



## OREGON FARM BUREAU TESTIMONY

House Committee on Energy and Environmental  
March 22, 2017

**Please Oppose HB 2706 - Unfair Taxation of Water Use**

Chair Helm and Members of the Committee:

The Oregon Farm Bureau asks you to oppose HB 2706. HB 2706 unfairly taxes family farmers and would be very challenging for the Oregon Water Resources Department (OWRD) to administer fairly.

By way of background, OFB is Oregon's largest grassroots agriculture association, representing 7,000 farming and ranching families across the state. Our mission is to promote educational improvement, economic opportunity, and social advancement for our members and the farming, ranching, and natural resources industry as a whole.

Water is the lifeblood for Oregon's farmers and ranchers; it is essential for the Oregon's agricultural economy. Agriculture contributes an estimated \$50 billion dollars to the state's economy, making it Oregon's second largest economic driver. Given the importance of water to Oregon's 220+ commodities, the state must protect farmers' water rights and ensure that management decisions are workable for Oregon's farmers and ranchers.

HB 2706 would charge water right holders \$100 on each water right held in the state, capping at \$1000 for non-municipal users and \$2500 for municipalities.

**HB 2706 is an impermissible tax on water users.** The fee does not go toward providing an equivalent benefit for users and is explicitly a revenue raising bill—two hallmarks of a tax. Most farmers would see no direct benefit from this fee. Many water users do not utilize OWRD resources in exercising their water rights. For instance, there are several areas throughout the state where water use on a system has been settled for decades, and no users are not coming online in the system. Users in these areas would still be required to pay the tax even though they do not utilize OWRD resources. Similarly, a farmer in Malheur County could end up paying taxes that go toward a groundwater study in the Valley—a use of resources that in no way benefits the farmer. The money does not provide an equivalent benefit and is a tax on water users.

Further, in most areas of the state, the value of a water right is part of property values that farmers pay tax on, meaning that most farmers with irrigated land already pay more in

taxes than farmers who do not irrigate. Farm families should not be double taxed on their water rights.

**HB 2706 unfairly targets certain farmers.** OWRD's work benefits all Oregonians, yet certain water rights are exempt from assessment or assessed at a much lower rate. For example, it appears that as the holder of instream water rights— the largest water rights in the state by volume—OWRD would only pay \$1000 for those rights, even though they take up a significant amount of Department time to pursue and exercise. Additionally, the Bureau of Reclamation is a significant holder of water rights in the state, but it is our understanding that the state cannot tax federal water right holders. Importantly, even among farmers, assessments can vary among users depending on how they hold their right. Farmers could end up paying wildly different rates for the same number of water rights or similar operations. For example, a farmer in an irrigation district could pay a few dollars for their share of the fee, while a farmer outside the district could pay \$1000 for identical operations.

**HB 2706 would create an enormous burden for the OWRD.** Given that most farms have sold at least once since the water rights for the farm were issued, most water rights in the state are not in the name of the current holder of the right. OWRD currently lacks authorization to change the name on these water rights. This makes it very difficult for the Department to figure out who to bill for the tax and makes it very unlikely that the Department will be able to track down all water users who would be responsible for the tax. Matching water rights with tax lots will cost resources and staff time.

**The mechanism for the cap to trigger is unclear.** While the bill purports to cap the fee at \$1000, the cap triggers for each "water right holder." Generally, we understand the water right holder to be the owner of the tax lot the water right is used on. For families that own properties in multiple family members' names, or that own properties under different business entities (for example, some may have the property for their hay business in a different name than their irrigated pastureland), it seems likely that each owner could be subject to the \$1000 cap even though they are all part of one operation. This could mean one farm family could be responsible for thousands of dollars in fees.

**General funds are likely to be impacted over time.** Over time, the fees are likely to increase while the share of General Funds for the Department decreases, switching the Department a fee-based program. Oregon farmers should not bear the overwhelming cost of OWRD's administration.

**Farmers cannot bear continual increases.** Agency fee programs in Oregon have a tendency to increase dramatically over time. We are concerned that the tax rate would increase over time, placing additional costs on the backs of farmers and ranchers.

Please do not hesitate to direct questions to Mary Anne Nash at Oregon Farm Bureau ([maryanne@oregonfb.org](mailto:maryanne@oregonfb.org)).