

HB 3346 -3 STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

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Meeting Dates: 3/7, 3/9, 3/30

WHAT THE MEASURE DOES:

Establishes Task Force on the Water Rights and Transfers Backlog to summarize the current status of protest backlog; trends in the type of applications that are protested, referred, or resolved; current policies and practices for evaluating protests for contested case referral and scheduling; an analysis of the current causes of delay; and recommendations for improvements to the system. Specifies that one task force member representing the judicial branch must be appointed by the Chief Justice of the Oregon Supreme Court while remaining members must be appointed by the Governor from the Department of Justice (DOJ), the Office of Administrative Hearings (OAH), and the Oregon Department of Fish and Wildlife (ODFW), and protestants representing private and public interests. Specifies task force operational procedures. Directs Oregon Water Resources Department (OWRD) to provide support staff. Instructs task force to submit report to a water related interim committee of the legislature by September 15, 2024. Sunsets on December 31, 2024. Appropriates moneys to OWRD to address the protest backlog, and to DOJ, OAH, and ODFW for capacity shortfalls contributing to the backlog of protests of decisions concerning water rights and transfers. Declares emergency, effective on passage.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-3 Replaces the measure. Requires the Oregon Water Resources Department to (1) work with the Oregon Department of Justice, the Office of Administrative Hearings and the Oregon Department of Fish and Wildlife to reduce the water rights and transfer protests backlog (backlog), (2) **develop a strategy** to reduce the backlog, (3) contract for an **independent assessment** of the backlog that fulfills certain requirements, (4) **provide recommendations** for changing the water rights and transfers decision system to improve delivery of fair and efficient dispositions of existing protests and prevent future backlogs, and (5) report on the strategy, the assessment and the recommendations to water related committees or interim committees of the legislature by December 31, 2024. Appropriates \$2.430 million General Fund moneys to the Oregon Water Resources Department and \$381,862 General Fund Moneys to the Oregon Department of Fish and Wildlife. Sunsets January 2, 2026.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

BACKGROUND:

Under Oregon law, all water belongs to the public and use requires authorization from the Oregon Department of Water Resources (OWRD), which provides permits that limit water use by place of use, point of diversion, and type of use. Because water in Oregon remains appurtenant to the land on which it is used, if a water right holder wishes to alter their use in any way, they must file a transfer application with OWRD. Opportunities are provided for other water right holders and the public to protest the issuance or transfer of a permit. Water users can assert that a new permit may injure or interfere with their water use, and the public can claim that issuing a new permit

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may be detrimental to the public interest.

House Bill 3346 would establish a Task Force on the Water Rights and Transfers backlog to report on the cause and extent of, and solution to, this backlog, and appropriate General Fund moneys to the Oregon Water Resources Department, Department of Justice, Office of Administrative Hearings, and Oregon Department of Fish and Wildlife for increased capacity to process the backlog.