

TUMALO IRRIGATION DISTRICT

June 2nd , 2025

Senate Rules Committee

Written Testimony on Senate Bill 1153

Chair Jama, Vice-Chair Bonham, Senator Golden, Senator Manning Jr., Senator Thatcher:

We are writing to express strong opposition to Senate Bill 1153. Tumalo Irrigation District (TID) is in Central Oregon and provides agricultural water to over 7400 acres of land and has 700 patron farmers. The current water rights transfer process provides TID and its patrons with sufficient flexibility to actively engage in water conservation projects. These ongoing state and federally promoted/funded projects have allowed us to conserve water, manage and prepare for the effects of climate change, build drought resilience, provide more water certainty for farmers, and improve public safety, all while putting water in-stream to improve the impaired waterways we use, all without causing harm to any other water right, and meeting or exceeding environmental needs. The proposed legislation is not only unnecessary, but also passage could shut down crucial existing and future projects within our district.

New water rights are mostly unavailable, making transfers of existing water rights the only way to meet current or future needs. Transfers, both temporary and permanent, are the only practical option for irrigation districts, farmers and ranchers to legally move water where it's needed, TID and its patrons also use the current water rights transfer process to help ensure the beneficial use of water and efficient management of on-farm water use within the district. SB 1153 authorizes the conditioning of water right transfers with measurement and reporting or the installation of fish screening or bypass devices. This is unduly burdensome and prohibitively expensive, which will produce the opposite of the intended effect by limiting TID's and its patrons' ability to more efficiently manage water on-farm.

Under current Oregon law, water right changes cannot "enlarge" the right or "result in injury to an existing water right." Senate Bill 1153 introduces radical, extremely difficult to define, new limitations against "loss of in-stream habitat" or "water impairment." Although the intent may seem laudable and the new provisions include parameters *ostensibly* intended to limit their applicability, the reality is that the provisions are unworkable. If supporters of SB 1153 want to improve Oregon's Water Law system and ensure that all water needs (in-stream and out-of-stream) are met, there are bi-partisan, collaborative, science-based options available. These options do not require rushed and flawed legislation like SB 1153 which will cause harm to ongoing conservation projects and negatively impact farmers, the environment, and all Oregonians.

Supporters of SB 1153 appear to target the family farms, agricultural water suppliers, and rural water users but exempts cities from the same rules, even though their water rights are the same or similar. Proposed amendments exempt most municipal water suppliers from these new standards. The proposed amendments deliberately exclude irrigation districts and similar entities from the exemption. This creates inequitable standards between municipal and agricultural water users, particularly where there is shared infrastructure. How is OWRD going to determine which criteria the transfer application falls into and whether the transfer will be approved?

Supporters, including the Governor's office, have failed to identify actual cases of environmental damage from transfers which evidences that the new standards are unnecessary. It is a draconian solution in search of a problem that will cause more confusion and conflict amongst all stakeholders.

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The bill's lack of reporting requirements or deadlines for agency decisions opens the door to more bureaucracy without achieving the intended benefits.

SB 1153 changes the existing roles of state agencies that already have the authority to provide information to OWRD and condition water right transfers. Examples include Oregon Department of Fish and Wildlife (fish screens, fish passage), Oregon Department of State Lands (removal-fill), Oregon Department of Land Conservation and Development (land use planning and statewide goals), and Department of Environmental Quality (water quality).

A large portion of streams in Oregon are already designated as habitat for a sensitive, threatened, or endangered species or are listed as temperature impaired under Section 303(d) of the Clean Water Act due to low water flow. Under these circumstances, any new transfer application could trigger these additional, unnecessary requirements. The Oregon Department of Fish and Wildlife ("ODFW") and the Oregon Department of Environmental Quality ("DEQ") both have the statutory authority to apply for instream water rights on any stream in Oregon at any time to protect aquatic species and water quality. SB 1153 would subvert this authority and create undefined standards.

OWRD's area of expertise is water allocation; it is not set up with nor have the authority nor expertise to evaluate the impacts of water right transactions on aquatic species or water quality. SB 1153 provides no guidance as to how OWRD will consult with ODFW and DEQ and whether ODFW and DEQ can then charge OWRD costs for the review of the proposed transfer. This will likely create another fiscal hardship for OWRD.

The proposed new requirements would also require extensive OWRD analysis which would dramatically increase the already long delays in transfer processing that can continue for years. OWRD does not have the necessary authority or expertise to evaluate the impacts of water right transactions on aquatic species or water quality. These new provisions would undoubtedly encourage protests of even simple transfers. Even if such protests are ultimately determined to lack merit, they have the potential to completely halt the transfer process or make the process so time-consuming and expensive that it will be nearly impossible for TID or its patron farmers to use the existing transfer process to increase on-farm efficiency and to provide other environmental benefits.

The one portion of SB 1153 that TID is very supportive of is Section 9 which pertains to the tribal review process of transfer applications. As long-time collaborators with the Confederated Tribes of Warm Springs on improving cold-water refugia on the Middle Deschutes. The opportunity to work more closely with the Tribes is of high value to Tumalo Irrigation District.

In closing, we strongly believe the stakeholders should be seeking ways to enhance water right flexibility to ensure water users can improve operational efficiencies while protecting existing water rights, including instream water rights. SB 1153 would make these basic adjustments harder, slower, and more expensive without providing the intended benefits. Tumalo Irrigation District encourages you to vote against Senate Bill 1153. We look forward to continued conversations about how to further improve the efficiency of Oregon's current water right transfer process for the benefit of communities, agriculture and the environment.

Sincerely,

Chris Schull
District Manager/ Secretary of the Board
Tumalo Irrigation District