

A-Engrossed
House Bill 2331

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by Representatives STARK, WITT, Senator HANSELL; Representatives POST, SMITH DB, Senator THOMSEN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that Water Resources Commission has certain amount of time to enforce general or special standards related to well construction activities.

Establishes Task Force on Oregon Well Construction Enforcement Activities.

Sunsets task force on December 31, 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to enforcement time limits for well construction activities; creating new provisions;
3 amending ORS 537.780; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 537.780 is amended to read:

6 537.780. (1) In the administration of ORS 537.505 to 537.795 and 537.992, the Water Resources
7 Commission may:

8 (a) Require that all flowing wells be capped or equipped with valves so that the flow of ground
9 water may be completely stopped when the ground water is not actually being applied to a beneficial
10 use.

11 (b) Enforce:

12 (A) General standards for the construction and maintenance of wells and their casings, fittings,
13 valves, pumps and back-siphoning prevention devices; and

14 (B) Special standards for the construction and maintenance of particular wells and their casings,
15 fittings, valves and pumps.

16 (c)(A) Adopt by rule and enforce when necessary to protect the ground water resource, stan-
17 dards for the construction, maintenance, abandonment or use of any hole through which ground
18 water may be contaminated; or

19 (B) Enter into an agreement with, or advise, other state agencies that are responsible for holes
20 other than wells through which ground water may be contaminated in order to protect the ground
21 water resource from contamination.

22 (d) Enforce uniform standards for the scientific measurement of water levels and of ground wa-
23 ter flowing or withdrawn from wells.

24 (e) Enter upon any lands for the purpose of inspecting wells, including wells exempt under ORS
25 537.545, casings, fittings, valves, pipes, pumps, measuring devices and back-siphoning prevention de-
26 vices.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (f) Prosecute actions and suits to enjoin violations of ORS 537.505 to 537.795 and 537.992, and
2 appear and become a party to any action, suit or proceeding in any court or before any adminis-
3 trative body when it appears to the satisfaction of the commission that the determination of the
4 action, suit or proceeding might be in conflict with the public policy expressed in ORS 537.525.

5 (g) Call upon and receive advice and assistance from the Environmental Quality Commission or
6 any other public agency or any person, and enter into cooperative agreements with a public agency
7 or person.

8 (h) Adopt and enforce rules necessary to carry out the provisions of ORS 537.505 to 537.795 and
9 537.992 including but not limited to rules governing:

10 (A) The form and content of registration statements, certificates of registration, applications for
11 permits, permits, certificates of completion, ground water right certificates, notices, proofs, maps,
12 drawings, logs and licenses;

13 (B) Procedure in hearings held by the **Water Resources** Commission; and

14 (C) The circumstances under which the helpers of persons operating well drilling machinery may
15 be exempt from the requirement of direct supervision by a licensed water well constructor.

16 (i) In accordance with applicable law regarding search and seizure, apply to any court of com-
17 petent jurisdiction for a warrant to seize any well drilling machine used in violation of ORS 537.747
18 or 537.753.

19 (2) Notwithstanding any provision of subsection (1) of this section, in administering the pro-
20 visions of ORS 537.505 to 537.795 and 537.992, the commission may not:

21 (a) Adopt any rule restricting ground water use in an area unless the rule is based on substan-
22 tial evidence in the record of the Water Resources Department to justify the imposition of re-
23 strictions.

24 (b) Make any determination that a ground water use will impair, substantially interfere or un-
25 duly interfere with a surface water source unless the determination is based on substantial evidence.
26 Such evidence may include reports or studies prepared with relation to the specific use or may be
27 based on the application of generally accepted hydrogeological principles to the specific use.

28 (c) **Enforce against a well constructor licensed under ORS 537.747 general or special**
29 **standards related to repair, construction, alteration, abandonment or conversion of a well**
30 **after three years from the date the well constructor filed the log with the commission under**
31 **ORS 537.765.**

32 (3) **Subsection (2)(c) of this section applies only to wells repaired, constructed, altered,**
33 **abandoned or converted for which a report and fee required by ORS 537.762 and the log re-**
34 **quired by ORS 537.765 have been filed with the commission.**

35 (4) **Notwithstanding the three-year limitation in subsection (2)(c) of this section, if the**
36 **commission finds that the log contains a material misrepresentation related to an enforce-**
37 **ment of general or special standards related to repair, construction, alteration, abandonment**
38 **or conversion of a well, the commission may enforce those general or special standards in**
39 **effect when the work was completed as represented by the log.**

40 [(3)] (5) At least once every three years, the commission shall review any rule adopted under
41 subsection (2) of this section that restricts ground water use in an area. The review process shall
42 include public notice and an opportunity to comment on the rule.

