

Approved: 3-17-93
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 7:30 a.m. on March 12, 1993 in Room 423-S of the Capitol.

All members were present :

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Don Hayward, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Charles Jones, Director, Bureau of Environment, KDHE
Chris McKenzie, Executive Director, The League of Kansas Municipalities
Anne Smith, Kansas Association of Counties
Bill Bider, Director, Bureau of Waste Management
Sean White, Environmental Engineer, Deffenbaugh Industries
Steve Kearney, Waste Management
Representative Doug Lawrence
Burk Buyer, Kansas Land Improvement Association, Manhattan, KS

Others attending: See attached list

HB-2428 - concerning solid waste management

Charles Jones, Director, Bureau of Environment, KDHE, appeared before the committee concerning HB-2428 and presented testimony. Attachment 1 Mr. Jones told the committee the originally drafted HB 2428 was amended both in committee and on the House floor. The original statute provided an exemption for "solid waste by-product"; however, the term by-product is not defined in the statute and confusion resulted. To eliminate this confusion, the wastes which were originally considered for exemption by the legislature would now be specifically exempted. The by-product exemption would be deleted. Mr. Jones noted revisions proposed by KDHE were listed on page 2 of his testimony.

Mr. Jones presented a balloon of HB-2428 showing the numerous proposed changes. Attachment 2

Discussion followed and covered private farm landfills, the issue of the October 9, 1993 deadline for regulations not yet completed, frustrations of counties unable to obtain answers to questions. During discussion Mr. Jones noted his department was about 6 months behind in implementation. Mr. Jones told members that things were beginning to fall into place, that closures would be handled by the Bureau of Environmental Remediation and the department was attempting to provide better direction.

Chris McKenzie, Executive Director, The League of Kansas Municipalities, appeared in support of HB-2428, noting the original bill was not supported, however the changes made by the House Committee as well as the House Committee of the Whole, were a step in the right direction by exempting construction and demolition waste from the surcharge. Mr. McKenzie noted the surcharge to construction and demolition waste would promote a great deal of hardship to cities and could prove to be a disincentive for the removal of dilapidated structures in cities. Attachment 3

Anne Smith, Director of Legislation, Kansas Association of Counties, appeared to express concerns about the present form of HB-2428 and urged reinstatement of the language in Sec. 2 (c) as it was when it left the House Committee. Concern was expressed that the federal guidelines on solid waste disposal were rigid and demanding enough without KDHE imposing even more stringent requirements. Ms. Smith told the committee that this bill included the most costly mandate counties are presently facing. Mention was made of HCR 5020 presently in the House which would extend the effective date of federal requirements for municipal landfills, also of some congressional action. Attachment 4

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on March 12, 1993.

Bill Bider, Director, Bureau of Waste Management, KDHE, told the committee that within the past several weeks people were getting better-formulated and more consistent answers to their questions; he also noted that while these employees were answering telephone calls they could not devote time to developing regulations for the program. He noted they did not have enough staff at the present time and would not have until such time as fees were collected to finance the new employees. He also noted that the department can give some guidelines but owners would probably need to retain help from consultants to develop the particulars.

Sean White, Environmental Engineer, Deffenbaugh Industries, appeared in support of HB-2428. Attachment 5 Mr. White noted "construction and demolition" waste traditionally has been cheaper to dispose of compared to household solid waste or other types of industrial solid waste, therefore it is possible that significant increases in tipping fees could act as a disincentive to proper management of construction and demolition waste and could lead to open dumping.

Steve Kearney, Waste Management, told the committee that on page 3 (w) of the bill balloon that following "industrial solid waste" they wished to have "construction and demolition waste" added. Also, on page 5, it was suggested that the addition to line 21 "solid waste" conflicted with that used on page 3. It was suggested that "solid waste" be stricken on page 3 and add "construction and demolition waste."

