

Requested by Representative BREESE-IVERSON

**PROPOSED AMENDMENTS TO
HOUSE BILL 2244**

1 On page 1 of the printed bill, delete lines 6 through 28.

2 On page 2, delete lines 1 through 19 and insert:

3 **“SECTION 1.** ORS 536.075 is amended to read:

4 “536.075. (1) Any party affected by a final order other than contested case
5 issued by the Water Resources Commission or Water Resources Department
6 may appeal the order to the Circuit Court of Marion County or to the circuit
7 court of the county in which all or part of the property affected by the order
8 is situated. The review shall be conducted according to the provisions of ORS
9 183.484, 183.486, 183.497 and 183.500. A final order other than contested case
10 issued by the Water Resources Commission or the Water Resources Depart-
11 ment must state on the first page of the order that the order is a final order
12 other than contested case, that the order is subject to judicial review under
13 ORS 183.484 and that any petition for judicial review of the order must be
14 filed within the time specified by ORS 183.484 (2). Any order other than
15 contested case issued by the Water Resources Commission or by the Water
16 Resources Department that does not comply with the requirements of this
17 section is not a final order.

18 “(2)(a) Any party affected by a final order in a contested case issued by
19 the Water Resources Commission or the Water Resources Department may
20 appeal the order to the Court of Appeals.

21 “[3] (b) An appeal under **this** subsection [(2) of this section] shall be

1 conducted as provided in ORS 183.482 except as specifically provided in
2 subsections (4), (5) and (6) of this section.

3 **“(3)(a) A party that files a petition in either the circuit court or the
4 Court of Appeals must file a bond of \$1,000 if the petition appeals a
5 final order of the commission or department that regulated off a di-
6 version, appropriation or other use of water by the party in favor of:**

7 **“(A) A determined claim, as defined in section 1, chapter 445,
8 Oregon Laws 2015;**

9 **“(B) An in-stream water right, as defined in ORS 537.332, that is
10 held by a state agency; or**

11 **“(C) A water right or determined claim, as defined in section 1,
12 chapter 445, Oregon Laws 2015, that is held by, or held in trust for, a
13 federally recognized Indian tribe.**

14 **“(b) If the court vacates or remands the order or the appeal is set-
15 tled, the bond must be refunded to the party.**

16 **“(c) If the court upholds the order, the bond shall be forfeited and
17 credited to an account of the department.**

18 **“(4) The petition shall state the facts showing how the petitioner is ad-
19 versely affected by the order and the ground or grounds upon which the
20 petitioner contends the order should be reversed or remanded.**

21 **“(5) The filing of a petition in either the circuit court or the Court of
22 Appeals shall stay enforcement of the order of the commission or the de-
23 partment unless the commission or the department determines that substan-
24 tial public harm will result if the order is stayed. If the commission or the
25 department denies the stay, the denial shall be in writing and shall specif-
26 ically state the substantial public harm that will result from allowing the
27 stay.**

28 **“(6) The review by the Court of Appeals under subsection (2) of this sec-
29 tion shall be on the entire record forwarded by the commission or depart-
30 ment. The court may remand the case for further evidence taking, correction**

1 or other necessary action. The court may affirm, reverse, modify or supple-
2 ment the order appealed from, and make such disposition of the case as the
3 court determines to be appropriate.

4 “(7) The provisions of this section shall not apply to any proceeding under
5 ORS 537.670 to 537.695 or ORS chapter 539.

6 “(8) For the purposes of this section, ‘final order’ and ‘contested case’
7 have the meanings given those terms in ORS 183.310.”.

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