

Enrolled
Senate Bill 267

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CHAPTER

AN ACT

Relating to a pilot program for the temporary transfer of water use within a district; creating new provisions; and amending sections 23 and 25, chapter 705, Oregon Laws 2003.

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

SECTION 1. The Water Resources Department shall report to the Eighty-first Legislative Assembly, no later than January 31, 2021, on the operation of the pilot project established under section 23, chapter 705, Oregon Laws 2003.

SECTION 2. Section 23, chapter 705, Oregon Laws 2003, as amended by section 1, chapter 283, Oregon Laws 2009, is amended to read:

Sec. 23. (1) In order to increase district water management flexibility, the Water Resources Department shall establish a pilot project in which districts may temporarily allow, for water uses subject to transfer, the use of water on any land within the legal boundaries of the district established pursuant to ORS chapter 545, 547, 552, 553 or 554.

(2) The use of water on any land within the legal boundaries of the district may be allowed if:

(a) The rate and duty, and the total number of acres to which water will be applied under the transfer, do not exceed existing limits on the water use subject to transfer;

(b) The type of use authorized under the water use subject to transfer **is for irrigation and** remains the same; and

(c) The land from which the water use is being transferred does not receive any water under the right being transferred during the irrigation season in which the change is made.

(3) The department shall allow the pilot project to be implemented in the Talent Irrigation District, the Owyhee Irrigation District, the Tualatin Valley Irrigation District, the Central Oregon Irrigation District, the Swalley Irrigation District, the Westland Irrigation District, the North Unit Irrigation District, the Arnold Irrigation District, the Stanfield Irrigation District, the West Extension Irrigation District, the Hermiston Irrigation District, the Medford Irrigation District, the Sutherlin Water Control District, the Santiam Water Control District and the Ochoco Irrigation District or their successor districts. However, any district participating in the project must:

(a) Have defined state district boundaries;

(b) Have a management structure that can ensure that water is applied only where the water use is authorized;

(c) Not irrigate an area in any one irrigation season that exceeds the maximum number of acres allowed to be irrigated under the original water right;

- (d) Have a full and accurate measurement of the water appropriated;
- (e) Have an accurate map identifying the location of authorized use, by priority date, for review upon request and provide a copy of the map to the watermaster; and
- (f) Have on file statements by any landowner affected by the water use change indicating that the landowner agrees to the change.

(4) If any of the specified districts are unable to participate in the project, the department may identify another district for the project. **Before allowing another district to participate in the project for the first time, the department shall publish notice of the planned participation by publication in the weekly notice published by the department and shall allow the public at least 20 days to provide information to assist the department in determining whether the district meets the qualifications required under subsection (3) of this section.**

(5) The department may require that use of water under the pilot project cease and that the use revert to the use allowed under the water right of record if the department determines that:

- (a) The district does not meet the qualifications established in subsection (3) of this section;
- (b) The water is being used in a manner that violates the requirements in subsection (2) of this section; or
- (c) The changes made to the use of water would result in injury to existing water rights or an enlargement of the original water right.

(6) The department shall annually, prior to commencement of the irrigation season, publish notice of the districts that might intend to make use of the pilot program during the year. The notice shall identify the districts by name and provide the contact information for the watermasters for the districts. The department shall publish the notice by publication in the weekly notice published by the department.

[(6)] (7) Use of water under the pilot project constitutes a beneficial use of water and does not constitute nonuse for purposes of forfeiture under ORS 540.610.

SECTION 3. Section 25, chapter 705, Oregon Laws 2003, as amended by section 2, chapter 10, Oregon Laws 2007, and section 3, chapter 283, Oregon Laws 2009, is amended to read:

Sec. 25. Sections 22 and 23, chapter 705, Oregon Laws 2003, are repealed on [June 30, 2016] **January 2, 2022.**

Passed by Senate March 24, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 2, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State