

Enrolled House Bill 3342

Sponsored by Representatives HELM, OWENS

CHAPTER

AN ACT

Relating to water; creating new provisions; amending ORS 536.045, 536.410, 537.145, 537.147, 537.150, 537.153, 537.211, 537.225, 537.230, 537.252, 537.348, 537.409, 537.470, 537.610, 537.620, 537.621, 537.630, 538.450, 540.520, 540.524, 540.535, 540.570, 540.580, 540.585, 543.220, 543A.035, 543A.040, 543A.055 and 543A.120; and prescribing an effective date.

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

ELECTRONIC FORMS OF DOCUMENTS

SECTION 1. ORS 536.045 is added to and made a part of ORS chapter 536.

SECTION 2. ORS 536.045 is amended to read:

536.045. (1) Notwithstanding any provision of ORS chapters 536 to 540, 543 or 543A that requires the mailing of a document, the submission of a document in written form or the provision of a certified copy of a document, the Water Resources [Department] **Commission** may adopt rules:

(a) Allowing the submission of one or more types of document to the **commission or the Water Resources** Department by electronic means in lieu of submission by mailing or submission in written form;

(b) *[Allowing the department, with the consent of the recipient, to]* **Allowing the department or commission** to send one or more types of document in electronic form in lieu of mailing or other sending of the document in written form, **unless the recipient has requested mailing or other sending of the document in written form;** or

(c) Identifying acceptable means for verifying the authenticity of a document sent by electronic means in lieu of the provision of a certified copy of the document.

(2) *[The department may not adopt rules to require the submission of documents to the department by electronic means. The department may not require a recipient to consent to the receipt of documents from the department by electronic means.]* **Notwithstanding subsection (1) of this section,** the department **or commission** may not use electronic means in lieu of service under ORCP 7 or notice under ORS 183.413 or 183.415.

(3) For purposes of determining timeliness or calculating deadlines, a document sent by electronic means in accordance with [department] **law or commission** rules is considered to be delivered when sent.

(4) Notwithstanding any provision of ORS chapters 536 to 540, 543 or 543A that specifies a fee amount, the department may reduce or waive the fee for a document that the department sends or receives by electronic means.

(5) To satisfy a requirement to provide public notice, the department may publish notice in a newspaper of general circulation. The cost of the publication shall be paid by the applicant in advance to the department.

PUBLICATION IN A WEEKLY PUBLIC NOTICE

SECTION 3. ORS 537.145 is amended to read:

537.145. (1) If an application is made for a permit to appropriate water for hydroelectric purposes, the Water Resources Department shall give written notice of the filing of the application to the owner of any land that is:

(a) Adjacent to any portion of the stream in which the quantity of water will be decreased by the project; or

(b) Adjacent to the site of the proposed hydroelectric project.

(2) The department shall also publish notice of the application [*once each week for at least two successive weeks and for such further time, if any, as the department shall determine, in a newspaper of general circulation in each county in which the project covered by the application is located*] **in the weekly public notice of the department.**

SECTION 4. ORS 537.252 is amended to read:

537.252. (1) When issuing a water right certificate under ORS 537.250 to a district, or to a government agency for a district, the Water Resources Department may issue the water right certificate for land not described in the permit if:

(a) Water furnished by the district under the permit has been applied beneficially to the land;

(b) The land not described in the permit that is proposed to be included in the certificate is included within the legally established boundaries of the district and is subject to the charges, assessments and liens of the district;

(c) The certificate does not authorize a greater rate, duty or acreage than is authorized by the terms of the permit, and all other conditions of the permit are satisfied;

(d) The inclusion of land not described in the permit will not result in injury to other existing water rights or in enlargement of the right authorized under the permit; and

(e) The impact to the water source of including land not described in the permit will not differ significantly from the impact expected at the time the permit was issued for the lands described in the permit.

(2) If a district proposes to use water on lands not described in the permit, the Water Resources Department may issue a certificate that includes such additional lands if all of the conditions of subsection (1) of this section are satisfied and if, no later than 60 days before the district actually applies the water to the lands not described in the permit, the district provides written notice to the department. The notice shall include a copy of the original permit map modified to show the lands to be added and lands to be removed from the description of the place of use of the water. Upon receipt of the notice from the district, the department shall provide public notice of the proposed change by means of publication in the department's weekly **public notice** [*notice and by publication once each week for two successive weeks in a newspaper having general circulation in the county or counties in which the affected lands are located. The cost of publication shall be paid by the district*].

(3) If a district has issued an order of inclusion or exclusion, the boundaries of the irrigation district shall be deemed to have been legally changed in the absence of approval of the Secretary of the Interior.

(4) As used in this section:

(a) "District" has the meaning given in ORS 540.505.

(b) "Legally established boundaries" means the boundaries of a district as established at the time of creation of the district and as the boundaries may have changed after creation of the district by an inclusion, exclusion or merger proceeding according to state law.

SECTION 5. ORS 540.520 is amended to read:

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

(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 this section.

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

(a) The name of the owner;

(b) The previous use of the water;

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

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

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

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

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

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

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

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

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

(5) The Water Resources Department shall undertake an initial review of an application under subsection (1) of this section.

(6)(a) Upon completion of the initial review, the department shall notify the applicant of its preliminary determinations, identify any outstanding information that is necessary to continue processing the application and allow the applicant 30 days from the date of notice to:

(A) Notify the department to stop processing the application; or

(B) Notify the department to continue processing the application and provide any outstanding information to the department.

(b) If, within 30 days from the date of the notice, the applicant does not notify the department as provided in paragraph (a) of this subsection, does not provide all outstanding information as provided in paragraph (a)(B) of this subsection or notifies the department to stop processing the application, the department shall close the file for the application and

take no further action on the application. The department may allow an applicant up to 60 additional days to provide outstanding information if the applicant requests additional time and the department determines that the applicant is undertaking reasonable efforts to provide the information in a timely manner to the department.

(c) If, within 30 days from the date of the notice or an additional time period allowed under paragraph (b) of this subsection, the applicant notifies the department to proceed with the application and provides any outstanding information necessary to continue processing the application, the department shall:

(A) Proceed with processing the application.

(B) Give notice of the initial review in the weekly public notice of the department and accept written public comments for 30 days.

(7) Upon issuance of a proposed final order, the department shall give notice of the order in the weekly public notice of the department. If the department determines that more than five water rights would be injured as a result of the change proposed in an application under subsection (1) of this section, the department shall publish notice once each week for two consecutive weeks in a newspaper of general circulation in the area in which the water rights are located. The cost of the publication shall be paid by the applicant in advance to the department.

[7] (8) If a timely protest is filed, or in the opinion of the Water Resources Director a hearing is necessary to determine whether the proposed changes as described by the application would result in injury to existing water rights, the department shall hold a hearing on the matter. Notice and conduct of the hearing shall be under the provisions of ORS chapter 183, pertaining to contested cases, and shall be held in the area where the rights are located unless all parties and persons who file a protest under this subsection stipulate otherwise. **A hearing is not required if:**

(a) All issues in the contested case are resolved pursuant to a settlement;

(b) The protest is withdrawn; or

(c) The protestant defaults.

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

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

(a) The quantity of water used for the general industrial use is not greater than the rate allowed in the original water right and not greater than the quantity of water diverted to satisfy the authorized specific use under the original water right;

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

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

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

(B) The water right certificate number;

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

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

SECTION 6. ORS 540.535 is amended to read:

540.535. After receipt of an exchange application, the Water Resources Commission shall give notice of the application **in the weekly public notice of the Water Resources Department** [by publishing notice of the application in a newspaper having general circulation in the area in which the water uses are located at least once each week for at least two successive weeks. The cost of providing the notice by publication shall be paid in advance by the applicant to the commission].

