

Senate Bill 661

Sponsored by Senator LINTHICUM (Pre-session filed.)

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**.

Exempts collection, storage or use of diffuse surface water from falling rain, melting snow or other precipitation from requirement to obtain water right permit or certificate.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to diffuse surface water; amending ORS 537.141; and declaring an emergency.

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

4 **SECTION 1.** ORS 537.141 is amended to read:

5 537.141. (1) The following water uses do not require an application under ORS 537.130 or
6 537.615, a water right permit under ORS 537.211 or a water right certificate under ORS 537.250:

7 (a) Emergency fire-fighting uses;

8 (b) Nonemergency fire-fighting training, provided:

9 (A) The source of the water is existing storage and the use occurs with permission of the owner
10 of the stored water; or

11 (B) If the source of water is other than existing storage, the use occurs with the prior written
12 approval of the watermaster in the district where the training will take place and subject to any
13 conditions the watermaster determines are necessary to prevent injury to existing water rights and
14 to protect in-stream resources;

15 (c) Water uses that divert water to water tanks or troughs from a reservoir for a use allowed
16 under an existing water right permit or certificate for the reservoir;

17 (d) Fish screens, fishways and fish by-pass structures, as exempted by rule of the Water Re-
18 sources Commission;

19 (e) Land management practices intended to save soil and improve water quality by temporarily
20 impeding or changing the natural flow of diffuse surface water across agricultural lands when stor-
21 age of public waters is not an intended purpose. Such practices include but are not limited to:

22 (A) Terraces;

23 (B) Dikes;

24 (C) Retention dams and other temporary impoundments; and

25 (D) Agronomic practices designed to improve water quality and control surface runoff to prevent
26 erosion, such as ripping, pitting, rough tillage and cross slope farming;

27 (f) Livestock watering operations that comply with the requirements under subsections (2) and
28 (3) of this section;

29 (g) Forest management activities that require the use of water in conjunction with mixing pes-
30 ticides as defined in ORS 634.006, or in slash burning;

31 *[(h) The collection of precipitation water from an artificial impervious surface and the use of such*

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 *water;]*

2 **(h) The collection, storage or use of water that is diffused over the surface of the ground,**
 3 **derived from falling rain, melting snow or other precipitation has not joined with other wa-**
 4 **ters in a well-defined channel;**

5 (i) Land application of ground water so long as the ground water:

6 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
 7 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
 8 for confined animal feeding purposes;

9 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
 10 reused water has never been discharged to the waters of the state; and

11 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
 12 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
 13 system or ORS 468B.215 to operate a confined animal feeding operation; and

14 (j) Surface mining practices that result in the removal of water from a surface mine subject to
 15 an operating permit or reclamation plan approved by the State Department of Geology and Mineral
 16 Industries, unless the water is used for a subsequent beneficial use.

17 (2) The use of surface water for livestock watering may be exempted under subsection (1) of this
 18 section if:

19 (a) The water is diverted from a stream or other surface water source to a trough or tank
 20 through an enclosed water delivery system;

21 (b) The delivery system either is equipped with an automatic shutoff or flow control mechanism
 22 or includes a means for returning water to the surface water source through an enclosed delivery
 23 system; and

24 (c) The operation is located on land from which the livestock would otherwise have legal access
 25 to both the use and source of the surface water source.

26 (3) If the diversion system described in subsection (2) of this section is located within or above
 27 a scenic waterway, the amount of water that may be used without a water right is limited to one-
 28 tenth of one cubic foot per second per 1,000 head of livestock. Nothing in this section shall prevent
 29 the Water Resources Commission from approving an application for a water right permit for a de-
 30 livery system not qualifying under subsection (2) of this section.

31 (4) The Water Resources Department, in conjunction with local soil and water conservation
 32 districts, the Oregon State University Extension Service, the State Department of Agriculture and
 33 the State Department of Fish and Wildlife and any other organization interested in participating,
 34 shall develop and implement a voluntary educational program on livestock management techniques
 35 designed to keep livestock away from streams and riparian areas.

36 (5) To qualify for an exempt use under subsection (1)(g) of this section, the user shall:

37 (a) Submit notice of the proposed use, including the identification of the proposed water source,
 38 to the Water Resources Department and to the State Department of Fish and Wildlife at the time
 39 notice is provided to other affected agencies pursuant to ORS 527.670; and

40 (b) Comply with any restrictions imposed by the department pertaining to sources of water that
 41 may not be used in conjunction with the proposed activity.

42 (6) Except for the use of water under subsection (1)(i) of this section, the Water Resources
 43 Commission by rule may require any person or public agency diverting water as described in sub-
 44 section (1) of this section to furnish information with regard to such water and the use thereof. For
 45 a use of water described in subsection (1)(i) of this section, the Department of Environmental Qual-

1 ity or the State Department of Agriculture shall provide to the Water Resources Department a copy
2 of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground
3 water for reuse. The permit shall provide the information regarding the place of use of such water
4 and the nature of the beneficial reuse.

5 **SECTION 2. This 2021 Act being necessary for the immediate preservation of the public**
6 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
7 **on its passage.**

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