

Legislative agendas: easier said than done

Recently, a representative of a KRWA-member system asked me, “Well, why don’t you just get a bill passed to . . .” It sounds so easy. “Just do it!” Well, that’s not how it works. It’s my experience working with KRWA for now going on 29 years that the introduction of legislative issues requires a lot of diligence, then incredible amounts of persistence, needless to mention the time required to solicit legislative awareness and support. Bills are heard in committees in either the House or Senate, and then must be approved by the full body, and then go to the other chamber for a repeat of the process.

KRWA works in many ways to help water and wastewater utilities. One way is to be a responsible advocate that works for the interests of water and wastewater utilities. In the 2005 Kansas legislative session, KRWA emphasized support for two bills. These were HB 2017 and HB 2018. By the end of the session, both measures had been combined into one bill, approved and signed by Governor Sebelius.

I would like to take this opportunity to recap both measures.

Mergers made easier

HB 2018: As originally introduced by Representative Tom Sloan (R, Lawrence), the intent of this bill was to clarify procedures for the acquisition of a rural water district’s water supply distribution system, assets and liabilities by another rural water district. While Kansas already has a “consolidation statute” for rural water districts, HB 2018 creates a procedure to allow a district to be acquired by another rural water district.

Various rural water districts requested KRWA to promote a streamlined process to merge RWDs.

transfer of the acquired district to the acquiring district for control and ownership of the acquired district’s water supply and distribution

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HB 2018 requires that a memorandum of understanding be entered into by the board of directors of each district (the acquiring district and the acquired district). The memorandum would contain terms and conditions for the

system, including all property, equipment, contracts, records, reports and funds; agreement to continue to provide service, assumption of any debt by the acquiring district, etc. A copy of the memorandum is to be filed in the



Governor Kathleen Sebelius signed HB 2018 on April 15, 2005. Standing behind Governor Sebelius, left to right, are KRWA Lobbyist Pat Lehman; Lawrence contractor Dave Penney; KRWA Board President Dennis Schwartz, State Representative Bruce Larkin, Baileyville; State Representative Tom Sloan, Lawrence; KRWA General Manager Elmer Ronnebaum; Kansas Water Office Director Tracy Streeter; and Kansas State Conservation Commission Executive Director Greg Foley looking on.

Legislative twists and turns

Bills are heard in committees in either the House or Senate, and then must be approved by the full body, and then go to the other chamber for a repeat of the process. Here is a history of HB 2018. For those wanting to locate a certain legislative action, the House and Senate Journals are listed on the legislative network Web site: www.accesskansas.org.

12/27/2004 – Pre-filed for introduction
01/10/2005 – Introduced -HJ 13; referred to Governmental Organization/Elections
01/21/2005 – After hearing, passed by Governmental Organization/Elections -HJ 72
01/27/2005 – Full House. Passed; Yeas 122 Nays 0 -HJ 86
01/27/2005 – Received by Senate and introduced -SJ 80
01/28/2005 – Referred to Senate Elections and Local Government -SJ 84
03/22/2005 – After hearing, be passed as amended by Elections and Local Government -SJ 371
03/24/2005 – Committee Report be adopted; be further amended; be passed as amended. -SJ 403
03/25/2005 – Senate Final Action: Passed as amended; Yeas 24 Nays 15 -SJ 419
03/25/2005 – House Non-concurred; Conference Committee requested; appointed Vickrey, Goico, Holland -HJ 561
03/25/2005 – Senate Acceded; appointed Huelskamp, O'Connor, Betts -SJ 470; Change in Committee: Francisco to replace Betts -SJ 472
03/31/2005 – Senate adopted Conference Committee Report: Yeas 27 Nays 12 -SJ 487
03/31/2005 – House adopted Conference Committee Report on house bill: Yeas 123 Nays 0 -HJ 640
04/01/2005 – House Engrossed Bill -HJ 932
04/08/2005 – House Enrolled and presented to Governor. -HJ 932
04/15/2005 – Approved by Governor. -HJ 888

office of the county clerk and published once in a local newspaper. The acquired district would be responsible for mailing a notice of the approval of the term of the memorandum of understanding and the reasons for such approval to each patron of the acquired district. If 10% of the participating members of the acquired district file a petition to request an election on the approval of the memorandum, then the board of directors of the acquired district is required to call for such election. The election may be held at a special meeting called for that purpose or may be by mail ballot, or both. If an election is held, a majority of the participating members voting at the election to approve the terms must approve the terms of the memorandum.

