

HB 3365 A STAFF MEASURE SUMMARY

House Committee On Agriculture, Land Use, Natural Resources, and Water

Action Date: 04/04/23

Action: Without recommendation as to passage, with amendments, and be referred to Rules.
(Printed A-Eng.)

Vote: 7-1-1-0

Yeas: 7 - Hartman, Helm, Levy B, Marsh, McLain, Owens, Scharf

Nays: 1 - Gamba

Exc: 1 - Boice

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Anna Glueder, LPRO Analyst

Meeting Dates: 4/3, 4/4

WHAT THE MEASURE DOES:

Authorizes certain Deschutes County irrigation districts to temporarily allow, for a water right authorized for irrigation, a change of place of water use within the district or another district satisfying certain requirements, if (1) the requirements for a temporary transfer within districts is met, or, (2) on a split-season, split-rate, or split-duty basis, if the total rate and duty do not exceed existing limits on the water right and the use is irrigation and will occur on land within the legal boundaries of another district pursuant to the Deschutes Water Bank Pilot Program. Authorizes certain Deschutes County irrigation districts to temporarily allow a change in the point of diversion to a place downstream of the original point of diversion if specified requirements are met. Authorizes the Oregon Water Resources Department (OWRD) to require cessation of a transfer of place of use or the point of diversion if the district or transfer requirements are not met or changes made to the use or point of diversion would injure an existing water right or enlarge the original water right. Specifies that resultant changes in the place of water use or point of diversion do not lead to forfeiture of the underlying water right due to nonuse. Establishes requirement for districts from which and to which water is transferred. Repeals district authorization on January 2, 2030. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Prevention of risk to injure or enlarge water rights
- Role of OWRD to oversee water right transfers
- Public availability of data-related water right transfers
- Current statute regarding split-season leasing
- Need to transition from a system of water allocation to a system of water management in Oregon

EFFECT OF AMENDMENT:

Requires the temporary place of water use to occur on land within the legal boundaries of another district pursuant to the Deschutes Water Bank Pilot Program administered by the Deschutes River Conservancy and funded through certain grants. Adds additional compliance requirements for irrigation districts. Sunsets the measure on January 2, 2030.

BACKGROUND:

Under Oregon law, all water belongs to the public and, with some exceptions, users must obtain a water right certificate from the Oregon Department of Water Resources to use water. The use of water under a water right is restricted to the terms and conditions described in the water right certificate, including the place of use, point of diversion, and type of use; a transfer application is required to make changes to a water right. When issuing a

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proposed final order on a water right application, the department is required to cite findings of fact, including the allowed rate and duty of the water right. (ORS 537.621) [Oregon Administrative Rule 690-250-0010 \(12\)](#) defines "rate and duty" as the "(m)aximum quantity of water in cubic feet per second or gallons per minute (rate) and the total quantity of water in acre-feet per acre per year that may be diverted for irrigation (duty)."

House Bill 3365 A would authorize certain Deschutes Basin irrigation districts under specified conditions to temporarily change of the place of use or the point of diversion of a water right within the legal boundaries of the district or another Deschutes Basin irrigation district.