

Approved: 3-8-94
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on February 21, 1994 in Room 423-S of the Capitol.

All members were present or excused:

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, Secretary, Department of Environment
Larry Knoche, Director, Bureau of Environmental Remediation, KDHE
Dennis F. Schwartz, Rural Water District #8, Tecumseh, KS
Written testimony only, Chris McKenzie, Executive Director, League of

Others attending: See attached list

Chairperson Sallee called the meeting to order and requested the Subcommittee Report concerning SB-450.

The chairperson of the subcommittee on SB-450 presented the following report:

The Subcommittee on SB-450 recommends that either an amendment to the bill be drafted or new legislation be drafted to require that the annual registration fee for aboveground storage tanks be combined with the registration requirements of the Community Right-to-Know Law, as is currently accomplished in rules and regulation for underground storage tanks. The Subcommittee recognizes that this will take some time for the Department to accomplish. Attachment 1

Larry Knoche, Bureau of Environmental Remediation, told the committee that presently the information concerning the Right-to-Know is located in the Bureau of Air and Radiation with the information on above ground tanks located in another bureau. It was stated the bureau does not know the physical locations of the above ground tanks. Mr. Knoche stated their intent to have all of this information on one form handled by one department as the underground tanks are now handled.

Charles Jones told the committee that the Right-to-Know program was in poor condition under the Health Department and consequently was transferred to the Environmental side where fees were reduced. Mr. Jones stated that the underground storage tanks were a very small part of the Right-to-Know program.

A committee member expressed concern that the fees for the above ground tanks were going to severely affect some of the people using both the fee and registration fees.

Mr. Jones stated the program should get to the point where the above ground tank registration would be about \$10 or similar to the underground tank charges. He also pointed out that these fees gave access to the above ground cleanup fund. Removal of farm tanks from the fee program would also ban them from participating in the cleanup fund should that become necessary. Mr. Jones further stated that compared to fees charged in other states the charges appeared to be a bargain.

Following further discussion the chairperson commented that as the subcommittee report recommended nothing different than rules and regulations already in place the bill would not be worked at the present time.

HCR-5030 - urging Congress to eliminate unfunded federal mandates which require public water supply systems to expend their resources to comply with federal safe drinking water standards which provide little or no benefit to public health.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 423-S Statehouse, at 8:00 a.m. on February 21, 1994.

Dennis F. Schwartz, Shawnee County Rural Water District Number 8, told the committee he had been monitoring this bill prior to its introduction.. He stated that all of the public water supply industry strongly supports the resolution and they believed it would bring some badly needed common sense to the safe drinking water act. Public water supply systems are very strong advocates of providing safe drinking water to their users and realize this is their responsibility. Mr. Schwartz stated that the passage of this bill in Congress would enable them to concentrate efforts on contaminants that have known health risks as opposed to an arbitrary list to be promulgated every third year. Mr. Schwartz said they had joined with the Kansas section of the American Water Works Association , the Kansas League of Municipalities, and several other groups in urging Congress to move favorably on this. He encouraged the committee to help these groups send a message to Congress concerning this legislation.

Mr. Schwartz commented that compliance by small systems will create a strong fiscal impact. The regulations as now written were written to be affordable for large systems of a million or more.

Written testimony was provided to committee members from Chris McKenzie, Executive Director, League of Kansas Municipalities, stating that organization's enthusiastic support for HC-5030 on behalf of 540 member cities. Mr. McKenzie stated this measure addresses one of the priority concerns of city governments today--the "one size fits all" federal mandates that afford state and local officials little flexibility in protecting public health. Attachment 2

A member commented that this action was taken by Congress, not EPA, and it seemed little expertise was used in mandating set numbers without regard for whether or not it had been demonstrated a health risk.

Senator Emert moved to report HCR 5030 favorable for passage. Senator Morris seconded the motion and the motion carried.

A member again requested from Mr. Jones a list of persons who served on the Advisory Committee on Solid Waste and also a list showing which regulations being proposed are more stringent than EPA regulations.

Senator Hardenburger made a motion to approve minutes of February 14, 15 and 16, 1994. Senator Morris seconded the motion and the motion carried.

The meeting adjourned at 8:40 a.m.

The next meeting is scheduled for February 22, 1994.

SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

DATE February 21, 1994

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Larry Knoche

Karl Muehlbauer

MARTI CROW

STEVE KEANEY

LARRY MAGILL

Jamie Clover Adams

Joe Lieber

KDHE - Forbes Field

KDHE

KOMA

KS. ASSN OF INS. AGENTS

KS Fert & Chemical Assn / KS Grain & Feed Assn

KS Co-op Council

SUBCOMMITTEE REPORT ON S.B. 450

Subcommittee members

Senator Hardenburger-Chair
Senator Lee
Senator Morris

Mr. Chairman your subcommittee heard testimony regarding the issues contained in S.B. 450. Specifically, the subcommittee heard testimony concerning the Community Right-to-Know Law and how the annual fee required by the community right-to-know law has been combined with the annual fee for underground storage tanks. The subcommittee also heard from several officials from the Kansas Department of Health and Environment (KDHE) concerning the annual registration fees for aboveground storage tanks (ASTs), the requirements of the community right-to-know law, and the requirements for aboveground storage tanks. In addition, the subcommittee heard from representatives of the Kansas Oil Marketers and the Kansas Fertilizer and Chemical Association. The following outlines briefly the comments that the subcommittee heard.

