Date: January 25, 2019

TO: The Honorable Senator Laurie Monnes Anderson, Chair
                Senate Committee on Health Care

FROM: Patrick Allen, Director
                Oregon Health Authority

SUBJECT: Senate Bill 27 – Drinking Water Fee Authority

There were several issues raised during the January 23rd hearing on SB 27. The intent of this memo is to provide additional information to the committee to address the questions that were raised.

What services does the Drinking Water program currently provide?
Regulation at the State level instead of federal. The program has primacy to implement federal requirements under the Safe Drinking Water Act (SDWA) in lieu of US EPA, which includes regulation of approximately 2,500 federally defined public water systems that serve at least 25 people or have at least 15 service connections.

Compare sample results to standards to ensure drinking water is safe. Public water systems are required to regularly sample water for a range of contaminants. Sample results are submitted to the Drinking Water program, entered into a database and compared to standards to ensure water is safe. The program processes over 180,000 lab analyses per year.

Respond to detection of contaminants. When contaminants are detected, the program or local public health authority partners respond and investigate to ensure problems are remedied. In 2018, over 1,200 contaminant alerts were responded to and investigated.

Inspections (sanitary surveys). Community water systems are inspected every 3 years and non-community water systems every 5 years. Inspections are typically focused on identifying any potential pathways for contaminants to enter the system. About 600 inspections are performed each year.

Technical assistance. Program staff and our "Circuit Rider" contractor provide technical assistance to water systems to help resolve operational and treatment issues.

Financial assistance. The program works closely with Business Oregon to coordinate low interest loans and grants to water systems to help resolve compliance issues, improve treatment and replace aging infrastructure.

Enforcement. The program strives to resolve issues informally whenever possible. Formal enforcement actions are used to compel compliance and include administrative orders, bilateral compliance agreements and civil penalties.

Plan review. New systems or modifications to existing system require review of engineering plans to ensure compliance with construction standards.

Operator certification. Operators of water systems are required to be certified, which includes passing an exam and meeting minimum education and experience requirements for the level of certification. Over 1,700 operators are certified by the program.

State-regulated systems. Oregon statutes define a public water system at a lower threshold than the federal definition, including systems that serve 10 people or have at least 4 service connections. There are 900 of these State-regulated systems and current resources do not allow us to adequately regulate these systems.

Why are additional staff needed and what would they do?
As mentioned at the hearing, the program lost 17 positions due to budget constraints since 2009. Our proposal is to restore five positions and increase support for our local partners. Two positions would be placed in our Data Management, Compliance and Enforcement Unit. This unit processes the incoming lab data used to verify compliance. We have had periodic backlogs of data and have had to use temporary employees to keep pace with priority work. The other three positions would be placed in our Technical Services Unit, with 1 of these housed in the Springfield office. This unit performs inspections, provides technical assistance to water systems and works closely with local public health authority partners. Existing technical staff are stretched very thin and struggle to keep up with workload demands. Our intention is that additional technical staff will both allow us to adequately regulate small systems and free up engineering staff to focus on engineering issues at larger systems.

Why not just increase existing fees?
There are three existing fees: sanitary survey (inspection) fee, plan review fees and operator certification fees. Each of these sources of revenue is accounted for separately and used only for those specific functions. As an example, we can't increase plan review fees and use the revenue to support data management. That narrow restriction on use of revenue is the reason why we're proposing to broaden the inspection fee to also include other program duties like managing lab data, responding to contaminants and providing technical assistance.

How much would systems pay with new fees compared with what they pay now?
We're asking 45 of the largest water systems to pay substantially higher fees to account for the complexity of regulation of these systems and the workload with managing the much higher volumes of lab data that large systems submit compared with smaller systems. Large systems are required to sample for a much longer list of contaminants and at a greater frequency than small systems. Large systems like Portland or Salem submit over 3,000 lab analyses per year compared to the smallest system that may only submit five sample analyses for coliform bacteria and nitrate. Large systems have

substantial customer bases so the costs per person per year are very low. We're also asking the smallest State regulated systems to pay a nominal fee of $75 per year; currently they pay no fee. The remaining 2,450 water systems would see relatively modest increases related to inflationary cost increases. Examples of proposed fees compared with current fees for some Oregon cities are shown below:

	Annualized Current	Proposed	Estimated Cost/Person/YR
Portland	$2,400	$65,000	$0.11
Salem	$2,400	$42,000	$0.22
Albany	$2,400	$18,000	$0.34
Ashland	$2,400	$7,500	$0.35
Baker City	$2,400	$4,000	$0.40
Canyonville	$1,200	$1,500	$0.91
Paisley	$150	$175	$0.70

How would you ensure that fee revenue is not redirected to activities unrelated to Drinking Water?

The duties of the program are clearly delineated by the statutes and only relate to regulation of public water systems. As mentioned previously, we already account for each revenue type and individual fee type separately and use those funds only for allowable expenditures. We would continue with this existing practice to ensure funds are used only for regulation of public water systems as constrained by law.

Would large water systems be subsidizing small water systems?

Our intention is to design a rate structure that is equitable and ensures that everyone pays their fair share. The proposed rate structure improves equity between the proportion of fees paid by large systems vs smaller systems. Water systems serving <10,000 people pay 83% of total survey fee revenue while those serving > 10,000 people only pay 17%. Under the proposed schedule systems serving <10,000 people would pay 52% and systems serving >10,000 people would pay 48% of the total fee revenue.

Will the program provide a higher level of technical service, for example approving disinfection credit for use of ozone treatment prior to filtration?

There was a Drinking Water Advisory Committee work group tasked with the ozone issue in 2016. The committee recommended that the few systems affected seek a waiver on a case by case basis rather than attempt to write specific rules. Program staff are proceeding with review of individual waiver requests currently. A request from Wilsonville is under review and we expect to render a decision within the next few weeks. Highly technical issues like this have been a strain for the program given its limited staffing. We hope to devote more engineering resources toward these types of issues with improved program capacity.

I would be happy to provide additional information or answer further questions.