

HB 2860 -2, -3 STAFF MEASURE SUMMARY

House Committee On Energy and Environment

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/21, 4/4

WHAT THE MEASURE DOES:

Establishes requirements for testing and reporting groundwater contaminants for residences that depend on well water as a drinking water source and establishes Safe Well Water Fund. Requires sellers of real estate that includes a well for drinking water to have the well tested by an accredited environmental laboratory when conducting tests required in ORS 448.271 for arsenic, nitrates, and total coliform bacteria. Directs Oregon Health Authority (OHA) to analyze results of well water tests to identify areas with groundwater contamination problems and provide education about groundwater contamination. Authorizes OHA to collaborate with other state agencies to provide education on groundwater contamination or delegate education to a local public health authority. Directs OHA to share results of well water tests with Oregon Department of Environmental Quality (DEQ) to be used in identifying groundwater concern areas. Establishes the Safe Well Water Fund (Fund), separate from the General Fund and continuously appropriated to OHA. Authorizes grants, donations, and gifts from any source to be deposited into the Fund. Authorizes OHA to make grants and loans from the Fund to low income property owners and rental property owners who have had their groundwater tested by an accredited environmental laboratory and have received test results indicating that the groundwater supply poses a health risk. Directs grants and loans to be used to assist with the installation of treatment systems or repair or replacement of wells due to groundwater contaminant problems. Requires property owners who receive loans to repay OHA within five years. Authorizes OHA to make grants and provide technical assistance from the Fund to local public health authorities, nonprofit organizations, soil and water conservation districts, and the Oregon State University Extension service to provide groundwater contamination education in areas identified as having contaminated groundwater, and to provide free or low-cost well testing. Authorizes OHA to adopt rules as necessary and use Fund to pay expenses to administer grant and loan programs. Requires landlord renting a dwelling unit that uses a well as a source for drinking water to collect samples and have the well tested for arsenic at least one time during the life of the well and no later than 30 days after system is installed, and tested for total coliform bacteria and nitrates at least one time per year. Allows landlord to wait five years to test after three consecutive years of results showing no total coliform bacteria and acceptable levels of nitrates, and if that test confirms acceptable results, the landlord does not have to test for another five years. Requires treatment of drinking water or repair or replacement of well if any coliform bacteria are present or if nitrates exceed federally designated standards in test results, and for landlord to retest to confirm the contaminants have been removed or returned to an acceptable level. Requires landlord to collect and test drinking water; provide notice that dwelling uses a well for drinking water; provide notice that the drinking water was tested for arsenic, total coliform bacteria, and nitrates; provide the results of the most recent drinking water tests; and provide the date of the next test at the beginning of a dwelling's tenancy. Authorizes landlord to delegate responsibility for collection of drinking water samples to tenants if agreement is in writing, made in good faith and for adequate consideration. Requires tests to be conducted by an accredited environmental laboratory and test results be electronically reported to DEQ. Requires landlord to provide test results to tenant within 30 days of receiving the results by either reporting the results of total coliform bacteria presence test and concentration of nitrates or by reporting whether the well water passed or failed the test. Requires landlord to provide the tenant the date that the landlord will treat or has treated the water, will repair or has repaired the well, or will replace or has replaced the

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well, in the case of a failed drinking water test. Directs OHA to develop a form for landlords to use to report test results to tenants and educational handout on testing drinking water for contaminants and the impact of contaminants on health. Establishes that if a landlord fails to test or disclose test results on drinking water for a dwelling, the tenant may recover the greater of \$300 or the actual damages of the tenant. Exempts manufactured dwellings and floating homes from requirements in this Act. Appropriates \$_____ to the Safe Well Water Fund from the General Fund. Becomes operational March 1, 2020. Authorizes OHA to take action before operative date to prepare to administer this Act.

REVENUE: Revenue impact issued.

FISCAL: May have fiscal impact, but no statement yet issued.

ISSUES DISCUSSED:

- Nearly a quarter of Oregonians use well water for drinking water
- No requirement for private wells to be tested for contaminants
- Concern for renters, rural Oregonians
- Chronic effects of nitrates, arsenic; blue baby syndrome
- Farmworker housing

EFFECT OF AMENDMENT:

-2 Removes reference to "total coliform bacteria" and replaces it with "E. Coli." Clarifies that tests required must be conducted for drinking water by a laboratory accredited under the program established under ORS 438.615 using tests allowed under 40 C.F.R. 141. Permits, rather than requires, DEQ to assist OHA in analyzing groundwater test results and identifying areas with likely groundwater contaminant problems. Authorizes OHA to use moneys from the Safe Well Water Fund established in this Act or other moneys appropriated by the legislature to pay for expenses for analyzing test results, identifying areas with likely contamination, and providing contaminant education. Clarifies that groundwater treatment systems or wells subject to regulation under ORS 448.119 to 448.285, 454.235 and 454.255 are not subject to the provisions of this Act. Modifies information OHA is required to provide to property owners that receive a grant or loan, requiring provision of general information on treatment units, well repair, and obtaining third-party certification of treatment units, rather than providing analysis of which treatment system or well design is most effective.

Clarifies rules for landlord testing of drinking water. Directs landlord to collect samples of drinking water, and if necessary, treat the water according to OHA rules. Specifies well must be tested for arsenic no later than 30 days after installation and retested according to OHA schedule. Requires drinking water be tested for E. Coli, arsenic, and nitrates at least once per year. Requires landlord to treat drinking water or repair and replace the well and retest to confirm all E. Coli is removed, if presence of any amount of E. Coli is detected. Requires landlord to treat drinking water or repair or replace the well and retest to confirm levels are at an acceptable level, if nitrates or arsenic are detected at levels that exceed the U.S. Environmental Protection Act standards.

Establishes that landlord testing and treatment provisions in this Act do not apply to a dwelling unit subject to regulation under ORS 448.119 to 448.285, 454.235 and 454.255.

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Allows landlord to wait five years to test after three consecutive years of results showing no E.Coli, arsenic, or nitrates, and if that test confirms acceptable results, the landlord does not have to test for another five years.

Requires landlord to treat drinking water or repair and replace the well and retest to confirm all E. Coli is removed, if presence of any amount of E. Coli is detected. Requires landlord to treat drinking water or repair or replace the well and retest to confirm levels are at an acceptable level, if nitrates or arsenic are detected at levels that exceed the U.S. Environmental Protection Act standards.

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BACKGROUND:

Domestic well testing is the process of having an accredited laboratory test water from a private well for possible contaminants, with the most common being arsenic, nitrates, and total coliform bacteria. Under current law, ORS 448.271, the testing of domestic well water is only required during a real estate transaction. The seller of a property must report specific information about the well and the quality of the water within 90 days from receiving the results to both the potential buyer and the Oregon Health Authority (OHA).

House Bill 2860 would establish requirements for testing and reporting groundwater contaminants for residences that depend on well water as a drinking water source. The bill includes direction for landlords to test and report drinking water quality to tenants and to OHA. The bill would establish the Safe Well Water Fund and authorize OHA to make grants and loans for the installation of groundwater treatment systems, repair or replacement of wells, providing groundwater contaminant education, and conducting free or low-cost tests of wells.