



February 14, 2023

Senator Lieber, Chair
Senator Knopp, Vice Chair
Committee Members

SUBJECT: Testimony in Opposition of Senate Bill 38 – Placing a 60-Day Time Limit on DEQ, DLCDD, and ODOT Permit Issuance.

Chair Lieber, Vice Chair Knopp, and Committee Members:

The Oregon Association of Clean Water Agencies (ACWA), League of Oregon Cities (LOC), and the Special Districts Association of Oregon (SDAO) appreciate the opportunity to submit written testimony in opposition to Senate Bill 38.

Our member agencies operate wastewater, stormwater, and other facilities and programs that require permits from DEQ that would be impacted by Senate Bill 38. Like many other stakeholders, our organizations have been actively involved in DEQ's water quality programs for many years. We understand the frustrations and impacts that can occur when laws or rules change subsequent to submittal of applications that can impact the ultimate permit requirements. However, SB 38, which would limit to a maximum of 60 days the length of time that any new rules or regulations could be applied to a final permit, is not a reasoned approach to accelerating permit issuance or minimizing permit requirements, and it would have significant unintended negative consequences to the state permitting agencies and the permittees.

SB 38 would limit state agencies' ability to implement federally-mandated requirements, which would cause state agencies to run afoul of, and suffer consequences of failure to implement, their federally-delegated authorities. Some of the negative consequences could include loss of vital federal funding to state agency programs, federal intervention to reject and federalize the state's draft permits, and elimination of delegated authority to the state to implement federal regulatory permitting programs. Any of these consequences would have the effect of negating the perceived benefits of SB 38 to permit applicants, and they would result increased costs and loss of state control.

SB 38 would negatively impact permittees when rules or regulations adopted by the state outside the 60-window would benefit permittees in some way. For example, this situation would occur when state adoption of water quality management plans that provide added permit compliance options, such as pollutant minimization plans that can avert stringent (and sometimes unattainable) water quality limits and can provide the best environmental outcomes, would not be available to permit applicants. If those plans are not adopted by the state within the 60-day window, the permittees would be required to adhere to strict numeric limits in their new or renewed permits, which could result in tens of millions of dollars in added costs. Another example is the adoption of updated mapping of designated fish and aquatic species. In some cases, the state's mapping of the presence of fish species, which can result in more stringent water quality limits when certain life stages of native fish are present, may be updated based on scientific studies that show the fish are not present. Again, if the old rules are in effect outside the 60-permitting window, the permittee would unnecessarily be subject to more stringent water quality limits and would likely incur added treatment costs.



SB 38 is unworkable for the state agencies impacted, because most permits cannot be issued within the 60-day time period. Moreover, it would hinder the state agencies in carrying out their responsibilities on behalf of all Oregonians and for protection of public health and the environment. ACWA, LOC, and SDAO respectfully request that you reject SB38. Thank you for your consideration of our testimony.

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