January 14, 2010

Dear Rural Water District/Association:

I have attached an announcement from the Oklahoma Municipal League, which has great significance for water districts in all 50 states. 7 U.S.C. § 1926(b) has, for over 40 years, served as the primary tool for rural water/sewer districts or associations to protect their territory and customer base from municipal encroachment. The statute has worked well in accomplishing its primary purpose, which is to encourage rural development, and help rural water districts/associations to provide rural residents with a safe and economical water supply.

The Municipal League has in the past, and now again, seeks to change the law. The proposed change tendered by the Municipal League would seriously dilute available loan funds for rural water districts/associations and effectively nullify the protection rural water systems currently enjoy under Federal law.

I urge you and your membership to contact your U.S. Representative and Senator to voice your concerns and opposition to this Municipal League proposal.

If you would like more information regarding 7 U.S.C. § 1926(b) - please go to:


See Pages 18-20 of this publication.

Best Regards,

Steven M. Harris
43-1.districts#1
OML’s Resolution Puts Rural Water District Exclusive Service Territory Back on NLC’s Legislative Priorities

In a major development impacting municipal water rights, OML’s resolution proposing legislation that would remove the monopoly enjoyed by rural water districts was adopted by the National League of Cities in their meeting held in mid-November in San Antonio. The resolution seeks to amend federal law to enable OML members to compete with rural water districts abutting the municipality.

The past sixty days have been eventful with numerous developments in protecting municipal water rights and supplies. These include league staff filing two Oklahoma Supreme Court briefs over rural water district exclusive service territory, a personal meeting with Secretary of the Environment J.D. Strong regarding concerns over the developing statewide water plan, new proposed OWRB rules including increased fees, the OML annual water summit and much more.

While these developments will be discussed in an upcoming Municipal Policy Review, a major development happened at the National League of Cities Congress of Cities held in San Antonio last week. In a highly unusual move, the League’s resolution seeking to break rural water district’s stranglehold on municipal utility service growth by-passed the normal process and was adopted as a legislative proposal from the floor. It seeks to amend federal law to enable OML members to compete with rural water districts abutting the municipality.

OML Executive Director Carolyn Stager and Oklahoma City Councilmember and NLC committee member Patrick Ryan urged immediate adoption. They argued that this issue had been part of NLC’s lobbying program in the past and therefore was adequately vetted. We were successful when the resolution passed three successive votes of various NLC groups and was adopted by the approximately 3,500 in attendance as part of NLC’s legislative program.
OML's Resolution Puts Rural Water District Exclusive Service Territory Back on NLC's Legislative Priorities - News Legal Hot Topics Oklahoma Municip...  

Recognizing that current law provides security for the federal government’s rural water district loans, we decided to think a bit outside the box and propose legislation that would remove the district’s monopoly. OML’s resolution is based on two lessons from our experience in past municipal/rural water district territorial disputes. These are:

· In the past, municipalities have attempted to retire existing rural water district’s federal loans by buying them from the federal government. However, the federal Department of Agriculture has rebuffed the purchase. As a result, the loan continues, thereby blocking municipal utility service territory growth years past the time the loan could have been paid off by the district. What starts as a helpful low interest loan to build infrastructure grows over time into an offensive weapon wielded by sometimes cash rich districts to stop competition.

· Oklahoma law provides a good model for amendments to federal law because: 1. Only customers identified at the time the loan was made are devoted to providing government loan security; 2. While providing for loan security state law allows competition among service providers for all new customers.

Therefore, the resolution urges the Congress to amend 7 U.S.C. Section 1926(b) to:

A) Authorize municipalities to purchase and retire loans made under the Consolidated and Rural Development Act and, thus, permit the municipality to provide a full range of services to its residents; and

B) Provide that collateral for 7 U.S.C. Section 1926(b) loans be based on customers of the portion of the system that is identified in the loan documents as collateral for the loan and is either (1) in existence at the time of the loan or (2) financed by the loan.

© 1996-2008 Oklahoma Municipal League. All Rights Reserved.
NLC RESOLUTION #10

IN SUPPORT OF AMENDING 7 U.S.C. 1926(b) TO PROMOTE MUNICIPAL ECONOMIC DEVELOPMENT AND IMPROVED WATER-RELATED SERVICES TO CITIZENS IN DEVELOPING AREAS

WHEREAS, the Consolidated and Rural Development Act was passed in 1961 to enable the Secretary of Agriculture, through the Rural Utilities Service, to make and insure loans to associations providing water to rural residents in sparsely populated areas; and

WHEREAS, urban growth since 1961 has allowed full service municipal governments which often can provide water and other municipal services more economically for the residents, to grow into area served by such associations; and

WHEREAS, even though the federal loan must be fully collateralized by the customers to be served at the time of the loan, the provisions of 7 U.S.C. 1926(b) that were designed to assure repayment of federal loans, have been used for purposes unrelated to the protection of loan collateral; and

WHEREAS, rural water districts are not required to provide, sewer, fire protection or other water-related services to areas within their water systems; and

WHEREAS, municipalities are increasingly frustrated in their efforts to promote economic development on their borders when rural water districts gird municipalities with monopolies on water service; and

WHEREAS, municipalities have been denied the right to purchase such loans from the Department of Agriculture and when municipalities grow into natural areas of expansion, the federally-created monopoly prohibits them from providing services to new customers in the areas with rural water districts with 1926(b) loans within their boundaries; and

WHEREAS, municipalities are concerned that the statute interferes with economic development and growth because the statute permits a rural association to challenge a municipality’s intent to annex or extend services to new areas; and

WHEREAS, 7 U.S.C. 1926(b) is a disincentive for rural water districts to negotiate service arrangements with municipalities while such loans increasingly limit customer choice, quality of life and public safety by restricting citizens within developing areas from improved water services, fire protection, and lower costs; and

NOW THEREFORE BE IT RESOLVED, that the National League of Cities urges the Congress of the United States to amend Title 7 U.S.C. Section 1926(b) to:

A) authorize municipalities to purchase and retire loans made under the Consolidated and Rural Development Act and, thus, permit the municipality to provide a full range of services to its residents; and
B) provide that collateral for Title 7 U.S.C. Section 1926(b) loans be based on the customers of the portion of the system that is identified in the loan documents as collateral for the loan and is either (1) in existence at the time of the loan or (2) financed by the loan.