

House Bill 3368

Sponsored by Representatives OWENS, HELM

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 **as introduced**.

Directs Water Resources Department to produce state of water resources report and basin water assessments.

Directs Legislative Policy and Research Office to report on water policy and management.

Directs Water Resources Commission to arrange for independent audit.

Directs department to temporarily pause consideration of certain applications and requests.

Directs department to develop and maintain water allocation and accounting tool.

Appropriates moneys from General Fund to department for purposes related to water resources report, basin water assessments, basin programs and water allocation and accounting tool.

Appropriates moneys from General Fund to State Department of Fish and Wildlife for purposes related to water resources report and basin water assessments.

Appropriates moneys from General Fund to Department of Environmental Quality for purposes related to water resources report and basin water assessments.

Appropriates moneys from General Fund to State Department of Agriculture for purposes related to water resources report and basin water assessments.

Appropriates moneys from General Fund to Oregon State University for purposes related to water resources report and basin water assessments.

Appropriates moneys from General Fund to Oregon State University, for use by university's Environmental and Natural Resources Law Center, for purposes related to water resources report and basin water assessments.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to water; creating new provisions; amending ORS 536.300, 536.310, 536.340, 536.350, 536.360, 536.370, 536.380, 536.390, 536.400, 540.510, 540.520, 540.524 and 540.530; repealing ORS 536.315; and declaring an emergency.

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

WATER RESOURCES REPORT AND BASIN WATER ASSESSMENTS

SECTION 1. ORS 536.300 is amended to read:

536.300. (1) **As used in this section:**

(a) **"Basin" means a hydrologic area determined by the Water Resources Commission and defined by rule.**

(b) **"Basin plan" means a document describing proposed actions to be taken by the Water Resources Department and other entities to understand and meet in-stream and out-of-stream needs in a basin.**

(c) **"Basin program" means a set of department policies, activities, projects, programs, investments, rules related to the basin program and other direction for implementing state-wide policies and basin-level actions that, when implemented in an integrated and coordinated way, enable the department and other entities to meet in-stream and out-of-stream needs.**

(d) **"Consumptive use" means a use of water that withdraws water from a stream or**

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 **aquifer and results in a loss of water due to evaporation or transpiration or a transfer of the**
 2 **water out of a basin.**

3 [(1)] (2) The [Water Resources Commission] **department** shall [proceed as rapidly as possible to]
 4 **continuously** study[: Existing] water resources of this state[: means and methods of conserving and
 5 *augmenting such water resources; existing and contemplated needs and uses of water for domestic,*
 6 *municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life uses and*
 7 *for pollution abatement, all of which are declared to be beneficial uses, and all other related subjects,*
 8 *including drainage, reclamation, floodplains and reservoir sites.] **to:***

9 (a) **Ensure a water supply sufficient to meet the needs of existing and future beneficial**
 10 **uses of water; and**

11 (b) **Adequately manage the state's available water resources.**

12 (3) **The department shall periodically produce a state of water resources report that in-**
 13 **cludes basin assessments for all basins of this state, which must characterize the**
 14 **department's understanding of basin water budgets, including the availability of surface and**
 15 **ground water to meet current and future in-stream and out-of-stream water needs.**

16 (4) **The state of water resources report and basin assessments must describe, at mini-**
 17 **mum:**

18 (a) **Water supply from all sources.**

19 (b) **The amount of water legally allocated and the estimated water diverted and used, by**
 20 **sector of use and source.**

21 (c) **Where and when water is fully or over appropriated and evidence of any over appro-**
 22 **priation.**

23 (d) **An overview of the Oregon history of regulating surface and ground water sources**
 24 **and the nature of complaints filed with the department.**

25 (e) **An estimate of shortfalls during droughts on record for each basin, for in-stream and**
 26 **out-of-stream uses.**

27 (f) **Any gaps in information that limit the department's ability to provide a full account-**
 28 **ing of current water supply or demand or the extent of appropriation for in-stream and**
 29 **out-of-stream uses, including:**

30 (A) **Known or potential unresolved claims to water.**

31 (B) **Tribal claims to water.**

32 (C) **The extent to which in-stream flow studies performed by the Department of Envi-**
 33 **ronmental Quality, the State Department of Fish and Wildlife and the State Parks and Re-**
 34 **creation Department identify in-stream needs.**

35 (g) **Drinking water supply needs, as well as drinking water supply and demand-related**
 36 **opportunities to meet the needs, based on consultation with drinking water supply providers**
 37 **and the Oregon Health Authority.**

38 (h) **Water supply needs to maintain the current level of agricultural production and an-**
 39 **ticipated increases in agricultural production, as well as water supply and demand-related**
 40 **opportunities to meet the needs, based on consultation with Oregon State University and the**
 41 **State Department of Agriculture.**

42 (i) **Water supply needs to support fish and wildlife, abate pollution, promote water quality**
 43 **and support recreation, as well as water supply and demand-related opportunities to meet**
 44 **the needs, based on consultation with the Department of Environmental Quality, the State**
 45 **Department of Fish and Wildlife and the State Parks and Recreation Department.**

1 (j) Water supply needs for other beneficial uses of water, including beneficial uses of
 2 water by industry, by livestock, for navigation, for storage and for hydropower.

3 (k) Anticipated changes to water use and availability resulting from climate change,
 4 population change, land use change and other relevant factors.

5 (L) The data, methods and assumptions used to develop the report and basin assess-
 6 ments.

7 (m) Any other information determined by the Water Resources Department to be useful
 8 in formulating basin plans or basin program rules.

9 (5) The department shall append to the report and basin assessments a vulnerability and
 10 resilience assessment that evaluates:

11 (a) Anticipated changes in surface and ground water supply and demand under possible
 12 future climate change and population growth scenarios in each basin.

13 (b) The vulnerability and resilience of various water use sectors under the scenarios.

14 (6) The department:

15 (a) Shall update the report and basin assessments at least every 10 years.

16 (b) Shall strive to avoid duplication of efforts and to integrate and coordinate develop-
 17 ment of the report and basin assessments with other complementary processes.

18 (c) Shall use the report and basin assessments to inform:

19 (A) Updates to the integrated state water resources strategy described in ORS 536.220.

20 (B) Basin plans, basin programs and basin program rules.

21 (C) Any basin-scale water planning efforts.

22 (D) The development of place-based integrated water resources strategies.

23 (d) Shall ensure that information used to develop the report and basin assessments is
 24 accessible to the public.