SECTION 7. ORS 543.220 is amended to read:

543.220. (1) If an application is made for a preliminary permit, after said application has been referred to hearing, the Water Resources Commission shall give written notice of the filing of the application to:

(a) Any municipality or other person or corporation that, in the judgment of the commission, is likely to be interested in or affected by the proposed project; and

(b) The owner of any land that is:

(A) Adjacent to any portion of the stream in which the quantity of water will be decreased by the project; or

(B) Adjacent to the site of the proposed project.

(2) The commission shall also publish notice of the application *[once each week for at least two successive weeks and for such further time, if any, as the commission shall determine, in a newspaper of general circulation in each county in which the project covered by the application is located]* **in the weekly public notice of the Water Resources Department.**

(3) No application for the appropriation or use of water for the development of 1,000 theoretical horsepower or more shall be granted until at least six months after the application for a preliminary permit has been filed.

PASSING ON CREDIT CARD FEES

SECTION 8. Section 9 of this 2025 Act is added to and made a part of ORS chapter 536.

SECTION 9. (1) **The Water Resources Department may accept payments by debit or credit card for any products or services offered by, or fees owed to, the department.**

(2) **The department may add a nonrefundable fee to the amount of any payment made by debit or credit card in an amount reasonably calculated to offset the impact to the department of financial institution fees related to debit or credit card transactions.**

WITHDRAWAL OF WATERS FROM APPROPRIATION VIA RULE

SECTION 10. ORS 536.410 is amended to read:

536.410. (1) When the Water Resources Commission determines that it is necessary to *[insure]* **ensure** compliance with the state water resources policy or that it is otherwise necessary in the public interest to conserve the water resources of this state for the maximum beneficial use and control thereof that any unappropriated waters of this state, including unappropriated waters released from storage or impoundment into the natural flow of a stream for specified purposes, be withdrawn from appropriation for all or any uses including exempt uses under ORS 537.545, the commission, on behalf of the state, may *[issue an order of]* **adopt a rule establishing** withdrawal.

(2) Prior to the *[issuance of the order of]* **adoption of the rule establishing** withdrawal, the commission shall hold a public hearing on the necessity for the withdrawal. Notice of the hearing shall be published in at least one issue each week for at least two consecutive weeks prior to the hearing in a newspaper of general circulation published in each county in which are located the waters proposed to be withdrawn.

(3) The *[order of]* **rule establishing** withdrawal shall specify with particularity the waters withdrawn from appropriation, the uses for which the waters are withdrawn[,] **and** the reason for the withdrawal *[and the duration of the withdrawal]*. The commission may *[modify or revoke the order at any time]* **amend or repeal the rule to modify or revoke the withdrawal.**

[(4) Copies of the order of withdrawal and notices of any modification or revocation of the order of withdrawal shall be filed in the Water Resources Department.]

[(5)] (4) While the *[order of]* **rule establishing** withdrawal is in effect, **a person may not submit, and the Water Resources Department may not file or process, [no] an application for:**

(a) A permit to appropriate the waters withdrawn for the uses specified in the *[order and no application for]* **rule; or**

(b) A preliminary permit or license involving appropriations of such waters *[shall be received for filing by the Water Resources Commission]*.

SECTION 11. (1) The amendments to ORS 536.410 by section 10 of this 2025 Act apply to withdrawals of waters from appropriation that occur on or after the operative date specified in section 48 of this 2025 Act.

(2) Withdrawals of waters from appropriation under ORS 536.410 that are in effect on the operative date specified in section 48 of this 2025 Act shall remain in effect unless the withdrawals are modified or revoked by the Water Resources Commission on or after the operative date specified in section 48 of this 2025 Act.

RETURNING APPLICATIONS THAT CANNOT BE APPROVED

SECTION 12. Section 13 of this 2025 Act is added to and made a part of ORS chapter 536.

SECTION 13. The Water Resources Department shall publish, make publicly available and regularly update a list of restrictions where the source of water is:

(1) Designated as a critical ground water area under ORS 537.730.

(2) Subject to restrictions on allowed ground water uses by classification under ORS 536.340.

(3) Withdrawn from appropriation under ORS chapter 538 or by rule or order of the Water Resources Commission under ORS 536.410.

SECTION 14. ORS 537.150 is amended to read:

537.150. (1)(a) Within 15 days after receiving an application, the Water Resources Department shall determine whether the application contains the information listed under ORS 537.140 (1) and is complete and not defective, including the payment of all *[fees]* **applicable fees or fee amounts** required under ORS 537.140 (5).

(b) If the department determines that the application is incomplete or defective or that not all *[fees]* **applicable fees or fee amounts** have been paid, the department shall return the fees paid and the application.

(2) Upon determining that an application contains the information listed under ORS 537.140 (1) and is complete and not defective, the department shall indorse on the application the date upon which the application was received at the department, which shall be the priority date for any water right issued in response to the application. All applications that comply with the provisions of law shall be recorded in a suitable book kept for that purpose.

(3) If an application is complete and not defective, the department shall determine whether the proposed use is prohibited *[by ORS chapter 538]* **pursuant to a restriction under section 13 (3) of this 2025 Act, if the department has information sufficient to make the determination at the time of application intake.** If the proposed use is prohibited *[by ORS chapter 538]* **as described in this subsection,** the department shall *[reject]* **return** the application and *[return]* **all or a portion of the fees paid** to the applicant with an explanation of the *[statutory prohibition]* **reason for the return.**

(4) If the proposed use is not prohibited *[by ORS chapter 538]* **under subsection (3) of this section,** the department shall undertake an initial review of the application and make a preliminary determination of:

(a) Whether the proposed use is restricted or limited by statute or rule;

(b) The extent to which water is available from the proposed source during the times and in the amounts requested; and

(c) Any other issue the department identifies as a result of the initial review that may preclude approval of or restrict the proposed use.

(5)(a) Upon completion of the initial review and no later than 30 days after determining an application to be complete and not defective as described in subsection (1) of this section, the department shall notify the applicant of its preliminary determinations and allow the applicant *[14]* **90** days

from the date of [mailing] **notice** within which to notify the department to stop processing the application or to proceed with the application.

(b) If, within 90 days from the date of the notice, the applicant notifies the department to stop processing the application or does not notify the department whether to proceed with processing the application, the department shall [return the application and all fees paid in excess of \$310. If the department receives no timely response from the applicant, the department shall proceed with the application.] close the file for the application and take no further action on the application.

(c) If, within 90 days from the date of the notice, the applicant notifies the department to proceed with the application and pays any remaining portion of the applicable examination fees, as described in section 29 of this 2025 Act, the department shall:

(A) Proceed with processing the application; and

(B) Give notice of the initial review in the weekly public notice of the department and accept written public comments for 30 days. The notice must include a request for comments on the application and information pertaining to how an interested person may obtain future notices about the application and a copy of the proposed final order.

[(6) Within seven days after proceeding with the application under subsection (5) of this section, the department shall give public notice of the application in the weekly notice published by the department. The notice shall include a request for comments on the application and information pertaining to how an interested person may obtain future notices about the application and a copy of the proposed final order.]

[(7)] **(6)** Within 30 days after the public notice under subsection *[(6)]* **(5)** of this section, any person interested in the application shall submit written comments to the department. Any person who asks to receive a copy of the department's proposed final order shall submit to the department the fee required under ORS 536.050 (1).

SECTION 15. (1) Notwithstanding ORS 536.031 (1), on and after the operative date specified in section 48 of this 2025 Act, the Water Resources Department shall return any pending application described in ORS 537.150 for which:

(a) Receipt by the department occurred before the operative date specified in section 48 of this 2025 Act;

(b) A proposed final order has not been issued before the operative date specified in section 48 of this 2025 Act; and

(c) The proposed use of water is prohibited pursuant to a restriction described in section 13 (3) of this 2025 Act that was in effect at the time the application was received.

(2) The department shall return all or a portion of the fees paid for pending applications returned under subsection (1) of this section.

