

## **DESCHUTES COUNTY CITIZEN'S ACTION GROUP**

Ms. Beth Patrino  
Administrator  
House Committee on Energy and Environment  
Oregon State Legislature  
900 Court St  
Salem, Oregon

February 7, 2016

Re: HB4125, Requiring Oregon Health Authority to analyze ground water contaminant data and provide education.

Dear Chair Representative Vega Pederson and Committee Members,

Thank you for the opportunity to provide testimony concerning House Bill 4125.

The Deschutes County Citizen's Action Group, or CAG, commends the sponsors of House Bill 4125 for recognizing the need for education regarding private water wells and contaminants. In the La Pine area of Deschutes County, CAG often found themselves as a primary source of education about this issue. We enthusiastically support educational outreach, but we also have serious reservations regarding many provisions of the bill:

In general, the bill is too vague and ambiguous for comfort. We fear unintended consequences, some of which we attempted to address in our fact sheet, "HB 4125 A Measured Response" and in proposed amendments to the bill. We see an erroneous assumption and three issues, besides education, that this bill attempts to address, all under the guise of education.

The basic and erroneous assumption appears to be that domestic water well tests are a good indicator of when to provide education, how to detect patterns of contaminants and a proper avenue for policy development. Nothing could further from the truth. Without duplicating our fact sheet, we want to point out that water wells are designed to access a particular strata of water while excluding contaminants above that layer. Well drillers typically drill to the water layer below the first water or the subsequent layer that is pure for drinking water purposes.

For tapped layer to become contaminated depends on a number of variables, the skill of the well driller, the seal of the well, the age of the well (wells age and corrode, requiring upkeep) and in some areas, the location of contaminants. Obviously, scientific analysis of domestic water wells for pattern identification and for policy encounters an almost insurmountable array of variables,

most of which are outside the control of the investigator. A well might be contaminated due to a plume of contaminants that reached the water layer or it could be the result of a faulty well, improper location of a polluting source, storage of chemicals, etc. Pattern detection generally depends on controlling those variables, the time of the test (very sporadic with real estate well tests), the method of collection and repetitions of the test. That isn't possible with domestic well tests.

The basic erroneous assumption appears to distort the focus of this bill.

1. The Education provisions of this bill are few and too narrow. We believe that waiting until contaminants appear at the time of well test is too late. We have always advocated for education regarding the care and maintenance of water wells and septic systems. Consequently, we want the focus expanded so that education does not become a reaction to the problem and instead is a proactive and preventative step.
2. The identification and analysis focus is problematic.
  1. The data collection and storage process needs consistency with integrity.
  2. We recommend that a certified laboratory that conducted the analysis have the responsibility to report the data, avoiding inconsistency in the data reporting.
  3. We also included a proposed amendment to limit the use of real estate data to data collected after the effective date of this bill. Our experience with previous well test data indicated that it was often keyed incorrectly into the Pacific Northwest Water Quality Data Exchange. Often there were duplicate entries, many with transposed values for the same well, on the same date and with identical times.
  4. We also want to ensure that the testing process is rigorous. We fear that this bill will allow the distribution of quick and dirty test kits to people who do not meet current standards for data collection (OAR 333-061-0335).
  5. The Oregon State University Institute for Water and Watersheds is Oregon's federally designated water resources research institute. Besides award-winning research, the institute also offers many resources, such as the Well Water Program, which is designed to help Oregonians protect their groundwater through education. We feel it is disingenuous to exclude the institute from mention in this bill. The institute is the logical partner to analyze the data and determine potential areas of research. That



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- research should direct policy, not real estate well test data.
3. Developing policy from domestic water well testing, especially real estate well tests, is inappropriate.

1. We have huge problems with section 2(3), which authorizes the Department of Environmental Quality to use real estate well test data in the formulation of policy. In particular, we take exception to the development of management areas based on this data (ORS (168B.160 and 168B.162). For reasons discussed here and in our fact sheet, it is inappropriate to make use of domestic well test data for that purpose.
2. We also take exception to the determination of an area for dissemination to a local public health agency for the provision of education. Such determination would have the same impact on the economy as the determination of a public health concern (OAR 330-061-0324), but based on unreliable data. We do not object to a general list of contaminants by area that prudent homeowners should be aware of when testing, however.
4. We support the financial assistance portion of this bill (section 3), but we feel the vague and ambiguous aspects can have unintended consequences.
  1. We fear the provisions of this bill will not help as many homeowners as intended unless the bill allows for competition in the marketplace. For instance, according to installers in south Deschutes and north Klamath Counties, the only approved septic upgrade systems are expensive systems manufactured by just one manufacturer. We do not want the provisions of this bill hijacked to benefit a few.
  2. We are unsure how to address the issue of what is “low-income.” A search of the statutes did not reveal an established applicable definition, but we feel such a definition should somehow be addressed. Consequently, we recommend expanding the language to include low and moderate income, or including a definition based on a federal standard of poverty.
  3. In addition, the phrase “rental property” seems ambiguous and open to misapplication. Somehow, this needs defining. Again, we fear this provision benefiting those who could afford remediation without taxpayer assistance.
  4. The provision of free or low-cost well test kits is also problematic due to potential cost. We don’t object to taxpayer assistance as long as it is on a case-by-case basis, such as to community where a pesticide spill poses potential danger and everyone should test their water. As before, though, such tests are inappropriate for policy determination for the reasons noted.
  5. Lastly, we have some concerns about an absence of limits to administrative costs that are to be deducted from the grant monies.

In summary, we support the education focus of this bill and the provision of financial assistance to the disadvantaged. We do not, however, support the use of domestic well test data for policy determination or testing in a manner that yields misleading conclusions.

Respectfully submitted,



John Huddle, EdD  
President