25 (e) Shall presume, when developing basin assessments, that ground water is hydraulically
 26 connected to surface water unless:

27 (A) The best available scientific information demonstrates no hydraulic connection; or

28 (B) Basin program rules include basin-specific policies regarding hydraulic connectivity
 29 of surface and ground water resources.

30 (f) Shall use available basin-specific information and policies.

31 (g) Shall use the best available scientific information to develop the report and basin as-
 32 sessments.

33 (h) Shall summarize additional information or studies that are needed to adequately
 34 characterize basin-specific issues, if the department identifies critical gaps in existing water
 35 resources information.

36 (i) May contract for production of the report or basin assessments.

37 (j) Shall develop a plan for prioritizing and sequencing the development of, and updates
 38 to, basin assessments.

39 [(2)] (7) Based upon *[said studies and after an opportunity to be heard has been given to all other*
 40 *state agencies which may be concerned]* **the basin assessments and any other relevant informa-**
 41 **tion or publications, in consultation with affected agencies and basin stakeholders,** the *[com-*
 42 *mission]* **department** shall progressively formulate *[an integrated, coordinated program for the use*
 43 *and control of all the water resources of this state and issue statements thereof.]* **basin plans that**
 44 **describe:**

45 (a) Basin-specific water resources goals and priorities.

- 1 **(b) A summary of current and projected conditions.**
- 2 **(c) Potential methods to conserve and augment available water supplies to address known**
- 3 **or anticipated water supply shortfalls and meet the existing and contemplated needs and uses**
- 4 **of water for domestic, municipal, irrigation, power development, industrial, mining, recre-**
- 5 **ation, navigation, conservation, above and below ground water storage, fish and wildlife and**
- 6 **pollution abatement, which are all declared to be beneficial uses, including:**
- 7 **(A) Water conservation opportunities.**
- 8 **(B) Above and below ground water storage opportunities.**
- 9 **(C) Water reuse opportunities.**
- 10 **(D) Water sharing opportunities.**
- 11 **(E) Other opportunities to increase water supply or reduce water demand.**
- 12 **(d) Basin-specific considerations for a mitigation program or for water rights trans-**
- 13 **actions such as transfers.**
- 14 **(e) Potential actions to conserve or curtail water use during water shortages and the**
- 15 **triggers for implementing the conservation or curtailment.**
- 16 **(f) The processes by which potential actions described in this subsection were evaluated,**
- 17 **including a description of any criteria used.**
- 18 **(g) Actions the department proposes to take, under the department’s existing authority,**
- 19 **to achieve basin-specific goals.**
- 20 **(h) Actions recommended by the department that others may voluntarily undertake to**
- 21 **achieve basin-specific goals.**
- 22 **(i) Proposed changes to basin program rules.**
- 23 **(j) Needed water studies, water data or water monitoring.**
- 24 **(k) A strategy, including how to identify metrics or indicators, to monitor progress to-**
- 25 **ward basin goals and adapt basin plans as needed to ensure achievement of the goals.**
- 26 **(L) Any other information determined by the department to be necessary or useful to**
- 27 **understanding or achieving basin-specific water resource goals.**
- 28 **(8) To assist with implementing the provisions of subsection (7) of this section, the de-**
- 29 **partment may convene a committee to advise on developing basin plans.**
- 30 **(9) Components of basin plans that are not enforceable under department authority will**
- 31 **be voluntary unless included or referenced in basin program rules or other rules.**
- 32 **(10) The commission:**
- 33 **(a) Shall adopt, and periodically review and update, basin program rules to reflect the**
- 34 **findings of basin assessments and include implementable and enforceable provisions of basin**
- 35 **plans, consistent with the commission’s authority and applicable provisions of ORS chapter**
- 36 **183.**
- 37 **(b) May establish requirements under basin program rules for consideration by the de-**
- 38 **partment under ORS 540.510 (1)(a), 540.520 (7) or 540.530 (1)(a) or (b).**
- 39 **[(3)] (11) The commission may adopt or amend a basin program rule only after holding at least**
- 40 **one public hearing in the affected [river] basin. After the commission [itself] conducts one public**
- 41 **hearing in [the affected river] a basin, the commission may delegate to the Water Resources Director**
- 42 **the authority to conduct additional public hearings in the affected [river] basin.**
- 43 **(12) A person may petition the commission to use a collaborative problem solving process**
- 44 **when adopting or amending a basin program rule, consistent with the provisions of ORS**
- 45 **183.502.**

1 (13) If a basin assessment indicates that water in a basin or portions of a basin is over
2 appropriated, the commission shall:

3 (a) Instruct the department not to accept water right applications that will contribute
4 to further over appropriation of water in the basin or portions of the basin, unless a miti-
5 gation program is established by rule or a department-approved mitigation agreement is in
6 effect.

7 (b) Update the basin program rules for the basin in accordance with the basin assess-
8 ments, subject to the requirements of subsection (11) of this section.

9 (c) Classify or reclassify sources of water supply accordingly, as described in ORS 536.340.

10 (d) Notwithstanding ORS 536.031, instruct the department to process applications re-
11 ceived using updated basin program rules for the basin.

12 (e) Declare by rule that the basin is an active water management area and is subject to
13 the requirements described in ORS 540.435 (1) or a voluntary agreement with water users,
14 as described in ORS 540.435 (2)(b).

15 (f) Develop basin-specific considerations for use by the department when considering fu-
16 ture water rights transactions, including mitigation and transfers, and include the consider-
17 ations in basin program rules for the basin, consistent with the provisions of ORS 540.505 to
18 540.585.

19 (g) Initiate or support planning efforts to address problems associated with over appro-
20 priation and identify goals and actions for sustainably managing available water resources
21 under current and future climate conditions.

22 (14) If a basin assessment indicates that water in a basin or portions of a basin is fully
23 appropriated, the commission shall:

24 (a) Instruct the department not to accept water right applications that will contribute
25 to over appropriation of water in the basin or portions of the basin, unless a mitigation
26 program is established by rule or a department-approved mitigation agreement is in effect.

27 (b) Update the basin program rules for the basin in accordance with the basin assess-
28 ments, subject to the requirements of subsection (11) of this section.

29 (c) Classify or reclassify sources of water supply accordingly, as described in ORS 536.340.

30 (d) Notwithstanding ORS 536.031, instruct the department to process applications re-
31 ceived using updated basin program rules for the basin.

