

2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3525

STATUS: Original

SUBJECT: Columbia River water use

GOVERNMENT UNIT AFFECTED: Water Resources Department and Oregon Department of Fish and Wildlife

PREPARED BY: Dawn Farr

REVIEWED BY: Paul Siebert

DATE: June 19, 2007

EXPENDITURES: See Comments.

2007-2009

2009-2011

REVENUES: See Comments.

POSITIONS / FTE: See Comments.

EFFECTIVE DATE: January 1, 2008.

GOVERNOR'S BUDGET: This bill is not anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: The bill directs the Water Resources Department (WRD) to issue permits to appropriate up to 500,000 acre-feet per year of water from the Upper Columbia River (above Bonneville dam), and charge an annual fee of \$10 per acre-foot for 300,000 acre-feet of water earmarked to support business development. Fees are to be deposited in the Columbia River Water Account and continuously appropriated to the WRD for use in administering the act and to fund in-stream water conservation projects with Tribes of the Columbia River Basin. The bill sunsets January 2, 2034, and exempts permits issued before sunset from repeal.

The WRD estimates that passage of the bill would result in total expenditures of \$238,684 for the 2007-09 biennium. WRD indicates that they will need a total of three positions (1.88 FTE) to implement the bill: a Natural Resource Specialist 4 position, beginning January 1, 2008, to coordinate rulemaking, best practice identification, and development of water conservation projects; a half-time NRS 2 position, beginning January 1, 2008, dedicated to permit processing, and a NRS 2 to work full-time as a Water Master in the field, beginning October 1, 2008, to ensure permit compliance. Personal Services costs are estimated to be \$184,684 for the 2007-09 biennium. Services and Supplies are expected to be \$54,000 which includes \$14,000 in computer system development expenditures, and \$40,000 in Attorney General Fees to implement the bill.

The WRD indicates that Other Fund fee revenues collected from permitting actions identified in the bill are unknown. Language in Section 3 (1) states that the WRD "may not charge a fee for the appropriation of water under sections 1 to 6 of this 2007 Act...." After consulting with legal counsel, the department is concerned that this provision might prevent the department from charging their regular permit fees for activities identified in Section 2. If this is the case, the department anticipates they will not receive an

estimated \$101,800 in Other Fund revenue for the 2007-09 biennium. Permit fees collected for business development projects subject to the \$10 per acre-foot charge are expected to be \$150,000 for the 2007-09 biennium. The combined Other Fund revenue from both of these sources would be \$251,800. Expenditures in excess of Other Fund revenues generated would likely need to be funded from the General Fund. The department has also raised concerns about cash flow management as Other Funds would not become available until the second half of the 2007-09 biennium. The department anticipates needing a minimum of \$100,000 in General Fund appropriation to finance up-front costs of implementing the bill.

The Oregon Department of Fish and Wildlife (ODFW) anticipates that passage of the bill would require that the department come up with alternative conservation measures for ensuring effective protection of endanger fish species. Conservation measures are negotiated collaborative with a variety of stakeholder groups; therefore, significant staff time could be involved. ODFW expects to need a NRS 4 position half-time beginning in January 1, 2008, to complete this work. Total expenditures are estimated to be \$68,484 for the 2007-09 biennium: Personal Services equal \$60,984, and Services and Supplies are estimated to be \$7,500.

Both WRD and ODFW expressed concerned that implementation of the bill would also lead to increase litigation expenditures. These expenditures are not included in this assessment as the timing and potential costs are not known at this time. The noted uncertainty surrounding legal costs suggests that the agencies may need to return to the Emergency Board if budgeted resources prove insufficient to cover the actual litigation expenditures.