

FISCAL IMPACT OF PROPOSED LEGISLATION

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Measure: HB 3166 - A

*Only Impacts on Original or Engrossed
Versions are Considered Official*

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Date: April 13, 2021

Measure Description:

Requires Legislative Policy and Research Committee to study and make recommendations to interim committee of Legislative Assembly regarding water measurement program.

Government Unit(s) Affected:

Department of Fish and Wildlife (ODFW), Water Resources Department (WRD), Oregon Judicial Department (OJD)

Analysis:

This fiscal impact statement is for the purpose of transmitting the measure from the House Committee on Water to the Joint Committee on Ways and Means.

House Bill 3166, A-engrossed, replaces the introduced version. The measure makes legislative findings and declarations of policy. It defines “priority water basin,” “water budget,” and “measurement.” The measure directs the Water Resources Commission, in consultation with the Oregon Department of Fish and Wildlife and the Water Resources Department (WRD), to designate three to five water basins or sub-basins as priority water basins; identify the water use data that is needed to develop water budgets; identify where installation of stream gauges is needed to develop water budgets; and initiate an assessment of where to house an online platform that contains water data, how the platform will be structured and to what extent the public will have access to the platform. It directs the commission to review where, how, and how frequently water measurements are collected and retained; under which programs or requirements water measurements are reported; who pays for and who has access to collected water measurement data; how often water measurement data is collected and how it is used; which persons are subject to water measurement and reporting requirements; and which persons are not complying with requirements. It requires the commission to report on its review to a legislative committee on water on or before September 15, 2022. It directs the commission to develop water budgets for priority basins based on water use data submitted to WRD.

The measure requires the commission, on or before January 1, 2026, to report to a legislative committee on water on the commission’s progress in designating priority water basins, developing water budgets, and assessing the structure of an online water data platform. It requires any person holding a water right that authorizes diversion, appropriation, or storage of water in a priority basin to conduct measurement and reporting of water diverted, appropriated, or stored under the water right, unless WRD determines that the water right is subject to other measurement and reporting requirements. The measurement and reporting shall occur annually.

Further Analysis Required

The measure directs WRD to establish procedures for reporting water use measurements, requirements for water measurement technologies and devices, and processes for temporary exceptions to measurement and reporting requirements. It authorizes WRD to use moneys in Water Measurement Cost Share Program Revolving Fund to offset costs of complying with measurement and reporting requirements, including up to 75 percent of moneys needed to purchase, install, or replace measurement device used to comply with measurement and reporting requirements. It applies to water rights established before, on, or after the measure’s effective date.

The measure prohibits a person's reporting from being used to establish rebuttable presumptions of forfeiture of all or part of a water right, as support for a determination that a water right may be canceled, as justification for initiation of proceedings to cancel a water right, or as the basis for an order that cancels or modifies a water right. It authorizes the commission, before January 1, 2032 and only against a person notified of measurement and reporting requirements by WRD, to impose a civil penalty on any person who violates a water use measurement or reporting requirement, unless the violation is temporary and the result of an unintentional breakage or malfunction of a measurement device.

The measure is anticipated to have an impact on the Department of Fish and Wildlife, the Water Resources Department and the Oregon Judicial Department.

A more complete fiscal analysis on the measure will be prepared as the measure is considered in the Joint Committee on Ways and Means.

Further Analysis Required