



Oregon

Tina Kotek, Governor

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Testimony for House Bill 4004

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

Representative Ken Helm, Co-Chair

Representative Mark Owens, Co-Chair

Submitted by: Bryn Hudson, Legislative Coordinator

February 2, 2026

Thank you for the opportunity to provide informational testimony on the -3 amendments to HB 4004. This testimony is informational only; the Department is not taking a position on this legislation.

Section 4 of -3 amendments: Technical fix to the Department's dam safety "principal assistant"

The original precursor agency to the Water Resources Department was the Office of the State Engineer, established in 1905 to manage water use and promote development of water resources. When the agency was first established, the agency head was the State Engineer, who was required by statute to be a hydraulic engineer. Over time the Legislature shifted the agency name and structure to meet the needs of water management today, which includes employing experts in water science, water management, water engineering, water policy, and many other fields.

ORS 536.032 continues to reflect the agency history, currently requiring the director, or a principal assistant to be a registered engineer experienced in water-related engineering. ORS 240.205(4) requires a principal assistant, in OWRD's case, to report directly to the director or deputy, and outlines the criteria for such a designation, including that the position be head of a major organizational component. The Department of Administrative Services has recently notified the Department that our State Engineer, who is the designated "principal assistant," does not meet the requirement in ORS 240.205(4). The State Engineer serves as the Engineering Manager of the state's Dam Safety program and reports to the Technical Services Division Administrator. The Dam Safety Program is a small section of the agency that best fits within the Technical Services Division along with other technical experts at the agency, rather than in the Director's Office.

Section 4 amends ORS 536.032 to meet the needs of water management in this state, by requiring the agency to employ a registered professional engineer responsible for the dam safety program functions, rather than linking the requirement to the "principal assistant" definition in ORS 240.205(4).

Section 5 of -3 amendments: Technical fix to HB 3342 (2025)

House Bill 3342 (2025 Oregon Laws Chapter 282) authorized that proposed final orders (PFO) for certain water right transactions issued by the Department become final 33 days after the close of the protest period, provided that no protests are filed, and the Department does not withdraw the order. The Department has identified a drafting error in House Bill 3342 section 31(1)(b), that states that a PFO becomes final, if no protests are received during the 33-day period after the protest period. The 33-day period should refer to the time after the protest period closes when the Department cannot receive any protests. The intent is for protests to be received within the designated protest period, not during the 33-day period after the close of the protest period, as the current language reflects.

Based on the Department's reading of section 5, the amendments currently posted are not drafted correctly. The reference to ORS 536.077 for a protest is not encompassing of all the different protests that could be received by the Department. The original intent of the bill was that if the Department receives any protests to a PFO, the PFO will not become final. As drafted, this would only occur if a protest defined under ORS 536.077 is received, which narrows the applicability.