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TO: The Honorable Ken Helm, Chair
House Energy & Environment Committee

FROM: Jere High
Center for Health Protection
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SUBJECT: House Bill 2404, testing of private wells that supply ground water for domestic purposes

Chair Helm and members of the committee; I am Jere High, Administrator of the Center for Health Protection, from the Public Health Division within the Oregon Health Authority (OHA). I am here to provide information on how HB 2404 would impact services provided by the OHA Domestic Well Safety Program (Domestic Well Program).

INTRODUCED:

The implementation of this bill would greatly expand OHA's scope of work on domestic wells. Currently the federally funded Domestic Well Program supports 1.25 FTE of OHA staff, who provide the maintenance and analysis of data related to ORS 448.271 (the Domestic Well Testing Act). The Domestic Well Program also provides ground water contaminant education and currently funds two small annual grants to local public health associations (LPHAs). Long-term funding for the Domestic Well Program is uncertain, with current federal funding for the program lasting only through September 2020.

HB 2404 makes a number of changes to the OHA Domestic Well Program and to requirements related to domestic wells in Oregon.

First, HB 2404 requires OHA to analyze real estate transaction well testing data collected under the existing program to identify ground water contaminant areas and to provide

education to these areas. Further, OHA would be required to continue these activities indefinitely, regardless of funding availability; as noted, the program is implemented with federal funds that are currently slated to extend only through September 2020.

Second, the bill as introduced sets requirements for landlords whose tenants obtain drinking water from wells on the property to test wells at specified intervals for arsenic, nitrates, and total coliform bacteria and report those results to OHA. It is our understanding that there are discussions to modify this aspect of the bill.

OHA wishes to note that in 2016, the Environmental Protection Agency amended the Total Coliform Rule for drinking water to replace testing for total coliform bacteria with testing for *E. coli* instead. OHA recommends that this new testing standard be reflected in HB 2404 for any new testing requirement for landlords. OHA would also recommend HB 2404 amend ORS 448.271, the current statutory requirement to test wells at the time of real estate transfer. That statute should similarly be updated to specify testing for *E. coli* rather than the current reference to total coliform; in practice, laboratories are automatically testing for *E. coli* as a better indicator of disease-causing agents in drinking water, but are having to test for total coliform due to the outdated statutory requirement.

The proposed dash-1 to HB 2404 requires laboratories to electronically submit landlord test results to DEQ. OHA believes this will increase submission compliance compared to the current compliance rate for the existing real estate transfer testing reporting. OHA works closely with private testing laboratories in the state, and we understand from these partners that less than 25% of real estate transactions results completed by labs are reflected in our Program's data analyses. This tells us that while real estate transaction testing is taking place, reporting of results from homeowners and other sellers is not regularly occurring. Another byproduct of the dash-1 is increased availability of this data to the public because DEQ has the ability to host these results electronically on a public interface.

OHA notes that HB 2404 does not direct OHA or any state agency to analyze test results received from landlords or to act upon the data in any way. Analysis of such data would improve understanding of ground water quality in Oregon and potentially identify new or emerging areas to focus education and outreach efforts.

Third, HB 2404 establishes the Safe Ground Water Fund (SGWF) that would permit the Domestic Well Program to provide grants to local public health authorities, nonprofit organizations, soil and water conservation districts and the Oregon State University Extension Service. The Domestic Well Program currently provides two local public health authority grant awards each year, which strive to improve local domestic well outreach and education capacity. The grant award process requires substantial staff time

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to administer the grants, solicit and review applications and oversee the projects in their entirety. At its current capacity, the Domestic Well Program would not be able to manage additional grant awards as proposed in HB 2404. However, the Domestic Well Program would welcome resources to provide additional grant opportunities to these local organizations.

HB 2404 also proposes that the Safe Ground Water Fund provide grants and loans to low-income and rental property owners. The Domestic Well Program does not currently perform this type of work and would require substantial training and resources to become proficient. The Program would also require additional staff time to solicit grant and loan applications, review the applications, administer the grants and loans over time and to provide technical assistance to grant and loan recipients. Additionally, the Program would need to undertake rulemaking to establish criteria and standards that qualify an applicant to receive a grant or loan. If there is high demand for grants and loans, the Program would need to determine additional criteria beyond low-income and/or rental property owner status to ensure the most in-need applicants have priority to these funds. As an alternative, OHA could work with the Infrastructure Finance Authority to provide these services.

Finally, HB 2404 as introduced also directs OHA to provide information to property owners on how to install treatment systems and how to repair or replace a well. OHA does not have the staff resources necessary to provide individual consultation on domestic well repairs, replacement or treatment options. As an alternative, OHA could make general information on these topics available on its website, including a recommendation to property owners that they look for specific third-party certification of treatment units.

Thank you for the opportunity to testify. I would be happy to answer any questions you may have regarding this testimony.