

**Before the House Water Committee
Presented by Zack Pistora, Kansas Sierra Club
Proponent Testimony on HB 2686
February 16th, 2022**



Chairman Highland and Honorable Members of the Committee,

Thank you for the opportunity to provide remarks on HB 2686, which offers significant reform to the State's administration of water policy and programs. The Kansas Chapter of Sierra Club, which is a statewide, nonpartisan, grassroots environmental organization with nearly 5000 members, has engaged in the policy discussion of what we consider as our most precious natural resource since our inception over forty years ago. It is our view that because of the all the challenges our state faces in relation to water – such as the continued depletion of the High Plains Aquifer, the ongoing impairment and contamination of Kansas water bodies and drinking water, the deterioration of aquatic ecosystems and wildlife habitat, the impact of climate change on water, water access and affordability, and more – that Kansas is long overdue for significant policy reform. Therefore, we stand in support of HB 2686 as its changes hold several advantages over the status quo.

By consolidating the administrative duties and powers of several state agencies dealing with water policy to a new dedicated state agency, HB 2686 intends to add focus to the state's protection of water.

As this committee has heard before, there are 16 state agencies that deal with water in some fashion. By centralizing many of the functions of the Kansas Water Office, the Division of Water Resources and Division of Conservation within the Kansas Department of Agriculture, and the environmental division of the Kansas Department of Health and Environment, into a new Kansas Department of Water and Environment, we'd expect increased focus, concentration, efficiency, and thus, productivity could be achieved through this administrative reorganization. We also think the Kansas Department of Water and Environment could establish a more holistic approach to conserving and managing the water resources and ecosystems of Kansas instead of the siloed foci inherent in our current smorgasbord of state authorities. Such an agency centrally dedicated to the environment and natural resources would align Kansas with what's been done by most states. That said, we are a bit confused why there needs to be an extra authority of the Water and Environment Maintenance Board as created in Section 8. In our view, this board represents additional bureaucracy not commonplace in other state agencies and perhaps creates redundancy when its duties could be absorbed by the Kansas Water Authority.

Separating the Chief Engineer out from under the Department of Agriculture makes a lot of sense.

Kansas is currently the only state that has its water rights agency as subordinate to its Department of Agriculture. This current situation in which orders from a classified employee in charge of administering water rights can be overridden by a political designee who has a bias to 'serve, promote, and grow' the state's agriculture industry (the industry that is responsible for the largest consumptive use of water by far) provides an inherent conflict of interest. HB 2686 allows the Chief Engineer to do the job more objectively.

Updating the water protection fees with modest fee increases is reasonable and necessary.

HB 2686 raises the fee associated with public water supply systems, industrial users, and stockwatering by two cents per 1,000 gallons of water. These fees have not been increased since 1989, so it's time these fees are increased to better align with increasing value of water. Practically, Kansas needs more money for critical water programs executed by virtue of the State Water Plan Fund, so this additional revenue will be very useful to tackling our water challenges. The Kansas Sierra Club would also support other modest fee increases upon the contributors to the State Water Plan Fund, including pesticide and fertilizer fees, sand royalty fees, and pollution fines.

HB 2686's establishment of a Water Rights Fee is steering the State's water policy in the right direction as it attempts to reconcile the disproportionate consumption of the State's water by irrigators.

The bill's Section 9 establishes a new water rights fee upon water rights holders that currently don't pay into the State Water Plan Fund (via water protection fees). For a long time, the Kansas Sierra Club has urged policymakers to assess an appropriate economic value associated to the costs of water depletion by our State's most dominant users, irrigators. While irrigators comprise less than 20% of our State's farmers, they use 80% or more of our State's water, much more than the amount of all of towns, cities, and non-agricultural industries combined. Yet, many of our heaviest users of water do not contribute to the State Water Plan Fund. While HB 2686 justly assigns a fee upon these water right holders, we wonder if a \$250 maximum annual fee goes far enough to create a practical incentive to conserve, especially for our most intensive water users. We would suggest this Committee contemplate a different strategy that assigns a greater proportional fee based upon the excessiveness of water used above the natural groundwater recharge rate to help further advance a financial incentive for reduced consumption.

HB 2686's requirements on Groundwater Management Districts (GMDs) are practical and important in helping those areas of the State conserve water.

Many sections of HB 2686 (Sections 10-19) impact the governance and obligations of GMDs. As Groundwater Management Districts certainly provide a large influence on the management of water use in their given jurisdictions, it is certainly appropriate to ask more of them in helping the state do more to conserve water. The Kansas Sierra Club appreciates the financial reporting, the conservation and stabilization plans, and the education and outreach requirements put forth in HB 2686. Of course, because GMDs do not cover the whole state, we wonder what more can be done to help those areas not currently served by GMDs.

There is a lot in HB 2686 that merits support, but we worry that reorganization and incremental fees may not be the transformational policy shift we need to seriously address the water challenges in Kansas.

We very much appreciate all the work done by leaders on the House Water Committee in creating HB 2686 to better tackle our state's challenges on water. As we've remarked, there is significant reform offered in HB 2686 that holds promise for making progress on water issues at both the state and local levels. However, it's curious to whether these major changes in state administration for water will accomplish the major change in water use Kansas so desperately needs. To that end, there are potentially pieces of water policy dealing with water rights and the overuse of water that should be further considered for achieving legacy reform. For example, this bill does not address the need for the state to consider prioritizing the beneficial uses of water. For example, we should prioritize broad public benefits of drinking water and ecological needs over one's private use and gain through exploiting the water resource. More focus should address how water policy impacts the needs of "wild Kansas" (wildlife and habitat) and increased protection of critical ecosystems, like playas. This bill doesn't provide for *conservation* of water as a beneficial use, a reform that could put users on a path of sustainable yields and significantly benefit the State and its water right holders in conserving our water resource. Finally, it would be wise if the Kansas Legislature could incorporate a water savings goal in HB 2686, such as a 20% statewide savings in water savings over the next 10 years and align financial incentives to meet that goal.

Thank you for including these thoughts into your evaluation and please advance HB 2686.

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The Sierra Club is the largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state's strongest grassroots voice on environmental matters for more than forty years.