

MINUTES OF THE SENATE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Roger Reitz at 9:30 a.m. on March 14, 2011, in Room 159 S of the Capitol. Senator Kelsey moved to accept the minutes of February 21st and February 22nd. Senator Marshall seconded the motion. The motion carried.

All members were present except:

Senator Oletha Faust-Goudeau--excused
Senator Kelly Kultala--excused
Senator Pete Brungardt--excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Jill Shelley, Kansas Legislative Research Department
Noell Memmott, Committee Assistant

Conferees appearing before the Committee:

Kathy Sachs, Deputy Assistant Secretary of State
Kathy Olson, Kansas Bankers Association
Pam Scott, Executive Director, Kansas Funeral Directors Association
Julie Ketchum, Director of Government Affairs, Waste Management in Kansas
Larry R. Baer, Assistant General Counsel, League of Kansas Municipalities

Others attending:

See attached list.

The discussion and possible action on **SB 131 Making methamphetamine precursors schedule III prescription drugs** was postponed due to weather until Tuesday, March 15th.

The hearing opened on **HB 2240 Cemetery corporations; trust funds; secretary of state; attorney general enforcement.** Jill Shelley, Legislative Research, gave an overview of the bill. The bill would establish additional requirements for cemetery trust funds.

Kathy Sachs, Deputy Assistant Secretary of State, spoke in favor of **HB 2240**. She stated three principles the study group operated from in forming this bill. (1.) Protect consumers of burial products and services; (2.) protect the cemetery's ability to make a profit; and (3.) create a system that is easy to audit (attachment 1). Kathy Olson, Kansas Bankers Association, also spoke in favor of the bill. She noted that it is important to the banking industry to know who a "trustee" is before these funds can be retained (attachment 2). Written testimony in favor of the bill was submitted by: Mark McGilley, Service Corporation International (attachment 3). Pam Scott, Kansas Funeral Directors Association, gave neutral testimony expressing concern involving the provision in Section 5 (c) of the bill, which allows a cemetery corporation entering into a preneed merchandise contract to retain all installment payments until it receives an amount equal to 25% of the purchase price of the prepaid merchandise contract. She provided an amendment for Section 5 (c) (attachment 4).

The hearing was closed.

The hearing opened on **HB 2195 Municipalities; organized solid waste and recycling collection service act.**

Julie Ketchum, Director of Government Affairs for Waste Management in Kansas, testified in support of **HB 2195**. This bill sets up a process that requires public input as well as input from businesses like Waste Management that are affected by a city's decision to franchise (attachment 5). She requested changes in the bill: page 3 line 11 change "implementation" to "development"; and worded so the bill does not apply to waste tires. Steve Kearney, Kearney and Associates, answered questions and explained why waste tires should be deleted.

CONTINUATION SHEET

Minutes of the Senate Local Government Committee at 9:30 a.m. on March 14, 2011 in Room 159 S of the Capitol.

Written testimony in favor of the bill was submitted by: J. Marvin Nisly, President, Nisly Brothers, Inc. ([attachment 6](#)); Larry W. Smith, L. & K. Services, Inc. ([attachment 7](#)); Melissa Wangemann, General Counsel and Director of Legislative Services ([attachment 8](#)); and Shawn Herrick, Executive Director, Mid-America Tire Dealers Association ([attachment 9](#)).

Larry Baer, Assistant General Counsel, provided neutral testimony ([attachment 10](#)).

The hearing was closed.

The meeting was adjourned at 10:20 a.m.

LOCAL GOVERNMENT GUEST LIST

DATE: March 14, 2011

NAME	REPRESENTING
Debra Billingsley	KBOP
Larry R Bazz	LKM
Jeff Bolteby	CHDA
Berend Koppa	KACDS
Mandy Miller	SC&KS
James C. Bottegger	Doffman & JND
Kelly Navinsky-Wenzel	Kearney & Assoc.
Julie Kefauver	WASOE Mgmt
Kari Prastay	Kearney & Associates
Pam Scott	Ks Funeral Directors Assn
Mindi Kohaku	SOS
Gene Kirby	Mount Muncie
Mike Matney	MAPLE HILL CEMETERY
Kathy Olsen	Ice Banks Assn
Kathy Sachs	KS SOS
Diane M. M. M.	KS SOS
not Ed	GRA
Susan Zaler	J&J
John Pefersuk	SCI

Matthe L Linsner

The Trust Company of Kansas

SENATE COMMITTEE ON LOCAL GOVERNMENT
TESTIMONY OF THE SECRETARY OF STATE, MARCH 14, 2011

Mr. Chairman and Members of the Committee:

On behalf of Secretary of State Kris Kobach, thank you for the opportunity to appear before you today and to testify in support of HB 2240.

