

Written Testimony for SB 2208

Submitted by Bob Banderet

Chairman Luick and members of the Senate Ag Committee thank you for affording me the opportunity to testify in favor of SB 2208. I am a landowner in Drain 11 in Sargent County. It has been disheartening to watch over the last four and one half years our local water board manipulate existing statute to undertake a \$3.9 million project, of which \$2.3 million is local landowner share, without a public hearing or landowner vote. Some revision to current statute is critical!

A detailed definition of “maintenance” and “project” is a crucial part of this bill. As it stands now water boards are able to use State Water Commission cost share for an improvement project but call it maintenance locally to avoid a landowner vote. Currently a maintenance project must have a landowner vote if the “cost of, or obligation for, the cleaning and repairing of any drain exceeds the total amount that may be levied by the board in any six year period”. (CC 61-21-46) Water boards are using reserve funds and borrowing from the general fund to reduce the obligation to avoid a landowner vote. There is language in SB 2208 that addresses both of these concerns.

Another critical issue is the 30 day appeal window. Presently landowners must attend every meeting of the water board to hear the board’s decisions since minutes of the meeting aren’t approved and published, either in the official paper or online, until the next monthly meeting. By then the 30 day appeal period has passed. This bill would start the appeal window upon publication of the minutes in the official paper. If published online, the appeal window is 60 days. This change will go a long way to ensure landowner protection.

There will be much opposition to this bill from water board members and the State Water Board Association. But as it stands in my experience, water board members are appointed but then are unsupervised by the county commissioners.

It is then up to the landowners to be the “sheriff”, often at great expense if an issue is litigated. This bill would offer some clarity and narrower interpretation of statute water boards are using to circumvent legislative intent.

Again, thank you for the opportunity to testify in favor of SB 2208. If you have any questions or need clarification, don’t hesitate to contact me.

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