32 (e) Develop basin-specific considerations for use by the department when considering fu-
33 ture water rights transactions, including mitigation and transfers, and include the consider-
34 ations in basin program rules for the basin, consistent with the provisions of ORS 540.505 to
35 540.585.

36 (15) If a basin assessment indicates that water in a basin or portions of a basin is not
37 over or fully appropriated and water may be available for new consumptive uses, the com-
38 mission shall declare by rule that the department will continue processing water rights ap-
39 plications for the basin or portions of the basin, after considering the following:

40 (a) Whether to withdraw a percentage of the total available water in the basin or a por-
41 tion of the basin, consistent with the requirements of ORS 536.410, to protect water rights
42 and the public interest and to buffer against the potential impacts of climate change and
43 future droughts.

44 (b) Whether additional information, study or action is needed to address uncertainties
45 regarding current and future water supply, water use and water availability for in-stream

1 and out-of-stream uses, including for resolution of outstanding claims for water.

2 (c) Whether continuing to appropriate water for new consumptive uses is likely to injure
3 existing water users or exacerbate known water conflicts or shortages.

4 (d) Whether to develop a basin plan before making additional decisions about allocating
5 water in the basin or portions of the basin, to ensure that the public interest is considered.

6 (e) Whether to classify or reclassify sources of water supply accordingly, as described in
7 ORS 536.340.

8 (16) The commission shall establish an integrated, coordinated statewide program and
9 basin program that consist of statewide policies, basin program rules and other program di-
10 rection for implementing statewide policies and basin-level actions.

11 (17) In formulating the programs described in subsection (16) of this section, the com-
12 mission shall consider the declarations of policy described in ORS 536.310.

13 (18) The programs described in subsection (16) of this section must conform with state-
14 ments of water resources policy adopted by the commission.

15 (19) The commission shall coordinate updates to the state of water resources report and
16 basin assessments with updates to the integrated state water resources strategy described
17 in ORS 536.220.

18 **SECTION 2. The Water Resources Commission shall:**

19 (1) On or before December 31, 2024:

20 (a) Produce an initial basin assessment for each basin in this state that describes:

21 (A) The Water Resources Department’s understanding of the information described in
22 ORS 536.300 (4)(a) to (g).

23 (B) The data, methods and assumptions used to develop the initial basin assessments.

24 (C) Any other information determined by the department to be necessary or useful for
25 updating basin program rules as described in ORS 536.300.

26 (b) Report in the manner described in ORS 192.245 to a committee or interim committee
27 of the Legislative Assembly related to water on:

28 (A) Progress in implementing the amendments to ORS 536.300 by section 1 of this 2023
29 Act.

30 (B) The initial basin assessments for each basin.

31 (C) How information collected by the water allocation and accounting tool described in
32 section 7 of this 2023 Act will be used in the state of water resources report and basin as-
33 sessments described in ORS 536.300.

34 (D) Progress in implementing section 1, chapter 608, Oregon Laws 2021, and how infor-
35 mation resulting from implementation of the requirements of section 1, chapter 608, Oregon
36 Laws 2021, will be used to inform the state of water resources report, basin assessments and
37 the water allocation and accounting tool described in section 7 of this 2023 Act.

38 (E) The commission’s plan for prioritizing and sequencing updates to basin program
39 rules.

40 (F) Any issues preventing the commission or department from implementing the re-
41 quirements of ORS 536.300 or section 6 or 7 of this 2023 Act.

42 (2) On or before December 31, 2027:

43 (a) Update basin program rules, as described in ORS 536.300, to reflect the best available
44 information.

45 (b) Develop a plan for prioritizing and sequencing updates to basin program rules.

1 (3) On or before ____, produce the full state of water resources report and basin as-
2 sssments described in ORS 536.300.

3
4 REVIEW OF WATER POLICIES AND MANAGEMENT

5
6 **SECTION 3.** (1) On or before June 30, 2024, the Legislative Policy and Research Office
7 shall report, in the manner described in ORS 192.245, to a committee or interim committee
8 of the Legislative Assembly related to water on how the state can improve water policies to
9 increase clarity and integration among existing statutes, reduce duplication or address con-
10 flicting policies and better use the integrated state water resources strategy, basin assess-
11 ments, basin plans, basin programs and basin program rules to:

12 (a) Achieve the policy objectives set forth in ORS 536.220, 536.231, 536.235, 536.238, 536.241,
13 536.300 and 536.310.

14 (b) Meet current and future in-stream and out-of-stream water needs.

15 (2) The report must include:

16 (a) A thorough review of relevant statutes and rules.

17 (b) A comparative analysis of relevant approaches in other states.

18 (c) An assessment of water policy in this state.

19 (d) Recommendations to improve integration and coordination of water management.

20 (e) Other policy and funding recommendations.

21 (3) To produce the report described in subsection (1) of this section, the Legislative Policy
22 and Research Office shall work with water law experts at the University of Oregon Envi-
23 ronmental and Natural Resources Law Center.

24 **SECTION 4.** (1) The Water Resources Commission shall arrange for an independent audit
25 of the processes by which the commission and the Water Resources Department make deci-
26 sions, to be completed on or before June 30, 2024.

27 (2) The audit should follow up on findings and recommendations from the 2016 Secretary
28 of State’s audit of the Water Resources Department and the 2022 Secretary of State’s water
29 advisory report.

30 (3) Based on the results of the audit, on or before December 31, 2027, the commission
31 shall develop and implement an action plan to improve internal processes and update rules
32 as needed.

33 **SECTION 5.** Sections 3 and 4 of this 2023 Act are repealed on January 2, 2029.

34
35 PROCESSING OF WATER RIGHTS APPLICATIONS

36
37 **SECTION 6.** (1) Notwithstanding ORS 536.031, until any updates to basin program rules
38 for specific basins required by ORS 536.300 (10) have been completed, the Water Resources
39 Commission issues an order stating otherwise, or January 1, 2029, whichever occurs first:

40 (a) The Water Resources Department shall pause consideration of an application under
41 ORS 537.140 received after the effective date of this 2023 Act.

42 (b) The department shall pause consideration of a request under ORS 537.336 received
43 after the effective date of this 2023 Act.

44 (c) The department shall pause consideration of a request under ORS 537.356 received
45 after the effective date of this 2023 Act.

1 (d) The department shall pause consideration of an application under ORS 537.615 re-
2 ceived after the effective date of this 2023 Act.

