

# WATER LEAGUE

*Water League engages the public  
in water stewardship.*

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March 24, 2025

To: Senate Committee On Natural Resources

Senator Jeff Golden, Chair

Senator Todd Nash, Vice-Chair

Senators Fred Girod, Floyd Prozanski, and Kathleen Taylor

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Christopher Hall

RE: Water League is neutral on SB 1153, which 1) establishes the protection “of in-stream habitat for sensitive, threatened or endangered aquatic species” and the prevention of “water quality impairment in water quality limited streams” as if they were factors of the public interest, 2) ensconces in law options for Tribal reviews and protests of water right transfers, and 3) enables the conditioning of water right transfers on the installation and use of water measuring reporting and fish screens.

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

Our testimony herein has three sections:

1) We note that Section 12 of HB 1153 states boilerplate language that [**emphasis added**]:

The unit captions used in this 2025 Act are provided only for the convenience of the reader and **do not become part of the statutory law of this state or express any legislative intent** in the enactment of this 2025 Act.

## **In Memoriam**

John L. Gardiner

We also note at the top of the bill, stated in the digest with a Flesch Readability Score of 60.6, that:

The Act tells an agency to consider if changes to water rights will affect the public interest.

The first unit caption title is “CONSIDERING THE EFFECTS OF TRANSFERS ON THE PUBLIC INTEREST,” and encompasses Sections 1 through 7 of SB 1153. However, not once is the term *the public interest* included in those sections. Actions speak louder than words. The deliberate omission of the public interest language in the text of SB 1153 is a quintessential example of saying one thing and doing another. Why refer to the public interest in the unit caption if the term of art, *the public interest*, is not lawfully actionable?

ORS 171.134 *Readability test for legislative digests and summaries* requires that:

Any measure digest or measure summary prepared by the Legislative Assembly shall be written in a manner that results in a score of at least 60 on the Flesch readability test or meets an equivalent standard of a comparable test.

Why would the state legally require a Flesch Readability score related to a key topic in the digest of SB 1153 (e.g., the public interest) when that topic has no bearing on the actual law as written in the text of the bill? The irony of applying a legally required readability metric to the central topic of SB 1153 that shall “not become part of the statutory law of this state or express any legislative intent” is extraordinary for how misleading it is. While we acknowledge that our question is a rhetorical statement, we respectfully request a clear answer to what is the legislative intent that does not exacerbate the irony.

Water League requests an amendment to SB 1153 that adds a new Section 1 that states:

The protection of in-stream habitat for sensitive, threatened or endangered aquatic species and the prevention of water quality impairment in water quality limited streams is in the public interest.

2) SB 1153 necessarily places partial managerial responsibility for the implementation of water right transfers onto the Oregon Department of Fish & Wildlife (ODFW) and the Department of Environmental Quality (DEQ) by requiring that a proposed water right transfer will not “result in a loss of in-stream habitat for sensitive, threatened or endangered aquatic species in stream reaches not protected by an existing water right or contribute to water quality impairment in water quality limited streams,” respectively. Sections 1 through 7 variously state that OWRD will make the above determinations; however, OWRD cannot make such determinations alone. ODFW and DEQ must assist. We suggest an amendment to SB 1153 that explicitly states OWRD will condition its determinations of “a loss of in-stream habitat for sensitive, threatened or endangered aquatic species” on the opinion of the ODFW Director and that OWRD will condition its determinations of whether a proposed

water right transfer will “contribute to water quality impairment in water quality limited streams” on the opinion of the DEQ Director. We support such inter-agency cooperation.

SB 1153 is silent on requiring ODFW to write, revise, or link to existing administrative rules that clearly explain how the agency would protect in-stream habitat for sensitive, threatened or endangered aquatic species as the practice relates to restricting water right transfers. We request amendment language to this effect. We also request SB 1153 require DEQ to write, revise, or link to existing administrative rules that clearly explain how the agency would prevent water quality impairment in water quality limited streams as the practice relates to restricting water right transfers. SB 1153 might not be implementable or enforceable if the bill does not explicitly call for elaborating on the well-intentioned but vague language added to Sections 1 through 7.

3) We support Sections 8 and 9 under the unit caption heading: “TRIBAL REVIEW OF TRANSFER APPLICATIONS,” and note that Section 9 of SB 1153 explicitly uses this caption heading language in its subsections and elaborates on the nature of the tribal reviews in its paragraphs. We also support Sections 10 and 11 under the unit caption heading: “DEPARTMENT AUTHORITY TO CONDITION TRANSFERS,” and note that Section 11 of SB 1153 explicitly uses this caption heading language in Subsection 1.

The explicit alignment of the actionable language in Sections 9 and 11 with their respective caption headings stands in direct contrast to how Sections 1 through 7 are explicitly silent on the public interest despite the ostentatious display of the unit caption title heralding otherwise.

Thank you,

A handwritten signature in black ink, appearing to read "Chris Hall", written in a cursive style.

Christopher Hall  
Executive Director