SECTION 16. Section 15 of this 2025 Act is repealed on January 2, 2050.

SECTION 17. ORS 537.211 is amended to read:

537.211. (1) The approval of an application referred to in ORS 537.140 or 537.400 shall be set forth in a water right permit issued by the Water Resources Department. The permit shall specify the details of the authorized use and shall set forth any terms, limitations and conditions as the department considers appropriate including but not limited to any applicable condition required under ORS 537.289. A copy of the permit shall be filed as a public record in the department. The permit shall be mailed to the applicant, and upon receipt of the permit the permittee may proceed with the construction of the necessary works and may take all action required to apply the water to the designated beneficial use and to perfect the proposed appropriation.

(2) Except as provided in subsection *[(6)]* **(7)** of this section, if an application under ORS 537.140 or 537.400 indicates that the applicant does not have written authorization or an easement permitting access to nonowned land crossed by the proposed ditch, canal or other work, the department may issue a final order approving the application if the approval includes a condition requiring the applicant to obtain such written authorization, or easement or ownership of such land and to provide the department with a copy of the written authorization, easement or evidence of ownership.

(3) If an application referred to in ORS 537.140 or 537.400 is rejected, the department shall enter a written order setting forth the reasons for the rejection. The applicant shall take no action toward construction of the works or use of the water. The department shall mail a copy of the order to the applicant.

(4) The holder of a water right permit may change the point of diversion, change the point of appropriation, change the point of diversion to allow the appropriation of ground water or use the water on land to which the right is not appurtenant if:

(a) The use of water on land to which the right is not appurtenant, the change of point of diversion or the change in point of appropriation does not result in injury to an existing water right;

(b) For a proposed change in the place of use of the water, the land on which the water is to be used is owned or controlled by the holder of the permit and is contiguous to the land to which the permit is appurtenant;

(c) All other terms of the permit remain the same, including but not limited to the beneficial use for which the water is used and the number of acres to which water is applied;

(d) Prior approval is obtained from the district if the water is transported or conveyed by an irrigation district organized under ORS chapter 545, a drainage district organized under ORS chapter 547, a water improvement district organized under ORS chapter 552, a water control district organized under ORS chapter 553 or a district improvement company or a corporation organized under ORS chapter 554;

(e) The holder of the permit provides written notice to the department at least 60 days before making any changes to the lands, point of diversion or point of appropriation described in the permit;

[(f) The holder of the permit complies with the publication requirements of ORS 540.520 (5), if applicable;]

[(g)] (f) Diversion is provided with a proper fish screen, if requested by the State Department of Fish and Wildlife; and

[(h)] (g) For a request to transfer the point of diversion to allow the appropriation of ground water, the proposed change meets the standards set forth in ORS 540.531 (2) or (3).

(5) The Water Resources Department may deny a change in the point of appropriation under subsection (4) of this section if the proposed point of appropriation is for a source of ground water restricted under section 13 of this 2025 Act and the proposed use is subject to the restrictions, unless the proposed point of appropriation is:

(a)(A) In a critical ground water area designated under ORS 537.730;

(B) In the same aquifer as the existing point of appropriation; and

(C) In the same portion of the critical ground water area as the existing point of appropriation;

(b) In an area for which a ground water bank that is established by law or by rule mitigates the effects of the use of ground water; or

(c) Related to the recovery of stored ground water under an artificial recharge or aquifer storage and recovery project.

[(5)] (6) Notwithstanding the requirements of subsection (4)(b) of this section, the holder of a water right permit may change the place of use of all or any portion of water under the permit to land that is not contiguous to the land to which the permit is appurtenant if:

(a) The change to noncontiguous land is in furtherance of mitigation or conservation efforts undertaken for the purposes of benefiting a species listed as sensitive, threatened or endangered under ORS 496.171 to 496.192 or the federal Endangered Species Act of 1973 (16 U.S.C. 1531 to 1544), as determined by the listing agency; and

(b) All other requirements of subsection (4) of this section are met.

[(6)] (7) For an application made by or on behalf of a public corporation, the department may issue a permit approving the application without requiring the applicant to obtain prior written authorization or an easement permitting access to nonowned lands affected by the proposed project.

However, nothing in this subsection shall be construed to allow any person to trespass on the lands of another person.

[(7)] (8) When the department receives notice under subsection (4)(e) of this section, the department shall publish the notice in the department's weekly public notice of water right applications.

[(8)] (9) If the use of water under the permit is for operation of a mining operation as defined in ORS 517.952:

(a) Review of the application and approval or denial of the application shall be coordinated with the consolidated application process under ORS 517.952 to 517.989. However, such review and approval or denial shall take into consideration all policy considerations for the appropriation of water as set forth in this chapter and ORS chapter 536.

(b) The permit may be issued for exploration under ORS 517.702 to 517.740, but the permit shall be conditioned on the applicant's compliance with the consolidated application process.

(c) The permit shall include a condition that additional conditions may be added to the use of water when a water right certificate is issued, or when the use of water is changed pursuant to ORS 540.520 and 540.530 to use for a mine.

[(9)] (10) As used in this section, "contiguous" includes land separated from the land to which a water right is appurtenant by roads, utility corridors, irrigation ditches or publicly owned rights of way.

SECTION 18. ORS 537.409 is amended to read:

537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for applying for a water right permit, an [owner of a reservoir] **applicant for a reservoir permit** may submit an application to the Water Resources Department to issue a water right permit under ORS 537.211 or a certificate under ORS 537.250 according to the process set forth in this section if the reservoir:

(a) Has a storage capacity of less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height;

(b) Does not injure any existing water right;

(c) Does not pose a significant detrimental impact to existing fishery resources as determined on the basis of information submitted by the State Department of Fish and Wildlife; [and]

(d) Is not prohibited under ORS 390.835[.]; **and**

(e) Is not prohibited under ORS chapter 538.

(2) An application for a water right permit for a reservoir under subsection (1) of this section shall provide sufficient information to demonstrate compliance with the criteria set forth in subsection (1) of this section. The application shall:

(a) Include the quantity of water to be stored by the reservoir, a map indicating the location of the reservoir and the source of the water used to fill the reservoir; and

(b) Be accompanied by the fee established in ORS 536.050 (1)(q).

(3) The map required under subsection (2) of this section need not be prepared by a water right examiner certified under ORS 537.798. The map submitted with the application shall comply with standards established by the Water Resources Commission.

(4) Within 60 days after receiving an application under subsection (1) of this section, the Water Resources Department shall provide public notice of the application in the [manner the department determines to be the most appropriate] **weekly public notice of the department.**

(5) Within 60 days after the department provides public notice under subsection (4) of this section, any person may submit detailed, legally obtained information in writing, requesting the department to deny the application for a permit on the basis that the reservoir:

(a) Would result in injury to an existing water right; or

(b) Would pose a significant detrimental impact to existing fishery resources.

(6) In accordance with rules established by the Water Resources Commission for an expedited public interest review process for applications submitted under this section or in response to a request under subsection (5) of this section, the department shall conduct a public interest review of the reservoir application. The review shall be limited to issues pertaining to:

- (a) Water availability;
- (b) Potential detrimental impact to existing fishery resources; and
- (c) Potential injury to existing water rights.

(7) Within 180 days after the department receives an application for a permit under subsection (1) of this section, the department shall issue a final order granting or denying the permit or granting the permit with conditions.

(8) If the department issues an order under subsection (7) of this section denying the permit, the applicant may request a contested case hearing, which shall be conducted in accordance with applicable provisions of ORS chapter 183.

(9) If the department does not find injury or impact under subsection (6) of this section and the department issues a final order under subsection (7) of this section allowing the issuance of a permit, the order shall be subject to judicial review of orders in other than contested cases as provided in ORS chapter 183.