Kansas law dictates that citizens are entitled to extra protections with regard to cemetery purchases by requiring certain cemeteries to maintain two types of trust funds. The role of the secretary of state (SOS) is to ensure that monies paid by consumers are deposited, invested and maintained in a manner that will ensure the funds are available at the time of need.

In June of 2009, the SOS's office formed a study group to examine cemetery laws and practices. The group had three guiding principles from which they operated: 1) Protect consumers of burial products and services; 2) protect the cemetery's ability to make a profit; and 3) create a system that was easy to audit. HB 2240 is a product of the study group's collective ideas and hard work.

Key elements of the Bill include:

- Increase the amount to be trusted from 110% of wholesale to 50% of retail. This change will allow cemeteries to calculate the minimum funding requirement only once instead of on a yearly basis.
- Quarterly reporting. Current law requires the cemetery make annual reports to the SOS. This makes it difficult to detect or correct a deficiency when it is over a year old before we are made aware of the problem.
- Corrects a problem in the law that prohibits the underfunded cemetery from withdrawing funds to pay for merchandise. Many cemeteries are underfunded due to the depressed economy and they are forced to pay for merchandise out of their operating fund. Some cemeteries illegally draw from the merchandise trust fund to pay for merchandise.
- Requires the trustees to submit quarterly reports to the SOS itemizing deposits and withdrawals from the trust fund.
- Requires the trustee to be organized under the laws of Kansas and have a physical presence in Kansas
- Permits a co-trustee relationship wherein the co-trustee submits to Kansas jurisdiction and agrees to be governed by the laws of Kansas.
- Lowers trustee fees for small cemeteries. The minimum balance that a permanent maintenance fund can have before a cemetery owner must hire the services of a trustee was raised from \$45,000 to \$100,000. These funds may be held in CD's or savings account. All reporting requirements apply.
- Creates a new fee fund and a new fee to be charged to consumers of burial products and services and burial spaces. The fee will help the SOS pay the salaries of three auditors.

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Attachment 1

The parties have worked together to reach a compromise and to come up with a workable solution for all. A list of the compromises are as follows:

- The SOS agreed to Industry's balloon amendment permitting a co-trustee relationship.
- The SOS agreed to incorporate the Kansas Bank Association's balloon amendment language regarding Kansas Trustees.
- The SOS agreed to quarterly reports vs. monthly reports to accommodate the cemetery industry.
- The SOS agreed to increase the minimum threshold balance of \$45,000 to \$100,000 (with regard to contracting with a trustee for the cemeteries over \$100,000 in pmf) in order to reduce the financial burden on small cemeteries.
- The SOS agreed to Industry's request that distributable earnings be allocated quarterly vs. annually.
- The SOS agreed to Industry's request that income/interest earned on pmf be paid at least annually vs. annually.
- The SOS and the Industry have agreed to a delayed effective date to allow for an appropriate transition.

Thank you for the opportunity to appear before you today on behalf of secretary of state Kris Kobach. I am happy to stand for questions.

Kathy M. Sachs
Deputy Assistant Secretary of State
Administrative and E-Government Services



March 14, 2011

To: Senate Committee on Local Government and Elections

From: Kathleen Taylor Olsen, Kansas Bankers Association

Re: HB 2240: Cemetery Merchandise Contracts and Trust Funds

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present testimony today in support of **HB 2240** which provides guidance on cemetery merchandise trust funds and permanent maintenance funds. I am here today on behalf of the Kansas Bankers Association and the Kansas Bankers Association Trust Division.

We greatly appreciate the working relationship we have had with the Secretary of State's office in addressing the needs and suggestions our industry had with regard to the bill draft.

