

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3091**

1 On page 1 of the printed bill, line 2, after “water;” delete the rest of the
2 line and insert “and declaring an emergency.”.

3 Delete lines 4 through 31 and delete page 2 and insert:

4 **“SECTION 1. (1) Not more than 30 days after the effective date of**
5 **this 2021 Act, a person that holds a right to store water and intends**
6 **to apply for a transfer of the right to store water pursuant to ORS**
7 **540.510 may petition the Water Resources Department to issue a**
8 **declaratory ruling as to whether ORS 540.510 authorizes the depart-**
9 **ment to approve an application to transfer a right to store water.**

10 **“(2) If the department receives a petition authorized by subsection**
11 **(1) of this section, the department shall issue the requested**
12 **declaratory ruling not more than 60 days after receiving the petition.**

13 **“(3) The petition and the department’s review of the petition must**
14 **be consistent with the requirements prescribed by rule by the Attorney**
15 **General pursuant to ORS 183.410 for the form of a petition and the**
16 **procedures for submission, consideration and disposition of a petition,**
17 **to the extent that the requirements established by the rules are not**
18 **inconsistent with the requirements established by this section and**
19 **section 3 of this 2021 Act.**

20 **“(4) Notwithstanding subsection (3) of this section, the provisions**
21 **of ORS 183.410 do not apply to a proceeding described in this section.**

1 “(5) A declaratory ruling issued pursuant to this section is binding
2 between the department and the petitioner on the state of facts al-
3 leged, unless the declaratory ruling is altered or set aside by a court.

4 “SECTION 2. Notwithstanding ORS chapter 183 and any contrary
5 principle of common law, a person may petition pursuant to section 3
6 of this 2021 Act without exhausting any administrative remedy other
7 than the administrative remedy described in section 1 of this 2021 Act.

8 “SECTION 3. (1) Jurisdiction is conferred on the Supreme Court to
9 determine whether ORS 540.510 authorizes the Water Resources De-
10 partment to approve an application to transfer a right to store water.

11 “(2) A person that is adversely affected by a declaratory ruling de-
12 scribed in section 1 of this 2021 Act may petition for judicial review
13 under this section. The petition must:

14 “(a) Include a statement of the basis of the challenge.

15 “(b) Include a statement and supporting affidavit showing how the
16 petitioner is adversely affected.

17 “(c) Be filed not more than 30 days after the department issues the
18 declaratory ruling.

19 “(3) The petitioner shall serve on the department, the Attorney
20 General and the Governor, by registered or certified mail, a copy of
21 the petition.

22 “(4) The Supreme Court must give to proceedings for review under
23 this section priority over all other matters.

24 “(5) If the Supreme Court determines that the petition presents a
25 question of fact, the Supreme Court may appoint a special master to
26 hear evidence and prepare recommended findings of fact.

27 “(6) The Supreme Court may not award attorney fees to a person
28 that petitions for review under this section.

29 “SECTION 4. Sections 1, 2 and 3 of this 2021 Act are repealed on
30 January 2, 2023.

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

4
