



To: Committee on Natural Resources

From: Nathan Eberline – Associate Legislative Director & Legal Counsel

Date: March 16, 2012

Re: Senate Bill 405 – Existing Private Wastewater Systems

Thank you for the opportunity to testify in opposition to Senate Bill 405, a bill that proposes to allow existing private-wastewater systems installed prior to January 1, 1992, to remain in use, so long as they are properly functioning. This modifies the current policy by changing the date used to determine if a cesspool is grandfathered. The bill would move the current regulation from 1972 to 1992. The Kansas Association of Counties has two concerns with this bill. First, it adds unnecessary expense to counties as the law would require altering codes to maintain compliance. Each change would also require review and approval by KDHE. Second, cesspools and seepage pits have the capacity to spread untreated sewage to surrounding areas, which is an unwanted health concern. The bill thus adds expense and health risks to counties.

Individual property rights are essential, and Kansas wisely values these rights. But it is also necessary to maintain safeguards where an individual's property maintenance—or lack thereof—impose health risks on surrounding landowners. It is with this consideration that Kansas has long restricted cesspools and why most states disallow the use of cesspools (“Solid Waste Management Plans, 61C Am. Jur. 2d Pollution Control § 1040 (2012)). KAC opposes the mandate of altering local sanitary codes, along with the time and expense that would accompany the change. SB 405 falls squarely within this stance, and we subsequently urge you to vote against the bill. Thank you for your consideration.

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