HB 2018 also clarifies the present K.S.A. 82a-646 for the process for petition of release of

lands from a rural water district. When a petition for release of land signed by at least 75% of the owners of the land affected is approved by the board of directors of the district in which the land is located, and when the board of directors of the district to which the land is sought to be attached approves of the attachment, then copies of the approval of such action by the boards of directors of each district shall be transmitted to the chief engineer of the Division of Water Resources, Kansas Department of Agriculture and with the county clerk who is to note the change of the district's boundaries.

Fee fund transfer

HB 2017: As originally introduced, also by Representative Tom Sloan, HB 2017 would have required the Director of Taxation to credit all monies received from the Clean Drinking Water Fee to the

State Water Plan Fund beginning January 1, 2006. HB 2017 was amended into HB 2018 late in the Session with the implementation date for the transfer to begin July 1, 2007.

Why is HB 2017 important to water systems? Remember the provisions of HB 2017 were combined into HB 2018. HB 2018 as approved and signed requires that at least 15 % of the Clean Drinking Water Fee be used to provide on-site technical assistance for public water systems, and 85 % of the Fee to be used to renovate and protect lakes used as a source of water for public water supply systems. The Clean Drinking Water Fee generates approximately \$2.6 to \$3 million annually.

Kansas Rural Water Association supported HB 2017 because it's only appropriate that the fees public water systems are paying to the Clean Drinking Water

Fee target programs that more directly benefit public water systems and the ratepayers who are paying those fees. Members of the Legislature had previously been reluctant to have the fees not credited to the state general fund because of budget concerns. But by delaying the implementation date to July 1, 2007, agreement was reached this Session. KRWA appreciates the efforts of Rep. Sloan and many other key legislators and for Governor Sebelius for approving this legislation.

No, it's not a new tax!

What's this Clean Drinking Water Fee? The Clean Drinking Water Fee was established during the FY 01 Legislative Session. The Clean Drinking Water Fee was created so that publicly owned public water systems might pay a 3 cent per thousand fee on water sold at retail as an alternative to trying to comply with what many cities and RWDs saw as unduly complicated process of trying to

comply with the application of sales taxes on purchases by the municipal and rural water systems. In establishing the Fee, the Kansas Legislature provided that publicly owned public water systems could opt out of the new Clean Drinking

However, no system can return to paying sales tax once the city or RWD decides to pay the Fee.

Other bills of interest:

KRWA also tracked and commented on numerous other bills

In establishing the Fee, the Kansas Legislature provided that publicly owned public water systems could opt out of the new Clean Drinking Water Fee of 3 cents per thousand gallons sold at retail and continue to pay sales tax.

Water Fee of 3 cents per thousand gallons sold at retail and continue to pay sales tax. More than 800 systems chose to pay the fee with approximately 80 water utilities deciding to continue to pay sales tax on their purchases. The 2004 Legislature passed legislation that provides for those systems that continue to pay sales tax can amend their position to pay the Clean Drinking Water Fee and discontinue paying sales tax.

this past Session. These include the following:

HB 2014: Powers of members ex officio of the Kansas Water Authority was heard Thursday, February 3, 2005. Bill passed the Senate 33-8, sent to the Governor for signature. Governor Sebelius vetoed this bill on April 4. Here is the Governor's veto message:

"For its continued prosperity, our state requires an adequate supply of clean water. Every business, farm and home in the state depends on water, yet our supplies are shrinking and our needs are growing. To meet this challenge, we depend on the Kansas Water Authority to help us manage our water supply and plan for the future. The Kansas Water Authority has worked well for 24 years, acting in the best interests of Kansans, in a nonpartisan, nonpolitical way. There is no apparent reason to change its procedures, and certainly no evidence the changes proposed in this bill will improve the functioning of the Authority. Indeed, the proposed changes will damage the authority. This bill goes much further than simply adding limits on ex officio members' participation in the authority. It reduces these members to a peripheral role, one where they are merely to "act as a resource and



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support for other members." If we are to meet the challenges facing our water supply, we must have all voices heard and need everyone to have a seat at the table. Because House Bill 2014 makes it more difficult to meet our state's challenges, I must veto it. "

An attempt to override the veto of HB 2014 in the House failed 83-41 on April 28, 2005.

