

SB 1154 -1 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

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Meeting Dates: 4/8

WHAT THE MEASURE DOES:

The measure modifies processes for managing ground water quality contamination concerns, including the declaration of "ground water quality concern areas" and modification of responsibilities related to ground water management areas. It requires coordination among state agencies and local entities to address ground water issues, including monitoring, action planning, and remediation strategies. It also authorizes the Governor to appoint agencies to develop an agency assessment, prepare an action plan, implement regulations and take necessary actions to address groundwater quality, while allowing for increased monitoring, reporting, and coordination to protect public health and water resources.

Fiscal impact: Fiscal impact issued.

Revenue impact: Revenue impact issued.

Detailed Summary:

Ground Water Quality Concern Areas:

Definitions:

Replaces the term "an area of ground water concern," with "ground water quality concern area." Defines "contaminant of concern."

Declaration Criteria:

Revises criteria for DEQ declaration of ground water quality concern area to require a "persistent and prevalent" presence of contaminants in ground water. Allows DEQ to have an independent laboratory, and confirm the results before making the declaration.

Interagency Team:

After a ground water quality concern area is declared, directs the Governor to designate lead agencies to form an interagency team, which may include the Departments of Environmental Quality (DEQ), Agriculture (ODA), Water Resources (WRD), and Geology and Mineral Industries (DOGAMI). Requires the interagency team to:

- Appoint a ground water management committee
- Develop an agency assessment to:
 - Identify local, residential, industrial, and agricultural practices that contribute to ground water deterioration
 - Evaluate potential nonpoint source threats, and
 - Identify both agency and local actions to address contamination.
- Collaborate on designing and implementing a hydrogeologic assessment and ground water monitoring strategy
- Collect relevant data and promote best management practices to address contamination sources

Ground Water Management Committees:

Establishes role of the ground water management committee as solely to advise agencies and the interagency team in development and implementation of agency actions. Directs committee to review the completed agency

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assessment and develop a local voluntary implementation plan. Requires a draft of the plan to be available for 30 days of public comment, with suggestions considered in the final plan.

Ground Water Quality Concern Area; Agency Responsibilities:

After a ground water quality concern area is declared, specific actions must be taken by DEQ, ODA, and OHA, in coordination with the interagency team under specific circumstances.

If the declaration is relevant to a contaminant of concern **DEQ** must:

- Review permits allowing discharge of contaminants of concern.
- Coordinate with counties to compile information on alternative sewage systems and subsurface sewage systems, including their age and location.
- Encourage voluntary inspections of alternative sewage disposal systems, nonwater-carried sewage disposal facilities and subsurface sewage disposal systems
- Prioritize funding for repairing or replacing on-site septic systems in the affected area.

If the declaration is relevant to agriculture, the **ODA** must:

- Update ground water quality management plans to promote source control, best management practices, and stewardship agreements.
- Consider and prioritize watersheds and sub-watersheds for strategic implementation.
- Collect data on nutrient application and ground water contaminants in the area.
- Require agricultural operations subject to permitting requirements to provide contamination data.

Requires **OHA** to:

- Prepare a preliminary assessment identifying risks to domestic well users and public water systems from contamination.
- Evaluate possible response strategies and estimate public health response costs.

Authorizes **WRD**, in coordination with DEQ, to consider ground water quality when deciding to approve a new ground water right within an area after a declaration is issued.

Ground Water Management Areas:

After a ground water management area is declared, authorizes a state agency may exercise its authority or responsibilities related to preventing or controlling ground water contamination within that area, even if the area was not previously declared a ground water quality concern area.

Ground Water Management Committee:

Establishes role of the ground water management committee as solely to advise agencies and the interagency team in the development of the agency assessment and implementation of local elements of the action plan.

Repeals ORS 468B.183: Duties of ground water management committee after declaration of ground water management area.

