

Open Meeting
Summary
May 2, 2012
Solid Waste Advisory Board
Legislative Committee

Introductions

Michael Shaw, Chair, called roll. Industry members were present by invitation.

Present were:

Chair: Michael Shaw, District E

Committee Members: Ann Hamilton, District B; Lauren Hershey, District H; Lon Little, District I; John Haasis, District L; Sue Noel, Public representative

Others Present: Derrick Standley, WCM; John Brockman, IESI; John McConnell, Republic; Jane Cale, Region I; Charlene Fitch, SWMP; David Berger; Robert Hamilton, Region O; Lynda Roehl, Region P; Nongluk Tunyavanich, Region K; Mark Phillips, District T; DeAnna Trass, District H; Nadja Karpilow; Tom Jacobsmeyer, IESI; Mike Friesen; Angie Gehlert, MORA; Kristin Tipton, EIERA; Karen Massey, EIERA; Dan Imig; Chris Nagel, SWMP; Brenda Ardrey, SWMP; Mary Ellen Hummel, SWMP.

Not Present: Bonnie McCord, Region M; Denise Bennett, Macon County; Patrick Geraty, St. Louis Composting

Approval of May agenda

Motion to approve the May agenda made by Lauren Hershey, seconded by Sue Noel. The motion carried unanimously.

Approval of April Meeting Summary

Lauren Hershey moved to approve the Summary, Sue Noel seconded the motion. The motion carried unanimously.

Committee Discussion

SB 849 is being used as a guidepost for discussion. SWAB board has officially opposed SB 849. However, the industry has questions they would like to work through on some of the changes and find agreeable points on the changes SB 849 proposes. Industry has not recommended all the changes in SB849. At the last meeting, the committee went through several points and found that not all SWAB members agree with all those points. The committee will continue discussion about changes needed in the law and how to incorporate them into SB 849. The floor was opened to Derrick Standley from the industry. He acknowledged that the board discussion during the SWAB meeting regarding economic development was a good one. He would like to have some response back from districts as to what improvements could be made and what the districts could accept. Being able to find a way to create funds for economic development and finding someone to be the coach (DED) in order to get remanufacturing going is a critical issue, as well as trying to make sure funding includes remedial actions for closed landfills to keep our state as clean as possible.

SB 849 is on hold in the legislature, but there will be some legislative activity around the 849 issues later, so it's important to come to an agreement for an amended 849 for some of those issues.

Some points in 849 are already rules and regulations somewhat in effect and Chair expressed a preference that they not be codified because they already exist. He feels that it is harder to change them as meaningful changes are needed. He questioned why codify what is already done. Certain things may need to be codified, but avoid codification if possible. Industry indicated they were flexible on that and pointed out that some things need it. Breaking a rule is one thing, but if it's a law, there are different circumstances.

260.320.4 Chair - Executive boards not having authority to hire administrative support would cripple the districts so they cannot hire office help.

Committee decided to start with the Overview summary of the 849 received at the last meeting and discuss each section and the proposed change.

260.302 - Removes the provision for creating new districts. Discussed if county wants to move to another district, it must be a contiguous county and cannot be a one county district. Grouping, as previously determined by attorneys, means more than one. If a county wants to move, the receiving district must accept them and must consider the impact of the funding for all the other districts. Derrick Standley stated that industry does not object to the receiving county accepting, but right now a move must be voted on by every county and community over 500 in the receiving district; he feels it should be done by majority. Under the current system, each county and community over 500 in the

district being left by a county must vote to approve their leaving. That's the part industry thinks should go away. Example was given of Pike County wanting to leave Region G to go to Region I, and the rest of the counties in G don't want them to leave. Counties should be able to leave, or "divorce", a district if they don't want to be there and should not be tied up for 3 years.

In the past when this has been an issue, DNR has recommended the district work with the dissatisfied county, and they both work together to resolve issues. In this instance, the county and district have not been able to resolve their issues, and additional issues have arisen in the last 3 years. Pike County has not felt welcome at the table with the district and would like to leave the district. The question posed was, is the provision that is currently in the statute that only allows for these changes to occur only every 3 years reasonable for a county wanting to move, or is there a better option?

Chair asked for everyone around the table to respond.

Michael Shaw thinks 3 years is not enough time to allow for all the changes and impacts to funding to be analyzed. Industry would like to reduce it to a year. When a county changes districts, it affects everyone in the state. When a county with a landfill in it moves to another district, it will affect many districts. The impact likely would not affect either district if it was a county with no landfill moving to a county with no landfill. For planning purposes, it will affect planning over time, and one year is not enough time to analyze or plan for those changes.

Discussion about if any counties had ever moved: One county had moved before the districts were formed and so it did not affect other districts. Using the district map, the question was posed if one county moved to another district leaving another county out by itself, no longer contiguous with the counties of its district, where did that leave the county noncontiguous? Would they have to move to one of the districts they were next to in order to be contiguous with district counties or move with the departing county? Industry suggested putting in a provision, because that scenario could potentially happen in more than one district. There are also counties who could not leave their district unless they took another county with them because they were not contiguous. Pike County wants to move because they get very little funding from the fees from their landfill in their current district and because it is not as progressive as District I. They would like to move forward to a more progressive district. Currently counties have to live with the services provided or not provided by their district.

