



# WaterWatch of Oregon

## Protecting Natural Flows In Oregon Rivers

### SB 42

### Testimony of WaterWatch of Oregon

by Kimberley Priestley

**Senate Committee on Rules**  
**February 14, 2023**

Founded in 1985, WaterWatch is a non-profit river conservation group dedicated to the protection and restoration of natural flows in Oregon's rivers. We work to ensure that enough water is protected in Oregon's rivers and aquifers to sustain fish, wildlife, recreation and other public uses of Oregon's waters. We also work for balanced water laws and policies. WaterWatch has members across Oregon who care deeply about our rivers, their inhabitants and the effects of water laws and policies on these resources.

#### **WaterWatch opposes SB 42**

What SB 42 does: SB 42 would insert requirements for agency consideration of economic impacts of rules through a variety of directives, including but not limited to requiring agencies to consider job loss and consumer cost impacts in setting rules, prohibiting agencies from making certain statements as to the economic effect of rules if fiscal impact statewide is over \$100,000, requiring third party analysis of fiscal impacts of rules if 10 people request it and requiring fiscal reports to the legislature related to rulemakings.

WaterWatch concerns SB 42: SB 42 seeks to elevate economic impacts of rules on private individuals and businesses over the public purpose of the rules that would serve the good of the state as a whole. We have a number of concerns with this including but not limited to:

- Section 1: (2)(b)(E). Current rules already require a statement of fiscal impact of rules on agencies, local governments and the public at large as to economic impacts of a proposed rule (both positive and negative). SB 42 would add to this a requirement that agencies consider resultant job loss and consumer cost impacts. This adds a level of direction not found in current rulemaking guidelines and appears to be attempting to elevate agency consideration of resultant job loss over protection of public resources, resultant job gains, and other public benefits.
- Section 1: (3)(e). SB 42 would provide an avenue to stall rule implementation by requiring third party analysis of the fiscal impact of a rule if requested by a mere 10 people. Those 10 people do not have to provide any reason for requesting third party analysis, nor do they have to provide proof of any harm. They can simply stall any rule from going forward by requesting a third party review for any reason, or no reason at all.
- Section 1: (3)(e). The third party analysis required in this section must be supported by substantial evidence. It is unclear why bill proponents are suggesting evidentiary standards in a fiscal impact assessment unless it is to provide a route to challenge rules unrelated to the substance of the rules.
- Section 2: This section would require agencies to report to the legislature as part of their budget presentations the fiscal impacts of any rules (including increase in fees, need for new state resources over \$100k, rededication of over .5 FTE and transfer of funds) which again appears to be elevating fiscal impacts and/or fiscal directives of rules over substantive directives of the rules meant to protect the broader public interest.

For the above and other reasons, WaterWatch urges opposition to SB 42.

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