Action Plan Development:

After a ground water management area is declared, directs the Governor to designate a lead agency or agencies to form an interagency team to develop a draft action plan within 90 days of the declaration. The team may include DEQ, ODA, WRD, and DOGAMI. Each agency responsible for implementing parts of the action plan must adopt the necessary rules within 120 days of the plan's completion. If multiple agencies are involved, they must coordinate and may consolidate their rulemaking efforts.

Reporting:

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After completing the final action plan, directs lead agencies to submit a report to the Governor and the Joint Committee on Ways and Means (JWM), which may include funding requests for implementation. Requires the lead agency to submit a progress report to JWM, with the option to include funding requests, by December 15 of each even-numbered year.

Department of Agriculture responsibilities:

After a ground water management area is declared, requires ODA to establish and implement limitations on ground water contaminants and set requirements for agronomic rates and soil moisture content for nutrients within the management area. Authorizes ODA to enter private property within the management area to conduct sampling and collect data for characterizing soil contamination.

Oregon Health Authority responsibilities:

After a ground water management area is declared, requires OHA, in consultation with local health authorities, to develop and implement a public health and remediation response plan based on their preliminary assessment identifying risks to domestic well users and public water systems from contamination. Directs OHA to develop the preliminary assessment before developing the remediation and response plan.

Water Resources Department responsibilities:

Authorizes WRD to approve applications to appropriate ground water for community water wells within the management area, allowing the amount of water equivalent to that provided by abandoned wells.

Water Quality Permit:

After a ground water management area is declared, DEQ may require the renewal of any water quality permit if it is determined to be necessary to address an urgent ground water contamination issue. Requires the permit include conditions that limit the discharge of a contaminant of concern.

Sewage disposal system inspections:

After a ground water management area is declared, authorizes DEQ or a contract agent to enter private property to inspect sewage disposal systems. Requires DEQ to notify the responsible party if any system is found to be in violation of applicable rules.

Coordination of ground water activities:

Removes provision requiring DEQ to coordinate the regulatory activities of any state agency responsible for managing ground water resources or any substance that may contaminate ground water resources. Adds that DEQ must provide staff support for projects and activities related to a ground water quality concern area or a ground water management area.

County authorities:

Authorizes a county to provide or enter into an agreement with a city or district to provide water or wastewater services for residential units within a ground water management area that is outside an urban growth boundary. Finds that providing such services cannot be used to authorize rezoning for urban uses or exceptions under certain land use laws. Authorizes a county to prohibit new residential or accessory dwellings in the area unless they are connected to urban water supply services or a community water well. Authorizes the Land Conservation and Development Commission (LCDC) to adopt rules, including setting conditions under which counties must prohibit new residential development.

Classifying Underground reservoirs:

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Authorizes the Water Resources Commission to classify and reclassify underground reservoirs in ground water quality concern areas or ground water management areas, as necessary to protect public health.

Additional modified provisions:

Sections 25-26:

In areas zoned for exclusive farm use, includes utility facilities, utility facilities associated with transmission lines, wetland waste treatment systems, and the facilities and service lines required to provide water or wastewater services as allowable uses.

Section 28:

Authorizes WRD to order the installation of a water measurement device in response to significant water management issues, such as declining ground water levels, impaired ground water quality, unresolved disputes, or frequent water shortages.

Authorizes the Water Resources Commission (WRC) to require that water right owners using surface or ground water sources to install a totalizing measuring device and submit an annual water use report if the commission determines that accurate water use information is necessary due to serious water management issues such as ground water decline, impaired ground water quality, unresolved disputes, or frequent water shortages. Adds that WRD may use data collected from the totalizing measuring device to support characterization of an aquifer in an area with serious water management problems.

Sections 29-31:

Authorizes WRD to issue a permit to appropriate ground water for a community water well, specifically for an amount of water that is equivalent to the water previously provided by abandoned wells.

Adds that in reviewing a water right application for a community water well in a ground water management area, WRD must presume that a proposed water use will preserve public welfare, safety, and health if the application requests an amount of water equivalent to that previously provided by abandoned wells.