Representative Doug Lawrence appeared concerning HB-2428 noting he had offered a committee amendment which required the Secretary to report each year on any rule or regulation which exceeds federal requirements due to concern that KDHE standards would exceed what was necessary to comply with federal regulations. An additional amendment which occurred on the House Floor now represents the bulk of the bill and deals with adding the \$1.50 per ton tipping fee to demolition and construction waste landfills and then exempts such materials from tipping fee. Attachment 6

Burk Buyer, Kansas Land Improvement Association, Manhattan, Kansas, appeared in opposition of HB-2428 and requesting that the exemption be retained for construction landfill. He told committee members that it has been his experience that construction land fill was an economical way to dispose of waste, that there was no more efficient way to handle disposal of these materials. He further noted their landfills did not have a fulltime employee at the site and administrative costs are low. This statute would cause additional expenses other than the tipping fee.

The meeting adjourned at 8:55 a.m.

The next meeting is scheduled for March 15, 1993.

GUEST LIST

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

DATE March 12, 1993

(PLEASE PRINT)

NAME AND ADDRESS

Burke Bayer 136 Prestline Manhattan

ORGANIZATION

Bayer Corp. Co. Inc.
Kansas Land Improvement
Contractors Assn.Bill BiderKDHESTEVE KEARNEYWASTE MANAGEMENT OF KS.Sean WhiteDoffenbaugh IndustriesAnne SmithKs. Assoc. of CountiesCLAUDE S. SUTHERKs. Deer Comm & HSNLJulie HeilHain, Ebert & RasokChiquita CorneliusKS BIRP



Department of Health and Environment

Robert C. Harder, Secretary

Reply to: (913) 296-1612
Fax Number: (913) 296-1592

TESTIMONY
on
HOUSE BILL 2428

presented by

Charles Jones
Kansas Department of Health and Environment
to

Senate Energy and Natural Resources Committee

March 12, 1993

As originally drafted, HB 2428 was intended to limit KDHE to adopt no regulations related to solid waste management which were more stringent than existing federal regulations. Following testimony offered to the House Energy and Natural Resources Committee on February 23, 1993, the "no more stringent" provision of the bill was dropped and replaced with a reporting requirement for KDHE. On or before January 20 of each year, the department is to provide a report to the standing house and senate committees on energy and natural resources any rules or regulations adopted in the previous year which were more stringent than the federal requirements. KDHE supported that change.

On the floor of the house, additional changes to the statute were introduced and incorporated. Definitions were added for "construction and demolition (C & D) waste" and "construction and demolition landfill." Provisions were also added to specifically exempt C & D waste from the \$1.50 per ton tipping fee imposed by K.S.A. 65-3415b. Prior to introducing this change in the statute, the Attorney General ruled (on February 3, 1993) that C & D waste and industrial waste disposed of at off-site facilities were subject to the tipping fee in addition to municipal solid waste.

Based upon environmental protection considerations and the many comments received from members of the regulated community, KDHE has developed additional revisions to the statute to clarify issues regarding the applicability of the tipping fee. The bottom line of our changes would be to exempt a portion of C & D waste from the tipping fee as well as certain other specific solid wastes. The original statute provided an exemption for "solid waste by-product"; however, the term by-product is not defined in the statute and there has been much confusion about what is or is not a by-product. To eliminate this confusion, the wastes which were originally considered for exemption by the legislature would now be specifically exempted. The by-product exemption would be deleted.

Only "clean rubble", which comprises much of the C & D waste generated in the state, would be exempt from the fee rather than all C & D waste as the current draft proposes. Clean rubble would be exempt because, by its nature, it is basically inert material which does not pose a threat to human health or the environment. Also, it can be used in beneficial ways outside of direct disposal such as for erosion control. Other C & D waste which could contain hazardous constituents such as lead or chrome paints, treated wood products, or asbestos containing materials, all of which are commonly found in building construction, would be subject to the fee.

A copy of the proposed KDHE revisions to HB 2428 has been provided to each of you. The areas of the statute that have been modified are listed below:

- o Definition changes
- o Clean rubble disposal sites would be exempt from permitting requirements
- o Rules and regulations would be written for the disposal and use of clean rubble
- o The effective date of the tipping fee for non-exempt C & D waste and industrial waste would be the effective date of this statute.
- o Certain specific solid wastes would be exempted from the tipping fee.

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1963

HOUSE BILL No. 2428

By Committee on Energy and Natural Resources

2-10

AN ACT concerning solid waste management; amending K.S.A. 65-3406 [65-3402, 65-3406 and 65-3405b] and repealing the existing section [sections].

