

Background

A water right is necessary to use or store water in Oregon. Rights to use water specify the place where the water is used, the type of use of the water, and the point that the water is diverted from a water source, such as a stream, reservoir, or well. If there is a desire to change one of these three components of a water use right, one must apply for a “transfer.”

Similarly, rights to store water specify the location of the reservoir, the location of the dam (if applicable), the point where water is diverted (if applicable), and the purpose/use for which the water is stored. The Water Resources Department has long debated about its authority to make changes to storage rights. In light of a lack of clarity in its existing laws, prior to 2018, the Department had occasionally allowed changes in the location of reservoirs and, more commonly, processed changes in the purpose of use.

Recent proposals to change the location of stored water resulted in the Department taking a closer look at its authorities. In 2018, the Department of Justice issued a memo determining that, with some exceptions, the statutes do not provide the Water Resources Department with the authority to allow changes to storage rights.

Without the ability to change primary storage rights, water right holders will not be able to manage water as necessary to meet emerging needs, opportunities, or challenges.

What the bill does

Work on this bill has been delayed due to demands on staff time related to COVID, budget challenges, and wildfires. This bill is a placeholder in the event that a solution is identified during the session.

The placeholder proposes the Department study the laws related to transfers and changes to water storage rights, with findings and recommendations submitted to an interim legislative committee no later than September 15, 2022. A solution would provide the Department with clear authority and criteria to allow for changes in a primary storage right. This bill has a minimal fiscal impact.

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