

HB 3342 A STAFF MEASURE SUMMARY

Carrier: Rep. Helm, Rep. Owens

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

Action Date: 04/09/25

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 6-3-0-0

Yeas: 6 - Hartman, Helm, Marsh, McDonald, McLain, Owens

Nays: 3 - Boice, Levy B, Scharf

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Anna Glueder, LPRO Analyst

Meeting Dates: 3/12, 4/9

WHAT THE MEASURE DOES:

The measure makes changes to documentation formats used and payment options accepted by the Oregon Water Resources Department (OWRD), OWRD's public notice requirements, the water right transfer application process, the process for withdrawing waters from appropriation, and the water right permit application process.

Detailed Summary

Sections 1-3: Changes to Documentation Formats Used by the Oregon Water Resources Department

Authorizes the Oregon Water Resources Commission (Commission) to adopt rules requiring the Oregon Water Resources Department (OWRD) to send documentation in electronic form unless requested otherwise by the recipient. Removes prohibition on OWRD requiring document submission or receipt in electronic form or while maintaining that OWRD may not use electronic means for summons under Oregon Rules of Civil Procedures, or to provide notice to parties before a contested case hearing.

Sections 3-7: Changes to OWRD's Public Notice Requirements

Changes OWRD's requirement to post notice of water right permit and certificate applications from publishing the notice in a newspaper to publishing it in OWRD's weekly public notice. Directs OWRD to publish notice of certain applications in a newspaper of general circulation and specifies publication costs to be paid in advance by the applicant.

Section 5: Initial Review of Water Right Transfer Applications

Requires OWRD to conduct an initial review of water right transfer applications, notify the applicant of the preliminary determination and outstanding information necessary to continue processing the application, and allow 30 days for the applicant to decide whether to proceed. Directs OWRD to halt processing the application if no decision is made by the applicant within that time or if outstanding information is not supplied. Authorizes OWRD to grant extension if requested. Directs OWRD to proceed with the application if notified to do so by the applicant, publish notice of the initial review in the department's weekly public notice, and accept public comments for 30 days. Directs OWRD to publish notice of a proposed final order (PFO) in the department's weekly public notice. Requires OWRD to publish notice of the PFO in a local newspaper for two consecutive weeks, paid for by the applicant, if it would result in injury of more than five water rights. Specifies under what conditions a contested case hearing is not required.

Section 8-9: Passing on Credit Card Fees

HB 3342 A STAFF MEASURE SUMMARY

Authorizes OWRD to accept debit or credit card payments and charge a nonrefundable fee reasonably calculated to offset financial institution fees for such transactions.

Sections 10-11: Withdrawal of Waters from Appropriation via Rule

Changes the Commission's authority to withdraw waters from appropriation by issuing an order to an authorization for withdrawing water from appropriation through rulemaking. Specifies that withdrawals of water that are already in effect remain in effect unless modified or revoked by the Commission. Conforms language with form and style requirements.

Sections 12-24: Application Rejections

Requires OWRD to publish and regularly update a list of restrictions where the source water is

- designated as a critical groundwater area
- classified as subject to restrictions on groundwater use
- withdrawn from appropriation

Removes the requirement that OWRD refund application fees if the applicant notifies the department to stop processing an application based on the results of its initial review. Authorizes OWRD to reject water right permit applications that request water use to occur in a critical groundwater area. Sunsets this authorization on January 2, 2030.

Requires OWRD to return any pending water right applications for stored water and ground water if

- applications were received prior to the Act's operative date and (1) are pending on the Act's operative date, (2) a proposed final order has not been issued by the Act's operative date, and (3) the proposed point of groundwater appropriation is in an area that is withdrawn from appropriation.

Sunsets the requirement to reject such applications on January 2, 2050.

Authorizes OWRD to deny a transfer of the point of appropriation for a water right transfer or a certificate of registration, if the proposed point of appropriation for a groundwater source is

- in a critical ground water area
- In an area classified as subject to groundwater restrictions
- In an area withdrawn from appropriation

Excludes areas withdrawn from appropriation from eligibility for the issuance of a reservoir permit.

Exempts applications related to the recovery of groundwater under an artificial recharge or aquifer storage project from proposed restrictions.

Establishes after OWRD notifies applicant of its preliminary determination after initial review of groundwater application, applicant has 90 days to notify OWRD to stop processing the application. Directs OWRD to close application file if applicant does not respond. Directs OWRD to proceed with the application if notified to do so by the applicant, publish notice of the initial review in the department's weekly public notice, and accept public comments for 30 days.

Sections 25-27: Limits on Extensions

Extends the maximum time period for water permit holders—excluding those for municipal, quasi-municipal, group domestic, or group domestic expanded uses—to complete construction work for proposed irrigation, well construction, or other means of developing a water right after approval, from five years to seven years. Requires holders of rights for municipal, quasi-municipal, group domestic, or group domestic expanded uses to complete proposed construction and apply water beneficially within seven years of permit issuance and authorizes OWRD to, for good cause shown, allow one extension depending on use type. Specifies how new timelines apply to projects already permitted or under development.

Section 28- 31: Phased Fee Payment

Authorizes OWRD to collect a portion of the water right application fee upon submission, with the remainder due within 30 days following the initial review. Requires OWRD to close the application file and take no further action if payment is not received within the specified timeframe.

Section 30: Applicability to Pending Applications

Clarifies how proposed statute changes and adopted rules specifically apply to applications and petitions that have been submitted prior to the measure's effective date.

Section 31: Automatic Final Orders

Establishes under which conditions a PFO becomes a final order without further action by OWRD 33 days after the period to submit a protest closes.

Section 32: Request for Standing Statement

Establishes that, on proposed final orders issued on or after the Act's operative date, any person can submit a request for standing in a contested case within 30 days after the deadline for filing a protest.

Section 34-47: Conforming Amendments

Makes conforming changes to existing laws to ensure consistency with the proposed provisions.

Section 48-50: Operative Date, Early Agency Action, and Effective Date

- Becomes operative on April 1, 2026
- Authorizes OWRD to take any action necessary for implementation prior to the operative date
- Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Impacts on rural communities
- Proposed permissive authorities for the Oregon Water Resources Department (OWRD)
- OWRD's budget

EFFECT OF AMENDMENT:

The amendment replaces the measure.

BACKGROUND:

In Oregon, all water belongs to the public and may be appropriated for beneficial use under a permit issued by the Oregon Water Resources Department. Water rights have been issued since 1909 under Oregon's water code, permits for groundwater use were first required in 1927 for eastern Oregon and in 1955 for western Oregon. Obtaining water rights typically involves a three-step process. First, the applicant must submit a request to OWRD for a water use permit. Water rights are not automatically granted, and in some areas of the state, surface or groundwater is no longer available for the issuance of new water rights. Once a permit is approved, the applicant must build the necessary water system and begin using the water. After usage begins, the permit holder must hire a certified water right examiner to conduct a survey of the water use. If the water usage complies with the terms of the permit, OWRD will issue a water right certificate. The use of water under a water right is restricted to the terms and conditions described in the water right certificate: place of use, point of diversion or appropriation, and type of use. In order to change any of these parameters, a water user must file a transfer application with OWRD.