



Oregon

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Testimony for House Bill 3187
House Committee on Agriculture, Land Use, Natural Resources and Water
Representative Ken Helm, Chair

Submitted by: Bryn Hudson, Legislative Coordinator
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Thank you for the opportunity to provide information related to House Bill 3187, which makes individuals employed seven or more years by certain types of districts eligible to apply for licensure as certified water right examiners. This testimony is provided for informational purposes and the Department is not taking a position at this time.

Background

Under Oregon law, all water belongs to the public. With some exceptions, cities, irrigators, businesses, and other water users must obtain a permit or license from the Water Resources Department to use water from any source.

Most water rights are obtained in a three-step process. The applicant first must apply to the Department for a permit to use water. If a permit is granted, the applicant must construct a water system and begin using water within the terms and conditions specified in the permit. With some exceptions, after water is applied, the permit holder must hire a certified water right examiner (CWRE) to complete a report, which includes a map and submit it to the Department detailing how and where water has been applied. If water has been used according to the terms and conditions of the permit, a water right certificate is issued.

The use of water under a water right is restricted to the specific place of use, point of diversion/appropriation, and type of use. The water right holder must file a transfer application with the Department and obtain approval prior to changing the point of diversion/appropriation, type of use, place of use. For permanent transfers (OAR 690-380), including instream transfers (OAR 690-077), the application must include a map prepared by a CWRE. After a transfer application is approved and the changes are made, the transfer holder must hire a CWRE to complete a report, which includes a map, and submit it to the Department detailing how and where the changes were made. If changes were made according to the provisions of the transfer order, a confirming water right certificate is issued.

Certified Water Rights Examiners (CWREs)

CWREs collect and report data, conduct surveys and develop maps on behalf of applicants for certain water right transactions, including claims of beneficial use (CBU) and some transfers. One of the main functions of a CWRE is the preparation of a CBU. A CBU is both a report and map that identifies the extent that water was developed under a permit or a transfer. Included in the report is information concerning the system used to appropriate, deliver, and apply water for the use, as well as a description of how conditions included in the permit or the transfer were met. In addition, CWREs prepare maps for some types of transfer applications. Finally, many CWREs choose to assist their clients in the measurement of static water levels (level or elevation

of water surface in a well not being pumped) and navigation of the water right process. CWREs often act as consultants and assist their client in identifying water rights and the status of those rights, applying for new permits, assignments, extensions, and other activities to assist clients.

Not all water right transactions require information to be submitted to the Department by a CWRE. Transactions requiring a map produced from a CWRE include claims of beneficial use (for new surface and groundwater, and large reservoir permits and transfer final orders), new applications for large reservoirs, permanent transfers, including districts as well as patrons within a district for permanent point of diversion and character of use transfers, instream transfers, and permit splits. Transactions not requiring a map produced from a CWRE include temporary transfers, district transfers, both permanent place of use transfers and temporary transfers, Irrigation District Pilot Project temporary transfers, permit amendments, groundwater registration modifications, instream leases, and allocations of conserved water.

Requirements and Regulations of CWREs

Currently, to become a CWRE, a person must hold one of the three underlying license (professional geologist, engineer or land surveyor) and then must take the annual CWRE exam and pass the exam. The exam is prepared, administered and scored by Department staff. The results are then provided to Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) with a recommendation on who should be licensed as a CWRE in addition to their underlying license.

CWREs are required to renew their license with OSBEELS every two years. To maintain their underlying license, they are also required to complete 16-30 hours of professional development every two years. If they hold a CWRE license, ten of those hours must be related to topics relevant to CWRE work. The Department offers annual workshops and online materials for CWREs to fulfill this requirement and ensure that high standards of work are being met.

CWREs may be decertified or fined by OSBEELS for violations of continuing professional development, ethics or operating standards. Any violation of these provisions by a CWRE may be submitted to OSBEELS for review and if necessary, disciplinary action.

Department's Understanding of HB 3187

As written, the bill will allow all employees who have worked for longer than seven years at an irrigation, drainage, water improvement or water control district to be eligible to sit for the CWRE examination that is administered by the Department. This would require the Department to verify employment history prior to allowing an applicant to take the examination, which would require rule development as well as increased time spent vetting applicants.

There are a few areas of the bill that are unclear. The bill does not specify:

- 1) If employment needs to be full or part-time and if the seven-year employment history needs to be contiguous.
- 2) Whether a district employee needs to have relevant technical experience, it only states that they be employed for seven years.
- 3) If the district employee would be limited to work done for the district for whom they are employed or if they would be eligible for work outside of district operations.