(10) Notwithstanding the requirement for a survey under ORS 537.230, a survey of the appropriation is not required for a reservoir that has a storage capacity of less than 9.2 acre-feet of water. For a reservoir qualifying under this subsection, a permittee shall submit to the department a claim of beneficial use within one year after the date of completion of construction. A claim of beneficial use for a reservoir qualifying under this subsection shall require only a written affidavit signed by the permittee that includes the following:

- (a) The dimensions of the reservoir.
- (b) The maximum capacity of the reservoir in acre-feet.

(c) A map identifying the location of the reservoir. The map shall comply with standards established by the Water Resources Commission. The map required under this subsection need not be prepared by a water right examiner certified under ORS 537.798.

(11) Any person applying for a secondary permit for the use of stored water from a reservoir qualifying under subsection (10) of this section shall submit a survey prepared by a water right examiner certified under ORS 537.798. The survey required under this subsection shall apply to the storage reservoir and to the secondary use of the water in the reservoir.

SECTION 19. ORS 537.610 is amended to read:

537.610. (1) The Water Resources Commission shall accept all registration statements referred to in ORS 537.605 completed and returned to the commission in proper form, endorse on the registration statement the date of the return and record each statement. Upon recording the statement, the commission shall issue to the registrant a certificate as evidence that the registration is completed.

(2) The issuance of the certificate of registration serves as prima facie evidence that the registrant is entitled to a right to appropriate ground water and apply it to beneficial use to the extent and in the manner disclosed in the recorded registration statement and in the certificate of registration.

(3) A certificate of registration issued under this section may not be construed as a final determination of any matter stated in the certificate of registration. The right of the registrant to appropriate ground water under a certificate of registration is subject to determination under ORS 537.670 to 537.695, and is not final or conclusive until so determined and a ground water right certificate issued. A right to appropriate ground water under a certificate of registration has a tentative priority from the date when the construction of the well was begun.

(4) The commission shall adopt by rule the process and standards by which the commission will recognize changes in the place of use, type of use or point of appropriation for claims to appropriate ground water registered under this section. The commission shall adopt fees not to exceed \$1,820 for actions taken to modify a certificate of registration.

(5) The Water Resources Department may deny a change in the point of appropriation under subsection (4) of this section if the proposed point of appropriation is for a source of ground water restricted under section 13 of this 2025 Act and the proposed use is subject to the restrictions, unless the proposed point of appropriation is:

- (a)(A) In a critical ground water area designated under ORS 537.730;
- (B) In the same aquifer as the existing point of appropriation; and
- (C) In the same portion of the critical ground water area as the existing point of appropriation;
- (b) In an area for which a ground water bank that is established by law or by rule mitigates the effects of the use of ground water; or
- (c) Related to the recovery of stored ground water under an artificial recharge or aquifer storage and recovery project.

SECTION 20. ORS 537.620 is amended to read:

537.620. (1) The Water Resources Department shall accept all applications for permits submitted under ORS 537.615 in proper form.

(2)(a) Within 15 days after receiving the application, the department shall determine whether the application contains the information listed under ORS 537.615 (2) and is complete and not defective, including the payment of all *[fees]* **applicable fees or fee amounts** required under ORS 537.615 (5).

(b) If the department determines that the application is incomplete or defective or that not all **applicable fees or fee amounts** have been paid, the department shall return the fees paid and the application to the applicant *[to remedy the defect]*.

(c) If an application is complete and not defective, the department shall indorse on the application the date upon which the application was received at the department, which shall be the priority date for any water right issued in response to the application.

(3)(a) **Except as provided in paragraph (c) of this subsection**, upon determining that an application is complete and not defective, the department shall determine whether the proposed use is prohibited by statute **or not allowed pursuant to a restriction under section 13 of this 2025 Act, if the department has information sufficient to make the determination at the time of application intake.**

(b) If the proposed use is prohibited *[by statute]* **under paragraph (a) of this subsection**, the department shall *[reject]* **return** the application and *[return]* all **or a portion of the** fees to the applicant with an explanation of the *[statutory prohibition]* **reason for the return.**

(c) **Paragraph (a) of this subsection does not apply to applications:**

(A) **Related to the recovery of ground water under an artificial recharge or aquifer storage and recovery project.**

(B) **Under ORS 536.295.**

(4) If the proposed use **is described in subsection (3)(c) of this section** or is not prohibited *[by statute]* **as described in subsection (3)(a) of this section**, the department shall undertake an initial review of the application and make a preliminary determination of:

(a) Whether the proposed use is restricted or limited by statute or rule or because the proposed use is located within a designated critical ground water area;

(b) The extent to which water is available from the proposed source during the times and in the amounts requested; and

(c) Any other issue the department identifies as a result of the initial review that may preclude approval of or restrict the proposed use.

(5)(a) Upon completion of the initial review and no later than 30 days after determining an application to be complete and not defective as described in subsection (2) of this section, the department shall notify the applicant of its preliminary determinations and allow the applicant *[14]* **90** days from the date of *[mailing]* **the notice** within which to notify the department to stop processing the application or to proceed with the application.

(b) **If, within 90 days from the date of the notice**, the applicant notifies the department to stop processing the application **or does not notify the department whether to proceed with processing the application**, the department shall *[return the application and all fees paid in excess of \$310. If the department receives no timely response from the applicant, the department shall proceed*

with the application.] close the file for the application and take no further action on the application.

(c) If, within 90 days from the date of the notice, the applicant notifies the department to proceed with the application and pays any remaining portion of the applicable fees, as described in section 29 of this 2025 Act, the department shall:

(A) Proceed with processing the application; and

(B) Give notice of the initial review in the weekly public notice of the department and accept written public comments for 30 days. The notice must include a request for comments on the application and information pertaining to how an interested person may obtain future notices about the application and a copy of the proposed final order.

[(6) Within seven days after proceeding with the application under subsection (5) of this section, the department shall give public notice of the application in the weekly notice published by the department. The notice shall include a request for comments on the application and information pertaining to how an interested person may obtain future notices about the application and a copy of the proposed final order.]

[(7)] (6) Within 30 days after the public notice under subsection [(6)] (5) of this section, any person interested in the application shall submit written comments to the department. Any person who asks to receive a copy of the department's proposed final order shall submit to the department the fee required under ORS 536.050 (1)(p).

SECTION 21. (1) Notwithstanding ORS 536.031 (1), on and after the operative date specified in section 48 of this 2025 Act, the Water Resources Department shall return any pending application described in ORS 537.620, other than an application under ORS 536.295, for which:

(a) Receipt by the department occurred before the operative date specified in section 48 of this 2025 Act;

(b) A proposed final order has not been issued before the operative date specified in section 48 of this 2025 Act;

(c) The proposed use of water is prohibited under a restriction in section 13 of this 2025 Act that was in effect at the time the application was received; and

(d) The proposed use of water is not related to the recovery of ground water under an artificial recharge or aquifer storage and recovery project.

(2) The department shall return all or a portion of the fees paid for pending applications returned under subsection (1) of this section.

SECTION 22. Section 21 of this 2025 Act is repealed on January 2, 2050.

SECTION 23. Section 24 of this 2025 Act is added to and made a part of ORS 540.505 to 540.585.

SECTION 24. The Water Resources Department may deny a change in the point of appropriation under ORS 540.505 to 540.585 for a ground water right if the proposed point of appropriation is for a source of ground water restricted under section 13 of this 2025 Act and the proposed use is subject to the restrictions, unless the proposed point of appropriation is:

(1)(a) In a critical ground water area designated under ORS 537.730;

(b) In the same aquifer as the existing point of appropriation; and

(c) In the same portion of the critical ground water area as the existing point of appropriation;

(2) In an area for which a ground water bank that is established by law or by rule mitigates the effects of the use of ground water; or

(3) Related to the recovery of stored ground water under an artificial recharge or aquifer storage and recovery project.

