

SB 718 A STAFF MEASURE SUMMARY

Carrier: Rep. Owens

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

Action Date: 05/18/23

Action: Do Pass the A-Eng bill.

Vote: 9-0-0-0

Yeas: 9 - Boice, Gamba, Hartman, Helm, Levy B, Marsh, McLain, Owens, Scharf

Fiscal: No fiscal impact

Revenue: No revenue impact

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Meeting Dates: 5/9, 5/18

WHAT THE MEASURE DOES:

Defines "drought year" as a calendar year in which the Governor declares that a severe continuing drought exists or is likely to exist within a county. Provides that a drought year does not count as a year for purposes of water right forfeiture, if the water right holder has a facility capable of handling the entire authorized rate and duty and is otherwise ready, willing, and able to make full use of the water right. Provides that a year during which nonuse occurs that precedes or follows a drought year, counts as a year for purposes of forfeiture. Prohibits application to water right transfer applications.

ISSUES DISCUSSED:

- Drought related forfeiture protections already included in current statute
- Potential issues related to the timing of the drought declaration
- Procedure of water forfeiture

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon's water right forfeiture laws state that whenever a water right holder fails to use all or part of their appropriated water for a period of five successive years, a rebuttable "presumption of forfeiture" is established (ORS 540.610). The water right holder can challenge that "presumption of forfeiture" and maintain their water right by successfully showing evidence of one or more of fourteen circumstances named in law. One of those circumstances provides that the water right holder was unable to make full beneficial use of the water because water was not available, and the water right holder must show that they were ready, willing, and able to use the water had it been available.

Senate Bill 718 A would provide that a year in which the Governor declares that drought exists or is likely to exist within a county does not count toward the five-year water right forfeiture time period.