



---

League of Kansas Municipalities

To: Senate Utilities Committee  
From: Kim Winn  
Date: February 28, 2007  
Re: SB 20 Compromise

First, I would like to thank the Committee for taking into consideration the concerns raised by municipal water and sewer utilities with regard to this legislation. We believe that the compromise bill that is now being considered goes a long way in addressing our concerns.

We respectfully request that you consider two remaining concerns as you continue to work this legislation:

**Tolerance Zone.** We are concerned about the change that was made today regarding tolerance zones. It was our understanding from the discussions with the interested parties that everyone agreed that water and sewer utilities should not be held to the same tolerance zone (24 inches) as other types of facilities. We request that you reinsert the language that would allow the Kansas Corporation Commission to establish a more flexible tolerance zone standard for water and sewer facilities. Without this change, we believe that the 24 inches as spelled out in statute will be considered the default tolerance zone for establishing liability and that was not the intent of the interested parties.

**Fees.** We are very concerned about the establishment of fees under this legislation. As the bill is currently written, water and sewer utilities would be at the mercy of a non-public entity that would have the authority to establish whatever fee they want with regard to Tier 2 facilities.

Last fall, we attempted to receive some information from Kansas One Call regarding the calls they take concerning water and sewer utilities. When we were refused this information, we filed an open records request pursuant to the Kansas Open Records Act (KORA). Again, after a lengthy wait we were informed that Kansas One Call is not subject to KORA.

We cannot support legislation which authorizes an entity that does not have finances which are open for public review to establish fees without any kind of statutory limitation on those fees. We request that the Legislature establish a flat fee for Tier 2 facilities and put that fee into the statute. If, for example, the Legislature were to establish an annual fee of \$100, then the revenues received from the newly mandated entities (about 600) would total approximately \$60,000 per year. We believe that is more than sufficient to cover the additional costs of providing information to excavators about Tier 2 facilities.

Again, we appreciate the progress that has been made on this legislation and we look forward to continuing to work with the Committee on this very important issue.