

HB 3166 A STAFF MEASURE SUMMARY

House Committee On Water

Action Date: 04/13/21

Action: Without recommendation as to passage, with amendments, and be referred to Rules.
(Printed A-Eng.)

Vote: 7-1-0-0

Yeas: 7 - Helm, Leif, Owens, Reardon, Reynolds, Wilde, Witt

Nays: 1 - Breese-Iverson

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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Meeting Dates: 2/25, 3/25, 3/30, 4/13

WHAT THE MEASURE DOES:

Directs Water Resources Commission (Commission), in consultation with Water Resources Department (WRD) and Oregon Department of Fish and Wildlife (ODFW), on or before January 1, 2024, to: designate three to five water basins as priority basins, identify water use data needed to develop water budgets, and determine structure of online water data platform. Directs Commission to develop water budgets for priority basins based on water use data submitted to WRD and, on or before January 1, 2026, to report to legislative committee on water on Commission's progress in designating priority water basins, developing water budgets, and assessing the structure of an online water data platform. Directs Commission to review the following: location, frequency, and use of water measurement data collections; programs and requirements involving water measurement reporting; funding of and access to collected water measurement data; persons subject to water measurement and reporting requirements (requirements); and persons subject to requirements who are not in compliance with requirements. Requires Commission to report on review to legislative committee on water on or before September 15, 2022. Requires person holding water right that authorizes diversion, appropriation, or storage of water in a priority basin to conduct measurement and reporting of water diverted, appropriated, or stored under the right, unless WRD determines the right is subject to other requirements. Requires that measurement and reporting occur annually unless person agrees to more frequent reporting, person is subject to more frequent reporting requirements, or WRD determines more frequent reporting is necessary. Directs WRD to establish procedures for reporting water use measurements, requirements for water measurement technologies and devices, and processes for temporary exceptions to requirements. Directs WRD to use moneys in Water Measurement Cost Share Program Revolving Fund to contribute up to 75 percent of moneys needed to purchase, install, or replace a measurement device used to comply with requirements of Act. Applies to water rights established before, on, or after effective date of this Act. Prohibits person's reporting from being used to establish a rebuttable presumption of forfeiture of all or part of a water right, as support for a determination that a water right may be canceled, as justification for initiation of proceedings to cancel a water right, or as the basis for an order that cancels or modifies a water right. Authorizes Commission, before January 1, 2032 and only against a person notified of requirements by WRD, to impose civil penalty on a person for violating a requirement, unless violation is temporary and the result of an unintentional breakage or malfunction of a measurement device. Makes findings and policy statements. Defines terms.

ISSUES DISCUSSED:

- Need for accurate water budgeting in the state
- Process of water measurement and reporting
- Intent of the term "priority water basin"
- Data collection within areas of critical ground water designation

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EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

Under Oregon law, all water belongs to the public and is to be used for a beneficial purpose without waste. With some exceptions, water users must obtain a water right to use water from any source. When water is scarce, water users are allocated water based on the date of their water right, with holders of the oldest water rights allocated water first, and holders of newer water rights receiving their allocation according to the availability of water. Many water rights include conditions that require the water user to submit data to the Water Resources Department (WRD).

In 2000, the Water Resources Commission developed a strategic plan for improving surface water measurement in areas with the greatest impact on stream flows. Recently, WRD identified a need to revisit the 2000 Strategic Measurement Plan to better address high-priority water management and policy needs for both surface and ground water.

House Bill 3166 A would require the Water Resources Commission to review certain aspects of water measurement and reporting requirements, designate priority water basins in the state and develop water budgets for those basins, and report on the Commission's progress and review to a legislative committee on water. The measure would also direct the Water Resources Department to establish water measurement and reporting requirements for persons holding a water right in a priority basin.