Of importance to our industry is that current law regarding who a "trustee" for these funds can be is retained. **HB 2240** does so by allowing a Kansas chartered financial institution, a Kansas trust company or a federally chartered institution with a physical presence in Kansas to serve as a trustee. We believe this is not only important policy for our industry, but is good public policy for the state as it seeks to exercise regulatory authority over the management of these funds.

The bill also specifically allows a trustee to contract with another institution to help with the management and investment of these funds. The requirements for holding cemetery trust funds are very unique, and such a provision allows a trustee to utilize a more sophisticated institution for the management of such funds when the trustee so desires. The bill is consistent with the Uniform Trust Code, in stating that in such a relationship, the trustee does not contract away its fiduciary liability to the owner of the funds.

Thank you for the opportunity to express our support for **HB 2240**, and we respectfully request that the Committee act favorably on its passage.

TESTIMONY

By

Mark McGilley, Service Corporation International

In Support of HB 2240

Senate Committee on Local Government

Monday, March 14, 2011

Mr. Chairman, Representatives, my name is Mark McGilley and I am Service Corporation International's Director for the Kansas City market. I appear today to express our support for House Bill 2240. SCI is a company that owns both funeral homes and cemeteries, including Resthaven Gardens of Memory in Wichita and Chapel Hill Memorial Gardens in Kansas City, Kansas.

I want to begin by commending the Secretary of State and his staff, only a few weeks after taking office, for quickly focusing and working diligently to address this very important issue and for allowing the interested parties to participate. House Bill 2240 represents a rewrite of the cemetery merchandise and perpetual care statutes. The changes in the bill will provide more protection to Kansas consumers who choose to plan ahead for their end of life needs. Further, it allows the Secretary of State to ensure compliance with the cemetery trusting laws while not being so burdensome for individual cemeteries that it hinders their ability to operate.

In the House we requested an amendment that would allow for distributions to trust accounts on a more frequent basis than the quarterly distributions allowed in the original bill draft. Further, although we are supportive of fee funded audits we did suggest that a cap on the fee authority for the Secretary of State would be appropriate. The bill was amended in committee and on the House floor to adopt these two suggestions.

Once again I want to express my gratitude to the staff of the Secretary of State's office for their effort on this very important issue. This bill will provide additional protection to citizens throughout the State of Kansas. Mr. Chairman, thank you for this opportunity to present testimony and I am happy to answer questions at the appropriate time.

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Attachment 3



KANSAS FUNERAL DIRECTORS ASSOCIATION

1200 S. Kansas Avenue Topeka, KS 66612
785-232-7789 Fax 785-232-7791 www.ksfda.org

OFFICERS

President
DARIN BRADSTREET
Garden City

Vice President
ERIC LONDEEN
Manhattan

Corporate
Sec./Treasurer
ROBERT GASHAW
Osborne

Immediate
Past President
GARY WALL
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Wichita

EXECUTIVE DIRECTOR

PAM SCOTT
Topeka

March 14, 2011

To: Senate Local Government Committee

From: Pam Scott, Executive Director

Re: House Bill No. 2240

Chairman Reitz and members of the Committee, thank you for the opportunity to appear before you today on behalf of the Kansas Funeral Directors Association (KFDA) concerning House Bill No. 2240.

The KFDA would like to address two issues relating to this bill relating to trusting requirements.

The bill requires the trusting of 50% of the retail price of preneed cemetery merchandise described in a preneed merchandise contract. It is our understanding that this is approximately equal to the current trusting requirement of 110% of wholesale. The KFDA believes this bill is an improvement over the current cemetery trusting requirements because the public will better understand the dollar amount that is being trusted.

We do have a concern we would like addressed involving the provision in Section 5 (c) of the bill which allows a cemetery corporation entering into a preneed merchandise contract to retain all installment payments until it receives an amount equal to 25% of the purchase price of the prepaid merchandise contract.

