



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

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**Senate Committee on Housing and Development**  
**Senator Jama, Chair**

**Informational Testimony on Senate Bill 391**

**Submitted by:**  
**Racquel Rancier, Policy Manager**

Thank you for the opportunity to provide information on Senate Bill 391. The Department is not taking a position on the bill, and this testimony is provided for informational purposes.

The bill provides that “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. If the accessory dwelling unit is served by a well, the construction of the accessory dwelling unit shall maintain all setbacks from the well required by the Water Resources Commission or Water Resources Department.” 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.