3 (2) The department shall annually notify an applicant or requester described in sub-
4 section (1) of this section of the status of the application or request.

5 (3) Notwithstanding any contrary provision of law or rule:

6 (a) A request received under ORS 537.336 for which consideration is paused under sub-
7 section (1)(b) of this section shall receive a priority date based on the effective date of this
8 2023 Act.

9 (b) A request received under ORS 537.356 for which consideration is paused under sub-
10 section (1)(c) of this section shall receive a priority date based on the date the request is
11 received.

12 (c) A holder of a water right with an undeveloped portion of the water right may delay
13 development of the undeveloped portion of the water right until the commission has
14 produced basin water assessments under ORS 536.300 (3) and made any updates described in
15 ORS 536.300 (13) or (14), without any legal or regulatory consequence for the delay.

16 (d) When the department resumes processing applications and requests described in
17 subsection (1) of this section, the processing must be consistent with updated rules.

18 (4) This section does not apply to existing water rights, water uses described in ORS
19 537.141 or water rights applications received before the effective date of this 2023 Act.

20 (5) The commission may establish exceptions to the provisions of subsection (1) of this
21 section to protect public health or safety.

22
23 **WATER ALLOCATION AND ACCOUNTING TOOL**

24
25 **SECTION 7.** (1) The Water Resources Department shall develop and maintain a publicly
26 available water allocation and accounting tool that uses up-to-date information to show:

27 (a) Estimated water supply and use.

28 (b) Where and when water may be available for appropriation.

29 (2) In implementing this section, the department:

30 (a) Shall include surface and ground water.

31 (b) Shall include in-stream and out-of-stream uses.

32 (c) Shall consider the hydraulic connectivity of surface and ground water.

33 (d) May incorporate anticipated future water availability and demand information.

34 (e) Shall update the tool no less than every 10 years to reflect best available information
35 and current conditions.

36 (f) Shall coordinate updates of the tool with the completion of basin assessments.

37 (g) May contract for development, maintenance or updating of the tool.

38 (h) Shall make publicly available with the tool a report describing the data, methods and
39 assumptions used to develop the tool.

40 (i) Shall develop and implement a plan to ground truth the tool within water basins
41 across the state.

42 (j) Shall refine the tool as needed to reflect water basin-specific hydrological and water
43 use information.

44
45 **TRANSFER LIMITATIONS**

SECTION 8. ORS 540.510 is amended to read:

540.510. (1)(a) Except as provided in subsections (2) to (8) of this section, all water used in this state for any purpose shall remain appurtenant to the premises upon which it is used and no change in use or place of use of any water for any purpose may be made without compliance with the provisions of ORS 540.520 and 540.530. However, the holder of any water use subject to transfer may, upon compliance with the provisions of ORS 540.520 and 540.530, change the use and place of use, the point of diversion or the use of the water without losing priority of the right, **unless the Water Resources Department determines that the change would contravene a requirement established under a basin program rule, pursuant to ORS 536.300 (10)**. A district may change the place of use in the manner provided in ORS 540.572 to 540.580 in lieu of the method provided in ORS 540.520 and 540.530. When an application for change of the use or place of use for a primary water right is submitted in accordance with this section, the applicant also shall indicate whether the land described in the application has an appurtenant supplemental water right or permit. If the applicant also intends to transfer the supplemental water right or permit, the applicant also shall include the information required under ORS 540.520 (2) for the supplemental water right or permit. If the applicant does not include the supplemental water right or permit in the transfer application, the [Water Resources] department shall notify the applicant that the supplemental water right or permit will be canceled before the department issues the order approving the transfer of the primary water right, unless within 30 days the applicant modifies the application to include the supplemental water right or permit or withdraws the application. The department may approve the transfer of the supplemental water right or permit in accordance with the provisions of ORS 540.520 and 540.530. The department shall not approve the transfer of a supplemental water right or permit if the transfer would result in enlargement of the original water right or injury to an existing water right **or would contravene a requirement established under a basin program rule, pursuant to ORS 536.300 (10)**. If the department approves the transfer of the primary water right but does not approve the transfer of the supplemental water right or permit, the department shall notify the applicant of the department's intent to cancel that portion of the supplemental water right or permit described in the transfer application before the department issues the primary water right transfer order, unless the applicant withdraws the transfer application within 90 days.

(b) A holder of a water right certificate that authorizes the storage of water may change the type of use identified in the water right certificate, as described in paragraph (a) of this subsection, without losing priority of the right.

(2) Subject to the limitations in ORS 537.490, any right to the use of conserved water allocated by the Water Resources Commission under ORS 537.470 may be severed from the land and transferred or sold after notice to the commission as required under ORS 537.490.

(3)(a) Any water used under a permit or certificate issued to a municipality, or under rights conferred by ORS 538.410 to 538.450, or under the registration system set forth in ORS 537.132, may be applied to beneficial use on lands to which the right is not appurtenant if:

(A) The water is applied to lands which are acquired by annexation or through merger, consolidation or formation of a water authority, so long as the rate and use of water allowed in the original certificate is not exceeded;

(B) The use continues to be for municipal purposes and would not interfere with or impair prior vested water rights; or

(C) The use is authorized under a permit granted under ORS 468B.050 or 468B.053 and for which a reclaimed water registration form has been filed under ORS 537.132.

1 (b) As used in this subsection, “municipality” means a city, a port formed under ORS 777.005 to
 2 777.725, 777.915 to 777.953 and 778.010, a domestic water supply district formed under ORS chapter
 3 264, a water supplier as defined in ORS 448.115 or a water authority formed under ORS chapter 450.

4 (4) Pursuant to the provisions of ORS 540.570 or 540.585, any water used under a permit or
 5 certificate issued to a district may be applied to beneficial use on lands within the district to which
 6 the right is not appurtenant.

7 (5) The relocation of a point of diversion as necessary to follow the movements of a naturally
 8 changing stream channel does not constitute a change in point of diversion for purposes of ORS
 9 540.520 if:

10 (a) The diversion point stays within 500 feet of the point of diversion on record with the Water
 11 Resources Department;

12 (b) The change does not move the diversion point upstream or downstream beyond the diversion
 13 point of another appropriator; and

14 (c) The diversion is provided with a proper fish screen, if requested by the State Department
 15 of Fish and Wildlife.

