

**Equus Beds Groundwater Management District No. 2
Testimony Concerning House Bill 2686
House Committee on Water**

by
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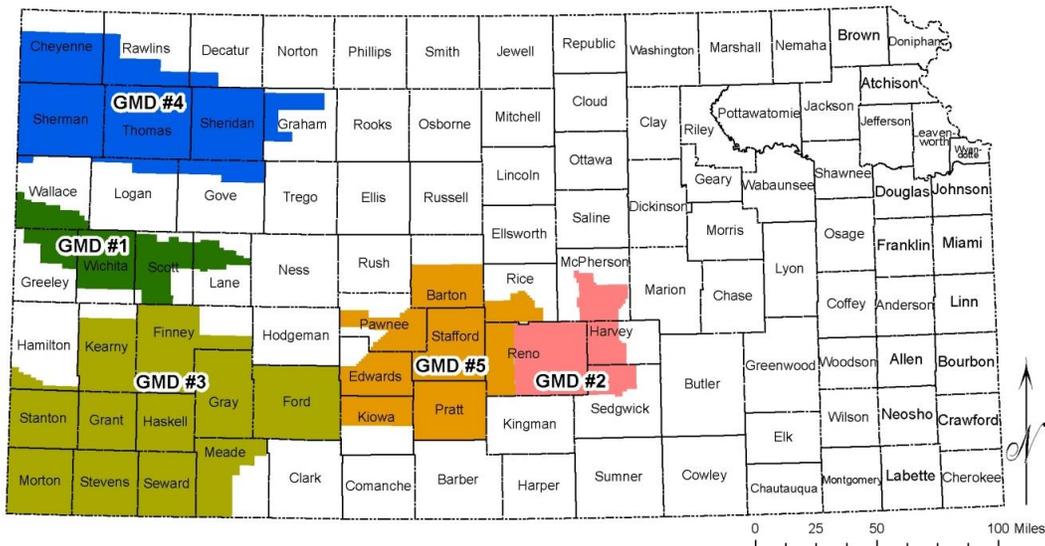
On behalf of the Board of Directors of the Equus Beds Groundwater Management District No. 2, I wish to thank Chairman Highland and members of the Committee for the opportunity to provide testimony opposing House Bill 2686.

BACKGROUND INFORMATION:

The Equus Beds Aquifer is the sole-source of fresh and usable groundwater for industrial, municipal, and irrigation uses throughout South Central Kansas. Over 2,000 permitted water wells and points of diversion withdraw an average of approximately 57 billion gallons of groundwater from the aquifer annually.

Over 550,000 people, or approximately 20 percent of the entire state's population, in Harvey, Sedgwick, McPherson and Reno counties rely on the aquifer for drinking water and other daily needs. Additionally, over 100,000 acres are irrigated using groundwater from the Equus Beds aquifer. The aquifer also supplies water for the area's livestock production, businesses, industries, and recreational activities. To manage and protect this valuable water resource from depletion and contamination, the Equus Beds Groundwater Management District No. 2 (District) was created in 1975 by local people representing municipal, agricultural, industrial and domestic water users. An aquifer management program was developed and adopted by the District Board of Directors. The District boundaries were expanded in 1988, and again in 2017. The District limits new groundwater withdrawals or diversions to annual recharge and seeks to maintain the natural water quality of the aquifer through protection and remediation. The Equus Beds GMD2 is the easternmost groundwater management district (GMD) in the state and covers the eastern extent of the High Plains Aquifer in Kansas, as shown below.

Kansas Groundwater Management Districts



The District does **not** receive any state funds and is funded locally by a special assessment on water users and landowners in the District. The water assessment is capped by law at \$2.00 per acre-foot and the land assessment is capped at \$0.05 per acre. The Equus Beds Groundwater Management District nine-member Board of Directors collectively represents the water users and landowners in the District. The District Board sets the District's annual assessment rates, and also sets policies and directs the District staff in establishing aquifer management programs and rules and regulations.

House Bill 2686 proposes, among other things, to make many changes related to water agencies throughout the state and creates a new water right fee and expands certain water use fees. In the short amount of time that the District has had to review the bill, the District has identified several proposed changes that would negatively impact the District. The District Board of Directors at a special meeting on February 14, 2022, approved a motion to oppose the bill. In this short document and brief amount of time to testify, not all of the items in the bill can be addressed, but those most impacting the District will be highlighted.

Most concerning to the District are the changes proposed to the GMDs' board member election process and who is an eligible voter and board candidate. A major change in the definition of an eligible voter and board candidate from those that use groundwater or own land, to what appears to be all registered voters residing in the District, threatens to dilute the District Board and put those who do not withdraw groundwater and/or own land in the District in charge of management of the Equus Beds aquifer for which they have no ownership and do not pay assessments to the District. Currently, **all** water right owners, and those that own 40 or more contiguous acres (not within a city limit) are eligible voters and board candidates and all pay a water and/or land assessment to the District. This includes municipal, industrial, irrigation, and other water right owners, as well as landowners, even if they do not use any groundwater.

The proposed changes to the definition of eligible voter and board candidate would cause several unintended consequences. While the proposed changes appear to be made to somehow diversify GMD boards, the opposite is likely to occur. In seeking to change an eligible voter from those that either use at least one acre-foot of groundwater from the District, or own 40 or more contiguous acres, to every person that is qualified elector who resides in the District, it greatly expands the number of voters, while at the same time excluding some current District members. By requiring an eligible voter to reside in the District, some groundwater users with water rights in the District, and landowners with land in the District, but who do not live in the District, would no longer be allowed to vote or run for the District board. Yet these water right owners and landowners would still pay assessments to the District, therefore creating a taxation without representation situation. These include not only landowners and agriculture water users who do not live in the District, but some cities that have water rights and wells in the District, but the city is located outside of the District boundaries. Additionally, the proposed changes also would create a whole new, very large class of eligible voters who do not pay any assessments to the District, but they would become eligible voters and board candidates just because they live within the District. Ironically, the first paragraph of the GMD Act found in K.S.A. 82a-1020 states "It is the policy of this act to preserve basic water use doctrine and to establish the right of local **water users** to determine their destiny with respect to the use of groundwater...", yet the bill proposes to strike the definition of "water user" and shift control of this destiny away from the water users. Additionally, by removing the definitions of "water user" and "landowner", it appears to make unclear who the GMDs can assess as described in K.S.A. 82a-1030. Finally, the District questions why the bill proposes to apply term limits to GMD board members and why a state agency would be given the power to appoint GMD board members in the event not all open seats are filled at election.

Also troubling to the District are the proposed reporting requirements in the bill. While the District has always been very transparent to the public and District members regarding District activities, proposed aquifer management activities, and finances, by reporting such at the required annual meetings and other meeting, the proposed reporting requirements adds an unnecessary level of state government oversight. The proposed financial reporting by February 1 of each year is unattainable, as the District's required independent financial audit for the previous year is not completed by February 1.

Another focused area of concern is the proposed new water right fee and expanded water protection fees. While it may be true that additional funding is needed for water-related activities throughout the state, it is not appropriate to create a fund with no specific needs or projects identified.

The District greatly appreciates the work of Chairman Highland, the Committee, and the revisors who have obviously spent a considerable amount of time working on the bill and there may be some portions the District could support. However, the GMDs were not consulted with regarding the very important, fundamental, and sweeping changes to the GMD Act that are proposed by the bill and would welcome further conversation. Thank you Chairman Highland and Committee members for the opportunity to testify in opposition of HB 2686 and the District urges the Committee members to not pass HB 2686.