A preneed merchandise contract is defined to include any agreement for the sale of preneed cemetery merchandise or preneed burial products or services which includes a casket. Preneed burial products or services (including caskets) are required to be 100% trusted. We do not believe a cemetery corporation should be able to retain 25% of items that are required to be 100% trusted. To do so would be contradictory to the trusting provisions in the bill and the long standing requirement that caskets are to be 100% trusted by both funeral homes and cemeteries. **It is very important to funeral homes that cemeteries are on a level playing field when it comes to the trusting requirements for caskets. Although the current law states casket are to be 100% trusted, this provision concerning installment payments, in our opinion, circumvents that law.**

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Attachment

4

The KFDA would like to offer the attached amendment that provides that a cemetery can only retain installment payments until it receives an amount equal to 25% of the purchase price of preneed cemetery merchandise rather than 25% of the preneed cemetery merchandise and prepaid burial products (caskets). This is a consumer friendly amendment which will protect the consumer's preneed dollars.

Thank you for the opportunity to appear before you today. I would be happy to stand for any questions you may have.

Section 5

(b)(c) A cemetery corporation entering into a ~~prepaid preneed~~ merchandise contract *that allows the purchaser to make installment payments* shall be entitled to retain all *purchaser payments until* ~~of the purchase price under the prepaid merchandise contract until it has received~~ an amount equal to 3525% of the purchase price of preneed cemetery merchandise *is received, and thereafter, shall deposit 100% of each payment into* ~~of the cemetery merchandise sold in a prepaid merchandise contract.~~ *trust fund until the funding requirement has been deposited.*

Mister Chair and members of the Committee:

My name is Julie Ketchum, I am the Director of Government Affairs for WM in Kansas.

I am here today, testifying in support of House Bill 2195, which ensures that all affected parties have the opportunity to voice their opinion about local government decisions regarding waste hauling.

This bill sets up a process that requires public input and input from businesses like Waste Management, that are affected by a city's decision to franchise. Cities must declare their interest in franchising through action at the City Council or other local government body. They must seek public input into the process and develop a plan with goals for what they are trying to accomplish through franchising. Prior to voting on whether to proceed with franchising, the city must provide the solid waste plan, identify how franchising will help achieve the goals in the plan, and most importantly, show how franchising will minimize the impact on our waste hauling businesses.

Finally, a second action by the local government must be taken 30 days after the plan is publicly noticed, giving all parties time to review and provide input on whether franchising is the best decision.

Without this legislation, our customers will not have a voice in the process. In fact, here in Kansas, the City of Derby moved ahead and instituted a franchise system, which took away people's right to choose their hauler. During the process, one city councilmember noted that 75 people called him in opposition to franchising and only 4 people called to support the City franchising waste hauling. The City of Derby moved ahead with franchising and to this day, Waste Management is still hearing from past customers who opposed franchising---customers who lost their right to hire their garbage hauler and frankly, fire their garbage hauler if they weren't providing the level of service they expected. That is the American way. As consumers we get to buy goods and services that we, as individuals prefer. This legislation will protect consumer's right to make that choice by allowing them a voice in the process and making government more accountable for their decisions.

This legislation also provides protection for waste hauling businesses that are operating in a free market. Generally, the waste hauling business prefers a free and open market system where all hauling businesses are required to compete at a very high level---this results in better service and better rates---all benefiting the customer. Our businesses grow gradually, by adding one account after another, and for those of us that are competitive---we can gradually make investments in more and better equipment. This is the foundation of the open market system that has allowed businesses in America to thrive.

When a city moves from an open system to a government managed, franchise system, the impact of this type of change can be tremendous---whether you are a large company or small, the change is not gradual, but rather abrupt. An account is not simply an account--

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-each account is different. Cities who promise to give each hauler their same market share, same number of accounts, but not the same accounts do not understand our business. Each of us have fought to get each and every account and there are those accounts and areas of the city that are preferred and there are those that are not preferred. Someone---one of us---one of our companies-- will not be treated fairly in the franchising process. And, what seems like a minor difference, a minor change by the city, can often result in a competitive edge for one or two companies in the market.

In some cases, the change can be so significant that it narrows the market, effectively putting some haulers out of business. Other times, only a few survive, reducing the competition in the market, which can affect the service level.

And, yes, WM and other haulers are bidding on cities that go to one contract, one hauler. We have to! While we don't like the fact that some cities are automatically going to one hauler, with no process or public input at all, we still have to bid and compete for these contracts in order to stay in business. We lost that contract. And now, they have one hauler and no competition in the market.