16 (6) In the event that government action results in or creates a reasonable expectation of a
 17 change in the surface level of a surface water source that impairs or threatens to impair access to
 18 a point of diversion authorized by a water right permit, certificate or decree, the owner of the water
 19 right may change the point of diversion or add an additional point of diversion in accordance with
 20 the provisions of this section in lieu of complying with the requirements of ORS 540.520 and 540.530.
 21 Before changing the point of diversion, the water right owner shall provide written notice of the
 22 proposed change to the Water Resources Department. Within 15 days after receipt of such notice,
 23 the department shall provide notice by publication in the department’s public notice of water right
 24 applications. Within 60 days after the department receives notice from the owner, the Water Re-
 25 sources Director, by order, shall approve the change unless the director finds the changes will result
 26 in injury to other existing water rights. All other terms and conditions of the water right shall re-
 27 main in effect.

28 (7) The sale or lease of the right to the use of conserved water under ORS 537.490 does not
 29 constitute a change of use or a change in the place of use of water for purposes of ORS 540.520.

30 (8) Ground water applied to an exempt use as set forth in ORS 537.141 or 537.545 may be sub-
 31 sequently applied to land for irrigation purposes under ORS 537.141 (1)(i) or 537.545 (1)(g) without
 32 application for a change in use or place of use under this section.

33 **SECTION 9.** ORS 540.520 is amended to read:

34 540.520. (1)(a) Except when the application is made under ORS 541.327 or when an application
 35 for a temporary transfer is made under ORS 540.523, if the holder of a water use subject to transfer
 36 for irrigation, domestic use, manufacturing purposes, or other use, for any reason desires to change
 37 the place of use, the point of diversion, or the use made of the water, an application to make such
 38 change, as the case may be, shall be filed with the Water Resources Department.

39 (b) A holder of a water right certificate that authorizes the storage of water may change the
 40 type of use identified in the water right certificate, as described in this section.

41 (2) The application required under subsection (1) of this section shall include:

42 (a) The name of the owner;

43 (b) The previous use of the water;

44 (c) A description of the premises upon which the water is used;

45 (d) A description of the premises upon which it is proposed to use the water;

1 (e) The use that is proposed to be made of the water;

2 (f) The reasons for making the proposed change; and

3 (g) Evidence that the water has been used over the past five years according to the terms and
 4 conditions of the owner's water right certificate or that the water right is not subject to forfeiture
 5 under ORS 540.610.

6 (3) If the application required under subsection (1) of this section is necessary to allow a change
 7 in a water right pursuant to ORS 537.348, is necessary to complete a project funded under ORS
 8 541.932, or is approved by the State Department of Fish and Wildlife as a change that will result in
 9 a net benefit to fish and wildlife habitat, the department, at the discretion of the Water Resources
 10 Director, may waive or assist the applicant in satisfying the requirements of subsection (2)(c) and
 11 (d) of this section. The assistance provided by the department may include, but need not be limited
 12 to, development of an application map.

13 (4) If the application is to change the point of diversion, the transfer shall include a condition
 14 that the holder of the water right provide a proper fish screen at the new point of diversion, if re-
 15 quested by the State Department of Fish and Wildlife.

16 (5) Upon the filing of the application the department shall give notice by publication in a
 17 newspaper having general circulation in the area in which the water rights are located, for a period
 18 of at least two weeks and not less than one publication each week. The notice shall include the date
 19 on which the last notice by publication will occur. The cost of the publication shall be paid by the
 20 applicant in advance to the department. In applications for only a change in place of use or for a
 21 change in the point of diversion of less than one-fourth mile, and where there are no intervening
 22 diversions between the old diversion of the applicant and the proposed new diversion, no newspaper
 23 notice need be published. The department shall include notice of such applications in the weekly
 24 notice published by the department.

25 (6) Within 30 days after the last publication of a newspaper notice of the proposed transfer or
 26 the mailing of the department's weekly notice, whichever is later, any person may file, jointly or
 27 severally, with the department, a protest against approval of the application.

28 **(7) The department may deny an application under this section if the department deter-**
 29 **mines that approving the application would contravene a requirement under a basin program**
 30 **rule, pursuant to ORS 536.300 (10).**

31 [(7)] **(8)** If a timely protest is filed, or in the opinion of the Water Resources Director a hearing
 32 is necessary to determine whether the proposed changes as described by the application would re-
 33 sult in injury to existing water rights **or contravene a requirement under a basin program rule,**
 34 **pursuant to ORS 536.300 (10),** the department shall hold a hearing on the matter. Notice and
 35 conduct of the hearing shall be under the provisions of ORS chapter 183, pertaining to contested
 36 cases, and shall be held in the area where the rights are located unless all parties and persons who
 37 filed a protest under this subsection stipulate otherwise.

38 [(8)] **(9)** An application for a change of use under this section is not required if the beneficial
 39 use authorized by the water use subject to transfer is irrigation and the owner of the water right
 40 uses the water for incidental agricultural, stock watering and other uses related to irrigation use,
 41 so long as there is no increase in the rate, duty, total acreage benefited or season of use.

42 [(9)] **(10)** A water right transfer under subsection (1) of this section is not required for a general
 43 industrial use that was not included in a water right certificate issued for a specific industrial use
 44 if:

45 (a) The quantity of water used for the general industrial use is not greater than the rate allowed

1 in the original water right and not greater than the quantity of water diverted to satisfy the au-
2 thorized specific use under the original water right;

3 (b) The location where the water is to be used for general industrial use was owned by the
4 holder of the original water right at the time the water right permit was issued; and

5 (c) The person who makes the change in water use provides the following information to the
6 Water Resources Department:

7 (A) The name and mailing address of the person using water under the water right;

8 (B) The water right certificate number;

9 (C) A description of the location of the industrial facility owned by the holder of the original
10 water right at the time the water right permit was issued; and

11 (D) A description of the general industrial use to be made of the water after the change.

12 **SECTION 10.** ORS 540.530 is amended to read:

13 540.530. (1)(a) If, after hearing or examination, the Water Resources Commission finds that a
14 proposed change can be effected without injury to existing water rights **or contravention of a re-**
15 **quirement under a basin program rule, pursuant to ORS 536.300 (10)**, the commission shall
16 make an order approving the transfer and fixing a time limit within which the approved changes
17 may be completed.

