



February 4, 2021
House Committee on Housing
Representative Fahey, Chair

Informational Testimony on House Bill 2655

Submitted by:
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Thank you for the opportunity to provide information on House Bill 2655. The Department is not taking a position on the bill, and this testimony is provided for informational purposes.

The Oregon Water Resources Department establishes setback requirements for wells from septic, other wells, and buildings in order to protect groundwater resources from contamination, minimize well to well interference, and ensure access to wells that may require repair. House Bill 2655 would prohibit counties from requiring lot sizes to be larger than 1 acre in rural residential areas. To the extent water supplies are from wells, this could lead to an increase in the concentration of wells within an area and may require special standards from the Department to allow for deviations in setback standards for new wells that have difficulty meeting the standards due to the smaller lot sizes, particularly if lots also have accessory dwelling units.

In addition, lot size can be a way to minimize groundwater use in areas that have stressed aquifers, while continuing to allow for development. In the Cooper Mountain-Bull Mountain Critical Groundwater area, additional wells are restricted to single family domestic and stock water purposes on tracts not less than 10 acres in area (along with other limitations).

ORS 215.501, which is modified by House Bill 2655 states “(4) A county may require that a new single-family dwelling constructed under this section be served by the same water supply source as the accessory dwelling unit.” If the existing house is using groundwater, generally the person will have an exempt use and not have a water right for that use. However, if the existing house is served by a surface water source, that generally requires a water right.

Water rights for a domestic purpose may identify a domestic use for “one house” or “one family” and may have a limit on the amount of water that can be used. In those instances, the water right may not authorize an additional house on the property and they would need to apply for a new water right or possibly a transfer. They might not be able to use the same. This issue could be clarified by an amendment, “A county may require that an accessory dwelling unit constructed under this section be served by the same water supply source or water supply system as the existing single family dwelling, **provided such use is consistent with any existing water rights or use under ORS 537.545.**”

The Department does not know if this issue would arise frequently; however, we wanted to make sure the committee was aware of this potential conflict.