

Submitter: Mark Carlton
On Behalf Of:
Committee: Senate Committee On Rules
Measure, Appointment or Topic: SB1153

SB 1153 would halt the use of transfers of water rights in most places in Oregon. Transfers are a vital tool for various water right holders to make changes, including for type of use, place of use, or point of diversion. New (surface or ground) water is largely unavailable, making transfers of existing water rights the only way to meet current or future needs. Transfers, both temporary and permanent, are the only practical option left for water users to legally move water where it's needed. SB 1153 would make these basic adjustments harder, slower, and more expensive. Water users, water suppliers, farmers, and ranchers, all rely on the water right transfer process to efficiently manage water use in their respective operations and to secure additional water supplies when new water rights are not available. In Oregon, a transfer is the only mechanism to change an existing water right. WRD may not approve a transfer if the transfer would (i) enlarge or expand an existing water right in any way, or (ii) cause injury to any other existing water right on the water system. The existing injury standard ensures that existing water rights, including instream water rights, are protected.

SB 1153 is inequitable: The bill targets family farms, agricultural water suppliers, and rural water users but exempts cities from the same rules, even though their water rights are the same or similar. Proposed amendments would exempt most municipal water suppliers from these new standards and deliberately exclude irrigation districts and similar entities from this exemption. This creates confusion and inequitable standards between municipal and agricultural water users, particularly where there is shared infrastructure. If a flood or other event occurs that impacts a co-owned or co-located POD or other infrastructure, we are concerned about how will WRD determine which criteria the transfer application falls into and whether the transfer will be approved.

SB 1153 ignores the current roles of state agencies who already have the authority to provide information to OWRD and condition water right transfers as needed. This includes Oregon Department of Fish and Wildlife (fish screens, fish passage, aquatic life, etc.); Oregon Department of State Lands (removal-fill); Oregon Department of Land Conservation and Development (land use planning and statewide goals); and Department of Environmental Quality (water quality).

Oregon's legislature should seek ways to enhance water right flexibility to ensure water users can improve operational efficiencies while protecting existing water rights, including instream water rights. The new standards under SB 1153 do the opposite; are not conducive to the wise and efficient use of Oregon's water resources; and, if implemented, will have far-reaching effects on Oregon's economy and the livability of communities across Oregon.

SB 1153 is overly broad and complex, places new unfunded mandates on WRD to

implement, and should not be pushed through at the end of session on party lines. The broad new standards proposed in SB 1153 need to be targeted to address a specific problem (which is thus far undefined) and be carefully crafted to avoid unintended impacts or making the problem worse. There are other collaborative and bi-partisan options to improve Oregon's Water Law system and ensuring that all water needs (in-stream and out-of-stream) are met—but SB 1153 is not one of them. Instead of rushing flawed legislation through one session, the state should pursue a collaborative, science-based effort. For these reasons and more, I urge you to vote against SB 1153.