



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

MEMORANDUM

TO: Water Resources Commission

FROM: Brenda Bateman, Senior Policy Coordinator

SUBJECT: Agenda Item J, May 13, 2011
Water Resources Commission Meeting

May 2011 Legislative Update

I. Introduction

Oregon's 76th Legislative Assembly has convened in Salem, with budget as the primary, but not the only topic, under consideration. The Department presented its budget and program priorities during April before a very cordial Natural Resources Subcommittee of the Joint Ways and Means Committee. The Department continues to participate in and track a number of water-related bills that continue to move through the process.

In addition, several members of the lobby plan to join the Commission for a discussion of the Legislative Session thus far, including several water-specific bills.

This is an informational report only.

II. Water-Related Bills Thus Far

Department Bills:

- SB 126 Water Resources Department's bill regarding continuing education for Certified Water Right Examiners (CWREs). Passed the Senate floor with a 24-6 vote.
- HB 2133 Water Resources Department's bill allowing electronic communications with customers, in lieu of hardcopy communications, where agreed upon by both parties. Passed the House floor with a 57-0 vote (plus 1 absence, 2 excused).
- HB 2134A Water Resources Department's bill expanding eligibility in a water exchange to include groundwater recharge permits in the Umatilla Basin. Includes a "no net loss of flows in the Umatilla River" clause. Passed out of the House Energy and Environment Committee on April 14 with a 7-0 vote (plus one excused).

HB 2135A Water Resources Department's bill reducing the number of required weekly newspaper notices to two in a row. Passed the House floor with a 59-0 vote (plus 1 excused).

Non-Department Bills:

HB 2748 Sponsored by Representative Deborah Boone (D-Cannon Beach). Wave energy bill modeled after SB 195 (2009), providing exemptions to wave energy pilot projects under the state's hydroelectric statutes. Program sunsets 2022. Passed the House floor with a 59-1 vote.

HB 2983A Sponsored by Speaker Bruce Hanna (R-Roseburg) and Representative Brian Clem (D-Salem). Removes renewal fees from the Department's instream leasing program. Also extends the sunset from the Department's split-season leasing program from 2014 to 2021. Passed the House floor with a 55-1 vote (plus four excused).

HB 2873 Sponsored by Representative Brian Clem (D-Salem). Bill allows in-conduit hydroelectric projects to proceed without providing additional fish protections if the hydro project does not modify the point of diversion. (Passed out the House Energy Environment and Water Committee on April 21 with a 7-1 vote).

HB 3109A Sponsored by Representatives Chris Garret (D-Lake Oswego) and Vic Gilliam (R-Silverton). Ecosystem services bill expands state land-use policy to include ecosystem services (i.e., creates a path for mitigation credits). Passed out of House Energy Environment and Water Committee on April 14 and subsequently referred to the Joint Committee on Ways & Means' Natural Resources Subcommittee.

HB 3165A Sponsored by Representatives Vic Gilliam (R-Silverton) and Brian Clem (D-Salem). Establishes a stakeholder process related to water right transfers in the Willamette Basin Federal Storage System. Passed out of House Energy Environment and Water on April 21 with a 6-2 vote and subsequently referred to the Joint Committee on Ways & Means' Natural Resources Subcommittee.

HB 3623A Sponsored by Representative Gene Whisnant (R-Sunriver). Extends 2014 sunset on the Deschutes Mitigation Program from 2014 to 2029; requires the Department to report on progress to the Legislature every five years. Passed out of House Energy Environment and Water on April 21 with a 7-1 vote and subsequently referred to the Joint Committee on Ways & Means' Natural Resources Subcommittee.

SB 847 This bill focused on the idea of "unstacking" water rights. When water rights are layered, or "stacked" with a primary right appurtenant to the same area as a supplemental right, it is not possible to transfer one right to another piece of land, without transferring the second right as well, or forfeiting the second right. This bill intended to look more closely into this issue. Instead, the Department and

Oregon Water Resource Congress proposed to form a working group during Fall 2011—no later than October 1st. The effort will require a few meetings to identify if changes in guidance, rule or policy are warranted. A likely outcome will be the development of a protocol which irrigation districts and the Department will be able to use to prevent unintentional layering in the future.

III Timeline of Budget and Policy Discussions

Measures worked their way through their first chamber from February through April. Policy committee chairs held work sessions by April 21 to keep bills alive. (This deadline does not apply to Way & Means, Rules, and Redistricting Committees). Both chambers hosted extra floor sessions from April 30 to May 4, in order to vote on bills and move them to the next chamber.

Measures will work their way through their second chamber during May. Policy committee chairs in the second chamber must hold work sessions by June 1 to keep bills alive.

The Legislature plans to adjourn SINE DIE by June 30, 2011.

IV. Panel Presentation

This morning, lobbyists from the water industry will engage in a panel discussion sharing their observation for the 2011 Legislative Session. Invited guests include: Patrick Capper, representing the Oregon Association of Nurseries (OAN); Richard Kosesan, representing Water for Life; Mark Landauer, representing the Special Districts Association of Oregon (SDAO); Doug Riggs, representing the Central Oregon Cities Organization (COCO); and Jim Myron, WaterWatch of Oregon.

Brenda Bateman
(503) 986-0879