18 (b) If, after hearing or examination, the commission finds that a proposed change in point of
19 diversion cannot be effected without injury to existing water rights **or contravention of a re-**
20 **quirement under a basin program rule, pursuant to ORS 536.300 (10)**, upon receipt by the
21 commission of an affidavit consenting to the change from every holder of an affected water right,
22 the commission may make an order approving the transfer and fixing a time limit within which the
23 approved changes may be completed.

24 (c) If, after hearing or examination, the commission finds that a proposed change in point of
25 diversion cannot be effected without injury to an in-stream water right granted pursuant to a re-
26 quest under ORS 537.336 or an in-stream water right created pursuant to ORS 537.346 (1), the Water
27 Resources Department may consent to the change only upon a recommendation that the department
28 do so from the agency that requested the in-stream water right. The agency that requested the in-
29 stream water right may recommend that the department consent to the change only if the change
30 will result in a net benefit to the resource consistent with the purposes of the in-stream water right.

31 (d)(A) If an in-stream water right would be injured by a proposed change under paragraph (c)
32 of this subsection, the department shall obtain a recommendation from the agency that requested the
33 in-stream water right. If the recommendation of the agency is to consent to the change, the depart-
34 ment shall provide public notice of the recommendation and, consistent with state laws regarding
35 cooperation with Indian tribes in the development and implementation of state agency programs that
36 affect tribes or rights and privileges of tribes, the department shall consult with affected Indian
37 tribes.

38 (B) The recommendation of an agency under this paragraph must be in writing and, if the rec-
39 ommendation is to consent to the change, must describe the extent of the injury to the in-stream
40 water right, the effect on the resource and the net benefit that will occur as a result of the proposed
41 change. The recommendation may include any proposed conditions that are necessary to ensure that
42 the proposed change will be consistent with the recommendation.

43 (C) In determining whether a net benefit will result from the proposed change, the recommen-
44 dation of an agency must include an analysis of the cumulative impact of any previous changes un-
45 der paragraphs (b) and (c) of this subsection that allow injury to the affected in-stream water right.

1 (D) A person may comment on the recommendation of an agency. The comment must be in
 2 writing and must be received by the department within 30 days after publication of notice under this
 3 paragraph. If a written comment received by the department requests a meeting on the proposed
 4 change, the department and the agency that requested the in-stream water right shall hold a joint
 5 public meeting within 90 days of the receipt of the comment requesting a meeting.

6 (e)(A) If, after review of public comments and consultation with the agency that requested the
 7 in-stream water right, the agency that requested the in-stream water right does not withdraw its
 8 recommendation to consent to the change, the department may approve the change consistent with
 9 the requirements of paragraphs (b) and (c) of this subsection.

10 (B) An order approving a change under paragraph (c) of this subsection shall include written
 11 findings on the extent of the injury to the in-stream water right, the effect on the resource and the
 12 net benefit that will occur as a result of the change. The order shall include any conditions neces-
 13 sary to ensure that the change will be consistent with the findings and ensure that the change will
 14 result in a continued net benefit to the resource consistent with the purposes of the in-stream water
 15 right.

16 (C) In determining whether a net benefit will result from the change, the order of the depart-
 17 ment must include an analysis of the cumulative impact of any previous changes approved under
 18 paragraphs (b) and (c) of this subsection that allow injury to the affected in-stream water right.

19 (f) The time allowed by the commission for completion of an authorized change under paragraphs
 20 (a) to (e) of this subsection may not be used when computing a five-year period of nonuse under the
 21 provisions of ORS 540.610 (1).

22 (2)(a) If a certificate covering the water right has been previously issued, the commission shall
 23 cancel the previous certificate or, if for an irrigation district, the commission may modify the pre-
 24 vious certificate and, when proper proof of completion of the authorized changes has been filed with
 25 the commission, issue a new certificate or, if for an irrigation district, modify the previous certif-
 26 icate, preserving the previously established priority of rights and covering the authorized changes.
 27 If only a portion of the water right covered by the previous certificate is affected by the changes,
 28 a separate new certificate may be issued to cover the unaffected portion of the water right.

29 (b) If the change authorized under subsection (1) of this section is necessary to allow a change
 30 in a water right pursuant to ORS 537.348, is necessary to complete a project funded under ORS
 31 541.932, or is approved by the State Department of Fish and Wildlife as a change that will result in
 32 a net benefit to fish and wildlife habitat, the Water Resources Department, at the discretion of the
 33 Water Resources Director, may waive or assist the applicant in satisfying any of the proof of com-
 34 pletion requirements of paragraph (a) of this subsection. The assistance provided by the department
 35 may include, but need not be limited to, development of a final proof survey map and claim of ben-
 36 efitial use.

37 (3) Upon receiving notification of the merger or consolidation of municipal water supply entities,
 38 or the formation of a water authority under ORS chapter 450, the commission shall cancel the pre-
 39 vious certificates of the entities replaced by the merger, consolidation or formation and issue a new
 40 certificate to the newly formed municipality or water authority. The new certificate shall preserve
 41 the previously established priority of rights of the replaced entities and shall allow beneficial use
 42 of the water on any lands acquired in the merger, consolidation or formation.

43
 44 **APPROPRIATIONS**
 45

1 impoundment structures and milldams and other artificial obstructions, due regard shall be given to
 2 means and methods for its protection;

3 (5) Competitive exploitation of water resources of this state for single-purpose uses is to be
 4 discouraged when other feasible uses are in the general public interest;

5 (6) In considering the benefits to be derived from drainage, consideration shall also be given to
 6 possible harmful effects upon ground water supplies and protection of wildlife;

7 (7) The maintenance of minimum perennial streamflows sufficient to support aquatic life, to
 8 minimize pollution and to maintain recreation values shall be fostered and encouraged if existing
 9 rights and priorities under existing laws will permit;

10 (8) Watershed development policies shall be favored, whenever possible, for the preservation of
 11 balanced multiple uses, and project construction and planning with those ends in view shall be en-
 12 couraged;

13 (9) Due regard shall be given in the planning and development of water recreation facilities to
 14 safeguard against pollution;

15 (10) It is of paramount importance in all cooperative programs that the principle of the sover-
 16 eignty of this state over all the waters within the state be protected and preserved, and such coop-
 17 eration by the commission shall be designed so as to reinforce and strengthen state control;

18 (11) Local development of watershed conservation, when consistent with sound engineering and
 19 economic principles, is to be promoted and encouraged;

20 (12) When proposed uses of water are in mutually exclusive conflict or when available supplies
 21 of water are insufficient for all who desire to use them, preference shall be given to human con-
 22 sumption purposes over all other uses and for livestock consumption, over any other use, and
 23 thereafter other beneficial purposes in such order as may be in the public interest consistent with
 24 the principles of chapter 707, Oregon Laws 1955, under the existing circumstances; and

25 (13) Notwithstanding any other provision of this section, when available supplies of water are
 26 insufficient in the South Umpqua River to provide for both the needs of human consumption pursu-
 27 ant to a municipal water right and the maintenance of previously established minimum streamflows,
 28 preference shall be given to the municipal needs if the municipality adopts and enforces an ordi-
 29 nance restricting use of the water so obtained to direct human consumption uses.