HB 2108: Water Plan Storage Act; determination of rates for withdrawal and use of water; disposition of moneys. Bill was referred to House Appropriations. Passed House 124-0. Sent to Senate Ways and Means. Passed the Senate 40-0 on April 28, 2005. Sent to the Governor for signature.

HB 2400: Establishes the irrigation transition assistance program. Heard on 2/17/05. No action.

HB 2243: Lan-Del joint water district; transfer of assets, liability and territory. Introduced 2/01/05 and referred to Governmental Organization/ Elections. No hearing was held.

HB 2470: Removes the prohibition that a public water system paying the Clean Drinking Water Fee cannot include the cost of the Fee in the consumers' water bills. This bill was introduced at the request of Dennis Schwartz / KRWA given the interest in clarifying instructions by the Kansas Dept. of Revenue with the statute establishing the Clean Drinking Water Fee. This bill was referred to House Governmental Organization/Elections Committee on February 16. No hearing was held. On March 18, the Committee passed a Substitute Bill. The House Committee eliminated the contents of the original bill and replaced them with the contents of HB 2093 (consolidation of counties) and HB 2094 (city-county consolidation), both as amended by the House Committee on Governmental Organization and Elections.

The bill then became Substitute HB 2470.

HB 2321: Municipalities; user fees or charges. This bill would require that an independent auditing firm review any user charge or fee change proposed by any political subdivision. Hearing held Tuesday 2/22/05 in House Governmental Organization/ Elections. Dennis Schwartz testified for KRWA in opposition to the bill. This bill was not worked. KRWA will continue to oppose this proposal.

HB 2506: Open Meetings Act, applicable state agencies meeting as the subcabinet on natural resources. The bill was amended by the committee to narrow the requirement of public notice of a meeting to mean any meeting of the subcabinet on natural resources when the subcabinet is meeting to discuss issues relating to the Kansas water authority. Also added was: The request for a notice of the date, time and place of a meeting of the subcabinet on natural resources, which is meeting to discuss issues relating to the Kansas water authority, authorized under subsection (b) of K.S.A. 75-4318 and amendments thereto shall be made to the office of the governor.

This bill was #1 on General Orders of the House Wednesday April 23 and was passed over because there was going to be an amendment offered on the floor to require the Attorney General to provide public notice of any serial meetings that he has as with the separate meetings of three members each from the State Board of Education. The leadership did not want that to happen so they passed over the bill; the bill was re-referred it to the Appropriations Committee.

Readers can check www.kslegislature.org for all legislative bill tracking, statutes and other legislative information.

This is the first year that KRWA has utilized the services of a lobbyist. The Association employed

The Lehman Group to assist in bill tracking. The Association thanks Pat Lehman for his monitoring of legislation that is important to KRWA members.

National legislation

As Dennis Schwartz notes in his article in this issue, support for funding for rural water and wastewater programs has been a consistent effort by state rural water associations for nearly 30 years. On May 4, the Interior, Environment and Related Agencies Appropriations Subcommittee did mark-up their FY06 bill. EPA funding originates with this Committee. The Committee reinstated funding for rural water programs. Specific funding levels will be determined as the bill moves through the full Appropriations Committee and Senate consideration. This is only the beginning of a long appropriations process, but it should be noted that "Rural Water" was the only organization that was provided an earmark in the bill. The Subcommittee's inclusion of rural water at this early stage of the process is very appreciated and positive. "Rural Water" was the only specific funding earmark mentioned in the bill.

Other items of note in the Subcommittees EPA "mark up notes" include the Drinking Water State Revolving Loan Fund is funded at \$850 million which is \$120 million above the President's budget request and \$7 million above the 2005 level. The Clean Water State Revolving Loan Fund is funded at \$850 million which is \$120 million above the President's budget request and \$241 million below the 2005 level.

Other legislative initiatives that National Rural Water is working on include the issues listed in the sidebar two pages following on page 13.