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Subject: Water Topics Overview Committee - Quick Take Eminent Domain for Water Resource Districts.

Chairman Schmidt and distinguished members of the Water Topics Overview Committee:

I wish to comment on a matter that will be on the agenda of the Water Topics Overview Committee at its meeting on Tuesday March 8th at 10:20 a.m. : "Presentation by Legislative Council staff of a background memorandum on quick take eminent domain authority of water resource districts". I have represented the Steele County Water Resource District and have been active in water law issues for more than 40 years. HB 1332, which was passed by the legislature at the last session and vetoed by Governor Dalrymple, would have stripped Water Resource Districts of quick take eminent domain authority and turn this responsibility over to the respective County Commissions. It is now one of the water topics your interim committee has been tasked to study. In the course of my representation of the Steele County Water Resource District I have participated in the creation of several legal drains and water retention projects that have benefitted thousands of acres in Steele County and surrounding counties. Without the power of quick take eminent domain it would be safe to say that most of those projects would never have been built. And to be specific, it is not necessarily the actual use of quick take eminent domain, but the ability to use quick take eminent domain to obtain rights of way from usually a very small minority of landowners on a given project, that has insured the success of those projects. "Quick take" is the element of eminent domain which gives the political subdivision the ability to appraise the fair market value of the property needed for its project which the landowner is unwilling to give and pay it into the court and proceed with the project with the only issue before the court being what is the fair market value of the property taken. Without the "quick take" aspect of eminent domain authority, one landowner could stall a project into non-existence by forcing the water resource district to bring a traditional eminent domain action in the courts which in some jurisdictions could take years to come to trial, defend an appeal to the Supreme Court and await their decision before a project could proceed. Not only would the delay be fatal, but the predictable increase in construction costs could often doom the project. Water Resource Districts are the entities that develop water projects. They have the expertise. They have developed relationships and credibility with landowners. They need to own the land or rights of way for the projects they are charged with maintaining into perpetuity. I urge your committee to recommend that the status quo of quick take eminent domain authority for water resource districts be maintained in its present form.

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