



Oregon

Tina Kotek, Governor

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Testimony for House Bill 3342A

Senate Committee on Natural Resources and Wildfire

Chair Jeff Golden

Submitted by: Bryn Hudson, Legislative Coordinator

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Thank you for the opportunity to provide information related to HB 3342A, which makes changes to the water right transaction process. This information is provided for informational purposes and the Oregon Water Resources Department is not taking a position.

Request for technical amendments

As the implementing agency, there are some technical items that may need to be amended to ensure the objectives of the bill are able to be met; see below.

Operative Dates in Section 48: There are references to a non-existent section in section 48; 31a should be 31. Additionally, the operative date for section 18 is listed twice and is different in sections 30 and 48. Since the changes made to section 18 are a clarification of existing law and process, this section should be effective upon the effective date of the bill (91 days after sine die). As such, section 18 should be removed from section 48.

Extensions in Section 27: The language proposed in section 27(3)(b) inadvertently has unintended impacts that may require a technical fix. Currently, the Department accepts progress on construction as “good cause”, in addition to other factors, such as permit condition compliance, investment made, etc. As written, this section changes the process to require a portion of water “be developed,” which could result in someone being denied an extension that has in fact has been diligent in developing, but just has not yet put the water to use. For example, someone that obtained a permit 5 years ago and had completed construction but had not yet put the water to use. Meanwhile, the language does not specify a time frame in which a portion of the water needs to be developed, which is less restrictive than how the department administers extensions today. This could result in an applicant developing water decades after the completion date on the permit and then applying for an extension, even though they had not made meaningful progress in developing water within the timeframe allowed in the permit.

The following amendments to section 27 would address this issue:

(3) The Water Resources Department shall, ~~for good cause shown,~~ order and allow one extension of time for up to two years from the date that an extension is approved if:

(a) Fish-related conditions have been satisfied **and if good cause is shown.**; ~~and~~

(b) ~~A portion of the water quantity has been developed.~~