Leadership Coffeyville, the Board of Realtors, various Civic Clubs and Service Organizations, and citizen input at multiple City Commission meetings, it is clear that their residents feel that city wide mandatory trash pickup is a key to cleaning up and maintaining an attractive community. He feels this bill is not consistent with the past wisdom displayed by the State Legislature, nor is it consistent with the concepts of free enterprise. (See attachment 11)

Kim Gulley, League of Kansas Municipalities, was welcomed. She testified in opposition to the bill and believes that the legislation has many points of concern, two primary areas of interest to municipalities in Kansas is the Home Rule and the Taking issue. She believes that solid waste is a public function and each community must have the ability to adopt a solution that is appropriate to their specific needs and their constituents' desires. The League opposes tying the hands of locally elected officials with this legislation. (See attachment 12)

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Lee Parker, City Attorney for Bel Aire, was welcomed. He testified in opposition to the bill. (No Written Testimony)

Bruce Snead, Mayor of Manhattan, was welcomed and testified in opposition to the bill. (No Written Testimony)

Written only testimony in opposition to the bill was submitted by Ashley Sherard, Government Relations Manager. (See attachment 13)

Committee questioning of the opponents and discussion followed.

The Chairperson welcomed Mike Lechner, Chisolm Trail, to the committee. He testified in support of the bill. (No Written Testimony)

Joel Elsea, Air Capital Disposal, was welcomed. He testified in support of the bill and believes waste hauling is an industry that doesn't require a formal education. This industry is the American dream to many local minority haulers that will have their dreams crushed if they are displaced. Then what do they do? He has always dreamed of running his own small business and growing that business through hard work, good service and a competitive price. Without this bill, he will have a bulls eye on his back and can not only be instantly put out of business, but also forced into bankruptcy for providing a good service at a fair price. (See attachment 14)

Marleena Stein, Ballinger Trash Service, was welcomed to the committee. She testified in support of the bill on behalf of Gilbert Ballinger, owner of Ballinger Trash Service and believes this bill would restore some fairness to the haulers without prohibiting the cities' right to franchise, if they so choose. The bill would require cities that choose to franchise trash service to either provide advance notice of their intention, in order to allow the haulers time to recover their investments, or to provide just compensation to the affected haulers. This bill simply calls for cities to do a better job of advance planning, which, in turn, would benefit all of the parties involved. (See attachment 15)

The Chairperson thanked the conferees for their interest and committee members and guests for their attention.

The meeting adjourned at 6:20 p.m. The next meeting is scheduled for Tuesday, March 19, 2002.