LIMITS ON EXTENSIONS

SECTION 25. ORS 537.230 is amended to read:

537.230. (1) As used in this section, “undeveloped portion” means the difference between the maximum rate or duty specified in a water right permit and the maximum rate or duty diverted as of the later of:

- (a) June 29, 2005;
- (b) The time specified in the permit to perfect the water right; or
- (c) The time specified in the last-approved extension of time to perfect the water right.

(2) Except for a holder of a permit for municipal *[use]*, **quasi-municipal, group domestic or group domestic expanded uses**, the holder of a water right permit shall prosecute the construction of any proposed irrigation or other work with reasonable diligence and complete the construction within a reasonable time, as fixed in the permit by the Water Resources Department, not to exceed *[five]* **seven** years from the date of approval.

(3) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which a permit for municipal use is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

(a) The holder shows good cause. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right;

(b) The extension of time is conditioned to require that the holder submit, and obtain department approval of, a water management and conservation plan;

(c) The extension of time is conditioned to provide that the holder may divert the undeveloped portion of the permit only upon approval by the department of the water management and conservation plan; and

(d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned to maintain, in the portions of waterways affected by water use under the permit, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. The department shall base its finding on existing data and upon the advice of the State Department of Fish and Wildlife. An existing fish protection agreement between the permit holder and a state or federal agency that includes conditions to maintain the persistence of any listed fish species in the affected portion of the waterway is conclusive for purposes of the finding.

[(4) Except as provided in ORS 537.240 and 537.248 and subsection (3) of this section, the Water Resources Department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year limit established in subsection (2) of this section within which irrigation or other works shall be completed or the right perfected. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.]

(4)(a) The holder of a right for quasi-municipal, group domestic or group domestic expanded uses shall complete construction of proposed works and apply water beneficially within seven years from the date on which a permit for such uses is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specific in the permit, not to exceed seven years.

(b) Notwithstanding paragraph (a) of this subsection, the Water Resources Department may, for good cause shown, order and allow one extension of time to complete construction and apply water beneficially, not exceeding:

(A) Twenty years from the date that the extension is approved for quasi-municipal use.

(B) Ten years from the date the extension is approved for group domestic use or group domestic expanded use.

(c) In determining the extension under paragraph (b) of this subsection, the department shall give due weight to considerations in ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of the construction and beneficial application of the right.

(5) Except as provided in subsection (6) of this section and ORS 537.409, upon completion of beneficial use as required under this section, the holder of a permit shall hire a water right examiner certified under ORS 537.798 to survey the appropriation. Within one year after application of water to a beneficial use or the beneficial use date allowed in the permit, the holder shall submit a map of the survey as required by the Water Resources Department, that shall accompany the request for a water right certificate submitted to the department under ORS 537.250. If any property described in the permit is not included in the request for a water right certificate, the holder shall state the identity of the record owner of that property.

(6) The Water Resources Director may waive the requirement under subsection (5) of this section that a holder of a permit hire a water right examiner certified under ORS 537.798 if:

(a) The permit is a supplemental water right that shares the same distribution system and same place of use as the primary water right; and

(b) The department determines that there is sufficient information in the records of the department to determine proof of beneficial use.

(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under ORS 537.250 for a supplemental water right, the holder of a permit shall have a facility capable of handling the full rate and duty of water requested from the supplemental source and be otherwise ready, willing and able to use the amount of water requested, up to the amount of water approved in the water right permit. To obtain a certificate for a supplemental water right, the holder is not required to have actually used water from the supplemental source if:

(a) Water was available from the source of the primary water right and the primary water right was used pursuant to the terms of the primary water right; or

(b) The nonuse of water from the supplemental source occurred during a period of time within which the exercise of the supplemental water right permit was not necessary due to climatic conditions.

SECTION 26. ORS 537.630 is amended to read:

537.630. (1) As used in this section, “undeveloped portion” means the difference between the maximum rate or duty specified in a water right permit and the maximum rate or duty appropriated as of the later of:

(a) June 29, 2005;

(b) The time specified in the permit to perfect the water right; or

(c) The time specified in the last-approved extension of time to perfect the water right.

(2) Except for the holder of a permit for municipal *[use]*, **quasi-municipal, group domestic or group domestic expanded uses**, the holder of a permit issued pursuant to ORS 537.625 shall prosecute the construction of a well or other means of developing and securing the ground water with reasonable diligence and complete the construction within a reasonable time fixed in the permit by the Water Resources Department, not to exceed *[five]* **seven** years after the date of approval of the application. *[However, the department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year period, for the completion of the well or other means of developing and securing the ground water or for complete application of water to beneficial use. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.]*

(3)(a) The holder of a right for quasi-municipal, group domestic or group domestic expanded uses shall complete construction of proposed works and apply water beneficially within seven years from the date on which a permit for such uses is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed seven years.

(b) Notwithstanding paragraph (a) of this subsection, the department may, for good cause shown, order and allow one extension of time to complete construction and apply water beneficially, not exceeding:

(A) Twenty years from the date that the extension is approved for quasi-municipal use.

(B) Ten years from the date the extension is approved for group domestic use or group domestic expanded use.

(c) In determining the extension under paragraph (b) of this subsection, the department shall give due weight to considerations in ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of the construction and beneficial application of the right.

~~[(3)]~~ (4) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which the permit for municipal use is issued under ORS 537.625. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

(a) The holder shows good cause. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right;

(b) The extension of time is conditioned to require that the holder submit and obtain department approval of a water management and conservation plan;

(c) The extension of time is conditioned to provide that the holder may appropriate the undeveloped portion of the permit only upon approval by the department of a water management and conservation plan; and

(d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned to maintain, in the portions of waterways affected by water use under the permit, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. The department shall base its finding on existing data and upon the advice of the State Department of Fish and Wildlife. An existing fish protection agreement between the permit holder and a state or federal agency that includes conditions to maintain the persistence of any listed fish species in the affected portion of the waterway is conclusive for purposes of the finding.

~~[(4)]~~ (5) If the construction of any well or other means of developing and securing the ground water is completed after the date of approval of the application for a permit under ORS 537.625, within 30 days after the completion, or if the construction is completed before the date of approval, within 30 days after the date of approval, the permit holder shall file a certificate of completion with the Water Resources Department, disclosing:

(a) The depth to the water table;

(b) The depth, diameter and type of each well, and the kind and amount of the casing;

(c) The capacity of the well pump in gallons per minute and the drawdown thereof;

(d) The identity of the record owner of any property that was described in the application for a permit under ORS 537.625 but is not included in the certificate of completion; and

(e) Any other information the department considers necessary.

~~[(5)]~~ (6) Upon completion of beneficial use necessary to secure the ground water as required under this section, the permit holder shall hire a water right examiner certified under ORS 537.798 to survey the appropriation. Within one year after applying the water to beneficial use or the beneficial use date allowed in the permit, the permit holder shall submit the survey as required by the Water Resources Department to the department along with the certificate of completion required under subsection (4) of this section. If any property described in the permit is not included in the request for a water right certificate, the holder of the permit shall state the identity of the record owner of that property.

[(6)] (7) After the department has received a certificate of completion and a copy of the survey as required by subsections [(4) and (5)] (5) and (6) of this section that show, to the satisfaction of the department, that an appropriation has been perfected in accordance with the provisions of ORS 537.505 to 537.795 and 537.992, except as provided in subsection [(7)] (8) of this section, the department shall issue a ground water right certificate of the same character as that described in ORS 537.700. The certificate shall be recorded and transmitted to the applicant as provided in ORS 537.700.

[(7)] (8) The department may not issue a water right certificate for municipal use under this section if:

(a) An extension of time is required; and
(b) The order approving the extension of time has not become final by operation of law or on appeal.

(8) The procedure for cancellation of a permit shall be as provided in ORS 537.260.

