



**To: Chairman Patton
Members of the House Judiciary Committee**

**From: Darci Meese, Manager Legal/Government Relations
WaterOne (Water District No. 1 Johnson County)**

Date: January 29th, 2020

RE: Opposition Testimony, HB 2461

WaterOne is the public water supply system in Johnson County, Kansas created by statute as a quasi-municipal corporation. WaterOne does not have taxing authority and all operations of the utility are revenue driven. KSA 19-3502 outlines the powers and authority of the organization, including the authority to sue and be sued. WaterOne would be considered a “municipality” as it is defined in HB 2461.

From time to time, WaterOne is notified of class action lawsuits that it may be included in. These suits are generally worked by large national law firms on a contingent fee basis. The WaterOne Legal Department, consisting of 3 attorneys, evaluates the claims to determine their validity and the appropriateness of joining the claim in the interest of our customers. The work to collect information and complete the claim process is conducted in house. Examples of the types of class actions we have joined in the past are an atrazine lawsuit to recover the increased cost of treatment for excess atrazine run-off; a ductile iron price fixing lawsuit; a liquid alum price fixing lawsuit, and; a municipal derivatives suit. These are situations where a civil or sometimes even criminal wrong has occurred that has resulted in monetary damage to our utility. The only way an organization the size of WaterOne with a small legal team will ever recover in these situations is through joining a class action or hiring outside counsel, at most likely a much higher cost.

HB 2461 would add an unnecessary step of obtaining approval of the Attorney General before joining a class action suit. These are generally very technical and complex lawsuits related to our utility operations. There are usually firm timelines within which we are required to evaluate the claim and opt in or opt out of the class. The utility is in the best position to determine the appropriateness of joinder in such situations and the requirement of obtaining approval through the AG’s office could result in missing important deadlines. Another concerning element of HB 2461 is how the AG’s office would determine if a waiver “would serve the public interest and would not impede legal interests of the state.” There is no guidance or description on how this standard would be applied.

WaterOne does not believe the types of lawsuits described in my testimony today are the target of HB 2461. The broad definition of “municipality” has the unintended consequence of stifling our ability to efficiently make our ratepayers whole when wrongdoing has occurred. Therefore, we would respectfully request that HB 2461 not pass out of Committee, or, in the alternative, the definition of “municipality” be narrowed.

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