Gary Blackburn, KDHE

Mr. Blackburn of KDHE testified that underground storage tanks (USTs) currently have a combined registration that registers them both under the community right-to-know law and the Kansas Storage Tank Act. He indicated that the owners and operators of these tanks pay the \$10 registration fee under the storage tank regulations and this satisfies the annual requirements under the community right-to-know law. He also stated that next year the agency wants to have in place the same procedures for aboveground tanks as they do for USTs. He stated that the "right-to-know" fees would be waived if tank owners pay the annual \$10 registration fee. He indicated that there could be a three year registration period on USTs and ASTs but the "right-to-know" still would be required on an annual basis.

John Irwin, KDHE

Mr. Irwin reviewed the community "right-to-know" regulations as they applied at the state and the federal level. He explained the regulation in place which exempts USTs from the "right-to-know" fees if owners and operators pay the annual registration fee required of tank owners and operators. He indicated that KDHE would implement this same exemption for ASTs. Mr. Irwin also told the subcommittee that annual community right-to-know report was a federal regulatory requirement.

Charles Nicolay, Kansas Oil Marketers

Mr. Nicolay explained his organization's position and interpretation of the state and federal requirements for USTs and ASTs. He stated that his organization supports the \$10 fee if

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there has to be an annual registration of tanks.

Jamie Clover Adams, Kansas Fertilizer and Chemical Association

Ms. Adams explained her organization's position and explained that members of her organization support procedures to reduce paperwork and reduce storage tank registration fees.

Larry Knoche, KDHE

Mr. Knoche suggested that KDHE would attempt to establish one registration form for the community "right-to-know" and the registration for USTs and ASTs.

Recommendation

Mr. Chairman your Subcommittee on S.B. 450 recommends that either an amendment to the bill be drafted or new legislation be drafted to require that the annual registration fee for aboveground storage tanks be combined with the registration requirements of the Community Right-to-Know Law, as is currently accomplished in rules and regulation regarding underground storage tanks. The subcommittee recognizes that this will take some time for the Department to accomplish.



League of Kansas Municipalities

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TO: Senator Don Sallee, Chairman
Senate Committee on Energy and Natural Resources

FROM: Chris McKenzie, Executive Director *Chris McKenzie*

DATE: February 24, 1994

RE: HCR 5030

The League regrets not being able to be present last Monday to offer our enthusiastic support for HCR 5030 on behalf of the 540 cities that are members of the League of Kansas Municipalities. This measure addresses one of the priority concerns of city governments today--the "one size fits all" federal mandates that afford state and local officials little flexibility in protecting public health. The federal legislation that has been introduced to address this concern, including H.R. 3392 by Representative Slattery and Representative Bliley and other legislation on this subject by Representative Pat Roberts, will introduce some much needed balance and common sense into the regulatory process.

In the House Committee Shaun McGrath of Representative Slattery's office explained quite clearly how the 1986 amendments to the Safe Drinking Water Act (SDWA) set in place a regulatory system at the federal level for drinking water quality that assumes all areas of the country are threatened by the same contaminants and that is absolutely blind to a community's ability to pay for compliance with standards that may not even address potential risks in the community. The National League of Cities presently describes the SDWA as the most seriously flawed federal environmental statute due to its unworkable standards, cumbersome monitoring requirements, and arbitrary contaminant selection process. H.R. 3392 would inject a much needed breath of fresh air into the regulatory process by amending the SDWA to:

- protect drinking water quality more effectively by changing the standard setting process to allow EPA to consider risk reduction benefits as well as costs;
- replace the requirement to regulate 25 new contaminants every 3 years with a requirement to regulate contaminants that are of public health concern and actually occur in drinking water; and
- allow states to establish monitoring requirements that are practical, affordable and which reflect the conditions in a particular community.

Last summer the League and the Kansas Rural Water Association sponsored ten seminars around the state to explain the SDWA water monitoring requirements applicable to cities and RWDs. The over 1,000 persons in attendance were in shock over the complexity of the requirements and the lack of resources from the state and federal levels to assist with implementation. Moreover, it became clear that the requirements are so complicated that even the resourceful EPA and KDHE representatives who were present were at times at a loss to explain them. In the instance of one provision which offered limited help to smaller systems serving less than 3,300 persons, the decision process was so complex the League had to develop a flow chart to explain the decision process.

While public health must always be our mutual and highest concern, it is time to breathe some common sense and reasonableness into the SDWA. We urge you to support HCR 5030. Thank you.

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February 24, 1994
Attachment 2*