

HB 2244 STAFF MEASURE SUMMARY

House Committee On Water

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Meeting Dates: 2/11

WHAT THE MEASURE DOES:

Establishes that filing of a petition in circuit court or Court of Appeals may not stay enforcement of final order of the Oregon Water Resources Commission (OWRC) or Oregon Water Resources Department (OWRD) when regulated off diversion, appropriation or other use of water in favor of: a determined claim, in-stream water right held by state agency, or determined claim or water right held by or held in trust for a federally recognized Indian tribe. Applies to petitions for judicial review filed on or after effective date of this Act. Repeals Section 2, chapter 445 of 2015 Oregon Laws, removing sunset date of January 2, 2026.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Oregon follows a prior appropriation doctrine of water use, often referred to as “first in time, first in right.” This means when there is insufficient water to satisfy all water rights, water users with senior priority dates may make a “call” to receive water and users with junior water rights are shut off until senior water rights are satisfied.

Adjudication is the process by which pre-1909 vested water rights are quantified and documented through an administrative and judicial procedure. Approximately two-thirds of the state has been adjudicated. The administrative phase of adjudication concludes with the presentation of the Adjudicator’s findings of fact and a final order of determination filed by the Oregon Water Resources Department (OWRD) with the applicable court. The judicial phase of the process is the review of the final order by the courts. Adjudication claimants or contestants who dispute OWRD’s determination have an opportunity to file exceptions to be reviewed by the court. The court ultimately issues a water rights decree affirming or modifying the final order of determination, and OWRD issues water right certificates in accordance with the court’s decree.

House Bill 2244 would remove the routine stay of enforcement by filing a petition with the court to contest a final order when the final order favors a determined claim, an in-stream water right held by a state agency, or either a determined claim or water right held by or for a federally recognized Indian tribe.