

WATER LEAGUE

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

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To: Senate Committee On Natural Resources
Senator Golden, Chair
Senator Girod, Vice-Chair

RE: Water League opposes HB 3187-A.

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Chair Golden, Vice-Chair Girod, and Committee Members,

Water League opposes HB 3187-A because the bill confers a special-interest authority to irrigation, drainage, and water improvement and control districts (districts) by allowing their employees to report on and map the beneficial use of water rights leading to potential conflicts of interest. To pull this off, the proponents want the state to reduce the standards to become a CWRE; as such, the bill runs afoul of the spirit of the statutes throughout ORS 672. At this time of increasing water scarcity, the state should strengthen those statutes, not weaken them. HB 3187-A is not in the general public interest because the bill does not adequately safeguard the beneficial use of water. The bill will lead to a further decline in the state's ability to hold water in the public trust.

It is a fallacy that passing the CWRE exam necessarily ensures that the test-taker who works for a district is competent to work as a CWRE because they would lack the four years of academic engineering education conferred by university degrees, the lawfully-required licensing standards, and the four years experience being a professional engineer or registered geologist or land surveyor. These standards require a high level of intricate knowledge that cannot be acquired by working for one of the districts for seven years. To suggest otherwise evinces a lack of understanding of the profession: engineering knowledge and experience must be earned; it cannot be assumed.

HB 3187-A (3)(d)(C) states that: "*An individual may apply for certification under ORS 537.798 if the individual meets the criteria established by rule by the commission and is a District employee who has seven or more years of relevant technical experience conducting similar work.*" There is no way to reasonably ascertain whether any such employee possesses the comparable professional qualifications of a licensed engineer, a registered geologist, or a land surveyor. Nor is it clear what "*similar work*" is and how that can be

credibly documented over seven years, some of which may not even be consecutive.

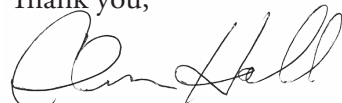
Oregon implemented the CWRE statutes and rules in 1987: ORS 537.797--537.799 and OAR Chapter 690 Division 14. Because the state did not expand the Oregon Water Resources Department (OWRD) staff to process the backlog of transfer applications and claims of beneficial use for the preparation of water right certificates, the state engaged the private sector for professional assistance. Privatizing OWRD's work carries two risks: 1) a professional competency risk which the state mitigates by requiring a high level of scientific knowledge, mathematics, physics, fluid mechanics, hydrology, geoscience, mapping, surveying, licensing, and registration, and 2) a risk that the CWREs could be influenced by the private interests who pay them fees for their services. Ensuring the third-party status of CWREs helps mitigate the second risk. HB 3187-A unnecessarily increases the risks associated with privatizing public sector work, worsening the already insufficient job the state does holding water in trust for the public.

HB 3187-A proponents from a few districts claim to have too many water right transfers to manage and complete. But that can only occur if unauthorized water uses are widespread within those districts. The solution is not to weaken CWRE standards across the state but for third-party, disinterested CWREs to audit and address the quasi-legal water rights to rehabilitate them. HB 3187-A proponents say there are not enough CWREs on the market to fix their nonconforming water rights. This claim says more about the failure of the districts to beneficially use the public's water than it does about how the free market allocates engineering professionals.

These few districts have had more than 30 years since the state arranged for private sector CWRE services to budget and plan for ongoing maintenance of their water rights. Water right transfers usually result from years of decay in the beneficence of the water use established by water right certificates. Rarely are water right transfers immediate, unforeseen emergencies. To address the proponents' claims that they cannot find CWREs for hire, they can solve the problem by paying competitive wages. But the reason is not financial; it's special-interest driven. We do not believe the state of Oregon should reduce the qualifications for the CWRE profession to accommodate irrigation, drainage, and water improvement and control districts that wish to skirt the free-market forces and benefit by controlling the work CWREs do for them.

Water League incorporates our testimony to the House Committee on Agriculture, Land Use, Natural Resources, and Water on [February 11](#) and [February 16](#), 2023, by reference.

Thank you,



Christopher Hall
Executive Director



Gordon Lyford, CWRE #342
Board Member