

WATER LEAGUE

*The mission of Water League is to engage
the public in the stewardship of water.*

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March 20, 2023

To: House Committee On Agriculture, Land Use, Natural Resources, and Water
Representative Ken Helm, Chair
Representatives Annessa Hartman and Mark Owens Vice-Chairs

RE: Water League opposes HB 3368. As introduced, the bill appears to respond to the water crisis declared by the Oregon Secretary of State in an opportunistic way that protects and serves the largest water appropriators in Oregon at the expense of the greater public interest. We propose a different model to address Oregon's water crisis.

Chair Helm, Vice-Chairs Hartman and Owens, and Committee Members,

Water League opposes the currently fragmented structure of the existing related statutes to which HB 3100 and HB 3368 pertain. While our testimony is ostensibly about HB 3368, we believe there is no way to credibly address this bill separately from HB 3100 and the related statutes.

ORS 536.220 calls for a coordinated, integrated state water resources policy formulated to meet Oregon's in-stream and out-of-stream water and groundwater needs and the means for its enforcement to best protect and promote the public welfare generally. ORS 536.300 calls for a study of existing water resources, how to conserve and augment those water resources, and an assessment of the existing and contemplated needs and uses of water so that the commission can progressively formulate an integrated, coordinated program for the use and control of all the water resources of this state. These two statutes, at minimum, should be combined into one statutory concept, and the result should require a statewide land-use planning initiative by and between the Oregon Water Resources Department (OWRD) and the Department of Land Conservation and Development (DLCD) and with other state agency partners as needed. Also, HB 3100 and HB 3368 should be one bill that seeks to simplify rather than complicate the statutory mandates to assess and resolve water supply and demand.

The DLCD should coordinate more closely with the OWRD as part of its statewide land-use planning goals. *Water* is defined as *land*, and the water resources of the state should be coordinated at the state level, with each basin having its own water-based

comprehensive plan. These *Basin Comprehensive Plans* would benefit from the extensive body of work that has informed and created the state's existing Administrative Basin Programs. Naturally, the new Basin Comprehensive Plans would coordinate with city and county comprehensive plans and co-exist alongside them. The vehicle for this integration is the DLCD Statewide Agency Coordination Program (SAC). The state should create political subdivisions called *Basin Districts* to run the state's 18 Administrative Basins and manage the Basin Comprehensive Plans. To be clear, this proposal takes the sole responsibility of the Water Resources Commission (WRC) to run the existing and poorly functioning Basin Programs and puts the responsibility into the DLCD Statewide Land Use Planning Program in close coordination with the OWRD.

Integrating Basin Districts and their plans into the existing statewide planning process would require a continuous appropriation at a cost similar to the expense incurred funding Soil & Water Conservation Districts (SWCD). The potential benefits that statewide planning would have on the public welfare far exceed this modest appropriation. Additionally, each district could have up to seven elected officials, with the potential for *ex officio* positions filled by a county commissioner and one or more cities' councilors. This model would permit an emphasis on place-based planning by giving voice to local citizens regarding their water supplies and needs. This would all be set within the context of statewide planning goals.

Legislators can address the concerns raised in the Oregon Secretary of State's Advisory Report "State Leadership Must Take Action to Protect Water Security for All Oregonians" by using this DLCD statewide land use planning process model. Statewide Agency Coordination Programs can prevent the isolation of basins into silos and ensure a coordinated, statewide approach to uplifting the uniqueness of each basin.

Similar to most other department SACs, the OWRD SAC was last updated 30 years ago. Now is the time to revise these SACs to coordinate numerous state agencies to support the mandates in the Integrated Water Resources Strategy (ORS 536.220) and the State Water Resources Program (ORS 536.300) because water touches several state agencies' missions. The Oregon Health Authority (OHA) assists with drinking water quality; the Department of Environmental Quality (DEQ) assists with non-agricultural water quality; the Oregon Department of Agriculture (ODA) assists with agricultural water quality; the Oregon Department of Fish and Wildlife (ODFW) assists with stream water ecology; and the Oregon Department of Forestry (ODF) has a broad mandate to protect water supplies and their quality.

Therefore, Water League recommends using HB 3368 and HB 3100 to forge an entirely new approach to statewide water management that simultaneously protects the unique qualities of each basin while connecting them together under one set of goals. Giving representative authority over each basin to locally elected citizens who serve as board members over their basin districts for the express purpose to coordinate together at the state level is a future all Oregonians can get behind. In

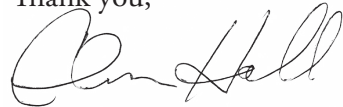
each basin, state funding can pay for a few professionally qualified staff members to work alongside their OWRD and DLCD peers to create their basin comprehensive plans, and these Basin District staff can maintain close working relationships and partnerships with their neighboring SWCDs and Watershed Councils. Funding for Basin Districts can follow the Oregon Watershed Enhancement Board (OWEB) system of allotments and grants to pay for operating and personnel expenses.

Shifting away from the above proposal, we now critique the existing bill, HB 3368 as it was introduced:

If there is to be a hold on processing new water right applications, then it should only come by and through the OWRD agency scientists and staff and the Water Resource Commissioner's rule-making. Regarding the over-appropriation crisis, and given the bracing concerns about the negative impacts of over-pumping water, we recommend designating new Critical Surface Water Areas to parallel the existing Critical Groundwater Area program. We also recommend codifying all the lesser surface and groundwater restriction designations to be more strategic and better defined.

If there was ever a chance to ascertain the legislative intent of a bill such as HB 3368, then [the unattributed statements](#) by legislators and those made in the press point to the issues of fragmentation, a lack of coordination, special interest lobbyists run amok, insufficient funding, and a lot of buck-passing and blaming. In the wake of the Oregon Secretary of State's Advisory Report on Oregon's water crisis, the initial draft of HB 3368 perpetuates the opportunistic stereotype of never letting a disaster go to waste. There must be a more measured and thoughtful posture. Revisions of HB 3368 should focus on the welfare of the general public and not appear to benefit and protect the largest water users, who by their ongoing water use, over-appropriate the water that belongs to the public and perpetuate the water crisis.

Thank you,



Christopher Hall
Executive Director

