



League of Kansas Municipalities

To: Senate Utilities Committee
From: Kim Winn, Director of Policy Development & Communications
Date: January 18, 2007
Re: Opposition to SB 20

On behalf of the 576 member cities of the League of Kansas Municipalities (LKM), we thank you for the opportunity to offer our comments regarding SB 20. After an extensive policy process involving city officials from around the state, the LKM Convention of Voting Delegates adopted the following policy regarding participation by water and sewer utilities in the state one-call program:

"We support the inclusion of municipal utilities in the state one-call system on a voluntary basis." 2007 Statement of Municipal Policy

No-Cost Benefit Analysis. As we begin discussions on this issue, we find it particularly difficult to craft an appropriate solution when the scope of the problem is so unknown. Anecdotal evidence that some contractors have hit water and sewer lines from time to time has been offered. However, there has been no data collected regarding the number of hits in Kansas or the cost of such hits. Before a costly mandate is passed on to water and sewer customers in the state, we believe a cost-benefit analysis would be appropriate.

One of the primary reasons that LKM opposes the mandatory participation in one-call is that it results in a significant unfunded mandate on the smallest cities in Kansas. I have attached a list of the 308 cities that would be forced to participate in the state one-call program should SB 20 pass as written. You will note that 222 of the cities that would be affected by this legislation are under 500 in population, 42 are between 500 and 999, 30 are between 1,000 and 4,999, 6 are between 5,000 and 9,999, and only 8 are over 10,000. To add such an administrative burden, especially in cities that have not seen significant development in a number of years, merely forces the taxpayers in those small communities to pay an even higher price in the form of utility bills or property taxes.

Current One-Call System is a Good One. We believe that the current law with regarding to participation in the state one-call system is appropriate. In fact, a recent survey conducted by the National Telecommunications Damage Prevention Council ranked Kansas among the top "3" programs in the country (see attached summary).

Kansas is not alone in our treatment of water and sewer utilities. In fact, according to information provided by the Kansas Corporation Commission (KCC), a number of states treat water and sewer utilities differently. For example, some states require information about a utility to be posted regarding water and sewer utilities, but do not require locates (CO); some states exempt "small municipalities" (in FL they are exempted if they have 10,000 residents or fewer); Louisiana exempts all incorporated municipalities; and so on.

LKM supports the mandatory participation in one-call for gas and electric utilities and the voluntary participation by water and sewer utilities. We believe that this difference in treatment is appropriate for two key reasons:

- (1) **Water and Sewer are Different.** Simply put, gas and electric lines are inherently more dangerous than water lines. The current policy acknowledges this difference.
- (2) **Water and Sewer Lines are Buried Deeper.** As a general rule, water and sewer lines are at least three feet deep. The KCC estimates that an excavator is 10 times more likely to hit a gas or telecom line than he is a water or sewer line. Again, this clearly indicates the need for a difference in the treatment of these utilities.

KCC Jurisdiction. Literally since statehood, water and sewer utilities that are operated by cities have been managed by locally elected officials. SB 20 would essentially grant the KCC jurisdiction over these utilities. This represents a serious policy shift away from a system that has worked successfully for over 100 years. LKM opposes granting the KCC such authority over municipalities.

Solution Doesn't Fit the Problem. One of our primary concerns with SB 20 is that the solution, mandatory participation in one-call, does not solve the stated problem of contractors who hit water and sewer lines that are not locatable. Even if cities are forced to participate in one-call, they still will not know exactly where all the water and sewer lines are in their community. Many of these lines were put into place before currently location technology was available. Section 2 of the bill is the only section which will directly address the stated problem. With the current low-cost locator technology that is now available, we believe that the small mandate found in this portion of the bill meets the cost benefit analysis and should be implemented. We believe that all sanitary sewer facilities and water facilities that are installed after a date certain should be locatable and we wholeheartedly support this portion of the bill.

Training and Assistance is Needed. Rather than the mandate approach to the stated problem, we believe that a training and assistance approach would be far more effective. LKM stands ready to commit time and resources to work with interested parties to train water and sewer utilities on the importance and technical aspects of doing accurate facility locates. In addition, we would support any efforts to provide grant funds and technical assistance to small communities to help them to map their systems so that they can provide more accurate locates.

