



# Oregon

Kate Brown, Governor

## Water Resources Department

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### MEMORANDUM

TO: Water Resources Commission

FROM: Racquel Rancier, Senior Policy Coordinator *RR*

SUBJECT: Agenda Item J, June 19, 2015  
Water Resources Commission Meeting

### Legislative Update

#### I. Introduction

The 2015 Legislative Session has been well underway for several months and the deadline for bills to make it out of policy committees has passed. During this agenda item, staff will provide an overview of the status of key legislation related to the Water Resources Department's activities.

#### II. Background

As of the 8<sup>th</sup> of June, 2,784 measures had been introduced during the 2015 Legislative Session. Approximately 700 measures have been passed by the House and more than 630 have been passed by the Senate. Bills were required to be out of the second chamber policy committees by June 5; however, the Rules, Revenue and Finance, and Joint Ways and Means Committees are not subject to the same deadlines as the policy committees.

#### III. Department Legislation

The Department had five bills this legislative session.

##### ***SB 266 – Place-Based Integrated Water Resources Planning***

This bill authorizes the Department to provide grants to groups seeking to undertake a voluntary, place-based approach to water resources planning. The grants would provide communities with the initial financial capacity to cover facilitation, logistical, and technical costs associated with undertaking a place-based process.

*Status:* Staff worked with stakeholders on amendments for the bill to provide sideboards on the place-based planning strategies. The bill passed out of the Senate Committee on Environment and Natural Resources on a 5-0 vote. The bill is currently in the Joint Ways and Means Committee.

***SB 267 – Extending Irrigation District Pilot Project Allowing Temporary Transfers within Boundaries***

This bill extends the sunset on the Irrigation District Pilot Program to January 2, 2022, which allows certain irrigation districts to temporarily change the place of use of water rights within their boundaries for one season without making application to the Department. The bill also requires a report to the Legislature no later than January 31, 2021 on implementation of the pilot program.

Amendments to the bill clarified that the program applies to irrigation transfers, and require the Department, prior to the irrigation season each year, to provide notice of the districts that believe they will use the program. Finally, if a district that is not specified in statute seeks to utilize the pilot program in lieu of another district, the bill requires the Department to provide notice and allow the public to provide information that could help the Department determine whether the district meets the criteria to participate in the program.

*Status:* After working with stakeholders on amendments, Senate Bill 267 passed the Senate Environment and Natural Resources (SENR) Committee on a 4-1 vote. The bill has since passed the: Senate 26-4, House Rural Communities, Land Use and Water (HRCLW) Committee 7-0, and the House 60-0.

***SB 268 – Water Resources Department Funding Task Force***

The Department is heavily reliant on general fund for its operations. In the past, the variability of, and competition over, the General Fund has eroded the capacity of the Water Resources Department to manage, distribute, and protect Oregon's water resources, particularly since workload and complexity of issues has increased.

*Status:* Died in SENR Committee.

***SB 264 – Implementation of the Upper Klamath Basin Comprehensive Agreement  
IWRS Recommended Actions # 2C, 9C***

The 2014 Upper Klamath Basin Comprehensive Agreement requires the State to seek legislation that would authorize the Klamath County Circuit Court to undertake procedures in the Klamath Basin Adjudication that would allow non-tribal claims to move forward, while tribal water right claims are adjudicated in a timeline and manner to facilitate implementation of the agreement. These provisions were included in the original bill, but were ultimately amended out. The Agreement also required the State to seek authority to participate in the Joint Management Entity, which is responsible for administration of certain provisions of the Comprehensive Agreement. The final version of SB 264 provides the Department with this authority.

*Status:* After working with stakeholders and legislators on amendments, Senate Bill 264 passed the SENR Committee on a 5-0 vote. The bill has since passed the Senate 23-7, HRCLW Committee 6-0-1, and the House 51-0-9.

***SB 265 – Fulfilling State Commitments in the Klamath Basin Restoration Agreement  
IWRs Recommended Actions # 2C, 9C***

As signatory to the 2010 Klamath Basin Restoration Agreement, which settles key disputes over water in the Klamath Basin, the State of Oregon has committed to support legislative authorization to compensate Klamath County for potential economic losses, and to provide grants for agricultural energy and water conservation projects.

*Status: Died in Senate Environment and Natural Resources Committee*

**IV. Water Legislation from the Governor's Office**

Staff will provide an overview of other legislation that has been introduced.

**SB 206**

This bill allows holders of determined claims in the Klamath Basin Adjudication to be allowed to temporarily transfer or lease instream their determined claims. The bill sunsets in 2026, but allows transfers and leases entered into before that date to continue.

*Status:* The Department worked with stakeholders and legislators on amendments, which mostly addressed the area in which the transfers and leases would be authorized. Senate Bill 206 passed the SENR Committee on a 5-0 vote. The bill has since passed the: Senate 30-0, HRCLW Committee 6-0-1, and the House 50-0-10.

**HB 2400**

Adjusted the deadlines for the two SB 839 (2013) task force reports and extended the timeline to adopt rules to establish the seasonally varying flows (SVF) methodology. House Bill 2400 also closed a loophole on the SVF requirement that would have allowed projects to circumvent the SVF by obtaining a water right before applying for funding. HB 2400 applies the requirements to certain storage projects that receive funding from the Water Supply Development Account regardless of when a water right permit or limited license was obtained for the project.

*Status:* After working with stakeholders on amendments, House Bill 2400 passed the HRCLW Committee 6-0-1, and the House 47-10-3. The bill has since passed the SENR Committee on a 4-1 vote and the Senate 20-8-2. It has been signed into law by the Governor.

**IV. Other Legislation**

The Department has been tracking a number of bills this session. Below are a few bills that are still alive and are relevant to the Department's activities. Additional bills will be highlighted during the presentation to the Commission.

**HB 3515**

This bill requires ODFW to charge agencies for services performed on fee-related programs, such as water right transactions. This bill was amended by the Senate Committee to require the charging to begin in 2019 instead of 2017. It requires ODFW to start tracking and estimating the charges that agencies would have incurred before then.

*Status:* This bill was amended in the second chamber SENR Committee and is awaiting a floor vote of the Senate. Since it was amended in the second chamber committee, it will need to return to the House for concurrence.

**SB 306**

SB 306 would allow the Oregon Infrastructure Finance Authority (IFA) to provide financial assistance in the form of loans or grants for a levee project to certain entities. The bill would allow the Water Resources Department to inspect levees and provide other assistance, with the permission of the owner of the levee.

*Status:* Scheduled for a work session on June 8<sup>th</sup> in the Joint Ways and Means Subcommittee on Transportation and Economic Development.

**SB 319**

Requires proprietary authorization and removal/fill permit for wave energy facilities in the territorial sea. Exempts such projects from WRD hydroelectric and water right permitting requirements, provided that the project is not in an estuary in which the bed and banks are not owned by the State.

*Status:* Passed the Senate and House floors. Awaiting signature of the Governor.

**SB 712**

This bill was introduced to address the Cottage Grove decision that stated that the “undeveloped portion of a permit” subject to fish persistence requirements was the portion developed as of the last extension of time or the completion date on the permit. Prior to the decision, the Department had been calculating the undeveloped portion as the portion developed prior to approval of the new extension. Amendments to the bill are under negotiation.

*Status:* In Rules Committee, pending amendments.

**V. Conclusion**

The second chamber deadline for bills to make it out of the policy committees has passed. Staff will continue to monitor bills in the Revenue and Finance Committees, Rules Committees, and the Joint Ways and Means Committees until Sine Die. The 2015 Legislative Session target sine die is June 26.

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