30 **SECTION 18.** ORS 536.340 is amended to read:

31 536.340. (1) Subject at all times to existing rights and priorities to use waters of this state, the
 32 Water Resources Commission:

33 (a) May[, *by a water resources statement referred to in ORS 536.300 (2),*] classify and reclassify
 34 the lakes, streams, underground reservoirs or other sources of water supply in this state as to the
 35 highest and best use and quantities of use thereof for the future in aid of an integrated and balanced
 36 program for the benefit of the state as a whole. The commission may so classify and reclassify
 37 portions of any such sources of water supply separately. Classification or reclassification of sources
 38 of water supply as provided in this subsection has the effect of restricting the use and quantities
 39 of use thereof to the uses and quantities of uses specified in the classification or reclassification,
 40 and no other uses or quantities of uses except as approved by the commission under ORS 536.370
 41 to 536.390 or as accepted by the commission under ORS 536.295. Restrictions on use and quantities
 42 of use of a source of water supply resulting from a classification or reclassification under this sub-
 43 section shall apply to the use of all waters of this state affected by the classification or reclassi-
 44 fication, and shall apply to uses listed in ORS 537.545 that are initiated after the classification or
 45 reclassification that imposes the restriction.

1 (b) Shall diligently enforce laws concerning cancellation, release and discharge of excessive
 2 unused claims to waters of this state to the end that such excessive and unused amounts may be
 3 made available for appropriation and beneficial use by the public.

4 (c) May, [by a water resources statement referred to in ORS 536.300 (2) and] subject to the pref-
 5 erential uses named in ORS 536.310 (12), prescribe preferences for the future for particular uses and
 6 quantities of uses of the waters of any lake, stream or other source of water supply in this state in
 7 aid of the highest and best beneficial use and quantities of use thereof. In prescribing such prefer-
 8 ences the commission shall give effect and due regard to the natural characteristics of such sources
 9 of water supply, the adjacent topography, the economy of such sources of water supply, the economy
 10 of the affected area, seasonal requirements of various users of such waters, the type of proposed use
 11 as between consumptive and nonconsumptive uses and other pertinent data.

12 (2) In classifying or reclassifying a source of water supply or prescribing preferences for the
 13 future uses of a source of water supply under subsection (1) of this section, the commission shall:

14 (a) Comply with the requirements set forth in the Water Resources Department coordination
 15 program developed pursuant to ORS 197.180; and

16 (b) Cause notice of the hearing held under ORS 536.300 [(3)] (11) to be published in a newspaper
 17 of general circulation once each week for two successive weeks in each county:

18 (A) In which waters affected by the action of the commission under subsection (1) of this section
 19 are located; or

20 (B) That is located within the basin under consideration.

21 (3) Before beginning any action under subsection (2) of this section that would limit new ground
 22 water uses that are exempt under ORS 537.545 from the requirement to obtain a water right, the
 23 commission shall:

24 (a) Review the proposed action to determine whether the proposal is consistent with ORS
 25 537.780;

26 (b) Provide an opportunity for review by:

27 (A) Any member of the Legislative Assembly who represents a district where the proposed
 28 action would apply; and

29 (B) Any interim committee of the Legislative Assembly responsible for water-related issues; and

30 (c) Receive and consider a recommendation on the proposal from the ground water advisory
 31 committee appointed under ORS 536.090.

32 **SECTION 19. ORS 536.315 is repealed.**

33 **SECTION 20.** ORS 536.350 is amended to read:

34 536.350. The Water Resources [Commission] **Department** shall deliver a copy of [each water re-
 35 sources statement referred to] **the state of water resources report described** in ORS 536.300 [(2)]
 36 to each state agency or public corporation of this state [which] **that** may be concerned with or
 37 [which] **that** may carry on activities likely to affect the use or control of the water resources of this
 38 state. Each state agency or public corporation of this state [which] **that** receives a copy of [a water
 39 resources statement] **the state of water resources report** shall give to the [commission] **depart-**
 40 **ment** a receipt for the [water resources statement] **state of water resources report**. A copy of [any
 41 such statement] **the state of water resources report** duly certified by the Water Resources Direc-
 42 tor to be a full, true and correct copy shall be received in evidence in any court in the state and
 43 if the certificate recites that a copy of the [statement] **state of water resources report** was deliv-
 44 ered to a particular state agency or public corporation of this state, it shall be presumed that the
 45 same was actually delivered as stated in the certificate.

1 **SECTION 21.** ORS 536.360 is amended to read:

2 536.360. In the exercise of any power, duty or privilege affecting the water resources of this
3 state, every state agency or public corporation of this state shall give due regard to the
4 [statements] **state of water resources report** of the Water Resources [Commission] **Department**
5 and shall conform thereto. No exercise of any such power, duty or privilege by any such state
6 agency or public corporation which would tend to derogate from or interfere with the [state water
7 resources policy] **state of water resources report** shall be lawful.

8 **SECTION 22.** ORS 536.370 is amended to read:

9 536.370. (1) No exercise by any state agency or public corporation of this state [which] **that** has
10 received a copy of [a state water resources statement] **the state of water resources report** as pro-
11 vided in ORS 536.350, of any power, duty or privilege, including the promulgating or undertaking
12 of any order, rule, regulation, plan, program, policy, project or any other activity, which would in
13 any way conflict with the [state water resources policy as set forth in the statement] **state of water**
14 **resources report**, shall be effective or enforceable until approved by the Water Resources Com-
15 mission as provided in subsection (2) of this section.

16 (2) The exercise of any power, duty or privilege referred to in subsection (1) of this section shall
17 be deemed approved by the commission if:

18 (a) The commission grants its approval as provided in ORS 536.390; or

19 (b) The commission does not notify the state agency or public corporation within 30 days after
20 the filing of the notification as provided in ORS 536.380 (1) of the intention of the commission to
21 review the proposed exercise of the power, duty or privilege; or

22 (c) The commission grants its approval as provided in ORS 536.380 (4).