Brenda Ardrey pointed out that the Department has the right to approve a move, and the county has to prove there is reason to move due to the solid waste management in their county. There is much more to it than just wanting to leave. Ann Hamilton questioned about the contracts for services in that county and whether that the move would have to occur at the end of the fiscal year, etc. This is why the Department has a role in a move, and the district would have to provide a plan for the move and certain information.

Michael Shaw asked if a county moved and then the other county would no longer have the funding to do what they need to do. He asked if it would become a Hancock issue because it involved dealing with state funds.

Chair solicited the comments of everyone at the table. Brenda A. commented the original reason for "contiguous" counties in a district is the solid waste management planning is within an area with common waste management issues. Derrick -run the scenario of Pike County leaving Region G and going to Region I and what the impact to the rest of the state would be. Michael Shaw - look at whether districts should be formed around landfills so funding is more fairly distributed. Comment made that it still would not be equal as some landfills are large, and others have much less airspace. **FY2011 tonnage fees will be used to run a scenario of Pike moving, based on 2010 Census information.**

260.302 Lay on the table to return to discussion next meeting.

260.305 goes with 302 - removes the provision for creating a new district. Language- "No more than 20 districts". This section needs to be worded as "no more than 20 districts", so if one dissolved, it could possibly be replaced. Less than 20 would be acceptable to all, but no more than 20 districts. All agreed to that wording in order to keep funding relatively stable. **Recommended: Remove language and make it say "no more than 20 districts".**

260.310 Adds a requirement for the bidding of administrative and other district operations services - The intent was that districts would have to go to bid for services every now and then. Currently, services have to go to bid every 5 years. Districts can hire employees of their own for administrative services, or put it out to bid. About four districts have direct employees of the district. All others have an administrative contract. Existing language in section provides that a district MAY directly enter into contracts with cities or counties with no requirement for a bid. New

language says districts can still do that for everything but administrative services, and a contract for that must be bid. **All agreed to strike 310.**

260.315 Changes “shall” to “may” for all cities over 500, so districts will not be in violation of the law if cities over 500 do not want to appoint a member and participate. The law states every city over 500 “shall” appoint a member. Proposed whether it should be: have the “opportunity” to appoint a representative. This issue was brought up in several audits and performance audits. With “shall”, if your appointment refuses the appointment, the district must keep asking until someone accepts the appointment. With “may” if they refuse, district can move forward without an appointment for that community. District bylaws do not supersede statutes. **After discussion, it was recommended that wording be “shall have opportunity to appoint someone to management council” and “may” appoint.**

260.315.(3) meeting within 30 days-ok as stands
(4) changes meetings from twice a year to **once annually**

260.320 #1 already discussed. **Strike**
#3 agreed to removal. **Strike**

#7 District will submit a report evaluating grants and what was sustained and accomplished through that process. Question arose, isn't this the annual report? Annual report does not evaluate the effectiveness. It would put the requirement on the Executive board to review, evaluate and report on the district's effectiveness. Question asked: How many grants funded by the state from the tipping fees are the same grants every three years, without accomplishing what they should?

At their May 2nd meeting, the planners group set up a subcommittee to look at the annual report to see what could be improved upon in the format. Region H report redeveloped a couple of years ago that is a pretty good report. **At the next meeting, Chair would like a copy of Region H's report to see the format. New format to be developed for the annual report.**

#8 Grants returned when incomplete after being submitted by the district. Chair questioned if there should be a state law and if it would include if there is a clerical error that made the grant incomplete? “Evaluate, rank and accept”. The important part is “complete and eligible”. An example was provided of a grant that was complete and correct and the board chose to reject it, accepting some grants that were not complete. When audited, the district had to go back and give the applicant a grant. There is a difference between what DNR wants you to do, and what the state law tells you to. Expectations are clear with codification and statute. Laws give a broad brush of what is required and the rule is for implementation of the program. Without some reference to “complete and eligible proposals to be evaluated, ranked and accepted”, there are no specifics in statutes to fall back on. Question asked if the specifics would be in the General Terms and Conditions document. Observation given that the weight of law is better than a contract. “And accept as complete” is the issue. If someone is not aware of the law, and is doing what told to do, they are still breaking the law. Suggestion that “accept” be changed to “approved”. Discussion whether it should be a law or rule/regulation. “Executive board to approve the evaluation and rank of grants”. Real issue for the Department is “complete and eligible”. **Lay over for further discussion.**

#9 Meeting compliant with MO sunshine Law at least quarterly. **Leave in as is.**

#4. Strike

#6 Clarify as “single or individual grant proposal”- **will clarify.**

Set New Meeting Dates

Next meeting June 5th 1:00 p.m. in Arrow Rock conference room to continue discussion of SB 849.

SWAB Legislative committee will meet after each SWAB meeting in the Bennett Springs conference room.

August 1 - Bennett Springs Conference Room, 1730 E. Elm Street, Jefferson City, MO

October 3 - Bennett Springs Conference Room, 1730 E. Elm Street, Jefferson City, MO

November 7 - Bennett Springs Conference Room, 1730 E. Elm Street, Jefferson City, MO

Adjourn

Ann Hamilton moved to adjourn the meeting, John Haasis seconded the motion. Motion carried and meeting was adjourned at 4:50 p.m.

Respectfully submitted

Mary Ellen Hummel, Secretary