

**House Bill 2159 – Amendments to K.S.A.65-166b, 65-4514, 55-1,117, and 82a-1206
Relating to fees for regulations of water wells, underground injection control wells, and water and
wastewater operators**

House Agriculture and Natural Resources Committee

Kansas Department of Health and Environment Testimony

February 13, 2023

Chairman Rahjes and Members of the Committee:

The Kansas Department of Health and Environment (KDHE) supports HB2159. The KDHE Bureau of Water manages the Underground Injection Control (UIC) programs for Class I and Class V wells, the regulation of water well contractors, and the water and wastewater operator certification program. This legislation accomplishes several initiatives:

1. Amends K.S.A. 2022 Supp. 55-1,117 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 Subsurface Hydrocarbon Storage Fund, established pursuant to K.S.A. 55-1,118.
5. Redirects the revenue raised by the certification of water and wastewater operators and the licensure of water well contractors from the State General Fund to the KDHE Water Program Management Fund.

The motivation for House Bill 2159 is threefold: to provide adequate resources to meet the 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 fees collected from Underground Hydrocarbon Storage operators. The water certified operator program is required under the Federal Safe Drinking Water Act and both the water and wastewater certified operator programs are required in Kansas 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 is not supported by State General Funds, but by federal sources that are subject to Congressional appropriation. Fees have not been raised since 1975.

The Underground Injection Control (UIC) program and the water well licensing program have been largely supported by fees collected from Underground Hydrocarbon Storage (UHS) operators. The breadth of programs supported by collected (UHS) fees extends beyond the original intent of the fees. There has been a disconnect between the fees collected and the programs the fees support. The proposed UIC fees and placement of the revenue into the Subsurface Hydrocarbon Storage Fund create more equitable support from the facilities and operators directly subject to the regulations of those programs. 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. Class V fees would not be imposed on individual septic systems.

Over the past four years, KDHE has engaged numerous interests associated with these programs on the need for this legislation. 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. Support for the initiatives in House Bill 2159 was forthcoming, but not without conditions. Among those conditions:

1. Fees need to support the regulatory programs for which they are levied.
2. UIC Fees need to be capped.
3. Operations already paying into a fee fund should get relief from additional fees.
4. Increases in fee support should be reflected in increased services and benefits, such as permit and plan review and technical assistance, from the supported programs.
5. When imposed, fee increases should occur gradually.

Provisions of House Bill 2159 address the first three conditions of support from the affected permittees. To improve program service, concurrent changes to the regulations governing water and wastewater operator certification, water well drilling and Underground Hydrocarbon Storage are underway. Additionally, KDHE, in consultation with technical providers and facility operators, has agreed not to impose fee increases until a year after regulations establishing fees subject to House Bill 2159 are adopted, thereby allowing time for those providers and operators to plan accordingly.

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 directed stable funding support provided by House Bill 2159. The fees from the Certified Operator program deposited an average of \$47,000 over the last 3 years into the State General Fund. Deposits into the State General Fund from water well licensing has averaged \$55,000 the past three fiscal years. Fee transfers to the Water Program Management Fund provided by House Bill 2159 will maintain those programs. New fees on UIC wells are expected raise \$205,000 annually for the UIC programs, which combined with Federal grants, should provide stable support for both UIC and UHS programs.

Strong state programs provide regulatory certainty for economic activities. Diminished state oversight invites increased litigation or intervention by Federal regulators. House Bill 2159 provides the authority to ensure KDHE can maintain its strong programs and give the regulatory community certainty in expectations and conduct. As such, KDHE stands in support of House Bill 2159 and urges its passage as a step in maintaining State autonomy in managing its water, wastewater, and ground water resources.

