

# Kansas Local Environmental Protection Program

KDHE administers an environmental grant program to local entities for development of a local environmental protection plan to implement the environmental protection strategy of the Kansas Water Plan. An environmental protection plan covers the sanitary code (onsite wastewater code and non-public drinking water well code), subdivision water and wastewater, solid waste management, hazardous waste management, public water supply protection, and nonpoint source pollution control. Through this grant program, financial and technical assistance is provided to counties to assist in establishing and operating programs for environmental and public health protection. This is accomplished by both prevention of environmental pollution and abatement of existing sources of pollution.

In 1989, Kansas lawmakers authorized the “environment protection grant program” (now K.S.A. 75-5657) and appropriated with \$1.7 million for implementation of the grant program. In 1990, the first year of program operation, the Kansas Department of Health and Environment awarded twenty-four grants for local environmental protection to county and multi-county agencies. In FY 1990, 65 counties participated in these grant awards, which totaled \$574,403. In the current fiscal year, awards totaling \$1,799,888 have been made to 45 county and multi-county agencies, which represent participation by 103 of 105 counties in Kansas. Only Chase and Chautauqua counties are not currently participating in the program. Since 1989, the state has provided nearly \$19 million for local environmental protection through the grant program. Table 1 summarizes these grant awards by fiscal year:

## Legislative History of Local Environmental Protection Program

(Largely excerpted from Preliminary Report on Local Environmental Protection Program prepared for Study Committee on Local Environmental Protection Program Established by the Kansas Water Authority. By: Adrian Vega & H. Edward Flentje, Hugo Wall School of Urban and Public Affairs Wichita State University, April 30, 2001)

### **1986 Kansas Water Office issues policy paper on “local environmental protection” proposing state assistance to county governments in implementing the Kansas Water Plan.**

The paper describes a local environmental protection strategy funded jointly by state and local governments and organized through county governments with the assistance and oversight of the Kansas Department of Health and Environment. The paper envisions developing local capacity for environmental protection with responsibilities for “the development of the county-wide water and wastewater plan, subdivision plans, non-point source pollution control plans, sanitary landfill planning, public water supply environmental protection plans, [and] monitoring efforts...” Environmental protection at the local level would “create local accessibility, increasing the public’s awareness of where to go with environmental problems” and “enhance state enforcement efforts and involve local leaders in protecting the environment.” (Kansas Water Office. “An Environmental Protection Concept: Background Paper No. 33,” (1986), 19-20) Local

environmental protection, according to the policy paper, would contribute to a comprehensive strategy for achieving environmental quality as an essential component of the Kansas water plan. In 1987, the Kansas Water Authority included an “environmental protection strategy” in the water quality section of the Kansas Water Plan. The policy paper called for a dependable source of revenue to finance local environmental protection and recommended funding from state general revenues in combination with local property taxes, specifically: “Counties that so chose could apply a portion of the property taxes towards the funding of adequate resources to finance the local department of health and environment and local environmental specialists. The state would also be authorized to grant aid-to-counties for local departments, contingent on legislative appropriations”. The policy paper envisioned a local delivery system “at the county level. If the county commissioners so chose, the health department could be renamed as the local department of health and environment and have on staff a local environmental specialist. The local Department of Health and Environment would be a visible point of the environmental protection efforts in the county.” The Kansas Department of Health and Environment would provide “training and technical assistance” to local agencies and might delegate “inspection and enforcement-related activities to counties where local departments have the technical expertise to exercise such duties.”

**1989 Kansas lawmakers enact S.B. 398 creating the “state water plan fund” (now K.S.A. 82a-951) and authorizing the “environmental protection grant program” (now K.S.A. 75-5657).**

The 1989 Kansas Legislature adopted S.B. 398, establishing the “state water plan fund.” This statute (K.S.A. 82a-951) broadly outlines the purpose of the fund by stating that all moneys in the state water plan fund “shall be expended in accordance with appropriation acts for the implementation of the state water plan formulated pursuant to K.S.A. 82a-903 et seq,” the state water resource planning act. Further, such moneys “shall be used only for the establishment of water-related projects or programs, and related technical assistance” and shall not be used for replacing “full time equivalent positions of any state agency” or for “recreational projects which do not meet one or more of the long-range goals, objectives or considerations set forth in the state water resource planning act.” The “state water resources act” identifies a list of considerations (K.S.A. 82a-907) and “long-range goals and objectives” (K.S.A. 82a-927) to guide the management, conservation, and development of state water resources. This listing includes:

Development of reservoir sites for combined purposes of flood control, water supply storage and recreation;

**Public health and the general welfare of the people (1)**

Interrelationship of groundwater and surface water supplies;

Protection of aquatic and other wildlife;

Regulation of streamflow;

Protection of the sovereignty of the state over all the waters within the state;

Anticipated future needs of the people;

**Protection and the improvement of the quality of the water supplies (1)**

**Prevention of the waste of the water supplies (1)**

**Prevention of the pollution of the water supplies (1)**

Efficient, economic distribution of the water supplies; and  
Protection of the public interest through the conservation of the water resources.