Be it enacted by the Legislature of the State of Kansas:

[Section 1. K.S.A. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

[(a) "Solid waste" means garbage, refuse and other discarded materials including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

[(b) "Solid waste management system" means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

[(c) "Solid waste processing facility" means incinerator, compost plant, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. This term does not include a scrap material recycling and processing facility.

[(d) "Solid waste disposal area" means any area used for the disposal of solid waste from more than one residential premise, or one or more commercial, industrial, manufacturing or municipal operations.

[(e) "Person" means individual, partnership, firm, trust, company, association, corporation, individual or individuals having con-

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March 12, 1963
Attachment 2

1 trolling or majority interest in a corporation, institution, political
2 subdivision, state agency or federal department or agency.

3 [(f) "Waters of the state" means all streams and springs, and
4 all bodies of surface or groundwater, whether natural or artificial,
5 within the boundaries of the state.

6 [(g) "Secretary" means the secretary of health and environment.

7 [(h) "Department" means the Kansas department of health and
8 environment.

9 [(i) "Disposal" means the discharge, deposit, injection, dumping,
10 spilling, leaking or placing of any solid waste into or on any land
11 or water so that such solid waste or any constituent thereof may
12 enter the environment or be emitted into the air or discharged into
13 any water.

14 [(j) "Open dumping" means the disposal of solid waste at any
15 solid waste disposal area or facility which is not permitted by the
16 secretary under the authority of K.S.A. 65-3407, and amendments
17 thereto, or the disposal of solid waste contrary to rules and reg-
18 ulations adopted pursuant to K.S.A. 65-3406, and amendments
19 thereto.

20 [(k) "Generator" means any person who produces or brings into
21 existence solid waste.

22 [(l) "Monitoring" means all procedures used to (1) systematically
23 inspect and collect data on the operational parameters of a facility,
24 an area or a transporter, or (2) to systematically collect and analyze
25 data on the quality of the air, groundwater, surface water or soils
26 on or in the vicinity of a solid waste disposal facility or area.

27 [(m) "Closure" means the permanent cessation of active disposal
28 operations, abandonment of the disposal area, revocation of the
29 permit or filling with waste of all areas and volume specified in
30 the permit and preparing the area for the long-term care.

31 [(n) "Post closure" means that period of time subsequent to
32 closure of a solid waste disposal area when actions at the site must
33 be performed.

34 [(o) "Reclamation facility" means any location at which material
35 containing a component defined as a hazardous substance pursuant
36 to K.S.A. 65-3452a and amendments thereto is processed.

37 [(p) "Designated city" means a city or group of cities which,
38 through interlocal agreement with the county in which they are
39 located, is delegated the responsibility for preparation, adoption or
40 implementation of the county solid waste plan.

41 [(q) "Nonhazardous special waste" means any solid waste des-
42 ignated by the secretary as requiring extraordinary handling in a
43 solid waste disposal area.

1 [(r) "Recyclables" means any scrap materials that can be used
2 as a replacement for virgin material in manufacturing, including
3 but not limited to ferrous metals, scrap paper products, scrap plas-
4 tics and nonferrous metals. Nonferrous metals shall be defined by
5 rule and regulation.

6 [(s) "Scrap material processing industry" means any person who
7 accepts, processes and markets recyclables.

8 [(t) "Scrap material recycling and processing facility" means a
9 fixed location that utilizes machinery and equipment for processing
10 only recyclables.

11 [(u) "Construction and demolition waste" means ~~waste building~~
12 ~~materials and rubble resulting from construction, remodeling, repair~~
13 ~~or demolition operations on houses, commercial buildings, other~~
14 ~~structures and pavements.~~

15 [(v) "Construction and demolition landfill" means a permitted
16 solid waste disposal area used exclusively for the disposal on land
17 of construction and demolition wastes.]

18 Section 1 [Sec. 2]. K.S.A. 65-3406 is hereby amended to read
19 as follows: 65-3406. (a) The secretary is authorized and directed to:

20 (1) Adopt such rules and regulations, standards and procedures
21 relative to solid waste management as necessary to protect the public
22 health and environment, prevent public nuisances and enable the
23 secretary to carry out the purposes and provisions of this act.