Lastly, cities usually promise that rates will be kept low; however, the city is taking on the administration of this new government managed system. With these new city services, funding will be required to carry out these added responsibilities. So, the question then becomes, where does the money come from? In increased rates for trash collection or in some hidden tax? More importantly, with a guaranteed market share, what incentive do the remaining haulers in the market have to compete, provide a high level of service if there is nothing to compete for?

We support the current open market system for waste hauling; however, we realize that some cities may have an interest in franchising. We support HB 2195 as legislation that would at least provide the opportunity for public input and discussion on an issue that is surprisingly important to people: Choice. Residents want to choose their hauler. Let residents voice their opinion in the process by passing HB 2195.

Thank you for the opportunity to testify in support of this legislation and please vote in support of maintaining consumer rights by voting for this bill. Thank you.

NISLY BROTHERS, INC.

(620) 662-6561

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info@nislybrothers.com

5212 SOUTH HERREN ROAD www.nislybrothers.com HUTCHINSON, KS 67501

We Keep You Looking Good!

Re: HB 2195 support

I encourage you to support HB 2195. It provides a standard procedure for municipalities to insure an informed public and to provide assurance that all interested parties are aware of proposed solid waste collection changes.

Currently it is perfectly legal for a municipality to take trash collection business from private companies without giving any notice whatsoever.

Nisly Brothers, Inc. is a private, family owned and operated corporation based in rural Hutchinson. We provide waste and recycling services in Reno County, the western edge of Sedgwick and Sumner, Kingman, Pratt, Barber, Kiowa and Stafford counties.

Over 50 years ago my father began a small trash hauling company in Hutchinson that he named Nisly Brothers Trash Service. In the following years the company has been continuously family owned and operated. My father has now retired and currently the company is owned by my two brothers, Harold and Arnold, and me.

The issue of being forced out of a municipality with no notice is very real to me.

For many years our company competed for residential trash and recyclables collection in South Hutchinson, Kansas, less than ten miles from our office. In December of 2009 I was made aware by a third party that a competitor had made a bid for exclusive rights to collect residential trash in South Hutchinson.

After making an appeal to the South Hutchinson city council in December of 2009, I was assured by several members of the council that their intention was to not move forward with this plan and force our company out of business in the City.

Imagine my shock when I received a call from *one of our customers*, on March 30, 2010 telling me that an agreement had already been signed nearly a month earlier, with the City of South Hutchinson and our competitor. No one from the City of South Hutchinson had ever let us know that any action was being reconsidered or that the agreement was signed. I had to personally call the city office to get confirmation that the action was indeed final.



We recycle

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Also, many of our customers were disappointed that they were not notified that action was being considered.

Just 62 days after my first unofficial notice, on May 31, 2010, our carts were removed and we were no longer allowed to compete for residential trash collection in the City of South Hutchinson.

This action is currently completely legal. Is it right or fair?

We base our budgets and projections on existing conditions. If a competitor offers better value for products or services, the customer can choose to switch to another company because of the value he perceives. We can develop strategies to increase the value of a particular product or service to not only regain lost customers and prevent additional customers from leaving, but to attract new customers.

However, there is no way to plan for potential losses due to being forced out of a municipality. Having reasonable prices, quality equipment and complying with required licenses does not protect against this form of lost revenue. We cannot buy insurance for or predict this type of loss.

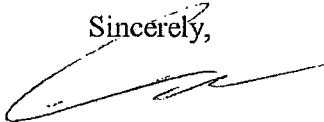
When a municipality decides to organize, they frequently have taken little time to look at all the consequences of their actions. Providing the best value does not guarantee not being forced out. Also, companies may have little or no time to plan and adjust.

Trash hauling companies provide a very necessary service, and have built value by the customers they serve. Probably few municipalities realize how organized collection may affect private businesses that have previously provided this service. When a municipality forces private business out of their jurisdiction it can feel like a slap across the face.

HB 2195 forces municipalities to provide fair notice to all concerned parties and allows everyone to provide input and plan for changes.

HB 2195 deserves your support.

Sincerely,



J Marvin Nisly
President



We recycle

L & K SERVICES, INC.



