



The legislative session which drew to a close in late May, saw several bills signed that should be of interest to rural water districts and cities. I thought readers would find a recap of these bills helpful. The Kansas Rural Water Association testified at several of the bills and all bills that KRWA endorsed were passed or the objective gained. Doug Mays of Doug Mays and Associates provided legislative liaison for KRWA during the Session. KRWA Counsel Gary Hanson provided invaluable assistance with clarification of the issues that directly impact RWDs.

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current Assistant Attorney General who reviews bond issues objected to approving these for lack of appropriate statutory authority. KRWA Counsel Gary Hanson, with review by the Attorney General's office, offered a draft bill to the House Committee on Energy and Utilities. The bill was introduced as HB 2588. Subsequently, the bill passed the House 123-1 and the Senate by a vote of 40-0. The bill was

signed into law by Governor Brownback on March 20, 2012. The provisions of the bill are very important to many rural water districts and public wholesale districts as they were being prevented from taking advantage of refinancing at the present low interest rates.

Refinancing of federal debt

The Kansas Attorney General's office determined earlier in 2012 that a provision in state law referring to a provision in federal law was in conflict and therefore, the office would not give further approval to a rural water district refunding of federal debt through the issuance of bonds. HB 2588 amended statutes to give clear authority for rural water districts and public wholesale water supply districts to issue revenue bonds to refund outstanding loans. In reality, such refinancings have been done on many occasions over the years, all through bond issues prepared by recognized bond counsel and approved by the Attorney General. However, a

Kansas One Call

As state law now requires water and wastewater utilities to be members of Kansas One Call, it was somewhat of a surprise to most water and wastewater utility members to find that the bylaws of Kansas One Call allowed for a "proxy by default" method. In other words, if a member did not return its proxy vote for the One Call annual meeting of membership, then it was considered to be a yes vote. Philosophically, democracy requires the affirmative action by voters, that is to either vote for or against a proposal.

Non-voters do not count. KRWA encouraged the introduction of HB 2456, which was narrowly defined to eliminate the practice by Kansas One Call. The bill passed the House 114 to 0 on February 3. KRWA discussed the bill with Kansas One Call executive director Tom Shimon. Subsequently, the Kansas One Call board of directors voted to remove the provision from the organization's bylaws. The bill was assigned to Senate Utilities but the hearing was cancelled as the goal of the legislation had been attained.

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this bill on March 5, 2012, and this law change was effective March 15, 2012. The law change gives a water right owner a method to suspend the permanent water right and obtain a term permit lasting five years to replace it during the suspension. The quantity authorized by the term permit can be used at any time during the five-year period and is not

Non-landowners as RWD members

HB 2472 was introduced at the request of KRWA to amend KSA 82a-612 to change the definition of a "participating member" of a rural water district. The bill removed the requirement that members of RWDs must own land within the district. By removing this requirement, a participating member would include non-landowners who own a meter with the right to connect to the district's water system. The reason for the bill was that there are numerous examples where someone other than a landowner would have reason to purchase a benefit unit. The bill passed the House 120 to 1 and the Senate 40 to 0; HB 2472 was signed into law by Governor Brownback on March 20, 2012. KRWA Counsel Gary Hanson has prepared an extensive article in this issue concerning the legislation and how RWDs can implement it. Several RWDs speculated that this legislation might allow for an erosion of the provisions of protection of territory under 1926. That issue is completely unrelated to the legislation. HB 2472 is not "self-effective" – in other words, until a rural water district in Kansas opts to amend its bylaws and then the board of directors votes to issue benefit units to non-landowners, it cannot happen.

Water rights issues

House Bill 2451, regarding water right abandonment, was passed by the House and the Senate. Governor Brownback signed the bill on March 5, 2012, and the law change was effective July 1, 2012. Presently, Kansas water rights can be determined to be abandoned if no use occurs for five successive years without due-and-sufficient cause. Previously, an exemption existed that a water right located in an area that was closed to new appropriations was not subject to the five-successive-years criterion if the diversion works could be put into use in a reasonable amount of time. The new law has removed that language regarding diversion equipment and now water rights in closed areas no longer have to show beneficial use nor have diversion works (wells, pumping equipment, etc.) present.

Senate Bill 272, regarding term permits allowing multi-year quantities in lieu of an annual quantity, was passed by the House and the Senate. Governor Brownback also signed

subject to any annual limit. All of the water authorized can theoretically be used in the first two years, and no violation will occur, if pumping ceases for the next three years. The quantity allowed under the term permit is calculated to be the highest of either the average usage times five during the period of 2000 to 2009, or the net irrigation requirement for corn at 50 percent chance rainfall times five and then multiplied by 110 percent, not to exceed the annual authorized quantity times five in either case.

House Bill 2096 would establish a coordinated water data repository system, grant preservation easement authority on state-owned land to the Kansas Water Office (KWO) and include drinking water costs in water plan storage rates. A hearing on this bill was held on January 9, 2012, and referred to the House Committee on Agriculture and Natural Resources on January 20, 2012. This bill appears to have died in committee.

House Bill 2698 would allow sand and gravel pits to be dredged without being subject to current water appropriation regulations. This bill was referred to the House Committee on Agriculture and Natural Resources on February 10, 2012, and a hearing on this bill was held on February 15, 2012. This bill appears to have died in committee.

Senate Bill 310, which would modify the Groundwater Management District Act to provide a process for creating proactive conservation areas called Local Enhancement Management Areas (LEMAs), passed the House and the Senate. Governor Brownback signed the bill into law on March 30, 2012. The law change was effective April 12, 2012. LEMA's can have mandatory pumping reductions, as recommended by the persons directly affected by the reductions, if supported by the local Groundwater Management District and approved by the Chief Engineer.

Water districts and municipal members continue to be encouraged to contact KRWA about any legislative issues that may be of interest.

Elmer Ronnebaum is KRWA General Manager; he has been employed by KRWA since 1983. He served seven years on the KRWA board of directors prior to that. He also helped develop a large RWD and served for fourteen years on a water district board of directors.

