



STUMBO HANSON, LLP

2887 SW MacVicar Avenue, Topeka, Kansas 66611
Telephone (785) 267-3410 Facsimile (785) 267-9516
E-Mail: tom@stumbolaw.com

GARY H. HANSON
TOM R. BARNES II
TODD A. LUCKMAN
LEE W. HENDRICKS

OF COUNSEL
QUENTIN E. KURTZ

WALTER G. STUMBO
(1911-1998)

February 10, 2015

Via email: shirley.jepson@house.ks.gov

Kansas House of Representatives
Standing Committee on Agriculture and Natural Resources Budget
Kansas State Capitol
300 SW 10th Street, Room 346S
Topeka, KS 66612

RE: Testimony of Tom R. Barnes II Regarding HB 2156

Dear Chairperson and Committee Members:

Thank you for the opportunity to provide this testimony in favor of House Bill 2156. My name is Tom R. Barnes II, and I am City Attorney for the City of Alma, Kansas. I am presenting this as testimony on behalf of the City of Alma, Kansas as regards House Bill 2156. It is my understanding that the current version of the Bill that is under consideration, would amend subsection (d) of K.S.A. 2014 Supp. 82a-1604 to read as follows:

(d) The Kansas water office may recover the state's costs incurred in providing public water supply storage in such class I project, and interest on such costs, by selling such storage and the associated water rights. Interest on such costs shall be computed at a rate per annum ~~which is equal to the greater of: (1) The average rate of interest earned the past calendar year on repurchase agreements of less than 30 days' duration entered into by the pooled money investment board, less 5%; or (2) four percent.~~ equal to the average of the monthly net earnings rates for the pooled money investment portfolio for the preceding calendar year.

The above subsection (d) language will hereafter be referred to as the Modified Language. The City of Alma supports the Modified Language because its adoption will result in more equitable treatment of the City than would otherwise be the case.

The subsection identified above, as currently in effect, affects the interest rate the City would

have to pay if the City were to purchase the Kansas Water Office's storage space in Mill Creek Lake. The relevant facts are as follows:

- In the early 1990s, Mill Creek Lake was constructed as part of the State's Multipurpose Small Lakes (MPSL) program and the Kansas Water Marketing program. The State of Kansas, through the Kansas Water Office (KWO), paid \$203,405 for 50% of the water supply storage in the Lake and the City of Alma paid \$203,404 for 50% of the water supply storage in the Lake. The City's 50% interest amounted to 48 million gallons of water per year.
- Recently, the City's demand for water has increased to the point where it could utilize more than 48 million gallons of water per year from the Lake. To obtain such additional water, one option available to the City would be to purchase the State's 50% water supply storage. If the City were to do that, it would, pursuant to K.S.A. 82a-1604, have to pay the State a rate of 4% interest on the State's original investment of \$203,405, through the date of acquisition of the additional water supply storage. According to the KWO, doing so would amount to a purchase price of \$482,053.
- A 4% interest rate is significantly higher than interest rates applicable to other communities participating in projects under the Kansas Water Marketing Program's other water-related statutes. The interest rate applicable under the Kansas Water Marketing Program's statute, (K.S.A. 82a-1306 (a) (2)), for example, is based on a formula. Under that formula, interest is computed at an annual rate equal to the average of the monthly net earnings rates for the pooled money investment portfolio for the preceding year on the net amount of moneys advanced from state funds for costs incurred. According to the Kansas Water Office, if that formula was applied in the case of the City of Alma's acquisition of additional water supply storage, the applicable interest rate would be 3.26%. According to the KWO, if that percentage were used instead of the applicable 4% rate, the City's cost to purchase the State's 50% water supply storage interest in Mill Creek Lake would be \$422,670 as opposed to the \$482,053 amount stated above. The difference between these two amounts is \$59,383.

It is the City's understanding that the following are correct:

1. The Modified Language would cause a result for the City, (if it were to buy the KWO's existing space in Mill Creek Lake), that is the same as if the above-named provision of K.S.A. 82a-1306 (a) (2) were used to compute interest.
2. The Modified Language will result in an interest rate that more accurately reflects the State's interest costs and that the Modified Language would result in an interest rate that is far more equitable than 4%.
3. The KWO is in support of the Modified Language.

For these reasons, the City of Alma is in support of the incorporation of the Modified Language into HB 2156 for the reason that it would result in a situation where the City would receive a more favorable interest rate commensurate with that which is charged communities under the Kansas Water Marketing Program's other water-related statutes, which would also result in considerable economic savings to the City of Alma upon acquisition of additional water rights in Mill Creek Reservoir.

Respectfully submitted,

Tom R. Barnes II