

HB 4092 STAFF MEASURE SUMMARY**Carrier:** Rep. Breese-Iverson**House Committee On Water****Action Date:** 02/06/20**Action:** Do Pass.**Vote:** 8-0-0-0**Yeas:** 8 - Breese-Iverson, Helm, Leif, Owens, Power, Reardon, Reschke, Wilde**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Misty Freeman, LPRO Interim Director**Meeting Dates:** 2/4, 2/6**WHAT THE MEASURE DOES:**

Authorizes owner of specific property in Jackson County to apply to Oregon Water Resources Department (OWRD) on or before July 1, 2021 to register reservoir on property. Requires that reservoir existed prior to January 1, 2000 and that property owner provides proof that reservoir: stores not more than 9.2 acre-feet of water; has dam or impoundment structure not more than 10 feet in height; has outlet works capable of releasing water to maintain reservoir within its authorized limits and to allow regulation for other water rights; and has fish passage as required by Oregon Fish and Wildlife Department. Establishes that registration deems reservoir exempt from water right permit or certificate requirement. Prohibits transfer of registration, diversion of water for use outside reservoir, and obtaining of a secondary permit to use water stored in reservoir. Establishes this specific registration is subordinate to other water rights and that OWRD may regulate reservoir for benefit of water rights. Requires property owner to measure flows into and out of reservoir and report flows monthly to OWRD. Directs OWRD to order removal of reservoir if property owner does not register reservoir by deadline, and directs OWRD to terminate registration and order removal if reservoir ceases to meet requirements set out for registration. Authorizes OWRD to charge application processing fee, to reject an incomplete application, and to require a survey of water storage amount and/or dam or impoundment height to be performed by a certified water right engineer or professional engineer.

ISSUES DISCUSSED:

- Regulation of reservoirs, generally
- Specific circumstances of a property in Jackson County

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A water right is required to store water in a reservoir, construct a reservoir, or to use water stored in an existing reservoir. Additional permits and approvals from other agencies may be necessary prior to the construction of a water storage facility. An application for a water right may not legally be considered for a reservoir located or proposed in areas of the state the legislature has set aside as “withdrawn.” Waters located in withdrawn areas are reserved for specific purposes or otherwise restricted from water-right permitting.

House Bill 4092 would authorize the owner of a specific property located in a withdrawn area of Jackson County to apply to the Oregon Water Resources Department (OWRD) to register an existing reservoir on the property. The Act establishes conditions for the reservoir, including limiting the water storage amount to 9.2 acre-feet or less, limiting a dam or impoundment on the reservoir to 10 feet or less in height, requiring means for releasing water when needed, and allowing for fish passage. Registration would exempt the reservoir from water right permit or certificate requirements, while prohibiting the transfer of the registration or the diversion or use of

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water from the reservoir in another manner. The Act requires the property owner to apply for registration by July 1, 2021 and abide by all conditions; if the owner fails to do so, OWRD is authorized to order the removal of the reservoir.