

HB 2860 A STAFF MEASURE SUMMARY
House Committee On Energy and Environment

Action Date: 04/09/19

Action: Do pass with amendments and be referred to Ways and Means by prior reference.
 (Printed A-Eng.)

Vote: 6-3-0-0

Yeas: 6 - Helm, Salinas, Schouten, Sollman, Wilde, Williams

Nays: 3 - Findley, Reschke, Zika

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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Meeting Dates: 2/21, 4/4, 4/4, 4/9

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 (Fund). Requires sellers of real estate and landlords of a dwelling that includes a well for drinking water to have the well tested by a laboratory accredited under the program established under ORS 438.615 using tests allowed under 40 C.F.R. 141. 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. 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 drinking water tested for arsenic no later than 30 days after system is installed, and tested for E. Coli, arsenic, and nitrates at least one time per year. Requires treatment of the drinking water or repair or replacement of the well if any E. Coli are present or if arsenic or 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. Allows landlord to wait five years to test after three consecutive years of results showing no E. Coli, arsenic, and nitrates, and if that test confirms acceptable results, the landlord does not have to test for another five years. 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 E. Coli, arsenic, 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. Requires landlord to provide test results to tenant within 30 days of receiving the results by either reporting the results of E. Coli presence test and concentration of arsenic and 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

HB 2860 A STAFF MEASURE SUMMARY

or has repaired the well, or will replace or has replaced the well, in the case of a failed drinking water test. 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. 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. 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.

ISSUES DISCUSSED:

- Approximately a quarter of Oregonians use well water for drinking water
- No requirement for private wells to be tested for contaminants
- Chronic health effects of nitrates, arsenic; blue baby syndrome
- Farmworker housing and other housing regulated under state or federal statute

EFFECT OF AMENDMENT:

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, Department of Environmental Quality to assist Oregon Health Authority (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. 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. 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.

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 E. Coli. 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 A would establish requirements for testing and reporting groundwater contaminants for residences that depend on well water as a drinking water source. The Act includes direction for landlords to test and report drinking water quality to tenants and to OHA. The Act 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.