43 **SECTION 2. (1) The Task Force on Oregon Well Construction Enforcement Activities is**
44 **established.**

45 (2) **The task force consists of 14 members appointed as follows:**

1 **(a) The President of the Senate and the Senate Minority Leader shall jointly appoint one**
2 **member from among members of the Senate;**

3 **(b) The Speaker of the House of Representatives and the House Minority Leader shall**
4 **jointly appoint one member from among members of the House of Representatives; and**

5 **(c) The remaining members shall be appointed jointly by the President of the Senate,**
6 **Speaker of the House of Representatives, Senate Minority Leader and House Minority Leader**
7 **as follows:**

8 **(A) One member who is a representative of the Water Resources Department established**
9 **in ORS 536.039;**

10 **(B) One member who represents an association related to groundwater;**

11 **(C) Two members who do not work for the government and are licensed as water supply**
12 **well constructors or monitoring well constructors in Oregon;**

13 **(D) One member who is a representative of the Water Resources Commission;**

14 **(E) One member who does not work for the government, specializes in groundwater, is**
15 **certified as a water rights examiner and registered as a geologist in Oregon;**

16 **(F) One member who is a representative of municipalities;**

17 **(G) One member who is a well owner;**

18 **(H) One member who is a representative of agricultural interests;**

19 **(I) One member who is a representative of the Oregon Health Authority;**

20 **(J) One member who is a representative of an association related to special districts in**
21 **Oregon; and**

22 **(K) One member who is a representative of an environmental organization.**

23 **(3) The task force shall review and make recommendations on:**

24 **(a) The priorities and procedures developed by the Water Resources Commission for**
25 **technical review of well logs filed before, on or after the effective date of this 2019 Act and**
26 **the fiscal impact and funding consequences of those priorities and procedures.**

27 **(b) Limiting enforcement of well construction standards to those in effect when a log**
28 **reported well construction activity.**

29 **(c) Enforcement, operations and maintenance practices for well construction.**

30 **(d) Potential improvements to the well construction and enforcement program.**

31 **(e) Methods to improve well construction and well inspection practices.**

32 **(4) A majority of the voting members of the task force constitutes a quorum for the**
33 **transaction of business.**

34 **(5) Official action by the task force requires the approval of a majority of the voting**
35 **members of the task force.**

36 **(6) The task force shall elect one of its members to serve as chairperson and one of its**
37 **members to serve as vice-chairperson who shall serve as chairperson during any absence of**
38 **the chairperson.**

39 **(7) If there is a vacancy for any cause, the appointing authority shall make an appoint-**
40 **ment to become immediately effective.**

41 **(8) The task force shall meet at times and places specified by the call of the chairperson**
42 **or of a majority of the voting members of the task force.**

43 **(9) The task force may adopt rules necessary for the operation of the task force.**

44 **(10) The task force shall submit a report in the manner provided by ORS 192.245, and**
45 **may include recommendations for legislation, to an interim committee of the Legislative**

1 **Assembly related to water resources no later than September 15, 2020.**

2 (11) **The Water Resources Department shall provide staff support to the task force.**

3 (12) **Members of the Legislative Assembly appointed to the task force are nonvoting**
4 **members of the task force and may act in an advisory capacity only.**

5 (13) **Members of the task force are not entitled to compensation or reimbursement for**
6 **expenses and serve as volunteers on the task force.**

7 (14) **All agencies of state government, as defined in ORS 174.111, are directed to assist**
8 **the task force in the performance of the duties of the task force and, to the extent permitted**
9 **by laws relating to confidentiality, to furnish information and advice the members of the task**
10 **force consider necessary to perform their duties.**

11 **SECTION 3. Section 2 of this 2019 Act is repealed on December 31, 2020.**

12 **SECTION 4. The amendments to ORS 537.780 by section 1 of this 2019 Act apply only to**
13 **wells repaired, constructed, altered, abandoned or converted for which a report and fee re-**
14 **quired by ORS 537.762 and the log required by ORS 537.765 have been filed with the Water**
15 **Resources Commission on or after the effective date of this 2019 Act.**

16 **SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019**
17 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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