In conclusion, we believe that SB 20 is an unwarranted mandate on the smallest communities in Kansas. For these reasons, we respectfully request that you do not recommend SB 20 favorably for passage. I would be happy to work with the Committee on this issue and I would stand for questions at the appropriate time.

NTDPC State One-Call Law Summary Page

Summary last update: 5/13/2005

Number of States that Meet or Exceed NTDPC Minimum Guidelines	
Excavator Notice	21
White-Line Required	33
Hand-Dig/Soft Excavate Required	44
Monitor Back Ream Required	9
Non-Delegable Duty	41
Operator Response	34
Tolerance Zone	49
Positive Response	30
Mandatory Reporting	44
Design Request	35
Mandatory Participation	43
Emergency Clause Definition	48
Exemptions	11
Penalties/Fines	35
Attorney's Fees	14
Enforcement Agency	51

Enforcement Agency Breakdown			
PUC	AG	Other	None
13	5	10	23

Tolerance Zone Counts	
0"	1
12"	1
18"	25
24"	20
30"	4

State(s) that meet the most guidelines	
Florida	14
Illinois	14
Hawaii	13
Arkansas	13
Kansas	13

State(s) that meet the least guidelines	
Montana	6
North Carolina	6
Ohio	7
Michigan	7
Vermont	7

City	Class	Population	Water Utility	Sewer Utility
Speed	3	41	YES	NO
Brownell	3	42	YES	NO
Waldo	3	46	YES	NO
Elmdale	3	52	YES	YES
Cedar Point	3	55	YES	NO
Susank	3	57	YES	YES
Matfield Green	3	62	YES	NO
Paradise	3	62	YES	YES
Wallace	3	62	YES	NO
Clayton	3	64	YES	NO
Willis	3	66	YES	YES
Elsmore	3	68	NO	YES
Lost Springs	3	68	NO	YES
Oneida	3	69	YES	YES
Alexander	3	70	YES	YES
Hunter	3	72	YES	YES
Randall	3	74	YES	YES
Bluff City	3	76	YES	NO
Spivey	3	77	YES	YES
Elgin	3	78	YES	NO
Timken	3	81	YES	NO
Narka	3	84	YES	YES
Oketo	3	84	YES	NO
Coolidge	3	85	YES	YES
Havana	3	85	NO	YES
Powhattan	3	86	YES	YES
Huron	3	88	NO	YES
Willowbrook	3	88	NO	YES
Savonburg	3	90	NO	YES
Ramona	3	91	NO	YES
Wheaton	3	93	NO	YES
Liberty	3	94	NO	YES
Gove	3	95	YES	YES
Raymond	3	95	YES	YES
Cullison	3	97	YES	YES
Reserve	3	97	YES	NO
Roseland	3	97	YES	NO
Vermillion	3	98	YES	YES
Mahaska	3	100	YES	YES
Cambridge	3	101	YES	YES
Manchester	3	103	YES	YES
Simpson	3	103	YES	NO
Englewood	3	104	YES	YES
Severance	3	104	NO	YES
Stark	3	105	NO	YES
Glade	3	106	YES	NO
Nashville	3	106	NO	YES
Chautauqua	3	107	YES	YES
Liebenthal	3	108	YES	YES
Alton	3	109	YES	YES
Durham	3	110	YES	YES
Mayfield	3	110	YES	YES
Munden	3	110	YES	YES
Virgil	3	110	YES	YES
Woodston	3	111	YES	YES

