

House Bill 2860 – Safe Well Water – Section by Section

Sections 1 and 2:

Currently, the seller of real estate that includes a domestic well must test that well for arsenic, nitrates and total coliform bacteria and share the results with the buyer and the Oregon Health Authority. This part of the bill requires that those tests must be conducted by an accredited environmental laboratory and directs the Oregon Health Authority to analyze the home sale well test data as well as provide public education in areas where contaminants are present.

Sections 3 through 5:

The Oregon Health Authority currently has just .77 FTE devoted to well safety, which is funded by a federal grant that runs only through 2020. This part of the bill creates a new Safe Well Water Fund that would (1) assist the Oregon Health Authority, local health authorities and other educators (e.g., soil and water conservation districts, OSU Extension Service) in providing well water education and free or low-cost testing of wells and (2) provide grants and loans to help low-income property owners and landlords repair drinking water wells or install water quality treatment systems if necessary. The bill does not currently provide a dollar figure for how much would be appropriated from the General Fund to the Safe Well Water Fund.

Sections 6 through 9:

This part of the bill requires landlords to test domestic wells and inform tenants whether bacteria are present and whether the level of nitrate meets federal standards. If there is any amount of total coliform bacteria, the landlord must treat the drinking water or repair or replace the well and retest to confirm that all coliform bacteria have been removed. Likewise, if the amount of nitrate exceeds US Environmental Protection Agency standards, the landlord must treat the drinking water or repair or replace the well to conform to EPA standards. The total coliform bacteria and nitrate tests must be done yearly, but if the tests show no presence of nitrate or bacteria for three consecutive years, the landlord can move to a testing schedule of every five years. The bill also requires landlords to test for arsenic once in the life of the well.

This part of the bill also outlines how tests must be conducted, including using an accredited laboratory, and how the test results are to be reported to the landlord and to the tenant. The laboratory must report to the landlord the absence or presence of total coliform bacteria, concentration of nitrates in milligrams per liter or parts per million, and concentration of arsenic in milligrams per liter or parts per million. The landlord must provide the results of the tests (as well as a handout on drinking water contamination to be developed by the Oregon Health Authority) when a tenant first moves in and after annual testing in one of two ways: (1) request that test results be sent directly to the tenant or (2) or use a form adopted by the Oregon Health Authority that shows pass/fail for each contaminant. In the latter case, the tenant may request the full laboratory report. The landlord may delegate the testing to the tenant if both agree in writing. If the landlord fails to meet these obligations, the tenant may recover actual damages or \$300, whichever is greater.

The laboratories that conduct the tests are required to report the results to the Department of Environmental Quality.

This part of the bill also clarifies that these requirements do not apply to (1) water systems (any system providing at least four service connections or serving an average of at least 10 individuals daily at least 60 days each year) or (2) manufactured dwellings or floating home spaces.

Sections 10 and 11 spell out a conforming amendment.

Section 12 is the yet-to-be-determined appropriation.

Section 13 indicates that the bill becomes operative on March 1, 2020.

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