

HB 3091-6
(LC 1588)
4/6/21 (AG/ps)

Requested by HOUSE COMMITTEE ON WATER (at the request of Representative Ken 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) The petition and the department’s review of the petition must**
11 **be generally consistent with the requirements prescribed by rule by**
12 **the Attorney General pursuant to ORS 183.410 to the extent that the**
13 **requirements established by the rules are not inconsistent with the**
14 **requirements established by this section and section 3 of this 2021 Act.**

15 **“(3) Notwithstanding subsection (2) of this section:**

16 **“(a) If the department receives more than one petition described in**
17 **this section, the department may consolidate proceedings on the pe-**
18 **titions, or deny the second or subsequent petition and invite the sec-**
19 **ond or subsequent petitioner to intervene in the proceedings related**
20 **to the first petition.**

21 **“(b) The department may not hold a hearing or provide for oral**

1 argument before issuing the declaratory ruling.

2 “(c) The department shall rule on a petition described in this sec-
3 tion based only on written information provided by the department,
4 any petitioner and any intervening party.

5 “(d) The department shall issue the declaratory ruling not more
6 than 120 days after first receiving a petition described in this section.

7 “(4) Notwithstanding subsection (2) of this section, the provisions
8 of ORS 183.410 do not apply to a proceeding described in this section.

9 “(5) A declaratory ruling issued pursuant to this section is binding
10 between the department, any petitioner and any intervening party on
11 the state of facts alleged, unless the declaratory ruling is altered or
12 set aside by a court.

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

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

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

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

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

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

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

1 **“(4) The Supreme Court must give proceedings for review under this**
2 **section priority over all other matters.**

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

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

8 **“SECTION 4. Sections 1, 2 and 3 of this 2021 Act are repealed on**
9 **June 30, 2023.**

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

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