23 **SECTION 23.** ORS 536.380 is amended to read:

24 536.380. (1) Except as otherwise provided in ORS 536.390, whenever any state agency or public
25 corporation of this state [which] **that** has received a copy of [a state water resources statement] **the**
26 **state of water resources report** as provided in ORS 536.350, proposes to exercise any power, duty
27 or privilege referred to in ORS 536.370 (1), it shall first file with the Water Resources Commission
28 a notification of the proposed exercise. The notification shall be in such form and shall contain a
29 description of the proposed exercise and such other information as the commission may require. The
30 notification shall be a public record in the office of the commission.

31 (2) Within 30 days after the filing of the notification as provided in subsection (1) of this section,
32 the commission shall notify the state agency or public corporation of the intention of the commission
33 to review the proposed exercise of the power, duty or privilege, if:

34 (a) The commission, in its discretion, determines that a review should be undertaken; or

35 (b) A protest against the proposed exercise is filed with the commission within 25 days after the
36 filing of the notification as provided in subsection (1) of this section by any person, state agency or
37 public corporation of this state or agency of the federal government.

38 (3) The commission, in its discretion, may hold a public hearing on the proposed exercise of the
39 power, duty or privilege. The commission shall determine the time and place of the public hearing,
40 and shall give written notice thereof to the state agency or public corporation whose proposed ex-
41 ercise of a power, duty or privilege is being reviewed and to each protestant under subsection (2)(b)
42 of this section, if any, at least 10 days prior to the hearing. Notice of the hearing shall also be
43 published in at least one issue each week for at least two consecutive weeks prior to the hearing
44 in a newspaper of general circulation published in each county in which the proposed exercise of
45 the power, duty or privilege is to take place or be effective.

1 (4) After the commission has notified the state agency or public corporation of the intention of
 2 the commission to review the proposed exercise of the power, duty or privilege as provided in sub-
 3 section (2) of this section, the commission shall undertake the review and proceed therewith with
 4 reasonable diligence. At the conclusion of the review the commission shall make a determination
 5 approving the proposed exercise, approving the proposed exercise subject to conditions specified in
 6 the determination or disapproving the proposed exercise. A copy of the determination by the com-
 7 mission shall be delivered to the state agency or public corporation whose proposed exercise of a
 8 power, duty or privilege was reviewed and to each protestant under subsection (2)(b) of this section,
 9 if any.

10 **SECTION 24.** ORS 536.390 is amended to read:

11 536.390. The Water Resources Commission may enter into agreements or provide by orders, rules
 12 or regulations whereby it approves the exercise of any one or more of the powers, duties or privi-
 13 leges referred to in ORS 536.370 (1) by a state agency or public corporation of this state [*which*]
 14 **that** has received a copy of [*a state water resources statement*] **the state of water resources report**
 15 as provided in ORS 536.350, without the filing of the notification as provided in ORS 536.380 (1).
 16 Each agreement, order, rule or regulation shall specifically provide for the modification or revoca-
 17 tion thereof at the discretion of the commission and upon reasonable notice to the state agency or
 18 public corporation, and may contain such other conditions, limitations or requirements as the com-
 19 mission, in its discretion, may require to insure the accomplishment of the purposes of the state
 20 water resources policy.

21 **SECTION 25.** ORS 536.400 is amended to read:

22 536.400. (1) As used in subsection (2) of this section, “violation” means any exercise or attempt
 23 to exercise by any state agency or public corporation of this state [*which*] **that** has received a copy
 24 of [*a state water resources statement*] **the state of water resources report** as provided in ORS
 25 536.350, of any power, duty or privilege which would in any way conflict with the [*state water re-*
 26 *sources statement*] **state of water resources report**, without the approval of the Water Resources
 27 Commission as provided in ORS 536.370 (2).

28 (2) The commission[,] may apply to the circuit court of the county in which a violation is alleged
 29 to exist for the restraining by appropriate process of the commission or continuation of a violation,
 30 or for the enforcement by appropriate process of compliance with ORS 536.370 to 536.390.

31 **SECTION 26.** ORS 540.524 is amended to read:

32 540.524. (1) Notwithstanding ORS 540.510 or 540.670, upon approval of an application submitted
 33 to the Water Resources Department, the holder of both a primary water right originating from a
 34 surface water source and a supplemental water right permit or certificate originating from a ground
 35 water source may substitute the use of the supplemental water right for the primary water right.
 36 A substitution may not be made under this subsection if the use of the supplemental water right
 37 results in an enlargement or expansion of the primary water right. This subsection does not au-
 38 thorize a change in place of use, type of use, point of diversion or point of appropriation.

39 (2) An application required under subsection (1) of this section shall be submitted on forms
 40 provided by the department. The department may request additional information if necessary to
 41 assist with the injury evaluation. Each application shall be submitted with the fee described in ORS
 42 536.050 (1)(s).

43 (3) Upon receiving an application under subsection (1) of this section, the department shall
 44 provide notice, accept protests and conduct hearings on protests in the manner described in ORS
 45 540.520 (5), (6) and [(7)] (8).

1 (4) The Water Resources Director shall issue an order approving or denying the substitution. If
2 the proposed substitution will result in injury to other water rights, the director shall prohibit or
3 condition the use to avoid or mitigate the injury. The director shall issue an order approving or
4 denying the substitution within 90 days after the department receives an application under sub-
5 section (1) of this section.

6 (5) For the purpose of ORS 540.610, a substituted primary surface water right shall be treated
7 as a supplemental water right, and a substituted supplemental ground water right shall be treated
8 as a primary water right.

9 (6) A completed and approved substitution of a supplemental ground water right for a primary
10 surface water right under this section may be terminated upon a request by the water right holder
11 or by an order of the director if the director determines that the use of the ground water as the
12 primary water right causes injury to other water rights. Upon termination, the substituted primary
13 and supplemental water rights shall revert back to their original status.

14
15 **CAPTIONS**

16
17 **SECTION 27. The unit captions used in this 2023 Act are provided for the convenience**
18 **of the reader and do not become part of the statutory law of this state or express any leg-**
19 **islative intent in the enactment of this 2023 Act.**

20
21 **EFFECTIVE DATE**

22
23 **SECTION 28. This 2023 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
25 **on its passage.**

26 _____