

Submitter: Natalie Jennings

On Behalf
Of:

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

Measure: HB3368

Hello,

I am an Oregon Certified Water Rights Examiner and I help many small to medium sized communities around Oregon with their water rights concerns. I'm not representing any of them individually, but all of them collectively by providing this input. In general, I think it is important for the state to determine how much water is actually available and not over use it. For the most part, I am in favor of the ideas driving this bill. I am requesting two small changes that allows for emergency provisions, and adding a discussion on how much water is actually used vs. allocated.

The bill as it stands right now would allow no new water rights or water right transfers until the report is complete as late as 2028. Waiting 5 years for water is simply not an option for some communities and small farmers. I am working with one mid-sized community that is currently facing a water crisis in that their wells are fouling up and producing significantly less water every year. Without the ability to transfer their water right to a new well, they will very likely run out of drinking water for existing users. They are not alone in this or other water rights problems. We can't simply freeze water rights for the next 5 years. It will cause some major problems. At a minimum, communities should be able to transfer rights they already have and use, and in extreme emergency cases, a new water right might be needed in the next 5 years. Maybe it could be restricted to for human consumption or food producing agriculture only until the report is complete?

Much of the media reporting of this bill highlight how much water is over allocated in the State. I think it would also be important to include in the report how much water is actually used. Most water users are required to report their annual usage to OWRD. Just because communities are allocated a certain amount, doesn't mean it is constantly being used at that rate. Many communities use their full water right very infrequently to prove that it is being put to beneficial use. The current system of water rights we have encourages over use in order to maintain your water right, you must show that you need it all or you lose it. Even before this study was proposed, it is very difficult to get a new water right approved, so everyone is afraid of losing their existing rights and not being able to get new ones. This often results in systems having many more water rights allocated to them than they can even use, and definately more than they need because they are afraid they will never be able to get more. This doesn't save any for those who actually need them.

The problem is much worse for agricultural water rights holders. There is a use it or lose it policy on these types of rights that is more stringently enforced than those for community water systems. This system is not sustainable. In a world where we don't have enough water, people should be rewarded for saving water instead of using more to keep their share of the rights for future out of fear.

This report should compare actual water needs with actual water availability. That is a much more valuable metric than % allocation, but % allocation should be included for comparison. In the end, this report should be used to determine how we could improve the water rights system to allow everyone to use a reasonable amount of water, discourage water rights hoarding, and encourage conservation. I believe this can be done in the western basins of the state where water is plentiful, but misallocated. A new system could perhaps reevaluate everyone's needs every 10 years and redistribute water as needed. In the drier eastern basins, this will be more of a challenge because there likely isn't enough, so there is no fair way of distributing water in those areas, so seniority may still play a role. Moving forward each basin must balance the needs of all its users including fish with available water and distribute as needed & encouraging conservation.