510 S. FIRST STREET
LOUISBURG, KANSAS 66053
(913) 837-4637
TOLL FREE (888) 837-4640
FAX (913) 837-5214

My name is Larry Smith and I, along with my wife, Kim, own a disposal company known as L. & K. Services, Inc. that is based in Louisburg. It is a small, family owned business where we provide trash, recycling and yard waste disposal services to Miami, Linn and Johnson counties, as well as portions of Bourbon, Anderson, Franklin and Wyandotte counties. We recently were able to bring our oldest son, Bryce into our company so that we could continue to grow and provide jobs and services to areas of Eastern Kansas.

We purchased this company over 36 years ago from a couple that were considering retirement. At that time they had between 300 to 400 customers. When I say that we purchased their company, not only did that purchase include their trucks and containers, but also their client base, one of the most valuable elements. A large portion of their client base included the City of Louisburg. Since that time, with hard work and a great deal of luck, we have been fortunate enough to grow our company to nearly 20,000 customers. We are proud to say that we are the second largest employer in Louisburg.

I come to you today to ask for your support of House Bill 2195. While I have been so lucky to have been able to watch our company grow, it has come with a great deal of hard work and financial risk. An overwhelming percentage of our business is located within different cities throughout Eastern Kansas. These include not only Louisburg but several cities where a variety of choices are available, Overland Park, Gardner and Leawood. Without the support of this bill, that business could be taken away at any time, leaving us with hundreds of thousands of dollars worth of equipment and many employees without jobs. The implications of this reach far beyond the ownership of this company. We ask that you consider the people that we employ, the tax revenue that we generate and the many businesses and services that we help to sustain. The loss to all has the potential to be devastating. There is much concern with the banks that give us financial support with the volatility of our customers within those municipalities where there are no contracts that would cover debt.

Many haulers across the state rely on municipalities to keep their small, privately owned companies going. We believe that small businesses and free enterprise are the back bone of our great country. The competition among us creates an environment for fair pricing and value to our customers. We are made up of hard working individuals that work together to provide Kansans with a much needed service.

On behalf of our employees, managers and owners as well as the customers that we service, I thank you for your time and consideration.

Sincerely,

Larry W. Smith, President
L. & K. Services, Inc.

Senate Local Government

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Attachment 7

L & K SERVICES, INC.



510 S. FIRST STREET
LOUISBURG, KANSAS 66053
(913) 837-4637
TOLL FREE (888) 837-4640
FAX (913) 837-5214

AREAS FOR CONSIDERATION CONCERNING THE IMPACT OF FRANCHISING FOR L. & K. SERVICES, INC.

COST OF THE EQUIPMENT TO INVEST IN A COMMUNITY

- Cost of trucks - \$150,000 to \$200,000
- Cost of karts or toters - \$50 per unit
- In areas that have recycling, the cost of a 2nd truck and recycling bins - \$7 to \$12 per bin
- In areas where commercial service is provided, the cost of containers, starting at \$400 and up

ADDITIONAL EMPLOYEES REQUIRED

- The hiring of additional employees - minimum of 2. If recycling is available, possibly 3 -4.
- If the accounts are taken away, the necessity to terminate these employees and the cost of their unemployment

LANDFILL PRICING

- The majority of our landfill pricing is based on volume. When accounts are taken away and the volume of trash drops, we lose the better rate at the landfill
- Smaller haulers are the reason some of the area transfer stations are able to operate. If we lose business, so do they. At some point, we stand to lose some of our options for transfer stations.

FUEL PRICING

- Fuel pricing is much like that of landfills. At this time, we contract our fuel. The amount that we contract is based on the number of routes and trucks that we operate. If routes are lost, then we have probably over-contracted our fuel for the year. If we have contracted it, we pay for it...whether we use it or not.

MISCELLANEOUS COSTS

- Advertising and support given to a community
- Time involved in opening accounts, setting up the routes and the cost of a variety of communication with these customers: ie: letters, phone calls, etc. If those accounts are lost, then the additional costs of closing accounts and notifying those customers.
- For those customers using our totes, karts, recycling bins or commercial containers, the cost to coordinate and bring all of those types of containers in

ONE ADDITIONAL COMMENT...If a municipality expands or incorporates and that area is being serviced by rural water, do they receive just compensation when those customers are taken away?

