



Southwest Kansas
Groundwater Management District No. 3
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Written Testimony in Opposition to HB 2695
Provided To The House Water Committee
From the Southwest Kansas Groundwater Management District No. 3 (GMD3)
February 20, 2024

Chairman Minnix, members of the House Water Committee, My name is Mark Rude, and I am Executive Director of the Southwest Kansas Groundwater Management District No. 3 (GMD3). I appreciate the opportunity to provide written testimony today. GMD3 stands opposed to HB 2695 as written for a number of reasons that include it would prevent a GMD board from appropriately screening the factual basis for a petition developed by, or passed through, the governing body of a GMD to propose a change to the district management area by eligible voters in an area as small as a single parcel.

Whether the board of a GMD collects the facts and factual determinations needed to develop a supporting resolution before sending a supportive resolution on to the chief engineer or that process is skipped and the board remains involved in other ways, HB 2695 does not simplify or improve the governance or fact-finding process necessary to change prior local and state findings regarding the statutory tests and public interest determinations originally setting the GMD boundary jurisdiction. The board of a GMD is the primary person responsible for matters of district operations and activities of the management program for the Kansas hydrologic community subject to management under the GMD Act. That governing structure is consistent with other locally elected special purpose government bodies. It is not good government policy to provide ways around an elected special purpose governing body for individuals or groups of individuals to opt out of local jurisdictions that address matters of common community concern or public interest when a remedy is already provided by the legislature through local official elections to seat members on the governing body. In this case, even though the facts of an aquifer area and factual basis for changing a GMD boundary may be discovered and developed by the chief engineer upon his or her own investigation or by someone else without prior work by the GMD board, the factual realities of local aquifer supply concerns and the public interest of the elected GMD board and management program do not change.

As written, the bill in paragraph (a) appears to require the GMD board to deal with each petition and decide if a petition properly includes over 50% of the eligible voters in the area. The total eligible voters in any GMD related area would be the sum of all land owners of 40 or more contiguous areas and all water users of an acre-foot or more annually. For example, a single parcel of 40 acres in size may have one or more separate owner interests and one or more separate water users of an acre-foot or more annually, which, in this example, provide multiple eligible voters associated with the one parcel. The greater the area of district boundary change, the greater the task under this bill of identifying and determining the number of eligible voters.

New paragraph (c) of HB 2695 creates confusion with paragraph (a) by indicating a petition filed with the chief engineer comes directly from a majority of eligible voters in a district or a majority of eligible voters in a proposed change area, which indicates the involvement of a GMD board in paragraph (a) may not occur in paragraph (c). HB 2695 creates confusion as to when and how a GMD board is involved with a boundary change petition concerning its own respective members and jurisdiction.

Currently, a petition is being considered by the GMD3 board from water users in an area suffering some of the highest aquifer decline rates in the state. The board has received and considered 10 general areas of complaint submitted with the petition that lacking in facts needed for the statutorily required determinations to support the request and overcome those previously made for the current boundaries. The petition seeks board support to remove the area from the GMD3 jurisdiction, presumably to avoid future GMD3 action plans and other concerns of the GMD Act as amended last year. Each of the petition statements have been factually addressed in the attached nine-page *GMD3 leadership response to the observations and concerns of Hamilton County constituents included with their petition request* and in a board response letter of December 11, 2023, from Thomas A. Adrian, Attorney for the Board seeking facts rather than feelings. Both are attached to this testimony for factual explanation and accurate reference. Again, the need for the necessary supporting facts will not change regardless of whether HB 2695 moves forward, and the bill does not change the necessity for the governing body to take a position based on those and other facts, including considerations of the management program.

HB 2695 appears to offer a solution looking for a problem while further eroding local government and creating bad policy for Kansas local governance, making it necessary that GMD3 oppose HB 2695. The board and staff of GMD3 appreciate the opportunity to provide input, and we stand ready to meet with anyone as this discussion may continue to evolve.

Attached: Copies of *GMD3 leadership response...* and December 2023 T. Adrian letter.