

HB 2801 STAFF MEASURE SUMMARY

Carrier: Rep. Reschke, Rep.
McIntire

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

Action Date: 04/09/25

Action: Do Pass.

Vote: 9-0-0-0

Yeas: 9 - Boice, Hartman, Helm, Levy B, Marsh, McDonald, McLain, Owens, Scharf

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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Meeting Dates: 1/29, 4/9

WHAT THE MEASURE DOES:

The measure extends the time period that a lease for instream use or temporary transfer of a determined water right claim in the Klamath Basin may be allowed from January 2, 2026, until the Klamath County Circuit Court issues a water right decree affirming or modifying the Findings of Fact and Order of Determination for the Klamath River Basin Adjudication. The Oregon Water Resources Department is required to notify the natural resources related interim legislative committees and Legislative Counsel of the date on which the court issued the water rights decree within 30 days of issuance.

ISSUES DISCUSSED:

- Number of transfer applications in the Klamath Basin since 2015
- Sideboards needed on the authority regarding out of state transfers
- Criteria and process for temporary water transfers
- Associated court cases related to out-of-state water transfer in the Klamath basin

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under Oregon law, all water belongs to the public and use requires authorization from the Oregon Water Resources Department (OWRD). A water right holder who wishes to alter the place of use, point of diversion, or type of use of a water right must have a transfer application approved by OWRD. A water user may also apply to temporarily, up to a period of five years, change the place of use of a water right to allow a right attached to one parcel of land to be used on another parcel.

Water use that began before the enactment of the 1909 Oregon Water Code and federal water rights are determined through a process called an “adjudication.” There are two phases to an adjudication. In the first phase, OWRD determines federal and pre-1909 rights and then provisionally recognizes those determined rights; the second phase involves a court review of the agency’s decision. The court then issues a decree that identifies a priority date and other aspects of each water right. After OWRD has delivered its determination to the court, a watermaster can regulate in favor of determined claims but these claims may not be transferred or leased until a final court decree is issued. The Klamath Basin is currently in the second phase of adjudication.