24 (2) Report to the legislature on further assistance needed to ad-
25 minister the solid waste management program.

26 (3) Administer the solid waste management program pursuant to
27 provisions of this act.

28 (4) Cooperate with appropriate federal, state, interstate and local
29 units of government and with appropriate private organizations in
30 carrying out duties under this act.

31 (5) Develop a statewide solid waste management plan.

32 (6) Provide technical assistance, including the training of per-
33 sonnel to cities, counties and other political subdivisions.

34 (7) Initiate, conduct and support research, demonstration projects
35 and investigations and coordinate all state agency research programs
36 with applicable federal programs pertaining to solid waste manage-
37 ment systems.

38 (8) Establish policies for effective solid waste management
39 systems.

40 (9) Assist counties and groups of counties to establish and im-
41 plement solid waste planning and management.

42 (10) Authorize issuance of such permits and orders and conduct
43 such inspections as may be necessary to implement the provisions

[(u) "construction and demolition waste" means solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities; and solid waste consisting of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm related cleanup. Such wastes include, but are not limited to, bricks, concrete, and other masonry materials, roofing materials, soil, rock, wood, wood products, wall coverings, plaster, drywall, plumbing fixtures, electrical wiring, electrical components containing no hazardous materials and nonasbestos insulation. It shall not include asbestos waste, garbage, cardboard, furniture, appliances, electrical equipment containing hazardous materials, tires, drums, and containers even though such wastes resulted from construction and demolition activities. Clean rubble that is mixed with other construction and demolition waste during demolition or transportation shall be considered to be construction and demolition waste.

[(x) "Clean rubble" means inert uncontaminated construction and demolition waste which includes concrete and concrete products, reinforcing steel, asphalt pavement, brick, soil, or rock.

[(w) "Municipal solid waste landfill (MSWLF)" means a solid waste disposal area in which residential waste is placed for disposal. A MSWLF may also receive other nonhazardous wastes, such as commercial solid waste, sludge, and industrial solid waste.

1 of this act and the rules and regulations and standards adopted
2 pursuant to this act.

3 (11) Conduct and contract for research and investigations in the
4 overall area of solid waste storage, collection, transportation, proc-
5 essing, treatment, recovery and disposal including, but not limited
6 to, new and novel procedures.

7 (12) Adopt rules and regulations for permitting of all solid waste
8 disposal areas, including those that are privately owned.

9 (13) Adopt rules and regulations establishing criteria for the lo-
10 cation of processing facilities and disposal areas for solid wastes.

11 (14) Adopt rules and regulations establishing appropriate meas-
12 ures for monitoring solid waste disposal areas and processing facil-
13 ities, both during operation and after closure.

14 (15) Adopt rules and regulations requiring that, for such period
15 of time as the secretary shall specify, any assignment, sale, convey-
16 ance or transfer of all or any part of the property upon which a
17 permitted disposal area for solid waste is or has been located shall
18 be subject to such terms and conditions as to the use of such property
19 as the secretary shall specify to protect human health and the
20 environment.

21 (16) Adopt suitable measures, including rules and regulations if
22 appropriate, to encourage recovery and recycling of solid waste for
23 reuse whenever feasible.

24 (17) Adopt rules and regulations establishing standards for trans-
25 porters of solid waste.

26 (18) Adopt rules and regulations establishing minimum standards
27 for closing, termination, and long-term care of sites for the land
28 disposal of solid waste. In this subsection, "site" refers to a site for
29 the land disposal of solid waste which has a permit issued under
30 K.S.A. 65-3407 and amendments thereto. The owner of a site shall
31 be responsible for the long-term care of the site for 30 years after
32 the closing of the site, except the secretary may extend the long-
33 term care responsibility of a particular site or sites as the secretary
34 deems necessary to protect the public health and safety or the en-
35 vironment. Any person acquiring rights of ownership, possession or
36 operation in a permitted site or facility for the land disposal of solid
37 waste at any time after the site has begun to accept waste and prior
38 to closure shall be subject to all requirements of the permit for the
39 site or facility, including the requirements relating to long-term care
40 of the site or facility.

