

Senate Bill 772

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires water appropriator to install device at point of diversion or appropriation to measure amount, and allow determination of rate and duty, of water being used. Creates exception for water being used for exempt purpose. Requires reporting measurements to Water Resources Department.

Allows civil penalty for violation, not to exceed \$500 per day.

A BILL FOR AN ACT

1
2 Relating to the measurement of appropriated water.

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

4 **SECTION 1. As used in sections 1 to 4 of this 2017 Act:**

5 (1)(a) **"Claim of right" means a certificate, decree, determination, exemption, permit,**
6 **statute or other legal authorization to divert or appropriate waters of this state for benefi-**
7 **cial use.**

8 (b) **"Claim of right" does not mean an authorization under ORS 537.545 to use ground**
9 **water for a purpose that is exempt.**

10 (2)(a) **"Water appropriator" means an entity that diverts or appropriates water for ben-**
11 **eficial use under a claim of right.**

12 (b) **"Water appropriator" does not mean:**

13 (A) **The holder of an in-stream water right; or**

14 (B) **A customer, district member or other secondary user of water that another entity**
15 **has diverted or appropriated under a claim of right.**

16 **SECTION 2. (1) The Legislative Assembly finds and declares that:**

17 (a) **Water use data is a fundamental tool to ensure efficient management, ensure effec-**
18 **tive water distribution and help plan for future water needs; and**

19 (b) **The measurement and reporting of water use benefits all water appropriators and is**
20 **critical to the effective management of the water resources of this state.**

21 (2) **It is the policy of this state to:**

22 (a) **Actively promote measurement and reporting of water use by water appropriators;**
23 **and**

24 (b) **Encourage federal, state and local government coordination and cooperation in pro-**
25 **viding financial support to water appropriators for water use measurement and reporting.**

26 **SECTION 3. (1) A water appropriator shall install, operate and maintain a device to**
27 **measure the amount, and allow determination of the rate and duty, of water used by the**
28 **water appropriator under a claim of right. A device must measure the amount, and allow**
29 **determination of the rate and duty, of water for each point of diversion or point of appro-**
30 **priation utilized for water use under the claim of right.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) A water appropriator shall maintain a device required under subsection (1) of this
2 section in good working order for the period of water use. A device must be capable of con-
3 tinuously measuring the amount, and allow the continuous determination of rate, of water
4 diversion or appropriation using the best practicable technologies and practices available, as
5 determined by the Water Resources Commission, at the time the device is installed. The
6 commission shall adopt rules establishing accuracy requirements and other requirements for
7 devices required under this section.

8 (3) A water appropriator shall provide evidence satisfactory to the Water Resources De-
9 partment that a device required under subsection (1) of this section has been properly in-
10 stalled and is properly functioning. The evidence must accompany the first report submitted
11 under section 4 of this 2017 Act following installation of the device. Evidence demonstrating
12 to the satisfaction of the department that the device continues to function properly must
13 accompany each subsequent report under section 4 of this 2017 Act.

14 SECTION 4. (1) A water appropriator shall report water amount, rate and duty informa-
15 tion collected by a device under section 3 of this 2017 Act to the Water Resources Depart-
16 ment. The information must include, but need not be limited to, daily maximum rates of
17 diversion or appropriation. A report concerning ground water must also include any infor-
18 mation required by the department concerning ground water levels. A report concerning a
19 diversion or appropriation for in-channel storage must report both inflow and outflow for the
20 reservoir.

21 (2) A water appropriator shall submit reports under this section in accordance with a
22 schedule approved by the Water Resources Commission. The schedule shall require at least
23 annual reporting, but may require more frequent reporting.

24 SECTION 5. The Water Resources Department may assess a civil penalty for violation
25 of section 3 or 4 of this 2017 Act, not to exceed \$500. For a continuing violation, each day the
26 violation continues is a separate violation.

27 SECTION 6. (1) Except as provided in subsection (2) of this section, sections 3 and 4 of
28 this 2017 Act apply to:

29 (a) Water use that utilizes a point of diversion or point of appropriation placed in service
30 on or after the effective date of this 2017 Act; and

31 (b) Water use after December 31, 2020, that utilizes a point of diversion or point of ap-
32 propriation placed in service prior to the effective date of this 2017 Act.

33 (2) The Water Resources Commission may, by order, require a water appropriator or
34 group of water appropriators that utilize points of diversion or points of appropriation de-
35 scribed in paragraph (1)(b) of this section to comply with sections 3 and 4 of this 2017 Act
36 by a date earlier than December 31, 2020.

37