

HB 3091 A STAFF MEASURE SUMMARY

House Committee On Water

Action Date: 04/13/21

Action: Do pass with amendments and be referred to Ways and Means by prior reference.
(Printed A-Eng.)

Vote: 8-0-0-0

Yeas: 8 - Breese-Iverson, Helm, Leif, Owens, Reardon, Reynolds, Wilde, Witt

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 3/18, 4/8, 4/13

WHAT THE MEASURE DOES:

Authorizes person who holds right to store water and intends to apply for transfer of right to, no later than 30 days after effective date of this Act, petition Water Resources Department (WRD) to issue declaratory ruling on whether WRD is authorized to approve application to transfer a right to store water. Allows WRD, if more than one petition is received, to consolidate proceedings on petitions or deny subsequent petition and invite subsequent petitioner to intervene in proceedings related to first petition. Directs WRD to rule on petition based only on written information provided by WRD, any petitioner, and any intervening party, and to issue declaratory ruling no later than 120 days after petition is received. Prohibits WRD from holding hearing or providing for oral argument before issuing declaratory ruling. Authorizes person adversely affected by declaratory ruling to petition for judicial review and directs petitioner to serve copy of petition on WRD, Attorney General, and Governor by registered or certified mail. Confers jurisdiction on Supreme Court to determine whether WRD is authorized to approve application to transfer right to store water and requires Supreme Court to prioritize proceedings over all other matters. Prohibits Supreme Court from awarding attorney fees or costs in petition proceeding. Sunsets June 30, 2023. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Current water right transfer authority
- History of transferring rights to use and to store water
- Importance of location of use to agricultural water users

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

A water right is connected to the land where it is used, specifying the quantity of water, point of diversion, place of use, type of use, season of use, and priority date. A water right may be transferred from one place to another, the point of diversion may be changed, and the type of use allowed under the right may be changed by applying to the Oregon Water Resources Department (WRD). A transfer application will be approved if WRD determines that the change can be made without injury to other water rights or enlargement of the original right. In 2018, the Department of Justice issued a memo concluding that, with some exceptions, state law does not authorize WRD to allow changes to a right to store water.

House Bill 3091 A would authorize a water right holder to petition WRD for a declaratory ruling on an application to transfer a right to store water and confer jurisdiction on the Supreme Court to determine WRD's authority to approve the transfer.