On behalf of our employees, managers and owners, I thank you for your time and consideration.

Larry W. Smith, President
L. & K. Services, Inc.



TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES
TO THE SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 14, 2011
HB 2195

Chairman Reitz and Members of the Committee:

Thank you for the opportunity to support HB 2195.

Last session we opposed HB 2701, a similar bill on this issue. The bill created an extraordinary system of protections for solid waste service providers and resulted in cities and counties losing control of this local issue. The biggest concern to us was the bill's requirement that a municipality institute condemnation proceedings against a person who is displaced from operating a solid waste collection service.

Chairman Schwartz asked the parties to work on a compromise during the interim. The Kansas Association of Counties, along with the League of Kansas Municipalities, sat down with the proponents of the legislation and discussed the concerns that gave rise to the legislation. We focused our efforts on creating a system that ensure notice and participation by those service providers who would be affected if a city or county created its own solid waste management system.

Any concerns KAC had about the legislation were addressed during our interim discussions, and by amendments presented in the House Committee.

We appreciate the committee considering these issues and ask that you support the bill.

Respectfully Submitted,

Melissa A. Wangemann
General Counsel & Director of Legislative Services



Statement of the Mid-America Tire Dealers Association

**Submitted by
Shawn Herrick, Executive Director**

**Before the
Senate Local Government
Committee**

March 14, 2011

Chairman Reitz, Members of the Committee;

The Mid-America Tire Dealers Association (MATDA), on behalf of members, appreciates the opportunity to submit testimony today to state our position on HB 2195.

The Mid-America Tire Dealers Association supports House Bill 2195 and the efforts to provide some degree of protection and planning for businesses in the solid waste industry.

MATDA would however ask for an amendment that we feel would protect the recycling and proper disposal of waste tires in our state without affecting the intent of this bill, should it become law.

There is a mature system of waste tire management in our state today and waste tires do not follow the same or traditional solid waste or recycling streams. Waste Tires have their own permitted community in Kansas including tire monofills, processing facilities, transporters, and tire collection centers. Counties and private companies help to keep waste tires from being illegally disposed of, which are known to cause vermin, and mosquito problems, as well as fire hazards, for residents.

Many tire retailers have contracts in place with waste tire facility permit holders and disruption of this process would cause chaos for tire dealers and may put waste tire companies in jeopardy because of very narrow margins of profit.

We would ask for the following amendment:

“The provisions of this act shall not apply to the collection of waste tires as defined by K.S.A. 65-3424(m) from any facility for the purpose of recycling or disposal.”

With the above change, MATDA would like to urge your support and passage of HB 2195.

On behalf of our membership, thank you again for allowing us to express our concerns.

Date: March 14, 2011
To: Senate Local Government Committee
From: Larry R. Baer
Assistant General Counsel
Re: HB 2195
Neutral Testimony – With Comments

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities and comment upon HB 2195.

HB 2195 proposes to establish the organized solid waste collection service act. It had its genesis during the last legislative session when a similar bill came before the House Local Government Committee. At that time, the House Committee asked the League, the Kansas Association of Counties and the solid waste providers to meet and try to reach common ground on the various issues. As is often the case, not all provisions could be agreed upon by all parties. HB 2195, as originally drafted, is the proposal put forward by the industry. The League appeared in the House in opposition to HB 2195 because we felt that:

- A provision in Section 3 that required the passage of two years from the date of the adoption of the ordinance establishing the collection service, when coupled with the 6 month plan development process, also contained in Section 3, extended the process to nearly three years. The League believed that this was way too long.
- The bill restricted the use of franchise fees to “the expense of administering the proposed organized collection program.” The League believed that this language was contrary to the policy and legislative intent contained in the franchise statutes, K.S.A. 12-2001 *et seq.*

Based upon the testimony, the House Local Government Committee addressed these concerns and passed out the amended bill you now have before you. The amendments included the removal of the restriction on the use of the franchise fees and reduced the two year waiting period to 18 months. The League would have preferred that the waiting period be reduced further, or eliminated. However, we have agreed to not oppose the bill with the 18 month provision it contains. Therefore, the League of Kansas Municipalities stands neutral on HB 2195.

Thank you.

Senate Local Government

3-14-2011

Attachment 10