

A-Engrossed
House Bill 3365

Ordered by the House April 10
Including House Amendments dated April 10

Sponsored by Representatives OWENS, HELM (at the request of Oregon Water Resources Congress)

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.

Authorizes certain Deschutes Basin irrigation districts to temporarily allow change of place of use of water, or change in point of diversion, within Deschutes Basin irrigation districts. **Sunsets authorization on January 2, 2030.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to district water management flexibility in Deschutes Basin; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 540.505 to**
5 **540.585.**

6 **SECTION 2. (1) Notwithstanding ORS 540.505, as used in this section, "district" means**
7 **the Arnold Irrigation District, Central Oregon Irrigation District, Lone Pine Irrigation Dis-**
8 **trict, North Unit Irrigation District, Swalley Irrigation District, Three Sisters Irrigation**
9 **District or Tumalo Irrigation District.**

10 **(2) The Legislative Assembly finds that:**

11 **(a) It is in the public interest to manage water efficiently and in a coordinated manner**
12 **that benefits the environment and irrigated agriculture.**

13 **(b) Districts in the Deschutes Basin face unique challenges and provide unique opportu-**
14 **nities to manage water as described in subsection (2)(a) of this section.**

15 **(3) Notwithstanding ORS 540.510, 540.520 and 540.530, a district may temporarily allow, for**
16 **a water use subject to transfer, the use of water on any land within the legal boundaries of**
17 **the district or another district:**

18 **(a) If the requirements of ORS 540.570 (1) are met and the type of use authorized under**
19 **the water use subject to transfer is for irrigation; or**

20 **(b) On a split-season, split-rate or split-duty basis if:**

21 **(A) The total rate and duty do not exceed existing limits on the water use subject to**
22 **transfer;**

23 **(B) The type of use authorized under the water use subject to transfer is for irrigation**
24 **and remains the same; and**

25 **(C) The temporary use of water will occur on land within the legal boundaries of another**
26 **district pursuant to the Deschutes Water Bank Pilot Program administered by the Deschutes**
27 **River Conservancy and funded through the Oregon Watershed Enhancement Board grant**

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 titled “Drought Resilience Through Water Reallocation and Transactions in the Deschutes
2 Basin” or the United States Bureau of Reclamation WaterSmart grant titled “Establishment
3 of the Central Oregon Water Bank to Increase Drought Resiliency in the Deschutes River
4 Basin.”

5 (4) Notwithstanding ORS 540.510, 540.520 and 540.530, a district may temporarily allow, for
6 a water use subject to transfer, the diversion of water at a point of diversion downstream
7 of the point of diversion allowed under the water right of record.

8 (5) While water is used pursuant to subsection (3) or (4) of this section, the districts from
9 which and to which the water is transferred, or the district in which the downstream diver-
10 sion occurs, must:

11 (a) Have defined state district boundaries;

12 (b) Have a management structure that can ensure that water is applied only where the
13 water use is authorized;

14 (c) Not irrigate an area in any one irrigation season that exceeds the maximum number
15 of acres allowed to be irrigated under the original water right, except as described in sub-
16 section (3)(b) of this section;

17 (d) Have a full and accurate measurement of the water appropriated;

18 (e) Have an accurate map identifying the location of authorized use, by priority date, for
19 review upon request and provide a copy of the map to the watermasters for the districts;

20 (f) Have on file statements by any landowner affected by the water use change indicating
21 that the landowner agrees to the change;

22 (g) Have a proper fish screen, if required by the Water Resources Department, at the
23 point of diversion to which the water use is transferred; and

24 (h) Have on file evidence that:

25 (A) The water has been used over the last five years according to the terms and condi-
26 tions of the underlying water right certificate; or

27 (B) The water right is not subject to forfeiture under ORS 540.610.

28 (6) The Water Resources Department may require that a use of water pursuant to sub-
29 section (3) of this section cease, and that the use revert to the use allowed under the water
30 right of record, if the department determines that:

31 (a) The district does not meet the qualifications described in subsection (5) of this sec-
32 tion;

33 (b) The water is being used in a manner that violates the requirements of subsection (3)
34 of this section; or

35 (c) The changes made to the use of water would result in injury to an existing water
36 right or an enlargement of the original water right.

37 (7) The department may require that a diversion of water pursuant to subsection (4) of
38 this section cease, and that the diversion revert to the point of diversion allowed under the
39 water right of record, if the department determines that:

40 (a) The district does not meet the qualifications described in subsection (5) of this sec-
41 tion; or

42 (b) The changes made to the point of diversion would result in injury to an existing water
43 right or an enlargement of the original water right.

44 (8) Use of water under subsection (3) or (4) of this section constitutes a beneficial use
45 of water and does not constitute nonuse for purposes of forfeiture under ORS 540.610.

1 **SECTION 3. Section 2 of this 2023 Act is repealed on January 2, 2030.**

2 **SECTION 4. This 2023 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
4 **on its passage.**

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