41 (19) Enter into cooperative agreements with the secretary of com-
42 merce for the development and implementation of statewide market
43 development for recyclable materials.

except for clean rubble disposal sites, i

1 (20) Adopt rules and regulations for the management of non-
2 hazardous special wastes.

3 (b) In adopting rules and regulations, the secretary shall allow
4 the exemption contained in subsection (f)(1) of 40 CFR 258.1.

5 *(c) Standards adopted by the secretary and applicable to*
6 *solid waste processing facilities or solid waste disposal areas*
7 *shall conform to and be no more stringent than the standards*
8 *required by federal law in effect on the effective date of this*
9 *act.*

10 (c) The secretary shall report on or before January 20 of each
11 year to the house and senate standing committees on energy and
12 natural resources any rules and regulations adopted by the secretary
13 which establish standards for solid waste processing facilities or
14 solid waste disposal areas that exceed or are in addition to those
15 required by federal law. The secretary's report shall include the
16 reasons for the adoption of such standards.

17 [Sec. 3. K.S.A. 65-3415b is hereby amended to read as follows:

18 65-3415b. (a) There is hereby imposed a state solid waste tonnage
19 fee of \$1.50 for each ton or equivalent volume of solid waste dis-
20 posed of at any solid waste disposal area in this state on or after
21 January 1, 1993. ~~This provision shall not apply to: (1) Any solid~~
22 ~~waste by-product produced and disposed in or at a permitted solid~~
23 ~~waste disposal area located on the site of generation or; (2) to any~~
24 ~~waste tire, as defined by subsection (j) of K.S.A. 65-3424, and~~
25 ~~amendments thereto, disposed in or at a permitted solid waste~~
26 ~~disposal area; or (3) construction and demolition waste disposed in~~
27 ~~or at a construction and demolition landfill.~~

28 [(b) The operator of a solid waste disposal area shall pay the
29 fee imposed by this section.

30 [(c) The secretary of health and environment shall administer,
31 enforce and collect the fee imposed by this section. Except as oth-
32 erwise provided by subsection (b), all laws and rules and regulations
33 of the secretary of revenue relating to the administration, enforce-
34 ment and collection of the retailers' sales tax shall apply to such
35 fee insofar as they can be made applicable, and the secretary of
36 health and environment shall adopt such additional rules and reg-
37 ulations as necessary for the efficient and effective administration,
38 enforcement and collection thereof.

39 [(d) The secretary of health and environment shall remit daily
40 to the state treasurer all moneys collected from fees imposed pur-
41 suant to subsection (a). Upon receipt thereof, the state treasurer
42 shall deposit the entire amount in the state treasury and credit it
43 to the solid waste management fund created by K.S.A. 65-3415a

(21) Adopt rules and regulations establishing standards for the beneficial use and disposal of clean rubble.

municipal

landfill

There is hereby imposed a state solid waste tonnage fee of \$1.50 for each ton or equivalent volume of solid waste disposed of at any construction and demolition and industrial solid waste disposal area on or after the effective date of the statute.

This provision shall not apply to: (1) Sludges from public drinking water supply treatment plants, (2) Cement kiln dust from the manufacture of portland cement (3) Flue gas desulfurization sludge, fly ash and bottom ash from coal-fired electric generating facilities when the wastes are disposed at a monofill permitted by the Department (4) Clean Rubble used as fill material, for erosion control, or when generated as a result of road, highway or utility construction projects (5) to any

of vegetation from land clearing and grubbing, utility maintenance, and seasonal or storm related cleanup.

(6) solid waste consisting

1 *and amendments thereto.]*

2 Sec. 2 [4]. K.S.A. 65-3406 is [65-3402, 65-3406 and 65-3415b • • • • •] 65-3407
3 are] hereby repealed. [4] [5]

4 Sec. 3 [5]. This act shall take effect and be in force from and • • • • • [5] [6]
5 after its publication in the statute book- _____

Kansas Register

[Sec. 4 K.S.A. 65-3407 is hereby amended to read as follows:

65-3407. Construction, alteration or operation of solid waste processing facility or disposal area unlawful without permit; permits; fees; conditions; denial, suspension or revocation of permits; permit void, when. (a) It shall be unlawful for any person to construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system without first obtaining a permit from the secretary.

