

HB 3342 B STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Natural Resources and Wildfire

Action Date: 05/08/25

Action: Do pass with amendments to the A-Eng bill. (Printed B-Eng.)

Vote: 4-1-0-0

Yeas: 4 - Girod, Golden, Prozanski, Taylor

Nays: 1 - Nash

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 4/29, 5/8

WHAT THE MEASURE DOES:

The measure modifies the Water Resources Department's (OWRD) management of Oregon's water rights system by updating application processes, allowing electronic communication and payments, and revising deadlines. It updates public notice and comment rules and requires OWRD to maintain a list of restricted water sources. It also authorizes the Water Resources Commission (WRC) to withdraw water from appropriation by rule instead of order and changes timelines for protests and final orders. The measure takes effect on the 91st day following adjournment sine die.

Detailed Summary:

Modifications to the Water Resources Department (OWRD) Authority:

Electronic Documents, Communication and Payments:

- Transfers rulemaking authority on use of electronic communication from OWRD to WRC.
- Allows WRC and OWRD to send and receive documents electronically unless paper copies are requested.
- Removes provision preventing OWRD from requiring electronic submissions; maintains that OWRD cannot use electronic means for summons, or to provide notice for a contested case hearing.
- Authorizes OWRD to publish public notices in newspapers if applicant pays publication costs in advance.
- Authorizes OWRD to accept debit and credit card payments for department services or fees. Permits OWRD to add nonrefundable transaction processing fees.

Examination Fees:

- Allows OWRD to collect examination fees for water right applications at application submission and the remaining portion of applicable fee after initial review.
- Requires applicants to pay remaining balance within 90 days of the review notice to continue processing. Failure to pay results in the application file being closed.

Restricted Water Source Listing:

- Requires OWRD to publish, regularly update, and make publicly available a list of water sources with usage restrictions, including:
 - Critical ground water areas
 - Areas classified as subject to ground water restrictions
 - Areas withdrawn from appropriation

Ground Water and Use Restrictions:

- Authorizes OWRD to deny a transfer to the point of appropriation for a water right if the proposed new point is in a:
 - Critical groundwater area

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- Area classified as subject to ground water restrictions
- Area withdrawn from appropriation

Final Order Procedures:

Establishes that a proposed final order issued by OWRD becomes a final order by law 33 days after the time to submit a protest ends, provided that the order includes a statement explaining the outcome, or no protest is received. Authorizes OWRD to withdraw and issue a revised order within the 33-day period if needed.

Modifications to the Water Resources Commission (WRC) Authority:

Authorizes WRC to withdraw water from appropriation via rule instead of an order and allows WRC to amend or repeal the rule to change or end the withdrawal. States that while the withdrawal rule is in effect, no one can apply for, and OWRD cannot process, any permits or licenses to use the withdrawn water for the specified purposes.

Application Deadlines:

- Requires applicants to respond within 90 days of OWRD's notice of preliminary determination. Failure to do so results in the application file being closed with no further action taken.
- Provides applicants an option to notify the department to proceed with an application and pay remaining fees. Directs OWRD to publish a notice and open a 30-day public comment period.
- Requires OWRD to return and refund applications received before April 1, 2026, if:
 - No proposed final order has been issued.
 - The proposed water use was prohibited at the time the application was received.
 - The use does not involve groundwater recovery through artificial recharge or aquifer storage.
- Sunsets direction to OWRD to return pending applications January 2, 2050.
- On transfer applications, requires applicants to respond within 30 days of WRD's preliminary notice, grant a 60-day extension if reasonable efforts are made and close an application if no response is received.

Public Notice and Comment Period:

- Removes requirements to publish public notices of specific water applications in a newspaper of general circulation, but requires OWRD and WRC to publish notice of all applications in weekly bulletin and allow a 30-day public comment period.
- Retains two-week newspaper publication for transfer applications that may affect more than five existing water rights, with costs paid by the applicant.

Review of Application and Prohibited Uses:

- Authorizes OWRD to deny a request to change the point of ground water appropriation if the new location falls under restricted use rules, unless one of the following applies:
 - New point is within a designated critical ground water area, in the same aquifer, and in the same portion of that area as the original point;
 - Area is covered by a legally established ground water bank that mitigates ground water use impacts; or
 - Change relates to recovering stored ground water from an artificial recharge or aquifer storage project.
- Upon completeness, OWRD must assess whether the proposed use is prohibited due to it being in:
 - Critical groundwater area
 - Area classified as subject to ground water restrictions
 - Area withdrawn from appropriation.
- Specifies that OWRD will not consider basin program classifications when determining if a proposed water use is prohibited.

Protest and Standing Provisions:

Specifies that if a protest is filed against a proposed final order, any person may submit a request for standing within 30 days after the protest deadline. Finds that if all contested case issues are resolved by settlement, or

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protests are withdrawn or defaulted, no hearing is required.

Modifications for Permit Holders:

- Authorizes individuals to apply for a reservoir permit if the reservoir is not prohibited by being in an area withdrawn from appropriation.
- Extends the construction timeline for most water permit holders from 5 to 7 years. Sets a 7-year deadline for municipal, quasi-municipal, group domestic, or group domestic expanded users to complete construction and begin using water; allows one extension under certain conditions and clarifies how these changes apply to existing projects.
- Specifies development requirements apply to applications for which a proposed final order is issued on or after April 1, 2026.
- Specifies criteria for extension applications submitted on or after April 1, 2026.

Conforming amendments:

Makes conforming changes to existing laws.

Operative Date, Early Agency Action, and Effective Date:

Becomes operative on April 1, 2026, and 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:

- Proposed authorities for the Water Resources Department (OWRD)
- Proposed OWRD administrative and technical changes' effect on water right application timelines

EFFECT OF AMENDMENT:

The amendment updates sections 17, 19, and 24 by modifying when the Water Resources Department (OWRD) can deny changes to a point of appropriation. It removes the requirement for some water to be developed to obtain a 2-year water right extension for pending permits and extension applications and adds that ORWD is authorized to approve water right permits and extension applications if good cause is shown. Specifies that OWRD will not consider basin program classifications when determining if a proposed water use is prohibited. Additionally, it makes stylistic and technical edits.

Detailed Summary:

Modifies OWRD's authority to deny a request to change the point of ground water appropriation if the new location falls under restricted use rules, unless one of the following applies:

- The new point is within a designated critical ground water area, in the same aquifer, and in the same portion of that area as the original point;
- The area is covered by a legally established ground water bank that mitigates ground water use impacts; or
- The change relates to recovering stored ground water from an artificial recharge or aquifer storage project.

Removes requirement to develop some water in order to qualify for a two-year extension on pending water right permits and extension applications and adds that ORWD is authorized to approve water right permits and extension applications if good cause is shown. Specifies that OWRD will not consider basin program classifications when determining if a proposed water use is prohibited. Makes stylistic and technical edits.

BACKGROUND:

All water in Oregon is publicly owned and may be used only with a permit for beneficial use, issued by OWRD. Surface water rights have been regulated since 1909, and ground water permits were required starting in 1927.

The water right process involves:

- Applying for a permit.
- Constructing the water system and beginning use.

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- Hiring a certified examiner to verify use matches the permit.

If all conditions are met, OWRD issues a water right certificate, which defines the allowed place, use, and source. Any change to these terms requires a formal transfer application.