Authorizes WRC to require the repair, replacement and/or abandonment of domestic and permitted wells that are comingling.

Section 32:

Authorizes WRC to establish and enforce backflow prevention requirements for surface water use in a ground water concern area. In managing water rights within a ground water management area, WRC must identify and compile information on the locations and functionality of domestic water wells, including those shared by multiple residences, and permitted water wells. Additionally, in a ground water quality concern area, requires WRC to assess water wells and enforce compliance with backflow prevention rules.

Section 34:

Prohibits WRD from approving an application for a change of use, place of use or point of diversion that will negatively affect efforts to address ground water contamination in a ground water quality concern area or a ground water management area.

Becomes operative January 1, 2026. Authorizes the Governor, DEQ, ODA, WRD, OHA, and DLCD to take any necessary actions before this date to ensure they can fully exercise their duties, functions, and powers starting on the operative date.

Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Private Property Rights related to DEQ sewage inspections
- OSU study on aquifers
- New agency authorities
- Recharging Permits HB 2988
- Multiagency effort
- Including local government in stakeholder conversations

EFFECT OF AMENDMENT:

-1 amendment replaces the measure. Renames “ground water management area” to “ground water quality management area.” Transfers declaration authority of ground water quality concern and management areas from the Department of Environmental Quality (DEQ) to the Environmental Quality Commission (EQC) with recommendation from DEQ. Modifies agency responsibilities and actions in response to the declaration of a ground water quality concern or management area. Adds provisions related to well users.

Detailed Summary:

Ground Water Quality Concern Areas (GWQCA)

1. Directs DEQ to recommend that the EQC declare a GWQCA under specified conditions, adding elements that the department must find before recommending a declaration.
2. Directs Governor to designate a lead agency, not lead agencies.
3. Directs the interagency team to include EQC and Water Resources Department (WRD), and may include the Department of Agriculture (ODA), the Oregon Health Authority (OHA), and the Department of Geology and Mineral Industries (DOGAMI).
4. Directs agencies to develop outreach plan, in addition to assessment. Revises assessment and outreach plan objectives.
5. Changes timeline for appointment of groundwater management committee by lead agency from within 90 days of lead agency designation to after completion of draft agency assessment and outreach plan.
 - a. Adds at least one homeowner or tenant who relies on a domestic well for drinking water to committee membership.
 - b. Revises elements of local voluntary implementation plan.
 - c. Remove role of committee to advice agencies on development of assessment and implementation of agency actions.
6. Clarifies when interagency team agencies are directed to take actions. Specifies and modifies action to be taken by DEQ, ODA, and OHA consistent with the assessment and outreach plan. Modifies WRD authority after area declaration to assess which new water uses might increase presence of contaminant of concern.
7. Adds requirement that final agency assessment and outreach plan be submitted to Governor and Joint Committee on Ways and Means, with biennial progress reports due by December 15 of each even numbered year.

Ground Water Quality Management Area (GWQMA)

1. Directs DEQ to recommend that EQC declare a GWQMA under specified conditions.
2. Directs Gov to designate a lead agency, not lead agencies.
3. Directs that interagency team include EQC and WRD, and may include ODA, OHA, and DOGAMI
4. Changes timeline for preparation of draft action plan
5. Adds requirement that action plan include informing well owners of ground water contamination.
6. Specifies that the action plan must identify, not recommend, mandatory actions, and includes those action identified in specified sections of the measure and adds actions included in agency assessment and outreach plan developed under GWQCA declaration.
7. Removes existing law giving ODA responsibility for developing certain plans to address farming practices.

