

HB 2801 STAFF MEASURE SUMMARY

Senate Committee On Natural Resources and Wildfire

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Meeting Dates: 4/24

WHAT THE MEASURE DOES:

The measure extends the period during which the Water Resources Department (OWRD) may approve leases or temporary transfers of a determined water right claim in the Upper Klamath Basin until the Klamath County Circuit Court issues a water rights decree that either affirms or modifies the Findings of Fact and Order of Determination issued as part of the Klamath River Basin Adjudication. Additionally, it requires the Director of OWRD to notify the standing or interim committees of the Legislative Assembly related to natural resources, and Legislative Counsel, of the Court's final determination, provided no later than 30 days after the court issues its decree.

Fiscal impact: Has minimal fiscal impact.

Revenue impact: No revenue impact.

HOUSE VOTE: Ayes, 51; Nays, 0; Excused, 9.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Water rights are appurtenant or attached to the specific property where the water use is authorized and transfer with property sales unless excluded in the deed or the buyer is notified of a separate transfer. To change the place of use, type of use, or point of diversion of a water right, a transfer application must be approved by the Water Resources Department (OWRD). The applicant must be the landowner, have their consent, or prove sufficient interest in the water right. A water right transfer may not enlarge a water right or injure other water rights.

Adjudication is a legal process used to determine the validity, extent, and characteristics of water rights that began before Oregon's water laws were established—specifically surface water uses prior to February 24, 1909, federally reserved rights, and groundwater uses before August 3, 1955.

Senate Bill 206 (2015) permits "determined claims," which are water rights established in the *Klamath Basin Adjudication Corrected Partial Order of Determination*, to be temporarily leased or transferred instream for periods of up to five years. However, such applications will be denied if the claim has been stayed by a court judgment, if the application seeks to move the point of diversion upstream, or if the transfer or lease would enlarge the claim or harm another water right. OWRD's authority to temporarily approve leases or transfers is set to expire on January 2, 2026.

The Klamath River Basin Adjudication is the legal process for resolving claims to surface water use in the basin. The first phase, completed in 2013, involved OWRD reviewing claims, holding hearings, and issuing the *Final Order of Determination*. The process is now in its second phase: judicial review by the Klamath County Circuit Court. Parties disputing OWRD's findings can file exceptions, after which the Court will issue a final water rights decree. Once the decree is issued, OWRD may begin issuing official water right certificates based on that ruling.