

HB 4043 -3 STAFF MEASURE SUMMARY

House Committee On Water

Prepared By: Misty Freeman, LPRO Interim Director

Meeting Dates: 2/11

WHAT THE MEASURE DOES:

Prohibits a local government, local contracting agency, or local contract review board from enacting, adopting, or enforcing prohibitions, restrictions, or limits on the use or evaluation of pipe/piping materials for a water project where the pipe/piping materials meet certain performance specifications and some or all of funding for water project is directly or indirectly from the state. Applies to water projects relating to drinking water and wastewater. Specifies that bill provisions do not limit recommendation from licensed professional engineer for use of pipe/piping materials appropriate for a particular water project, nor do provisions apply to design or construction specifications developed by a licensed professional engineer in consultation with local government, local contracting agency, or local contract review board for a particular water project. Applies to procurement first advertised or, if not advertised, to public contract first entered into on or after January 1, 2021. Authorizes local government, local contracting agency, or local contract review board to take action before operative date to enable conformity with provisions of bill. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-3 Replaces measure. Requires project manager or project engineer for a publicly-funded drinking water or wastewater treatment piping project to consider using any pipe/piping materials that meet certain performance specifications in designing water project. Specifies that bill provisions do not limit recommendation from water project manager or design or construction specifications from registered professional engineer or water project manager for a particular water project. Applies to water project for which a local government drafts specifications or initiates design on or after operative date of January 1, 2021. Authorizes local government to take action before operative date to enable conformity with provisions of bill. Takes effect on 91st day following adjournment sine die.

BACKGROUND:

The Environmental Protection Agency (EPA) sets standards for drinking water and waste water quality and treatment through the Clean Water Act and National Primary Drinking Water Regulations. Construction of public drinking water systems is regulated by Oregon Drinking Water Services, under the Public Health Division of the Oregon Health Authority, subject to OAR 333-061-0050. Construction of waste water systems is regulated by the Oregon Department of Environmental Quality, subject to OAR 340. Procurement rules for publicly-funded construction projects can be found in ORS Chapter 279C and include provisions requiring competitive bidding and a least-cost policy requiring analysis of project costs prior to finalization of a public contract.

House Bill 4043 would prohibit a local government, local contracting agency, or a local contract review board from restricting the use of piping materials in a publicly-funded drinking water or wastewater project, if the piping materials meet specific performance standards. The Act provides that appropriate piping materials may be required for a water project based on the recommendation of a licensed professional engineer in connection with the specific project. Provisions become operative January 1, 2021 and apply to public contracts for water projects on or after the operative date.