

HB 3421 A STAFF MEASURE SUMMARY
House Committee On Energy and Environment

Action Date: 04/17/17

Action: Do pass with amendments. Refer to Rules, then to Ways and Means by prior reference.
(Printed A-Eng.)

Vote: 9-0-0-0

Yeas: 9 - Barnhart, Bentz, Helm, Holvey, Johnson, Marsh, Power, Reschke, Smith DB

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Establishes that a historic-use reservoir does not require a water right permit or certificate. Stipulates that a historic-use reservoir is subject to distribution of water by a watermaster as shown in water right records; priority date is date of application to historic-use reservoir registration. Prohibits a historic-use reservoir from continuing to be registered if storage capacity or dam height is increased. Requires owner to maintain any headgates, measuring devices, and outlet controls required by Oregon Water Resources Department (OWRD) in proper working order.

Authorizes reservoir owner to apply to OWRD to have a reservoir placed on the registry of historic-use reservoirs if:

- Reservoir has been in existence since on or before January 1, 2000;
- Reservoir is located in area withdrawn from appropriation; and
- Reservoir stores less than 9.2 acre-feet of water or dam or impoundment structure for the reservoir is less than 10 feet high.

Establishes application, notice and review process and requires application to include: evidence establishing reservoir has been in existence since January 1, 2000; amount of water stored; height of dam or impediment water source; information on location, type and characteristics of headgates, measuring devices, and outlet controls; map of area; and information supplied by Oregon Fish and Wildlife Department demonstrating that reservoir does not or can be modified to not have significant detrimental impact on existing fishery resources. Requires applications be filed no later than January 31, 2022. Authorizes OWRD to charge application fee and hold contested case hearing under certain circumstances. Authorizes OWRD to conditionally approve application subject to reasonable mitigation efforts, installation of acceptable headgates, measuring devices, and outlet controls; condition for reduction storage amount or dam or impediment height; or sufficient modification for reservoir to not have significant impact on existing fishery resources. Makes requirements for conditional approvals.

ISSUES DISCUSSED:

- Example of unpermitted pond
- Previous opportunity to have ponds and reservoirs legally registered with the Oregon Water Resources Department
- Act would only apply to reservoir that existed prior to January 2, 2000
- Community benefits that result from having ponds registered

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

By law, all surface and groundwater in Oregon belongs to the public and is to be used for a beneficial purpose without waste. Any user, with some exceptions, must obtain a water right to use water from any source including rivers, streams, lakes, and groundwater. About 80 percent of water rights are for surface water, with the majority

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used for agricultural irrigation. Currently, a water right permit is required from the Oregon Water Resources Department (OWRD) to be allowed to store water regardless of the size of the reservoir, or whether or not the pond or reservoir already exists. Additional permits and approvals from other agencies may be necessary prior to the construction of the storage facility.

House Bill 3421A would create a temporary process to allow the owner of a historic-use reservoir to register with the OWRD. The measure would exempt historic-use reservoirs from the requirement to have a water right.