

HB 3211 A STAFF MEASURE SUMMARY

Carrier: Sen. Anderson

Senate Committee On Natural Resources

Action Date: 04/26/23
Action: Do pass the A-Eng bill.
Vote: 4-0-1-0
Yeas: 4 - Girod, Golden, Smith DB, Taylor
Exc: 1 - Prozanski
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Laura Kentnesse, LPRO Analyst
Meeting Dates: 4/5, 4/26

WHAT THE MEASURE DOES:

Authorizes the holder of water right certificates 21358, 48627, and 89100 to apply to change the authorized point of diversion and place of use without losing priority of the right if the following conditions are met: the water right certificate authorizes the storage of water for municipal use, and the dam at the authorized point of diversion has been determined to have a high hazard rating, and to be unsafe or potentially unsafe. Requires the holder of the water right certificate to comply with other applicable state and federal environmental laws when constructing the resulting new dam and reservoir. Specifies that provisions apply to applications filed after the effective date of the Act and before January 1, 2026. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Vulnerability of Newport-area dams and downstream consequences of dam failure
- City of Newport dam replacement project plans and successful efforts to secure full funding
- Litigation related to Oregon Water Resources Department authority to modify storage water rights
- Measure provisions are limited to water rights owned by the City of Newport
- Implications for Big Creek and the Siletz River stream flows and fish and wildlife habitat

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The use of water under a water right is restricted to the terms and conditions described in the water right certificate including the place of use, point of diversion, and type of use. In the context of this measure, the point of diversion refers to a dam location and the place of use is the footprint of the associated reservoir. It is unclear if current statute allows the replacement of a dam in a location that differs from its original point of diversion without violating the terms and conditions of the underlying water right.

Water right certificates 21358, 48627, and 89100 refer to water rights held by the City of Newport, Oregon, which authorize the storage of water for municipal use.

House Bill 3211 A would authorize the holder of specific water right certificates for municipal water storage to change the authorized point of diversion and place of use without losing priority of the right under certain conditions.