

HB 3368 -2 STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

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Meeting Dates: 3/21, 4/3

WHAT THE MEASURE DOES:

Directs **the Oregon Water Resources Department** to continuously study water resources in Oregon to ensure a sufficient water supply and adequately manage Oregon's available water resources, periodically produce a state of water resources report on OWRD's understanding of water budgets and the availability of surface and ground water for all basins including water supply from all sources, the amount of legal water allocation and its actual diversion and use, times, locations and associated evidence where water is fully or over appropriated, an overview of Oregon's water regulation history, an estimate of water shortfalls during droughts, any information gaps associated with OWRD's ability to account Oregon's water budget, the extent to which other agency reports identify in-stream needs, drinking water supply needs and demand-related opportunities, current and anticipated water supply needs to maintain agricultural production **based on consultation with Oregon State University (OSU) and the Oregon Department of Agriculture (ODA)**, water supply needs for other beneficial uses including those by industry, livestock, navigation, storage, and hydropower, anticipated future changes to water use and availability, and vulnerability and resilience assessments for each basin. Requires **OWRD to update the report** and all assessments at least every ten years, strive to avoid effort duplication, use the report to inform specific planning efforts, ensure that the information used to develop the report is publicly accessible, presume during report and assessment development that water is hydraulically connected to surface water unless under specific circumstances, use best available scientific and basin-specific information to develop the report and assessments, summarize further information needed, and develop a prioritization plan for the development of basin assessments and subsequent updates. Authorizes OWRD to contract for production of the report or basin assessments. Requires **OWRD** in consultation with affected agencies and basin stakeholders to develop basin plans based on the basin assessments and specifies that basin plan components that are not enforceable under department authority will be voluntary unless included or referenced in applicable rules. Authorizes **OWRD** to convene a committee to advise on basin plan development. Directs **the Oregon Water Resources Commission** (commission) to adopt and periodically, in coordination with updates to the integrated state water resources strategy, review and update basin program rules to reflect the findings of the basin assessments and include implementable and enforceable provisions of the basin plan and authorizes any person to petition the commission to use a collaborative problem solving process when adopting or amending such rule. Authorizes the commission to establish requirements under the basin program rules for consideration by OWRD. Specifies the **responsibilities of the commission** if a basin is fully or over appropriated and requires the commission to declare by rule that OWRD will continue processing water rights applications under certain considerations if a basin is not over or fully appropriated. Requires the **commission to establish an integrated, coordinated statewide program and basin program**, conforming with statements of water resources policy adopted by the commission, for implementing statewide policies and basin-level actions. Requires the **commission to produce an initial basin assessment for each basin in Oregon** and report to a water-related interim committee of the legislature by December 31, 2024. Requires the commission to update basin program rules and develop a plan for prioritizing and sequencing updates to basin program rules by December 31, 2027. Requires the commission to produce the full state of water resources report and basin assessments. Requires the **Legislative Policy and Research Office** to work with water law experts at the University of Oregon Environmental and Natural Resources Law Center to

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report on how the state can improve water policies to increase clarity and integration among existing statutes, reduce duplication or address conflicting policies and better use the integrated state water resources strategy, basin assessments, basin plans, basin programs, and basin program rules to a water related interim committee of the legislature. Requires **the commission to arrange for an independent audit**, following up on the findings and recommendations from the 2016 Secretary of State's audit of OWRD, of the processes by which the commission and OWRD make decisions by June 30, 2024, and to develop and implement an action plan to improve internal processes and update rules as needed by December 31, 2027. Directs **OWRD to temporarily pause consideration of certain applications and request** and to annually notify an applicant or requestor of the status of the application or request. Specifies treatment of applications, requests, and associated developments of the undeveloped portion of the water right during and after the temporary pause. Requires OWRD to develop and maintain a publicly available water allocation and accounting tool with specified components. Modifies transfer of water right limitations to prohibit OWRD from approving the transfer of a water right if the change would contravene a requirement established under a basin program rule. Appropriates General fund Moneys to OWRD, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, ODA, and OSU. Declares emergency, effective on passage.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 Replaces the measure. Directs the **Oregon Water Resources Department (OWRD)** to periodically produce a **state of water resources report** that includes all of Oregon's basins and characterizes OWRD's understanding of basin water supply and demand, including the availability of surface and ground water to meet current and future in-stream and out-of-stream water needs. Requires OWRD to include a **vulnerability and resilience assessment** that evaluates anticipated changes in surface and ground water supply and demand as well as the vulnerability and resilience of water use sectors under various climate change and population growth predictions. Specifies the contents, procedural requirements, and purpose of the report and basin assessments. Requires OWRD to report specific initial results to a water related interim committee of the legislature by December 31, 2024 and produce the full state of water resources report and basin assessments by December 31, 2028. Requires the **Legislative Policy and Research Office (LPRO)** in consultation with the Oregon Water Resources Commission to submit a **report** to a water related interim committee on possible improvements to basin planning and basin program rules including needs and opportunities for increasing their flexibility and accountability, and how to support integrated, coordinated basin programs related to water resources management policy. Requires the report to include a thorough review of relevant statutes, rules, Oregon's past and current approaches to basin planning and water management, a comparative analysis of relevant approaches in other states, and policy and funding recommendations to modernize Oregon's approach to basin planning and management. Sunsets requirements associated with this report on January 2, 2029. Directs **OWRD** to develop and maintain a publicly available **water availability and allocation tool** showing estimated water supply, use and availability for appropriation. Specifies the tool's development requirements.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

BACKGROUND:

Surface waters in most of Oregon are fully appropriated by existing out-of-stream and instream uses under more than 90,000 established water rights. Groundwater resources are showing signs of overuse and are becoming unstable. In some locations in the state, groundwater aquifers are no longer capable of sustaining additional

This Summary has not been adopted or officially endorsed by action of the committee.

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development. In 2009, the legislature enacted House Bill 3369 directing the Oregon Water Resources Department (OWRD) in cooperation with the Departments of Environmental Quality and Fish and Wildlife, to develop a state integrated water resources strategy and to review and update the strategy every five years, providing policy and funding recommendations as appropriate. The first strategy was adopted by the WRC in August 2012 and the second – Oregon’s 2017 Integrated Water Resources Strategy – was adopted in December 2017.

House Bill 3368 would direct OWRD to produce a state of water resources report and basin assessments for all of Oregon’s water basins, the Legislative Policy and Research Office to report on water policy and management, and the Water Resources Commission to arrange for an independent audit on OWRD decision making in regard to water management. The measure would further direct OWRD to develop and maintain water allocation and accounting tools and to not approve the transfer of a water right if the change would contravene a requirement established under a basin program rule.