(9) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under subsection [(6)] (7) of this section for a supplemental water right, the holder of a permit shall have a facility capable of handling the full rate and duty of water requested from the supplemental source and be otherwise ready, willing and able to use the amount of water requested, up to the amount of water approved in the water right permit. To obtain a certificate for a supplemental water right, the holder is not required to have actually used water from the supplemental source if:

(a) Water was available from the source of the primary water right and the primary water right was used pursuant to the terms of the primary water right; or

(b) The nonuse of water from the supplemental source occurred during a period of time within which the exercise of the supplemental water right permit was not necessary due to climatic conditions.

SECTION 27. (1) The amendments to ORS 537.230 and 537.630 by sections 25 and 26 of this 2025 Act apply to:

(a) Development timelines on new water right permits for which the proposed final order for the water right permit application is issued on or after the operative date specified in section 48 of this 2025 Act.

(b) Extension applications submitted on or after the operative date specified in section 48 of this 2025 Act for permits for quasi-municipal, group domestic or group domestic expanded uses.

(2) Notwithstanding ORS 537.230 and 537.630, except for a holder of a permit for municipal, quasi-municipal, group domestic or group domestic expanded uses, the following applications for extensions on permits will be processed under subsection (3) of this section:

(a) Permits with extension applications pending under ORS 537.230 or 537.630 for which a proposed final order on the extension has not been issued before the operative date specified in section 48 of this 2025 Act.

(b) Permits with a proposed final order issued on a water right application before the operative date specified in section 48 of this 2025 Act if the extension application is submitted on or after the operative date specified in section 48 of this 2025 Act.

(3) The Water Resources Department shall order and allow one extension of time for up to two years from the date that an extension is approved if the department determines that:

(a) Fish-related conditions have been satisfied; and
(b) Good cause for the extension has been shown.

PHASED FEE PAYMENT

SECTION 28. Section 29 of this 2025 Act is added to and made a part of ORS chapter 536.

SECTION 29. (1) Notwithstanding ORS 536.050, for an application under ORS 537.140, 537.150 or 537.615, the Water Resources Department may charge:

(a) A portion of the applicable examination fee for the application at the time the application is submitted; and

(b) The remaining portion of the applicable examination fee after issuing an initial review of the application.

(2) If the department charges a portion of an applicable examination fee as described in subsection (1)(a) of this section, upon issuing an initial review described in subsection (1)(b) of this section:

(a) The department shall notify the applicant of the remaining portion of the applicable examination fee due; and

(b) If the applicant wishes to continue with the application, the applicant shall pay the remaining portion of the applicable examination fee not more than 90 days after issuance of the initial review.

(3) Notwithstanding any contrary provision of law, if the applicant does not pay the remaining portion of the applicable examination fee as described in subsection (2)(b) of this section, the department shall close the file for, and take no further action on, the application.

APPLICABILITY TO APPLICATIONS AND PETITIONS

SECTION 30. Notwithstanding ORS 536.031 (1), sections 9, 24 and 29 of this 2025 Act, and rules adopted thereunder, and the amendments to ORS 536.045, 537.145, 537.150, 537.211, 537.252, 537.470, 537.610, 537.620, 540.520, 540.535, 540.585, 543.220, by sections 2 to 7, 14, 17, 19, 20, 37 and 42 of this 2025 Act, and rules adopted thereunder, apply to applications and petitions submitted on or after the operative date specified in section 48 of this 2025 Act.

AUTOMATIC FINAL ORDERS

SECTION 31. (1) Notwithstanding ORS chapters 537, 540 or 541, a proposed final order issued by the Water Resources Department under ORS chapters 537, 540 or 541 for an application requesting that the department approve a new water right or a change to an existing water right or permit, registration or license, shall become, without further department action, a final order as a matter of law 33 days after the close of the time period for submitting a protest if:

(a) The department includes a provision in the proposed final order explaining that the proposed final order will become a final order under this section; and

(b) A protest is not received by the department within the 33 days.

(2) Notwithstanding subsection (1) of this section, the department may withdraw a proposed final order for reconsideration and issuance of a superseding proposed final order not more than 33 days after the close of the time period for submitting a protest.

REQUEST FOR STANDING STATEMENT

SECTION 32. ORS 537.153 is amended to read:

537.153. (1) Within 60 days after the Water Resources Department proceeds with the application under ORS 537.150 (5)(c), the department shall complete application review and issue a proposed final order approving or denying the application or approving the application with modifications or conditions. The department may request the applicant to provide additional information needed to complete the review. If the department requests additional information, the request shall be specific and shall be sent to the applicant by registered mail. The department shall specify a date by which the information must be returned, which shall be not less than 10 days after the department mails the request to the applicant. If the department does not receive the information or a request for a time extension under ORS 537.175 by the date specified in the request, the department may reject

the application and may refund fees in accordance with ORS 536.050 (4)(a). The time period specified by the department in a request for additional information shall allow the department to comply with the 60-day time limit established by this subsection.

(2) In reviewing the application under subsection (1) of this section, the department shall presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310 (12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission. This shall be a rebuttable presumption and may be overcome by a preponderance of evidence that either:

(a) One or more of the criteria for establishing the presumption are not satisfied; or

(b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest under subsection (6) of this section or in a finding of the department that shows:

(A) The specific public interest under ORS 537.170 (8) that would be impaired or detrimentally affected; and

(B) Specifically how the identified public interest would be impaired or detrimentally affected.

(3) The proposed final order shall cite findings of fact and conclusions of law and shall include but need not be limited to:

(a) Confirmation or modification of the preliminary determinations made in the initial review;

(b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program and the compatibility of the proposed use with applicable land use plans;

(c) An assessment of water availability and the amount of water necessary for the proposed use;

(d) An assessment of whether the proposed use would result in injury to existing water rights;

(e) An assessment of whether the proposed use would impair or be detrimental to the public interest as provided in ORS 537.170;

(f) A draft permit, including any proposed conditions, or a recommendation to deny the application;

(g) Whether the rebuttable presumption that the proposed use will not impair or be detrimental to the public interest has been established; and

(h) The date by which protests to the proposed final order must be received by the department.

(4) The department shall mail copies of the proposed final order to the applicant and to persons who have requested copies and paid the fee required under ORS 536.050 (1)(p). The department also shall publish notice of the proposed final order by publication in the weekly **public** notice published by the department.

(5) Any person who supports a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing and shall be accompanied by the fee established under ORS 536.050 (1)(n).

(6) Any person may submit a protest against a proposed final order. A protest shall be in writing and shall include:

(a) The name, address and telephone number of the protestant;

(b) A description of the protestant's interest in the proposed final order and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;

(c) A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest;

(d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;

(e) Any citation of legal authority supporting the protest, if known; and

(f) The protest fee required under ORS 536.050.

(7) [*Requests for standing and*] Protests on the proposed final order shall be submitted within 45 days after publication of the notice of the proposed final order in the weekly **public** notice pub-

lished by the department. **If a protest is submitted, any person may submit a request for standing under subsection (5) of this section within 30 days after the deadline for filing a protest.** Any person who asks to receive a copy of the department's final order shall submit to the department the fee required under ORS 536.050 (1)(p), unless the person has previously requested copies and paid the required fee under ORS 537.150 (7), the person is a protestant and has paid the fee required under ORS 536.050 (1)(j) or the person has standing and has paid the fee under ORS 536.050 (1)(n).

(8) Within 60 days after the close of the period for receiving protests, the Water Resources Director shall:

- (a) Issue a final order as provided under ORS 537.170 (6); or
- (b) Schedule a contested case hearing if a protest has been submitted and if:

(A) Upon review of the issues, the director finds that there are significant disputes related to the proposed use of water; or

(B) Within 30 days after the close of the period for submitting protests, the applicant requests a contested case hearing.

