



March 25, 2025

Senator Jeff Golden, Chair
Senate Committee on Natural Resources and Wildlife
900 Court St. NE
Salem, OR. 97301

RE: Oppose SB 1153 Unless Amended

Chair Golden, Vice-Chair Nash and Members of the Senate Committee on Natural Resources and Wildlife:

I write on behalf of the Joint Water Commission (JWC) and the City of Hillsboro to express our opposition to SB 1153. As currently written, SB 1153 would add vague and duplicative new requirements for municipal water right transfers with the potential to have dramatic and negative impacts on drinking water capacity and availability for housing development and firefighting.

The Joint Water Commission is a partnership between the cities of Hillsboro, Forest Grove, and Beaverton and the Tualatin Valley Water District and provides the primary drinking water source for Washington County, serving over 500,000 residents.

The State of Oregon has taken recent actions to significantly limit access to new water rights for municipalities. After OWRD approved new groundwater rules limiting access to groundwater on the east side of the state and ODFW applied for 290 instream water right applications limiting access to new water rights on the west side of the state, water right transfers or water permit amendments remain the only water management tool available to manage existing water rights.

SB 1153 would add two new review criteria to the current review process for permit amendment applications and other processes allowing changes to existing water rights at the Oregon Water Resources Department (OWRD). The bill would allow OWRD to approve a permit amendment only after determining that the change would 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. These new criteria are vague and create significant uncertainty for existing municipal water rights.

SB 1153 fails to recognize that municipal water providers are already subject to extensive water permitting and environmental reviews, unlike other water users. For any municipal water right amendments or transfers, municipal providers must complete the following:

- A Land Use Information Form from the local government planning official in the jurisdiction (city or county) where the water will be used to confirm the proposed change is consistent with local land use regulations.
- Review by ODFW and the local Watermaster to confirm the change will not injure an instream water right. Fish screen and sweeping velocity requirements may also be added as part of this review.

Municipal water providers are also subject to the following infrastructure permitting when relocating a municipal water right:

- Clean Water Act 404(b)(1) – The US Army Corps of Engineers can only permit the Least Environmentally Damaging Practicable Alternative.
 - An applicant must identify the alternative project option that would cause the least harm to the aquatic ecosystem while still being feasible to implement, meaning it must be practical and achievable, and cost is not considered as a factor if the option is implementable.
 - This permit triggers Endangered Species Act review by NMFS and USFW, threatened and endangered species review by ODFW, and requires a Water Quality Certification from ODEQ.
 - This permit also triggers consultation with the tribes under Section 106 of the Historic Preservation Act, so the tribes have an opportunity for review in that process.
- 401 Water Quality Certification – Oregon DEQ, certifies that a project does not degrade water quality.
- Removal/fill permits are required and obtained by Oregon Department of State Lands.
- Migratory Bird Act Treaty clearance by USDA.

Finally, municipal water providers are also required to regularly maintain their water rights by submitting a Water Management and Conservation Plan (WMCP) every 10 years and a benchmark status report every 5 years, which include:

- Description of the water use measurement and reporting program
- Water conservation benchmarks and curtailment plans
- Annual water loss audits

These plans must be approved before municipalities can continue to develop more water under their existing water rights. When a municipal WMCP is submitted to OWRD, the Department notifies Affected Local Governments, affected Tribes, and all persons on the Department's weekly Public Notice mailing list that it is available for review and comment for 30 days. Fish persistence flows may also be added by ODFW to the undeveloped portion of municipal water rights. This occurs during extensions of the development timeline for municipal water rights.

We respectfully urge you to reconsider the provisions of SB 1153 and work collaboratively with municipal water providers to identify solutions that address Oregon's water challenges without putting our communities' existing water rights at risk. We are committed to continuing our work with the state to ensure that Oregon's water resources are managed responsibly and sustainably.

Sincerely,

Niki Iverson
City of Hillsboro Water Director
Joint Water Commission General Manager