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8. If groundwater pumping is identified as a cause of, or contributing to, water quality degradation in the area, authorizes WRD to classify or reclassify an aquifer or designate an aquifer as a critical ground water area.
9. Extends from 60 to 90 days the time period agencies have to complete the final action plan after close of public comment period.
10. Transfers authority from DEQ to EQC to repeal a designation upon recommendation and findings by DEQ.
11. Revised actions that may be taken by ODA as necessary to address a relevant contaminant of concern, including:
 - a. Adopt rules to restrict manner and use of application of contaminant of concern; develop and implement management plans for source control; requirements for testing, transport mechanism, measuring efficacy of mitigation practices, recordkeeping; and individual exemptions.
 - b. Review active permits issued by DEQ within area to identify opportunities for modifications or revisions during renewal or issuance to address sources of contaminants of concern. Establishes review elements.
 - c. Make available stewardship agreement opportunities.
12. Requires OHA to submit health remediation and response plan to Governor and JWMs.
13. Removes authority for contract agent to enter onto private property to inspect sewage disposal systems. Adds requirement for prior notice.
14. Establishes cap of 5,000 gallons per day on WRD approval of application to appropriate ground water in a declared area for community public water wells. Requires impact of proposed well on hydraulically connected surface water to be similar to or less than cumulative impact of abandoned domestic wells.

Changes to Agency Authorities

1. Authorizes DEQ to modify, instead of require renewal, of water quality permit under ORS 468B.050 if it is determined necessary to address urgent groundwater contamination issue.
2. Authorizes Water Resources Commission (WRC) to order the withdrawal an underground reservoir in a ground water quality concern or management area to protect public health.
3. Removes authority for WRD to require installation of water measuring devices and reporting to address specified water management problems.
4. Adds legislative finding and declaration that the use of community or public wells located in declared ground water management areas ensure the preservation of the public welfare, safety, and health under specified conditions.
5. Adds conditions to WRD authority to issue a permit to appropriate ground water for community or public wells for an amount of water equivalent to amount provided by abandoned domestic wells; sets cap and condition regarding impact on hydraulically connected surface water.
6. Directs WRD to presume that groundwater application will ensure preservation of the public welfare, safety, and health under specific conditions in lieu of conditions established in ORS 537.621 (a). Makes conforming amendment to required findings of fact.
7. Removes requirement that WRC identify location and compile specified information on water wells. Adds direction to WRD to assess water wells and require compliance with backflow prevention rules.
8. Revises WRC authority to require a water right owner using an underground reservoir to install a measuring device and submit an annual report in ground water quality concern or management area. Removes authority for WRD to use data collected to characterize an aquifer in an area with serious water management problems.

Removes operative dates. Specifies that an area subject to a declaration as a ground water quality critical or management area as of the day immediately preceding the effective date of Act is deemed a declared area on that effective date.

BACKGROUND:

Current law directs ground water concern areas to be declared by the Department of Environmental Quality (DEQ) if they confirm the presence of ground water contaminants suspected to originate from nonpoint source activities. The declaration must confirm substances within ground water, as well as ground water aquifers that

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may be affected ORS 468B.175: Declaration of an area of ground water concern. After a ground water concern area is declared, the Department of Environmental Quality, in collaboration with other state agencies, must:

- Appoint a ground water management committee within 90 days for the affected area.
- Focus on research and public education regarding the ground water concern.
- Ensure necessary monitoring of the area.
- Support the management committee in developing a local action plan to address the concerns.
- If the committee doesn't create the plan, the Department will develop it themselves.

Current law directs ground water management areas to be declared by the Department of Environmental Quality (DEQ) if, based on information from monitoring activities, DEQ confirms that ground water contains contaminants from suspected nonpoint source activities. Specifically, if nitrate levels exceed 70% of established limits, or if other contaminants exceed 50% of their established limits. The declaration must specify the substances detected and the affected ground water aquifers. Before declaring the area, the DEQ must confirm the results with a second laboratory ORS 468B.180: Declaration of ground water management area. Furthermore, DEQ, in consultation with appropriate state agencies, must appoint a ground water management committee to develop and promote a local action plan for the affected area. After a ground water management area is declared, the ground water management committee must:

1. Evaluate portions of the local action plan that reduced contaminant levels.
2. Advise state agencies on local aspects of the action plan.
3. Analyze the local action plan to understand why it failed to improve or prevent further deterioration of ground water in the management area.