, except for clean rubble disposal sites,

(b) Every person desiring to obtain a permit to construct, alter or operate a solid waste storage, treatment or processing facility or disposal area shall make application for such a permit on forms provided for such purpose by the rules and regulations of the secretary and shall provide the secretary with such information as necessary to show that the facility or area will comply with the purpose of this act. Upon receipt of any application and payment of the application fee, the secretary, with advice and counsel from the local health authorities and the county commission, shall make an investigation of the proposed solid waste processing facility or disposal area and • • •



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Senate Committee on Energy and Natural Resources
FROM: Chris McKenzie, Executive Director *CM*
DATE: March 11, 1993
RE: Support for HB 2428

Thank you for the opportunity to appear today in support of HB 2428. In its original form, this legislation would have enacted a policy with which the League and its member cities agree. As a matter of state policy, we submit that it is not appropriate for the State of Kansas to adopt standards for solid waste processing or disposal which are more stringent than the standards required by federal law. The substitute language recommended by the House Committee, however, would take a step in this direction which we also believe would be positive.

In addition, the League strongly endorses the amendments added by the House Committee of the Whole which would exempt construction and demolition waste from the \$1.50 per ton surcharge. At no time during the debate of HB 2801 last session was there any discussion about the extension of the surcharge to construction and demolition waste (in other words, non-subtitle D waste). While we understand the reasons for the inclusion of such waste as the law is currently written, we respectfully recommend that the such waste be explicitly exempted from the \$1.50 per ton surcharge.

In support of this recommendation, we have been advised by the Cities of El Dorado and Iola, Kansas that such a requirement will have a significant financial impact for their cities. The City of El Dorado estimates that it will be confronted with an annual cost of \$5,000 if the exemption is not provided because it routinely disposes of used street materials in its construction and demolition landfill. Similarly the City of Iola estimates that it will sustain an impact of \$35,000 (the equivalent of two (2) mills) as a result of the disposal of building materials from homes which have been demolished and removed in the city.

As you can see, if the \$1.50 surcharge is not removed from such construction and demolition waste it will have a significant effect on the cost of providing municipal services and cause municipal property taxes to increase. Moreover, it will likely act as a disincentive for the removal of dilapidated structures in cities.

We strongly urge your support of HB 2428. Thank you very much.

*Senate Energy & Natural Resources
March 12, 1993
Attachment 3*



"Service to County Government"

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Topeka, Kansas 66612-1852
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Executive Director

John T. Torbert, CAE

TO: Senate Energy and Natural Resources
Committee
Chairman Don Sallee

FROM: Anne Smith
Director of Legislation

DATE: March 12, 1993

RE: HB 2428

The Kansas Association of Counties has concerns with
HB 2428 as it is currently written.

The KAC supported HB 2428 in the form it was in when
it left the House Energy Committee and would urge this
committee to reinstate the language in Sec. 2 (c).
After House floor debate, that part of the bill was
deleted and new language was added that has the
Secretary of Health and Environment reporting to the
Senate and House Energy Committees any changes in the
rules and regulations which establish standards for
solid waste processing facilities or solid waste
disposal areas.

The KAC feels that the federal guidelines on solid
waste disposal are rigid and demanding enough without
the Kansas Department of Health and Environment
imposing even more stringent requirements.

Thank you for your careful consideration of this
issue.

Senate Energy & Natural Resources
March 12, 1993
Attachment 4

DEFFENBAUGH INDUSTRIES, INC.

POST OFFICE BOX 3220
SHAWNEE, KANSAS 66203
913-631-3300

Testimony Before the
Senate Committee on Energy and Natural Resources

House Bill 2428

March 12, 1993

by
Sean White
Environmental Engineer
Deffenbaugh Industries

Mr. Chairman and members of the Committee:

Thank you for the opportunity to testify in support of House Bill 2428. The bill proposes to exempt "construction and demolition" (C&D) waste from the \$1.50 per ton tipping fee if the waste is placed in a permitted construction and demolition disposal area. For the following reasons, Deffenbaugh Industries stands as a proponent of the C&D waste exemption.

