

**HB 3211 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Gomberg

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

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**Action Date:** 03/07/23

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 9-0-0-0

**Yeas:** 9 - Boice, Gamba, Hartman, Helm, Levy B, Marsh, McLain, Owens, Scharf

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact

**Prepared By:** Anna Glueder, LPRO Analyst

**Meeting Dates:** 2/21, 3/7

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**WHAT THE MEASURE DOES:**

Authorizes holder of water right certificate 21358, 48627 and 89100 to change the authorized point of diversion and place of use without losing priority of the right if the following conditions are met: the water right certificate authorizes the storage of water for municipal use; and the dam at the authorized point of diversion has been determined to be unsafe or potentially unsafe and to have a high hazard rating. Requires the holder of the water right certificate to comply with other applicable state and federal environmental laws when constructing the resulting new dam and reservoir. Specifies that requirements apply to applications filed after the effective date of the Act and before January 1, 2026. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Role and extent of federal funding associated with the replacement dam
- Necessity of legislative rather than administrative solution
- Immediacy of the issue due to federal funding timelines

**EFFECT OF AMENDMENT:**

Limits the applicability of the measure to the holders of water right certificates 21358, 48627, and 89100, which authorize the storage of water for municipal use. Removes the following requirements for a water right certificate holder to change the authorized point of diversion and place of use without losing priority of the right: in-stream water rights or additional points of diversion cannot be located between the original and proposed points of diversion, and the holder has received funding from the Oregon Water Resources Department Water Supply Fund for a replacement dam. Requires the holder of the water right certificate to comply with other applicable state and federal environmental laws when constructing the resulting new dam and reservoir.

**BACKGROUND:**

The use of water under a water right is restricted to the terms and conditions described in the water right certificate including the place of use, point of diversion, and type of use. In the context of this measure, the point of diversion refers to a dam location and the place of use is the footprint of the associated reservoir. It is unclear if current statute allows the replacement of a dam in a location that differs from its original point of diversion without violating the terms and conditions of the underlying water right.

Water right certificates 21358, 48627, and 89100 refer to water rights held by the City of Newport, Oregon, which authorize the storage of water for municipal use.

House Bill 3211 A would authorize the holder of specific water right certificates for municipal water storage to change the authorized point of diversion and place of use without losing priority of the right under certain conditions.