



March 23, 2021
House Water Committee
Representative Ken Helm, Chair

Testimony on forthcoming amendment to House Bill 2145
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Thank you for the opportunity to provide testimony in support of a forthcoming amendment to House Bill 2145. For clarity purposes, the Department is not pursuing the introduced version, -1 amendment, or the -2 amendment. A forthcoming amendment (not available at the time this testimony was written) seeks to modernize and increase efficiency within the well construction program to better protect groundwater resources for Oregonians and has greater support among interested parties.

Background

The purpose of Oregon’s well construction program is to protect public health and safety by preventing wells from serving as a conduit for groundwater contamination and to protect groundwater resources for existing and future uses by preventing the draining of aquifers and groundwater declines from improperly constructed wells. Activities of the well construction program include licensing well drillers, administering a continuing education program, enforcing well construction standards and issuing special standards, accepting “start cards” from drillers for beginning work and receiving “well logs” once work is complete, inspecting wells and work on wells for deficiencies, and other activities.

The 2016 Secretary of State Audit identified a need for the Department to “enhance its well regulation efforts, including driller licensing and education, and inspections of new, abandoned, and known wells,” stating that “Limited well inspections and drilling requirements jeopardize groundwater quality.” Oregon's 2017 Integrated Water Resources Strategy and the Department’s 2019 Strategic Plan also calls for protections of groundwater through updating and modernizing the well construction program.

Objectives of Modernization

There are more than 250,000 wells in Oregon, with more than 3,000 new water wells drilled each year on average. For new wells, the Department typically only has resources to inspect around 30 percent, which means that deficiencies on uninspected wells are left unaddressed. In 2020, 9 percent of the newly constructed wells that were inspected had a deficiency. In addition, the Department only has resources to conduct technical well log reviews on 15 percent of the well logs. Further, owners of deficient, damaged, or aging wells, or a well impacted by declining groundwater levels, may not be able to afford to pay the costs to abandon, repair, or replace a well, which may serve as their source of water for household and drinking purposes.

To address these issues, the Department through this legislation sought to: (1) ***prevent new construction deficiencies*** by ensuring that licensed well drillers have the necessary knowledge of

best practices; (2) timely *identify and address deficiencies*, including through changes to maximize limited Department resources; and (3) *provide assistance* by establishing a program to help well owners address well issues.

Development of the Forthcoming Amendment

Last year, the Department invited stakeholders that were interested to participate in a workgroup to provide feedback on its legislation and amendments. In addition, the Department also met with the Oregon Ground Water Association (who also participated on the workgroup) to further work through the details of the bill and they invested countless hours into this work.

Negotiations continued into the legislative session and have resulted in changes reflected in the forthcoming amendment, which replaces the measure. The resulting amendment makes improvements to the well construction program that the Department believes will help modernize and increase efficiency within the well construction program to better serve Oregonians.

House Bill 2145 Forthcoming Amendment

The Department provided a comprehensive presentation to the committee on the -1 amendment during an informational hearing on February 18th. Since that hearing, negotiations continued and changes were made to the -1 amendment, which have resulted in the forthcoming amendment. At the end of this testimony, the Department has provided a high-level summary of the key provisions in the bill as well as the changes made since the -1 amendment.

In brief, the forthcoming amendment:

- Seeks to reduce deficiencies proactively by ensuring well drillers have the necessary skills to properly construct wells.
- Maximizes the effectiveness of current staff at the Department, increasing efficiency while minimizing the impacts on the regulated community.
- Helps the Department better protect the groundwater resources for current and future uses, while ensuring a level playing field among the well drilling community.
- Expands the Department's resources to identify well deficiencies through technical well log reviews.
- Helps well owners whose wells used for household purposes have been impacted by groundwater level declines, natural disasters such as wildfires, or who are lower or moderate income and need assistance in repairing or replacing their wells. Helps facilitate abandonment of wells, which can pose a safety hazard to people and risk to groundwater resources.

Conclusion

Stakeholders have put forward extensive time and effort to develop this legislation. The Department appreciates the work of everyone that helped develop the forthcoming amendment and hopes that the Committee will move this bill forward with the requested amendment.

Overview of the Forthcoming Amendment:

The forthcoming amendment will replace the measure and do the following:

- Well Driller Skills to Prevent Deficiencies
 - Modifies representation on the Continuing Education Committee. Extends the continuing education program sunset date from 2022 to 2030.
 - Requires completion of an arc welding training, professional certification, or proficiency test to obtain a new license and allows the Department to require an existing driller to complete an arc welding training, professional certification, or proficiency test, if a deficiency is found.
- Timely Identification and Correction of Deficiencies - Efficient Well Inspections
 - Establishes timeframes for submittal of start cards, updates requirements for information on start cards, and increases start card fee by \$125. Updates information required on well logs.
 - Clarifies start card and well log requirements pertaining to individuals seeking to drill their own well on their own land.
 - Requires notification on day work begins and notification at least 4 hours prior to seal placement, if seal placement date different than on start card.
 - Requires electronic submission of start cards and well logs by July 1, 2024 unless waived.
 - Requires the Department to conduct a technical review of well logs within 120 days. Proposes to have well drillers submit the exempt use fee and map along with the well log, to maximize existing staff for reviews and reduce fiscal impact.
 - The bill allows Department to apply to a court for an injunction if a person has engaged or is engaging in an activity that violates well construction laws.
- Provide Assistance to Well Owners
 - Establishes a program to provide funding assistance to repair, replace, or abandon deficient wells; repair or replace wells used for household purposes by persons of lower or moderate income, or in areas of declining groundwater levels; to abandon, repair, or replace wells as specified in rule to address water management purposes; or to abandon, repair, or replace wells damaged by natural disasters such as floods, wildfires, or earthquakes.

House Bill 2145 Forthcoming Amendment – Recap of Changes Made Since Hearing on the -1 Amendment

The Department provided a comprehensive presentation to the committee on the -1 amendment during an informational hearing on February 18th. Since that hearing, negotiations continued and changes were made to the -1 amendment, which have resulted in the forthcoming amendment.

As a result of further negotiations after that hearing, the forthcoming amendment will include changes to the -1 amendment as follows:

- Clarifies provisions of the Well Repair, Replacement and Abandonment Funding. Makes clear that fund can be used to repair, replace, or abandon wells damaged by natural disasters.
- Removes provision requiring the well constructor to, upon request, allow the Department to observe and inspect the well while the work occurs.
- Provides that a start card fee can be transferred to a new start card, if the original start card is withdrawn prior to expiration of the start card.
- Requires WRD to conduct technical well log reviews within 120 days beginning July 1, 2022. Adds a requirement to report to the legislature on technical well log reviews.
- Proposes to increase start card fee by \$125, to \$350 to ensure that the Department does not have to leave positions open, which would undermine the Department's ability to effectively implement the bill. Effective on the 91st day of sine die.
- Corrects errors in statutory references primarily related to ORS 537.753(4) and ORS 537.747.
- Clarifies inconsistent and confusing language regarding a "person under ORS 537.753(4)" and a "person licensed under ORS 537.747". Clarifies start card and well log provisions related to a "a person under ORS 537.753(4)".
- Identifies specific exceptions to start card timeframes including for wells drilled on the same taxlot, water emergencies, casing height adjustments, and areas requiring special standards.
- Requires well constructor or a well owner under ORS 537.753(4) to submit the exempt use fee in 537.545 and map at the time the well log is submitted. Currently, the owner of the well is required to submit these and do so separately. This change will allow for the Department to transition duties of an existing position to other duties to help meet the technical well log review mandate.