Formoso	3	116	YESYES
Portis	3	116	YESNO
Zenda	3	118	YESYES
Barnard	3	119	YESYES
Zurich	3	121	NO YES
Bartlett	3	124	YESYES
Soldier	3	124	YESYES
Collyer	3	125	YESYES
Hudson	3	127	NO YES
Gaylord	3	128	YESYES
Horace	3	129	YESYES
Jennings	3	130	YESYES
Prairie View	3	131	YESYES
Esbon	3	133	YESYES
Lorraine	3	133	YESYES
Randolph	3	135	YESYES
Herndon	3	136	YESYES
Windom	3	136	YESYES
Park	3	137	YESYES
McDonald	3	138	YESYES
Redfield	3	138	NO YES
Olmitz	3	139	YESYES
Green	3	140	YESYES
Barnes	3	142	YESYES
Tampa	3	142	NO YES
Treece	3	144	YESYES
Long Island	3	145	YESYES
Republic	3	145	YESYES
Damar	3	150	YESYES
Galesburg	3	150	YESYES
Rexford	3	151	YESYES
Fall River	3	152	YESYES
New Cambria	3	152	NO YES
Hepler	3	153	NO YES
Morrowville	3	157	YESYES
Haddam	3	158	YESYES
Norcatur	3	158	YESYES
Alden	3	161	NO YES
Preston	3	162	YESYES
Latham	3	164	YESYES
Culver	3	165	YESYES
Corning	3	167	YESYES
Westphalia	3	168	NO YES
Bogue	3	169	YESYES
Fontana	3	169	YESYES
Peru	3	173	YESYES
Rush Center	3	174	YESYES
Goff	3	175	YESYES
Admire	3	178	YESYES
Denton	3	178	NO YES
Netawaka	3	178	YESYES
Fulton	3	181	YESYES
Kincaid	3	181	YESYES
Albert	3	183	YESYES
Circleville	3	185	YESYES
Selden	3	185	YESYES
Garfield	3	186	NO YES
Luray	3	186	YESYES

Delia	3	188	YESYES
Dorrance	3	189	YESYES
Olsburg	3	191	YESYES
Wilsey	3	191	YESYES
Beverly	3	193	YESYES
Morganville	3	196	YESYES
Utica	3	198	YESYES
Ensign	3	199	YESYES
Robinson	3	199	YESYES
Bern	3	200	YESYES
McCracken	3	203	NO YES
Muscotah	3	203	YESYES
Summerfield	3	204	YESYES
Geuda Springs	3	205	YESYES
Woodbine	3	207	YESYES
Cuba	3	208	YESYES
Elbing	3	208	YESYES
Lehigh	3	208	YESYES
Louisville	3	211	NO YES
Smolan	3	211	NO YES
Paxico	3	212	YESYES
Schoenchen	3	212	YESYES
Kirwin	3	214	YESYES
Allen	3	216	YESYES
Whiting	3	216	YESYES
Grenola	3	217	YESYES
Lincolnville	3	218	NO YES
Bison	3	220	YESYES
Walnut	3	220	YESYES
Tyro	3	222	NO YES
Belvue	3	223	YESYES
Burr Oak	3	226	YESYES
Kanorado	3	228	YESYES
Tipton	3	230	YESYES
White Cloud	3	230	YESNO
West Mineral	3	234	YESYES
Burdett	3	241	YESYES
Rantoul	3	245	YESYES
Moscow	3	251	YESYES
Brookville	3	253	YESYES
Fairview	3	259	NO YES
Lane	3	259	YESYES
Brewster	3	262	YESYES
Hanston	3	262	YESYES
Bazine	3	263	YESYES
Beattie	3	267	YESYES
Emmett	3	270	YESYES
Geneseo	3	271	YESYES
Burns	3	275	YESYES
Buffalo	3	277	YESYES
Agra	3	278	YESYES
Lebanon	3	278	YESYES
Prescott	3	283	YESYES
Lenora	3	285	YESYES
Blue Mound	3	291	YESYES
Courtland	3	291	YESYES
Toronto	3	291	YESYES
Ransom	3	292	YESYES

