

D R A F T

SUMMARY

Directs Water Resources Department to establish water banking program.

A BILL FOR AN ACT

Relating to water banking.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Water Resources Department shall establish a water banking program to facilitate the transfer of existing water rights or uses between properties accessing the same water source.

(2) The department may acquire all or part of an existing right in or use of surface water, ground water, stored water or reclaimed water. The acquisition may be by purchase, grant, donation, lease, contract or other means, but may not be by condemnation.

(3) If the department acquires a right or use under this section, the department shall issue a new permit, certificate or other applicable document establishing that the right or use is held in the name of the State of Oregon. The terms and conditions of the acquired right or use, including but not limited to the priority date, shall be identical to the superseded permit, certificate or other document unless the terms and conditions are changed under a process described in ORS 540.510 or in conformance with ORS 540.520 and 540.530.

(4) The department may use a water right or use acquired under this section to:

(a) Mitigate water resource impacts or future water supply needs;

(b) Make water available for in-stream water rights under ORS

1 **537.341; or**

2 **(c) Make water available for purchase on a temporary or permanent**
3 **basis for any beneficial use by the purchaser.**

4 **(5) The department may not use water banking if the water banking**
5 **would:**

6 **(a) Cause injury to an existing water right; or**

7 **(b) Enlarge the water right or use acquired by the department.**

8 **(6) The department shall maintain a website showing all water**
9 **rights or uses held by the department and available for purchase on**
10 **a temporary or permanent basis for beneficial use by the purchaser.**
11 **The department shall keep a record of the source of each acquired**
12 **water right or use and any beneficial use made of the acquired right**
13 **or use.**

14 **(7) The department may specify the permissible beneficial uses of**
15 **a water right or use sold by the department. The beneficial use of the**
16 **acquired right or use may be by contract, purchase, lease or transfer,**
17 **by acquisition of a permit for the use of stored water or by any other**
18 **means authorized by law for acquiring water.**

19 **(8) The department may condition the beneficial use of the acquired**
20 **water right or use for the purpose of protecting existing water rights**
21 **or preventing enlargement of a water right and as required for con-**
22 **sistency with the contract or agreement terms or state or federal law.**

23 **(9) The department may issue a superseding water right permit or**
24 **certificate in the name of a person that permanently acquires a water**
25 **right that was held in the name of the State of Oregon. The priority**
26 **date, amount and source of water under the superseding water right**
27 **permit or certificate shall be the same as the superseded water right**
28 **permit or certificate unless the terms and conditions are changed un-**
29 **der a process described in ORS 540.510 or in conformance with ORS**
30 **540.520 and 540.530.**