

HB 2929 A STAFF MEASURE SUMMARY

Carrier: Sen. Golden

Senate Committee On Natural Resources

Action Date: 05/10/23

Action: Do pass the A-Eng bill.

Vote: 3-1-1-0

Yeas: 3 - Golden, Prozanski, Taylor

Nays: 1 - Smith DB

Exc: 1 - Girod

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Laura Kentnesse, LPRO Analyst

Meeting Dates: 4/26, 5/10

WHAT THE MEASURE DOES:

Authorizes the Oregon Water Resources Department (OWRD) to seek temporary or permanent injunctive relief at the Circuit Court for Marion County, or the circuit court in the county where the activity takes place, if OWRD has information that a person has engaged in an activity that: violates a water right permit; constitutes an unlawful use or appropriation of groundwater or wastewater; or interferes with a headgate. Requires OWRD to report to a water-related legislative committee by September 15, 2028 on the frequency and outcomes of the department's pursuit of injunctions. Sunsets the authority to pursue an injunction on January 2, 2030.

ISSUES DISCUSSED:

- Egregiousness of water theft in Southern Oregon, even at times when drought is severe
- Impact of water theft on downstream water right holders and the environment
- Adequacy of the department's current civil and criminal process authorities to address water use violations
- Length of time for a typical administrative enforcement process
- Relationship between "information" the department must possess versus "evidence" about the violation
- The use of the word "information" in parallel statutes that allow OWRD to apply for an injunction related to well construction or dam safety violations

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A water right is the right to use water for a beneficial purpose and specifies the quantity of water, point of diversion, place of use, type of use, season of use, and priority date. Using water in the absence of an official water right, or in a way that deviates from a water right permit, is a violation of the law. The Oregon Water Resources Department (OWRD) has civil and criminal process tools at their disposal to address water use violations, but statutorily lacks the authority to apply to the courts for a temporary or permanent injunction.

House Bill 2929 A would give OWRD the authority to seek permanent or temporary injunctive relief if a person has engaged in certain water use violations. The measure would sunset on January 2, 2030.