SECTION 33. ORS 537.621 is amended to read:

537.621. (1) Within 60 days after the Water Resources Department proceeds with the application under ORS 537.620 (5)(c), the department shall complete application review and issue a proposed final order approving or denying the application or approving the application with modifications or conditions. The department may request the applicant to provide additional information needed to complete the review. If the department requests additional information, the request shall be specific and shall be sent to the applicant by registered mail. The department shall specify a date by which the information must be returned, which shall be not less than 10 days after the department mails the request to the applicant. If the department does not receive the information or a request for a time extension under ORS 537.627 by the date specified in the request, the department may reject the application and may refund fees in accordance with ORS 536.050 (4)(a). The time period specified by the department in a request for additional information shall allow the department to comply with the 60-day time limit established by this subsection.

(2) In reviewing the application under subsection (1) of this section, the department shall determine whether the proposed use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525. The department shall presume that a proposed use will ensure the preservation of the public welfare, safety and health if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310 (12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission. This shall be a rebuttable presumption and may be overcome by a preponderance of evidence that either:

(a) One or more of the criteria for establishing the presumption are not satisfied; or

(b) The proposed use would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, in a protest under subsection (7) of this section or in a finding of the department that shows:

(A) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected; and

(B) Specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected.

(3) The proposed final order shall cite findings of fact and conclusions of law and shall include but need not be limited to:

(a) Confirmation or modification of the preliminary determinations made in the initial review;

(b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program and the compatibility of the proposed use with applicable land use plans;

(c) An assessment of water availability and the amount of water necessary for the proposed use;

(d) An assessment of whether the proposed use would result in injury to existing water rights;

(e) An assessment of whether the proposed use would ensure the preservation of the public welfare, safety and health as described in ORS 537.525;

(f) A draft permit, including any proposed conditions, or a recommendation to deny the application;

(g) Whether the rebuttable presumption under subsection (2) of this section has been established;

(h) The date by which protests to the proposed final order must be received by the department; and

(i) The flow rate and duty of water allowed.

(4) In establishing the flow rate and duty of water allowed, the department may consider a general basin-wide standard, but first shall evaluate information submitted by the applicant to demonstrate the need for a flow rate and duty higher than the general standard. If the applicant provides such information, the department shall authorize the requested rate and duty except upon specific findings related to the application to support a determination that a lesser amount is needed. If the applicant does not provide information to demonstrate the need for a flow rate and duty higher than the general basin-wide standard, the department may apply the general standards without specific findings related to the application.

(5) The department shall mail copies of the proposed final order to the applicant and to persons who have requested copies and paid the fee required under ORS 536.050 (1)(p). The department also shall publish notice of the proposed final order by publication in the weekly **public** notice published by the department.

(6) Any person who supports a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing and shall be accompanied by the fee established under ORS 536.050 (1)(n).

(7) Any person may submit a protest against a proposed final order. A protest shall be in writing and shall include:

(a) The name, address and telephone number of the protestant;

(b) A description of the protestant's interest in the proposed final order, and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

(c) A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest;

(d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;

(e) Any citation of legal authority supporting the protest, if known; and

(f) The protest fee required under ORS 536.050.

(8) *[Requests for standing and]* Protests on the proposed final order shall be submitted within 45 days after publication of the notice of the proposed final order in the weekly **public** notice published by the department. **If a protest is submitted, any person may submit a request for standing under subsection (6) of this section within 30 days after the deadline for filing a protest.** Any person who asks to receive a copy of the department's final order shall submit to the department the fee required under ORS 536.050 (1)(p), unless the person has previously requested copies and paid the required fee under ORS 537.620 (7), the person is a protestant and has paid the fee required under ORS 536.050 (1)(j) or the person has standing and has paid the fee under ORS 536.050 (1)(n).

(9) Within 60 days after the close of the period for receiving protests, the Water Resources Director shall:

(a) Issue a final order as provided under ORS 537.625 (1); or

(b) Schedule a contested case hearing if a protest has been submitted and if:

(A) Upon review of the issues, the director finds that there are significant disputes related to the proposed use of water; or

(B) Within 30 days after the close of the period for submitting protests, the applicant requests a contested case hearing.

SECTION 33a. The amendments to ORS 537.153 and 537.621 by sections 32 and 33 of this 2025 Act apply to requests for standing on proposed final orders issued on or after the operative date specified in section 48 of this 2025 Act.

CONFORMING AMENDMENTS

SECTION 34. ORS 537.147 is amended to read:

537.147. (1) Notwithstanding the process for applying for a water right permit established in ORS 537.150 to 537.230, a person may, pursuant to this section, apply to the Water Resources Department for a water right permit to use stored water. A person applying under this section for a water right permit to use stored water shall submit:

(a) A fee, in the amount required by ORS 536.050 for applications to appropriate stored water.

(b) A completed application for a secondary permit, in a form determined by the department, that contains the information required of applications under ORS 537.140 and 537.400 (1).

(c) Evidence that the proposed use of the stored water is one of the authorized uses under the water right permit, certificate or decree that allows the storage of water.

(2) If an applicant provides, to the satisfaction of the department, the fee and the information required by subsection (1) of this section, the department may, after public notice and a 30-day opportunity to submit comments on the application, issue a water right permit upon determining that no public interest issues as identified in ORS 537.170 (8) have been raised through the comments submitted.

(3) If the department determines that public interest issues have been identified, then the department shall treat the application under this section as an application under ORS 537.150 and perform the public interest review required by ORS 537.153 (2).

(4) At a minimum, a water right permit issued by the department for use of stored water under this section shall be conditioned to require:

(a) Fish screens and by-pass devices and fish passage as may be required by the State Department of Fish and Wildlife; and

(b) A measuring device at each point of diversion authorized under the water right permit.

(5) Within 10 days of issuing a water right permit under this section, the department shall provide notice of the permit issuance in the weekly **public** notice published by the department and to persons who have submitted comments pursuant to subsection (2) of this section.

SECTION 35. ORS 537.225 is amended to read:

537.225. (1) Notwithstanding ORS 537.220 and 537.635, except as provided in subsection (6) of this section, a record landowner holding a water right permit for an irrigation, nursery, temperature control, stock watering or agricultural water use that has a subsequent completion date may apply for assignment of all or part of the water right permit and for the issuance of a replacement water right permit that reflects that assignment. To obtain the assignment and replacement water right permits, the applicant shall submit an application to the Water Resources Department that includes, at a minimum:

(a) A map prepared by a certified water right examiner and meeting department mapping standards that identifies the authorized place of use, rate of use, any applicable acre-feet allowances, tax lots and points of diversion or appropriation;

(b) A copy of the deed showing that the applicant is an owner of the land;

(c) An affidavit certifying that the water right has not been conveyed or withheld;

(d) A statement by the applicant that the most recent water use under the permit, if any, has been exercised within relevant terms and conditions of the permit; and

(e)(A) Agreements to the assignment and to the request for the issuance of replacement water right permits submitted jointly or individually by all owners of the land to which the water right is appurtenant; or

(B) An assignment of interest and request for the issuance of replacement water right permits submitted by one or more of the owners of land to which the water right is appurtenant and infor-

mation identifying the names, addresses and proportionate interests for those owners not submitting the assignment and request.

(2) In addition to the application contents described in subsection (1) of this section, the department may require that the applicant provide any additional information the department deems appropriate to determining whether to approve the application.

(3) Upon receiving an application under subsection (1) of this section, the department shall determine and notify the applicant of the fees payable under ORS 536.050 for processing the application. Upon receipt of the appropriate processing fees, the department shall:

(a) Verify the address of each owner of the lands identified on the map contained in the application;

(b) Verify that the deed supplied with the application matches the property proposed for assignment;

(c) Prepare a statement that the proposed replacement water right permits will not result in the enlargement of the original water right, a proposed final order and drafts of replacement water right permits;

(d) No later than one week prior to the date of the weekly **public** notice described in paragraph (e) of this subsection, mail copies of the application, the map, the existing water right permit, the proposed final order and the draft replacement water right permits to each owner of land to which the existing water right is appurtenant; and

(e) Provide public notice of the application in the weekly **public** notice published by the department.

