

Testimony on Senate Bill 293
to
Senate Committee on Commerce
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KDHE appreciates this opportunity to provide informational testimony on SB 293 which would establish restrictions on local governments that provide solid waste management services to persons or businesses located outside of their city or county limits. This bill is very similar to HB 2072 which was introduced and debated in 2013. The only changes to the bill from last year are: (1) an exemption for municipalities with a population of less than 5,000 and (2) an exemption for regional service related to household hazardous waste (HHW) collection and management.

The exemptions added this year do not address the main effects of the bill with respect to the role of local governments in solid waste management. The primary impact of this legislation relates to the regional services provided by eight publicly-owned municipal solid waste (MSW) landfills. These regional landfills provide disposal service to about 20 additional counties which in combination transfer and dispose of about 110,000 tons per year of MSW. These landfills also dispose of about 400,000 tons per year of MSW generated in their own counties.

The alternative to waste transfer to the publicly-owned landfills is transfer and disposal in the seven much larger privately-owned regional MSW landfills. These landfills presently serve about 40 other counties that in total dispose of over one million tons of waste per year of transferred waste. The total amount of MSW disposed in private regional landfills is about three million tons per year (includes imports to Kansas). If all of the MSW disposed of in the public MSW landfills was transferred to the private landfills, total disposal would increase by 3 to 4 percent.

The attached figure shows the location of all regional MSW landfills (public and private) and the counties that transfer solid waste to each landfill. When only part of a county's waste is transferred, the county is partially shaded.

Other regional services provided by cities and counties that would be impacted by this legislation relate to recycling activities where rural counties often work together to consolidate collected recyclables to facilitate marketing of material. This includes the collection of consumer electronic waste in a few locations.

As KDHE explained in testimony last year on HB 2072, this bill conflicts with other sections of solid waste law that encourage and authorize local governments to work together to provide solid waste management

services for their citizens. K.S.A. 65-3405 provides guidelines for counties to plan together and K.S.A. 65-3410 specifically authorizes cities and counties to “*contract with any person, city, county, or other political subdivision to carry out their responsibilities to implement an approved solid waste management plan . . . and for the collection, transportation, processing, and disposal of solid waste and recyclables.*”

The changes to the bill in 2014 will have little effect on the impacts to local governments. It is important that HHW facilities would now be exempt from the provisions; however, no private companies are involved in HHW collection activities so there will be no change in management practices. The exemption for municipalities with a population of less than 5,000 will have minimal effect since only one county provides disposal service to waste generators outside of their county. Clark County operates a small arid landfill and has made arrangements with Comanche County for them to dispose of their small amount of MSW in Clark County landfill. The quantity of solid waste transferred to Clark County is very small.

Publicly-owned landfills do have certain competitive advantages over private landfills. I will mention some advantages as they relate to the costs of landfill operations. In accordance with state and federal regulations, public landfills in Kansas may satisfy their financial assurance requirements for closure and post-closure costs using ad valorem taxing authority or a local government financial test, options not available to private companies. Private companies may attempt to pass a rigorous financial test, but in most instances a financial assurance instrument with an associated annual cost is used including things such as a letter of credit, a surety bond, or insurance. Last year, KDHE worked with all of our landfill owners to update cost estimates for closure and post-closure care which can be millions of dollars, so the cost to maintain a financial instrument does carry a significant cost.

Other competitive advantages for some public landfills relate to shared overhead costs including management responsibilities, communications technology support, legal support, and accounting support.

KDHE is unaware of any state that has taken action to eliminate the local government competitive advantages or to prohibit competition with private companies as proposed by the legislation.