



March 12, 2025:

Co-Chairs Helm and Owens and Members
House Agriculture, Land Use and Water Committee
Oregon State Capitol
900 Court St. NE
Salem, OR. 97301

Co-Chairs Helm and Owens and Members of the Committee:

The Special Districts Association of Oregon represent approximately 960 single service districts across Oregon, with about 30 different types of districts including about 100 water supply districts providing drinking water to Oregonians. The Oregon Association of Water Utilities was formed in 1977 to represent water utilities' interests in the state legislature and provide onsite technical assistance to water and wastewater providers. We would like to **express our opposition to certain provisions contained in the dash one amendment to HB 3342.**

Several of the changes proposed in the dash one amendment we can support. For example, the amendment would make the agency's application processes simpler, easier, clearer or more efficient, place deadlines on the department and applicants (although a strict 30 day response time may be too short for an applicant to respond), and would allow the commission to withdraw waters from further appropriation via rule, rather than order, which we believe is the more appropriate procedure for such withdrawal we do have substantial concerns regarding the language related to extensions of time.

Sections 25 through 27 of dash one amendment to HB 3342 would have far-reaching implications for holders of water use permits. The bill would change the development period for new permits for uses other than municipal use from five to seven years and eliminate the opportunity to obtain an extension of time to complete development of a permit for most permits. The only exceptions to this prohibition for non-municipal water rights would be two-year extensions for permits with extension applications pending on the effective date of the act under certain circumstances:

- Fish-related conditions had been satisfied
- A portion of the water quantity had been developed, and
- The use was not prohibited on the basis that the use would occur within an area either designated critical groundwater, with classified restrictions on groundwater, or withdrawn from appropriation.

This bill would have significant impacts across the spectrum of drinking water permit holders.

The bill's prohibition on permit extension would apply to quasi-municipal and group domestic water rights that are held by domestic water supply districts and other types of water utilities. These entities provide drinking water for people in many settings, from unincorporated communities and Oregon's fastest-growing cities.

Impacts on Special Districts and cities:

Special districts and cities could be impacted for multiple reasons. There are several districts, for example, that have quasi-municipal permits that have not been converted to municipal permits. Furthermore, drinking water providers hold water rights that authorize uses other than municipal use. For example, it is not uncommon for municipal water providers to hold water rights that authorize the use of water for irrigation or industrial uses. The districts or cities may have invested public funds to acquire these rights and have planned for future development of these rights to meet the needs of their customers with the expectation that they could rely on the existing statutes to obtain an extension of time to complete development if they pursued diligent development of the permit.

Municipal water providers also hold permits that authorize the storage of water. Since storage permits authorize the storage of water for identified purposes, it appears that storage permits would be subject to the bill's prohibition on extensions of time. (Storage permits authorize only the storage of water and not the subsequent use of water for purposes such as municipal use. A second water right is required to authorize the use of the stored water for municipal purposes.) The development of a storage project is expensive and time consuming and entails extensive planning. Municipal water providers sometimes develop these projects in stages. Accordingly, these water providers will require extensions of time for their storage permits and could lose some of their investments of public funds in these projects because of the dash one amendment to HB 3342.

Impacts on Other Types of Drinking Water Providers:

Some water providers are private entities that operate under the supervision of the public utilities commission. Since these entities are not municipal corporations, they are unable to hold water rights for municipal use, instead holding rights that authorize appropriation of water for "quasi-municipal" or "group domestic" use. Their water systems are, however, indistinguishable from municipal water systems, and their customers are equally reliant on their water supply.

Avion Water company is an example of a private water utility that supplies water under quasi-municipal water rights. Avion provides water within the Bend city limits under a franchise agreement with the city and is slated to provide water to areas of anticipated growth within the UGB. Although Avion intends to fully develop its permits, and the customers within its service area will need to rely on the additional water supply, it is currently unable to complete development of its permit. Some of Avion's permits require mitigation under the Deschutes Basin Groundwater Mitigation Program. Due in part to the lack of mitigation credits currently available for purchase, Avion is unable to currently complete development of its permit. Avion's

inability to complete development of its permits is not due to failure in diligent development or lack of demand, but circumstances beyond its control.

There are also domestic water supply districts—public corporations eligible to hold **municipal** water rights—who obtained **quasi-municipal** water rights because there wasn't a functional distinction between these uses at the time. It's worth noting that these water providers may hold both municipal water rights and quasi-municipal water rights, but their ability to obtain an extension would be precluded only for those with a "quasi-municipal" label, even though they are not functionally different in the authorizations they provide.

Many quasi-municipal water providers hold permits that have not yet been certificated. Despite the investments they have made based on reasonable reliance on the fair administration of the water code, these water providers could lose the ability to complete development of their permits, and their customers are at risk of having an insufficient or unreliable water supply.

Information from the Oregon Water Resources Department shows that there are **102** permits for quasi-municipal use that have not yet been certificated. These permits authorize the use of water for public supply for **72 different water providers**, of which at least **13** are water supply or improvement districts, eligible to hold municipal water rights. Among the remainder are community water associations, school districts, recognized tribes and small water utilities. **57** of these permits have a completion date no later than five years from now. In addition to the 102 permits not certificated, **another 30** have a pending claim of beneficial use—the last step to obtaining a water right certificate. Several of those claims of beneficial use have been under review for over a decade. If rejected, under the proposed legislation, these entities would not be able to secure a water right extension, and with it, the water supply they've already been relying upon for years.

For these reasons we ask that Sections 25 through 27 be removed from the bill or permit an extension of time for quasi-municipal and group domestic water rights.

Thank you for your consideration of these comments and we are happy to discuss further.

Mark Landauer – Special Districts Association of Oregon
Jason Green – Oregon Association of Water Utilities