C&D waste, if segregated and disposed of in a permitted solid waste disposal area used exclusively for C&D wastes, poses little risk to human health and the environment, and, in Kansas, has traditionally been subject to less stringent management standards as compared to municipal household solid waste. Additionally, C&D waste-only landfills are not subject to the new RCRA Subtitle D design and operating criteria.

On December 24, 1992, the Kansas Department of Health and Environment (KDHE) proposed regulations subjecting C&D waste to the \$1.50/ton tipping fee. For C&D waste landfills that do not have a means of weighing incoming waste, the proposed regulations require landfill owners and operators to estimate the weight of the waste based upon the volume received. The KDHE proposal requires the use of a volume to weight factor of 1,250 lbs/yd³. It has been Deffenbaugh's experience that most C&D waste weighs on average approximately 500 to 600 lbs/yd³. The regulation, if finalized as proposed, would effectively require C&D landfills having no scales to pay a disproportionately high amount in tipping fees. Of course, these C&D landfills would have the option of installing scales, but as is expected, this would involve significant capital expenditures - typically \$15,000 to \$40,000.

C&D waste has also traditionally been cheaper to dispose of as compared to household solid waste or other types of industrial solid waste. For this reason, it is possible that significant increases in tipping fees could act as a disincentive to proper management of C&D waste and could lead to open dumping.

Thank you again for the opportunity to comment on House Bill 2428.

Senate Energy & Natural Resources
March 12, 1993
Attachment 5

Doug Lawrence

STATE REPRESENTATIVE

902 MIAMI

BURLINGTON, KS 66839



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

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ENERGY AND NATURAL
RESOURCES
TRANSPORTATION

March 12, 1993

Testimony on HB 2428

This bill started with a simple concept. As you might expect, things don't always stay simple in the legislative process. As originally introduced, this bill would have kept the Secretary of the Kansas Department of Health and Environment from adopting Solid Waste Standards more stringent than Federal Guidelines.

The genesis of this bill was concern that KDHE standards would exceed what was necessary in solid waste regulation to meet federal guidelines and that those standards could place an unnecessary burden on operators of landfills.

The original language caused concern that it could be an illegal delegation of legislative authority to establish a state law tied to federal standards which would likely change. There were also concerns that the language inhibited authority to adopt standards in areas where no federal regulations existed.

But, concerns persisted about the level of regulation. As a compromise, I offered a committee amendment which requires the Secretary to report each year on any rule or regulation which exceeds federal requirements. This presented an opportunity for the Two Energy and Natural Resource committees to hear a report and justification on these types of rules, and also give interested parties a forum to express their concerns. That is the form before you.

There was one additional amendment, which occurred on the House Floor and now represents the bulk of the bill. This amendment was suggested by the City of Iola, and Allen County in response to a new set of KDHE rules and regulations. The rules added the \$1.50 per ton tipping fee to Demolition and Construction waste materials. This amendment defines Demolition and Construction Waste, as well as Demolition and Construction Waste Landfills. And then, It exempts this sort of waste from the tipping fee.

Here is the problem for Iola: Street and Sidewalk Demolition has led to a large volume of waste. The city operates a specially permitted facility for this waste, as well as construction waste, which it uses solely for its purposes. This waste is not weighed. Iola City Administrator Rich Olson estimates that the city would have paid about 36-thousand dollars in tipping fees last year under the new rules and regs.

When original rules and regulations were issued, KDHE did not subject this waste to a tipping fee. An Attorney General's opinion apparently indicated that all landfills were subject to the tipping fee and new rules were issued. My intention with this amendment was to clarify original intent, and understanding on this issue, allowing KDHE to do what they originally intended.

In the last week, there has been much discussion on whether the approach taken by this amendment is the appropriate approach. In offering the construction and demolition waste amendment, I was attempting to resolve a problem, I believe both the City of Iola, and KDHE needed resolved. If, after input from the appropriate people, you find another way to solve this problem, Great. One thing is for sure, we will all know a lot more about tipping fees and landfills when it is over.

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