Bushton	3	298	YESYES
Grainfield	3	298	YESYES
Grinnell	3	299	YESYES
Sylvan Grove	3	301	YESYES
Everest	3	304	YESYES
Parker	3	306	YESYES
Ingalls	3	312	YESYES
Otis	3	319	YESYES
Copeland	3	321	YESYES
Princeton	3	327	YESYES
Greenleaf	3	328	YESYES
Natoma	3	329	YESYES
Tescott	3	331	YESYES
Dwight	3	332	YESYES
Greeley	3	333	YESYES
Gorham	3	334	YESYES
Bronson	3	341	YESYES
Severy	3	352	YESYES
Leonardville	3	354	YESYES
Easton	3	357	YESYES
Mayetta	3	359	YESYES
Williamsburg	3	359	YESYES
Gridley	3	365	YESYES
South Haven	3	368	YESYES
Scandia	3	374	YESYES
Linwood	3	382	YESYES
Arcadia	3	387	YESYES
Linn	3	388	YESYES
Colony	3	390	YESYES
Gypsum	3	399	YESYES
Edna	3	422	YESYES
Lucas	3	422	YESYES
McCune	3	424	YESYES
Melvern	3	430	YESYES
Moline	3	431	YESYES
Turon	3	436	YESYES
Bird City	3	438	YESYES
Jewell	3	439	YESYES
Assaria	3	444	YESYES
Delphos	3	449	YESYES
Dearing	3	452	YESYES
Almena	3	454	YESYES
Quenemo	3	455	YESYES
Altoona	3	472	YESYES
Lewis	3	475	YESYES
Scammon	2	475	YESYES
Kensington	3	490	YESYES
Maple Hill	3	492	YESYES
Macksville	3	494	YESYES
St George	3	495	YESYES
White City	3	499	YESYES
Thayer	3	500	YESYES
Hartford	3	505	YESYES
Olpe	3	509	YESYES
Richmond	3	514	YESYES
Kanopolis	3	516	YESYES
Norwich	3	522	YESYES
Protection	3	541	YESYES

Waverly	3	556	YESYES
Haviland	3	574	YESYES
Ozawkie	3	574	YESYES
Fowler	3	578	YESYES
Leroy	3	579	YESYES
Linn Valley	3	581	NO YES
Effingham	3	582	YESYES
Winchester	3	582	YESYES
Strong City	3	583	YESYES
Marquette	3	585	YESYES
Lecompton	3	589	YESYES
Nortonville	3	598	YESYES
Hoyt	3	600	YESYES
Leon	3	648	YESYES
Florence	2	650	YESYES
St Paul	3	657	YESYES
Cedar Vale	3	669	YESYES
Minneola	3	681	YESYES
Onaga	3	683	YESYES
Clafin	3	688	YESYES
Riley	3	692	YESYES
Meriden	3	708	NO YES
Cherokee	3	718	YESYES
Tribune	3	722	YESYES
Wilson	3	767	YESYES
Madison	3	799	YESYES
Canton	3	812	YESYES
Perry	3	883	YESYES
Jetmore	3	914	YESYES
Americus	3	932	NO YES
Downs	3	938	YESYES
Highland	3	941	YESYES
Cottonwood Falls	3	959	YESYES
Overbrook	3	971	YESYES
Rossville	3	996	YESYES
Lyndon	3	1041	YESYES
Blue Rapids	3	1048	YESYES
Solomon	3	1056	YESYES
Hoxie	3	1149	YESYES
Erie	3	1167	YESYES
Valley Falls	3	1209	YESYES
Chetopa	2	1231	YESYES
Sedan	3	1269	YESYES
Ness City	3	1326	YESYES
Buhler	3	1335	YESYES
Pleasanton	3	1368	YESYES
Ogden	3	1432	YESYES
Leoti	3	1440	YESYES
Carbondale	3	1451	YESYES
Yates Center	2	1493	YESYES
Belle Plaine	3	1618	YESYES
Wellsville	3	1631	YESYES
Sedgwick	3	1644	YESYES
Caney	2	1975	YESYES
Elkhart	2	2036	YESYES
Cherryvale	2	2266	YESYES
Fredonia	2	2455	YESYES
Eureka	2	2739	YESYES

Ellsworth	3	2887	YESYES
Galena	2	3163	YESYES
Basehor	3	3287	NO YES
Scott City	2	3474	YESYES
Tonganoxie	3	3774	YESYES
Fairway	2	3840	NO YES
Spring Hill	3	4494	YESYES
DeSoto	3	5170	YESYES
Valley Center	2	5508	YESYES
Abilene	2	6409	YESYES
Bonner Springs	2	6942	YESYES
Roeland Park	2	6975	NO YES
Andover	2	9114	NO YES
Lansing	2	10214	NO YES
Junction City	1	16402	YESYES
Hays	2	19632	YESYES
Derby	2	20543	NO YES
Salina	1	45956	YESYES
Manhattan	1	48668	YESYES
Lawrence	1	81816	YESYES
Olathe	1	111334	YESYES