



OFFICE OF THE MAYOR
LOUISVILLE, KENTUCKY

GREG FISCHER
MAYOR

March 15, 2017

Governor Matt Bevin
Office of the Governor
Commonwealth of Kentucky
700 Capitol Avenue
Frankfort, Kentucky 40601

Dear Governor Bevin:

The purpose of this letter is to urge you to veto HB 246. This is a bill amending the provisions of KRS Chapter 109, which was enacted to establish Solid Waste Management Districts in Kentucky for the stated purpose of reducing and consolidating the management of solid waste in Kentucky. We oppose the bill for three primary reasons:

1. The bill defeats the statute's intended purpose of regionalizing the collection and disposal of solid waste by allowing for the fragmentation of solid waste management into as many as 83 different districts within Jefferson County. Chapter 109 was enacted in 1978 with an expressed legislative purpose to consolidate and make uniform the reduction and disposal of solid waste in Kentucky.
 - a. **KRS 109.011 Findings and declaration of purpose – Intent**, provides:
 - i. §109.011(5)(b) Assist those units of government primarily responsible for the management of solid waste ... with **primary emphasis on the regionalization** of these functions;
 - ii. §109.011(6) it is the **intent of the General Assembly** ... that **primary responsibility** for adequate solid waste collection, management ... shall rest **with combinations of counties and waste management districts**...
 - iii. §109.011(9) counties and waste management districts ... to develop plans... with the **goal of regionalizing the management of solid waste**;
 - iv. §109.011(11) it is the **intent of the General Assembly** ... that **counties** [have] authority to develop a solid waste management system ... **within the geographical boundaries of the county**....
 - b. Each of these legislative findings and intentions are defeated by the amendments in §109.041(14), §109.120(3) and §224.43-340(2). In circumvention of the stated statutory intentions of the General Assembly to regionalize, these amendments would allow individual cities in Jefferson County to splinter into as many as 83 different waste systems.

2. The amendment of §109.115(4) would reform the district board make-up to include a representative from the Jefferson County League of Cities and a waste management industry representative. This is nonsensical for two reasons. First, the amendments preclude district governance of municipal management of solid waste. Why then would the League of Cities have representation on a board that does not govern them? Second, the amendments add a seat for an industry representative to the regulatory board, so as to create an inherent conflict of interest in that member.
3. If enacted, HB 246 would be unconstitutional **special legislation** in violation of §59 and §60 of the KY Constitution. These two sections of the Constitution prohibit legislation that treats one class of cities differently from all others, when the disparate treatment bears no reasonable relationship to the purpose of the Act.

Presently, Chapter 109 applies equally to all counties in Kentucky. If amended according to HB 246, Jefferson County would be treated differently from all other counties in Kentucky. There is no rational basis for this discrimination. The purpose of Chapter 109 is to consolidate and make uniform the collection and disposal of solid waste within a county. Not only do these amendments not bear a rational relationship to this purpose, they contravene the Act's purpose. As demonstrated above, the amendments would serve to divide into multiples the county's management of the waste district area and not regionalize it.

A recent example of unconstitutional discrimination in violation of Ky. Const. §59 and §60 can be found in *Louisville/Jefferson County Metro Gov't v. O'Shea's-Baxter*, 438 S.W.3d 379 (Ky. 2014).

Finally, I want to address the stated rationale for the amendments. The only justification articulated for the disparate treatment of the Louisville Metro Solid Waste Management District is that we are a consolidated government. This distinction makes no difference. Our 109 Board has been governing all municipalities within Jefferson County since its creation 25 years ago. It has always managed the combined city and county functions of solid waste management. Whether the district operates within a single county containing a merged government or in a district of combined counties (the Northern Kentucky Solid Waste Management Area is comprised of 3 counties, which include multiple municipalities) makes no difference in the fulfillment of its stated statutory purpose.

For these reasons we ask that you exercise your Constitutional authority to veto HB 246.

Sincerely,



Greg Fischer
Mayor