

HB 3544 -2 STAFF MEASURE SUMMARY

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

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Meeting Dates: 3/12

WHAT THE MEASURE DOES:

The measure directs the Oregon Water Resources Department to study rules related to water and submit a report to a natural resources related interim committee of the Legislature by September 12, 2026. Sunsets the reporting requirement on January 2, 2027.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-2 The amendment replaces the measure and establishes a standardized procedure for handling all contested case processes related to new water right applications and water right transfer applications.

Detailed Summary

Repeals current statutes on contested case procedures related to new water right applications and water right transfer applications (contested cases) and replaces them as follows:

- Directs the Oregon Water Resources Commission (Commission) to adopt **rules establishing a uniform process for contested case hearings**. Specifies that the rules must:
 - Establish, subject to certain exceptions, a default hearing schedule.
 - Provide that the hearing timeline from referral to closing arguments must not exceed 180 days.
 - Require, where practicable, in-person testimony in lieu of written testimony and establish hearings to be held remotely by default.
 - Require the Oregon Water Resources Department (OWRD) to publish a schedule of upcoming hearings and their rationale for hearing prioritization.
 - Require OWRD to, prior to referring a case for a contested case hearing, notify involved parties of certain procedural protocols and guidelines, offer to engage in settlement discussion, and describe the issues to be heard.
 - Authorize OWRD to determine whether motions for summary determination will be allowed for a particular contested case.
 - Authorize the assignment of a settlement judge to settlement cases.
 - Provide that requests for documents by OWRD as part of a contested case constitute public record requests and limit the number of interrogatories and requests for admissions a party can make.
 - Establish page limits for exceptions and provide that exceptions filed to a final order must be limited to addressing the interpretation of a statute or rule.
- Specifies that, unless a protestant can demonstrate prejudice to substantial rights, failure of OWRD to comply with established posting requirements does not constitute a procedural error subject to judicial review.
- Authorizes any person to submit a protest against a proposed final order on an application and **requires the protest to be filed in the following manner**:
 - Within 45 days, or as specified by the Commission, after the notice of the proposed final order has been published by OWRD.

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- In writing, containing specified information including (1) personal information of the protester; (2) a detailed description of a specific issue proposed in the final order that would impair or be detrimental to the protestant's interest; and (3) identification of any legal citation supporting the protest if known.
- Raise an issue with sufficient specificity to allow a response.
- Include \$950 protest fee if filed by a nonapplicant, or \$450 protest fee if filed by an applicant.
- Authorizes any person who supports the proposed final order to **file a request of party status** in any contested case proceeding or for resulting judicial review **in the following manner**:
 - Within 30 days after the deadline for protest filing.
 - In writing, containing specified information.
 - Include \$950 protest fee if filed by a nonapplicant, or \$450 protest fee if filed by an applicant.
- Specifies under which instances a contested case hearing does not need to occur.
- Precludes issues not raised before a protest deadline from being considered at a contested case hearing or from judicial review and limits the scope of hearings to properly raised issues.
- Specifies that an order on a motion to compel discovery is not subject to appeal.
- Specifies under which conditions a ruling in a previous final order must be treated as controlling precedent by an administrative law judge.
- Establishes that a proposed final order becomes law 30 days after the protest submission period ends, provided no protest has been received within the designated timeframe unless OWRD withdrew the proposed final order for reconsideration and issuance of a superseding proposed final order.
- Clarifies how adopted rules regarding contested case proceedings specifically apply to already completed applications.

BACKGROUND:

The Oregon Water Resources Department is a state agency whose mission is to directly address Oregon's water supply needs and to restore and protect stream flows and watersheds in order to ensure the long-term sustainability of Oregon's ecosystems, economy, and quality of life.