**(1) Water Plan Goals which can be addressed by local authorities through  
Kansas the Local Environmental Protection Program**

**Kansas lawmakers enact S.B. 407 appropriating \$1,700,000 from the  
state water plan fund for “aid to local units—environmental grants”  
in fiscal year 1990.**

Total appropriations through fiscal year 2001 is about \$33.4 million (an  
average of about \$1.52 million per year). Individual appropriations are:

<b>Fiscal Year</b>	<b>Total</b>
1990	\$574,403
1991	\$1,108,896
1992	\$1,288,821
1993	\$1,372,237
1994	\$1,370,000
1995	\$1,795,775
1996	\$1,779,189
1997	\$1,975,299
1998	\$2,005,542
1999	\$1,901,653
2000	\$1,792,625
2001	\$1,799,888
2002	\$1,789,764
2003	\$1,585,616
2004	\$1,674,856
2005	\$1,489,902
2006	\$1,502,765
2007	\$1,502,737
2008	\$1,502,737
2009	\$1,502,848
2010	\$1,066,954
2011	\$980,000
<b>Total</b>	<b>\$33,362,507</b>

**1990 Kansas Department of Health and Environment awards twenty-four  
grants totaling \$574,403 to sixty-five counties for local environmental  
protection.**

**1994 Kansas Department of Health and Environment adopts regulations guiding implementation of the local environmental protection program and providing for base grants, target grants, and grant application procedures.**

Administrative regulations (KAR 28-66-1 through 28-66-4) adopted in 1994, which among other things formally defined the allocation formula and eligible applicants.

Allocation Formula

- i. \$7,000 base grant for county population less than 12,727 (69 counties; 32% of total appropriation)
- ii. \$125,000 base grant for county population greater than 227,273 (2 counties – Johnson and Sedgwick; 17% of total appropriation)
- iii. \$0.55 per capita for counties with population greater than 12,727 and less than 227,273. (34 counties; 51% of total appropriation)

Eligible applicants are “a local health department formed pursuant to KSA 19-3701, other local entity formed under the power of the board of county commissions pursuant to KSA 19-101a, or a multi-county entity formed pursuant to KSA 12-2901.

These regulations also defined the contents of the annual environmental protection plan that applicants for Local Environmental Protection Grants were required to prepare to qualify for receipt of funds. The Local Environmental Protection Plan consists of a base or core plan and a supplemental plan. The core plan includes preparing and implementing: an annual local environmental protection work plan, enforcement of an environmental / sanitary code (approved by the secretary of KDHE) which establishes design and construction standards for individual onsite household wastewater (sewage) and individual household water wells, information, education, and technical assistance; and a local environmental protection committee to provide advice and counsel to the local entity on the content and administration of the local environmental protection plan. Program participants received a base grant for activities supporting the core environmental protection plan

The supplemental environmental protection plan included additional environmental protection activities; the development and implementation of a solid waste management plan pursuant to K.S.A. 65-3405; the development and implementation of a hazardous waste management plan that is consistent with K.S.A. 65-3430, participation in the development and implementation of a non-point source pollution control plan which identifies the activities and responsibilities of the local environmental protection program in the management of non-point pollutant sources; and development and implementation of a public water supply protection plan. Target grants were available for the supplemental plan activities.

**1996 Kansas Department of Health and Environment directs that counties receiving funding through the local environmental protection program will be required to demonstrate progress in adopting a sanitary code to maintain eligibility for the program.**

**1999 Kansas Water Authority questions whether funds awarded under Local Environmental Protection Program are being used for the purposes intended.**

KSA 82a-951 establishes the state water plan fund and stipulates the fund moneys shall only be use for establishing and implementing water-related projects or programs, and related technical assistance. Starting around 1994, a difference of opinion occurred between KDHE and KWO personnel concerning how water plan funds were to be used in the Local Environmental Protection grants. KWO contended that water plan funds should be used to fund specific projects and activities related to the annual priorities of the Kansas Water Plan. KDHE contended that several statutes authorizing the Kansas Water Plan clearly indicate the local environmental protection program is a “water related program and technical assistance” as envisioned by KSA 82a-951.

