

House Bill 3228

Sponsored by Representative OWENS

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**.

Authorizes persons that hold water rights and other affected parties to develop, and Water Resources Department to approve, cooperative water management plans. Authorizes department to approve, as part of plan, pooling of water rights, implementation of alternative water management arrangements without need for certain individual applications or authorizations from department, banking of rights to surface or ground water and new water use authorizations. Requires that plans be sponsored by certain governmental entities. Provides that water rights subject to plan may not be subject to forfeiture for nonuse of water or cancellation for failure to meet permit requirements.

A BILL FOR AN ACT

1
2 Relating to cooperative water management plans.

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

4 **SECTION 1. (1) Persons that hold water rights and other affected parties, including but**
5 **not limited to funding entities, nongovernmental entities, tribal governments and local gov-**
6 **ernments, may develop a cooperative water management plan to:**

7 (a) **Promote more effective and efficient water management; and**

8 (b) **Conserve or protect water resources through increased in-stream flow, improved**
9 **water quality or naturally or artificially restored ground water levels in the plan area.**

10 (2) **A person may submit a proposed plan to the Water Resources Department.**

11 (3) **A proposed plan must:**

12 (a) **Be sponsored by:**

13 (A) **A drainage district, irrigation district, urban flood safety and water quality district,**
14 **diking district, water improvement district or water control district;**

15 (B) **A tribal government;**

16 (C) **A county government;**

17 (D) **A municipal government; or**

18 (E) **An intergovernmental entity created by an agreement and governed by a board or**
19 **commission appointed by, responsible to and acting on behalf of the units of local govern-**
20 **ment that are parties to the agreement;**

21 (b) **Include a detailed description of how existing and new water rights would be collec-**
22 **tively managed to achieve the purposes described in subsection (1) of this section;**

23 (c) **Include conditions for measuring, monitoring and annual reporting of water use under**
24 **the proposed plan; and**

25 (d) **Be voluntary for all participants.**

26 (4) **A proposed plan may request approval for:**

27 (a) **Pooling of water rights for water from the same source or sources;**

28 (b) **Implementation of conservation measures, rotation plans or other alternative water**

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 management arrangements without need for individual applications for water right transfers,
2 temporary transfers, permit amendments, in-stream leases, rotation agreements or allo-
3 cation of conserved water or any individual authorization from the department;

4 (c) Banking of rights to use surface or ground water; or

5 (d) New water use authorizations, including but not limited to limited licenses or permits.

6 (5) The department shall approve a proposed plan within 180 days of the submission of
7 the proposed plan if the department determines that the plan:

8 (a) Will not cause injury to water rights that are not subject to the plan; and

9 (b) Is likely to result in a measurable net increase in in-stream flow, ground water levels,
10 aquifer sustainability or water quality within the plan area.

11 (6) Notwithstanding the processes established in ORS 537.130 for applying for a permit
12 to make an appropriation, ORS 537.150 to 537.230 for applying for a water right permit, ORS
13 537.250, 537.252 and 537.260 for issuing a water right certificate, ORS 537.455 to 537.500 for
14 allocating conserved water, ORS 537.505 to 537.795 for permitting and administering aquifer
15 storage and recovery and for appropriating ground water, ORS 540.505 to 540.585 for changes
16 in use of water and transferring and exchanging water rights and ORS 540.610 for forfeiting
17 of water rights:

18 (a) The department may approve a proposed plan that includes a request described in
19 subsection (4) of this section; and

20 (b) If the department approves the plan, a person that holds a water right subject to the
21 plan may take the actions described in the plan.

22 (7) When approving a plan, the department shall authorize a period of time during which
23 the plan will be in effect.

24 (8) While a plan is in effect:

25 (a) The department may take regulatory or enforcement action against a person holding
26 a water right that is subject to the plan only if the regulatory or enforcement action is
27 consistent with the plan.

28 (b) Water rights subject to the plan may not be subject to forfeiture for nonuse of water
29 or cancellation for failure to meet permit requirements.

30 (c) Data concerning use or nonuse of water under a water right subject to the plan may
31 not be used to the detriment of the holder of the water right in an enforcement action,
32 regulatory proceeding or other legal proceeding.

33 (9) The persons holding water rights that are subject to a plan may request, and the de-
34 partment may authorize:

35 (a) That a plan become permanent; or

36 (b) That a plan be modified or renewed.

37 (10) Upon the termination of a plan, water rights subject to the plan shall be subject to
38 the terms and conditions to which they were subject before the plan.

39 (11) The department shall adopt rules as necessary to implement this section.

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