The Sierra Club supports the passage of HB 3339 by State Representative Dominguez, a bill to delete certain duplicative reporting requirements in the Water Code and to consolidate existing requirements for preparation and submission of water conservation plans which are found in different sections of the Water Code. This legislation is an attempt to streamline the relevant Water Code sections and to eliminate confusion and complexity about requirements for water conservation plans. HB 3339 reflects a recommendation found in the Legislative Priorities for the 86th Texas Legislature report released by the Texas Water Development Board in December 2018.

However, the Sierra Club has two concerns about HB 3339 as filed and would like to suggest changes to the legislation to eliminate those concerns, as specified below:

(1) Sierra Club is concerned about language in new proposed Section 16.4021(d) that would be added to the Water Code to exempt an applicant for state financial assistance for a water project from submitting a water conservation plan to the Water Development Board if “the applicant demonstrates that the implementation of a water conservation plan is not reasonably necessary for conservation.” We respectfully request that this language, which does not appear to be in current statute, be deleted from HB 3339.

Inclusion of this language in the Water Code would send the wrong signal to applicants that there may be an opportunity to get financial assistance for a water project without having to prepare and submit a water conservation plan. We strongly believe that in order to achieve and maintain high standards for conserving and using water efficiently, a water supplier needs to have a plan to accomplish that - not just some statement of intent to conserve or even an already fairly low rate of water use per person (which might be lowered further).
There are already existing statutory exemptions from the water conservation plan requirement for applications for emergency projects and for small amounts of state financial assistance, and these would be retained by HB 3339. This general “wiggle room” statement is at cross purposes with promoting water conservation. Although Sierra Club firmly believes that the current Water Development Board leadership and staff is committed to supporting water conservation, future leadership and staff may not be as committed. Therefore, we are uncomfortable with allowing the agency the latitude in statute to have a generic “out” on requiring a water conservation plan.

(2) Sierra Club is also concerned with the proposed **repeal** in HB 3339 of current statutory language in Section 17.125(b-2) - pasted below - directing the Water Development Board to prioritize funds for water projects by entities that have achieved or, through the project, would achieve significant water conservation savings. We do not see comparable replacement language proposed in HB 3339 to offset the repeal of this existing directive. We request that comparable language to what is now in Section 17.125(b-2) be included in an appropriate part of HB 3339 to give a higher priority to applicants who are doing more than the minimum requirements for water conservation.

The specific language that should be retained in the Water Code, currently in 17.125, is as follows:

**(b-2) The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:**

1. have already demonstrated significant water conservation savings; or
2. will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

Please keep in mind that the Texas Legislature in 2013 with the enactment of legislation to establish the SWIFT and SWIRFT funding mechanism for implementing projects in the state water plan made a very strong commitment to water conservation in its directive to the Water Development Board to aim for a percentage of the SWIFT/SWIRFT to be used for water conservation projects. Repealing the current language in the Water Code directing the Water Development Board to prioritize projects for entities with strong water conservation records or projects that would achieve significant water conservation savings is at odds with that commitment.

Thank you for the opportunity to suggest these changes to HB 3339, whose general purposes of repealing outmoded parts of the Water Code and consolidating water conservation plan requirements are laudable and appreciated.