**2000 Kansas Department of Health and Environment recommends that the Kansas Water Authority create a study committee on the local environmental protection program during fiscal year 2001.**

**Kansas Water Authority authorizes the appointment of a study committee on the local environmental protection program.**

The “Local Environmental Protection Study Committee” was established in December 2000. The committee consisted of two members of the Kansas Water Authority, a representative of the Kansas Association of Counties, three representatives of local environmental protection programs, a representative of KDHE and a representative of KWO. The committee completed its work in September 2001. The committee concluded -- *“the Local Environmental Protection Program contributes significantly to assuring water quality throughout Kansas and has become an important component of state and local capacity in meeting state objectives for water quali* . The committee also recommended – A local cost share be required to participate in the program, cost share should be initiated in FY 2004, and the Kansas Water Authority should annually recommend no less than \$1.8 million be appropriated from the state water plan fund. The FY 2004 LEP grant guidance, required a local cost share of program participants. The cost share requirement is --

10% of base grant for grant of \$23,000 or less.

20% of base grant for grant of greater than \$23,000 and equal to or less than \$55,000.

30% of base grant for grant of greater than \$55,000 and equal to or less than \$123,000.

40% of base grant for grant greater than \$123,000.

### **Local Environmental Protection Program has proven to be very successful**

(Points derived from KDHE Annual Report Local Environmental Protection Program, Fiscal Years 2002 through 2010).

- 1 Prior to the establishment of the local environmental grant program, only 11 counties had adopted sanitary codes. Through fiscal year 2000, 89 additional counties have adopted local sanitary / environmental codes. As of fiscal year 2010, 103 counties have adopted environmental / sanitary codes and one county is working on establishing its first code.
- 2 As of FY 2010, 104 counties are participating in the program.
- 3 The total Local Environmental Protection Program is about 49.3 FTE.

### **Reasons why Local Environmental Protection Program is good for Kansas**

1. It enhances the partnership between Kansas Department of Health and Environment and individual local health departments.
2. It is cost effective.

The average total cost (salaries & wages, commodities, etc.) per hour of LEPP service is about \$30.68 compared to a state agency cost of about \$40 per hour.

3. Assures that on-site wastewater treatment systems meet minimum design standards, and installed correctly by competent contractors.
4. Protects drinking water of individual households that use private water wells as a source of drinking water.

There are over 40,000 privately owned individual water wells providing drinking water to about 239,000 individuals living on farmsteads and in individual households. A 1985 study performed by Kansas State University found upto 28% of such wells have nitrate concentrations exceeding 10 mg/L (as N).

**Example -** *... office of Riley County /Manhattan Health Department with worried look on his face. He and his family had been drinking from the farm well for years. Then suddenly, three weeks ago, the water developed a terrible metallic taste. Testing at a local laboratory indicated the presence of a toxic PCB compound, Aroclor 1016 biphenyls, a very stable, synthetic chemical which does not break down naturally in the*

environment. It has a structure similar to pesticides. Its use was banned by the EPA in 1976, but unfortunately it **can still be found in capacitors or lubricating oil of older, two-wire submersible water well pumps manufactured before 1980**

pump, allowing the PCB oil to leak into the well, where it can rise, coating the interior of the well casing, and mix with water when the pump starts its drawdown. This contaminated water comes in contact with the pump, pressure tank, whole house filter,

with KDHE and other Local Environmental Protection Programs.

5. Assures and expeditious response to water pollution complaints related to failing onsite wastewater treatment systems, trash and garbage dumped in streams and waterways, and other nuisance complaints.
6. Assists with disaster response and helps assure clean-up activities protect water resources.

**Example -** *Montgomery County LEPP personnel were instrumental in the initial response and subsequent clean-up efforts resulting from the July 2007 flood event. Services provided included participation in the task force to assess solid waste and debris removal, development of a model Emergency Solid Waste Disposal Plan for management of flood debris, arranged accommodations for a hazardous waste staging and collection area, assisted with the dead animal disposal plan, provided information to the public concerning surface water, public drinking water and wastewater treatment systems impacted by the flood, compiled an infrastructure recovery survey to ascertain potential cost assistance to restore public water and wastewater services damaged by the flooding incident and coordinated with federal contractual services for the transporting of Coffeyville water samples from flood waters to an analytical facility to screen for fecal coliform counts.*

*Miami, Osage, and Wabaunsee County personnel provided similar services following the July 2007 flooding event.*

*Dickinson County Health Department assisted with the cleanup efforts following the December 2007 Ice Storm and the June 2008 Chapman Tornado. Services provided included providing a drop off site for tree limbs, debris collection, sorting and hauling, collection and disposal of all e-waste and household hazardous waste, and providing information to the public*