



Oregon Water Resources Department—2013 Legislative Concepts



OUR MISSION

To serve the public by practicing and promoting responsible water management through two key goals:

- (1) to directly address Oregon's water supply needs, and
- (2) to restore and protect streamflows and watersheds in order to ensure the long-term sustainability of Oregon's ecosystems, economy, and quality of life.

HB 2257 (Formerly LC 657) Authority to Change a Name on a Water Right Certificate

Today, there are no statutory provisions that allow the name and contact information on a water right certificate to be changed, even if the holder of the certificate has passed away or sold off interests. There are about 85,000 water rights in Oregon today; about 71,000 of them are currently certificated. The state needs the ability to respond to holders of water rights who are asking to modify the names on these certificates, especially in light of recent court cases, favoring the name written on a water right certificate over other factors. Such a change would facilitate other process efficiencies, such as communicating with water right holders, mapping water rights, updating the water right database, and improving compliance with measurement and reporting conditions. Such a change would be voluntary and would necessitate a fee, to fully pay for the required staff time.

HB 2258 (Formerly LC 658) Establish a Water Supply Development Program

Other western states have long had authorities in place, allowing the state to take an active role in the development of water supply. Through discussions with stakeholders and partners, the Water Resources Department has become aware of potential opportunities to invest in, purchase, broker, fund, and develop new water supplies. Today, the state of Oregon has neither the authority nor the funding to enter into such arrangements. This concept requests authority for the Water Resources Department to provide these services. A fee charged for the state's purchase and sale of water could partially offset the Department's expenses for these services.

SB 217 (Formerly LC 659) Establish a Water Right Management Fee

The Water Resources Department, which is heavily dependent on the General Fund for its operating budget, has experienced a declining share of the General Fund, as well as declining dollars overall for the past two decades. Unlike most agencies, the Water Resources Department is smaller today than it was 20 years ago. This is compounded by a corresponding decrease in water management funds from county and federal partners. These declines come at the same time that water resource workload is increasing in complexity, particularly as it relates to groundwater science. The Water Resources Commission, the overarching policy body, has been increasingly concerned about these trends and has formed a revenue enhancement subcommittee, which has met with more than 40 stakeholder groups during the past two years.

One revenue solution developed by the Water Resources Commission and its subcommittee is an annual fee, charged to all those holding a water right (e.g., a permit, certificate, or decree). These water rights are used beneficially for industrial, agricultural, municipal, and instream purposes. This concept assumes that all water right holders would be subject to an annual fee of \$100 per water right. However, the Department has also assumed in its calculations a cap of \$1,000 for all but municipal customers who have a rate-paying base to assist with the costs.

There are currently 85,000 water rights in Oregon. Assuming water right holders would cancel a number of these rights, rather than pay a fee, and assuming significant implementation costs during the first biennium, the Water Resources Department has estimated revenues of \$12 million, beginning in the second biennium after the program is established. Revenues would pay for implementation costs of the program, as well as the cost of the critical field and science work that help ensure water availability for beneficial uses.

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SB 199 (Formerly LC 660) Split Season Leasing – Remove Program Sunset

Split Season Leasing allows water right holders to use water beneficially for a portion of the year, and lease (up to) the unused portion of the right for the remainder of the year, providing that the uses do not occur at the same time.

This program, authorized under ORS 537.348, Section 3, is part of the Water Resources Department's broader portfolio of instream leasing programs. The program has been in place since 2001, passing with strong support of the Oregon Legislature. In 2007, its sunset was extended to January 2, 2014, again with strong Legislative support. It has enjoyed participation from about a dozen water right holders from across the state; the largest concentration has come from the Deschutes, Rogue, and Willamette Basins.

This concept removes the program sunset. Responding to concerns voiced during the 2012 legislative session, this concept also clarifies that the Department will (and already does) provide notice, guard against injury during the course of program implementation, and revoke or modify an order if it finds that the lease results in injury to an existing water right. The concept clarifies that leases are valid for five years and are renewable. Note: WRD has undertaken a review of this program with stakeholders in accordance with Oregon Administrative Rules 690-077-0079.

HB 2259 (Formerly LC 661) Extend Water Right Transactions Fee Schedule – Remove Sunset

The Department's fees for all water right transactions are set in statute. Last modified in 2009, the current fees are due to sunset in 2013. If this occurs, fees will revert back to levels that were set in 2003 and remained in place until 2009. The current fee schedule funds about \$2.1 million worth of work, or 16 permit writers in the Water Rights Division. A roll-back to 2003 levels would decrease authorized funding levels and would decrease staff by 7 FTE, resulting in drastically reduced service to customers.

This legislative concept: (1) removes the sunset, (2) creates a couple of additional fees, to bring consistency to the overall fee schedule, and (3) adjusts the current schedule of fees to account for the increased cost of doing business; these increased costs are set each biennium by the Oregon Department of Administrative Services and are estimated at 13 percent for the 2013-15 biennium. This would maintain the 50-50 split between General Fund and Fees negotiated in 2009.

SB 200 (Formerly LC 662) Split a Permit into Multiple Ownerships

As properties are split up and sold, the water right appurtenant to the land is also affected. It is not unusual to have one or more permit holders ready to certificate or "prove up" on their portion of a water right, while the others are not yet ready or willing. Increasingly, banks favor loaning money for property with certificated water rights, instead of permitted water rights.

This concept would amend the permit amendment process, allowing water right holders to certificate their portion of the original water right permit as they become eligible. This concept would carry forward all conditions from the original permit and would not release any permit holders from obligations that existed under the original permit. This concept would apply to domestic and agricultural permits only.

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