(4) The department shall allow comment on the application for 30 days following public notice of the application in the weekly notice published by the department. Any protest against the proposed final order must be submitted no later than 45 days after the date of the weekly notice published by the department. A protest must be filed in the manner provided in ORS 537.227.

(5) If the department determines that an application under subsection (1) of this section to assign all or part of a water right permit has been properly filed, and that the issuance of replacement water right permits will not result in the enlargement of the original water right or otherwise cause injury to other water right holders, the department shall issue one or more replacement water right permits to reflect the assignment. The replacement water right permits:

(a) Must have the same conditions as the replaced water right permit, including but not limited to priority date, source of water and type of use;

(b) May not add or change a point of diversion or point of appropriation;

(c) May not result in the enlargement of the water use authorized under the replaced water right permit;

(d) Must apportion the rate, and if applicable the duty, in proportion to the amount of land to which the water right is appurtenant; and

(e) Must identify the land to which the replacement water right permit is appurtenant and the owner of that land.

(6) This section does not apply to municipal or quasi-municipal permits or to permits held by a unit of local government, including but not limited to permits held by a port or water authority or a district. As used in this subsection, "unit of local government" has the meaning given that term in ORS 190.003 and "district" has the meaning given that term in ORS 540.505.

SECTION 36. ORS 537.348 is amended to read:

537.348. (1) Any person may purchase or lease all or a portion of an existing water right or accept a gift of all or a portion of an existing water right for conversion to an in-stream water right. Any water right converted to an in-stream water right under this section shall retain the priority date of the water right purchased, leased or received as a gift. At the request of the person the Water Resources Commission shall issue a new certificate for the in-stream water right showing the original priority date of the purchased, gifted or leased water right. Except as provided in subsections (2) to (6) of this section, a person who transfers a water right by purchase, lease or gift

under this subsection shall comply with the requirements for the transfer of a water right under ORS 540.505 to 540.585.

(2) Subject to subsections (3) to (6) of this section, any person who has an existing water right may lease all or a portion of the existing water right for use as an in-stream water right for a specified period without the loss of the original priority date. During the term of the lease, the use of the water right as an in-stream water right shall be considered a beneficial use. The term of the lease may not exceed five years. The term of the lease may be renewed. There is no limitation on the number of times that the lease may be renewed.

(3) A lease of all or a portion of an existing water right for use as an in-stream water right under subsection (2) of this section may allow the split use of the water between the existing water right and the in-stream water right during the same calendar year, provided:

(a) The uses of the existing water right and the in-stream water right are not concurrent; and

(b) The holders of the water rights measure and report to the Water Resources Department the use of the existing water right and the in-stream water right.

(4) A person who has an existing water right and wishes to lease the water right as described in subsection (2) of this section must file a request and obtain department approval of the lease. Upon receipt of the request, the department shall provide notice of the request by inclusion in the weekly **public** notice published by the department. Any allegation of injury must be delivered to the department no later than 21 days after publication of the request in the weekly **public** notice.

(5) After publishing notice of a request made under subsection (2) of this section and allowing time for the delivery of allegations of injury, the department shall issue an order approving the request if the department finds that the leasing of the water right for in-stream use can be effected without injury to other existing water rights or can be conditioned to prevent injury to other existing water rights. If the lease is for the split use of water between the existing water right and the in-stream water right during the same calendar year, the conditions imposed in the order approving the request must include, but need not be limited to, compliance with subsection (3) of this section.

(6) The department at any time may revoke or modify an order issued for a lease under subsection (2) of this section if the department determines that the use of the water right for in-stream use under the lease has resulted in or may result in injury to an existing water right.

SECTION 37. ORS 537.470 is amended to read:

537.470. (1) Upon receipt of an application for allocation of conserved water under ORS 537.465, the Water Resources Commission shall give notice of receipt of the application in accordance with ORS 540.520 [(5)] **(6)(c)(B)**.

(2) The commission shall allocate conserved water as provided in subsection (3) of this section and approve modifications of water rights as provided in subsection (6) of this section. The commission may not allocate conserved water pursuant to an application under ORS 537.465 if the application is filed more than five years after the conservation measure was implemented.

(3) After determining the quantity of conserved water, if any, required to mitigate the effects on other water rights, the commission shall allocate 25 percent of the remaining conserved water to the state and 75 percent to the applicant, unless the applicant proposes a higher allocation to the state or more than 25 percent of the funds used to finance the conservation measures comes from federal or state public sources. If more than 25 percent of the funds used to finance the conservation measures comes from federal or state public sources and is not subject to repayment, the commission shall allocate to the state a percentage equal to the percentage of public funds used to finance the conservation measures and allocate to the applicant a percentage equal to the percentage of other funds used to finance the conservation measures. If the commission determines that the water allocated to the state is necessary to support in-stream flow purposes in accordance with ORS 537.332 to 537.360, the water shall be converted to an in-stream water right. If the water allocated to the state is not necessary to support in-stream flow purposes, it shall revert to the public for appropriation by the next user in priority. In no event, however, shall the applicant receive less than 25

percent of the remaining conserved water unless the applicant proposes a higher allocation to the state.

(4) The commission shall notify the applicant and any other person requesting notice, of the action the commission intends to take under subsection (3) of this section. Any person objecting to the proposed allocation may file a protest requesting a contested case hearing before the commission.

(5) The modification of water rights under an allocation of conserved water may not require a separate request for transfer under ORS 540.520.

(6) After the commission completes the allocation of conserved water under subsection (3) of this section, the commission shall issue orders for proposed new certificates covering the changes in the original water rights. Once the conservation project is completed, separate new certificates preserving the previously established priority of rights shall be issued to cover the unaffected portion of the water rights and separate new certificates indicating the priority of rights as set forth in ORS 537.485 shall be issued to cover the right to the use of the allocated water.

SECTION 38. ORS 538.450 is amended to read:

538.450. (1) Subject to water rights existing on March 8, 1941, there is granted to the City of Pendleton, Umatilla County, and its water commission, the exclusive right to use for public or municipal purposes or use, or for the general use and benefit of people within or without the city, all waters of the north fork of the Umatilla River, the springs at the head which form the stream, and its tributaries to the confluence of the north fork with the main stream of the Umatilla River in the northwest quarter of section 22, township 3 north of range 37 east of the Willamette Meridian, which north fork is a tributary of the Umatilla River situated in Umatilla County.

(2) The City of Pendleton, its water commission, any of the city's agents, agencies and officers, and others on its behalf, may appropriate all such waters for these purposes and uses for the benefit and use of the city, as above set forth, either by the city in its own name, or by any of its agents, agencies or officers or by any other persons on its behalf.

(3) No person shall appropriate or be granted a permit to the use of any of such waters, except as provided in this section. But the City of Pendleton may, under this grant, divert such waters from their watershed and convey them to the city and elsewhere for use by it for public or municipal purposes or use or for the general use and benefit of people within or without the city. All of such waters are withdrawn from future appropriation, except for use and benefit of the city as set forth in this section.

(4) The point of diversion of a water right granted under this section may be exercised at the main stem of the Umatilla River situated in Umatilla County to a point not below the westerly city limit of the City of Pendleton.

(5) Prior to exercising the right granted under this section, the City of Pendleton shall submit to the Water Resources Department a notice of intent to exercise the right. The notice of intent shall be made on a form prescribed by the department and shall set forth:

- (a) The name and mailing address of the applicant;
- (b) The source of the water supply including the name and mailing address of any owner of the land upon which the source of the water supply is located;
- (c) The nature and the amount of the proposed use;
- (d) The time within which construction of the right is proposed to begin;
- (e) The time required to complete construction of the right;
- (f) The time required for the complete application of the water to the proposed beneficial use;
- (g) The point of diversion of the exercise of the right; and
- (h) Any other information required by the department that is necessary to understand the nature of the proposed project.

(6) Prior to submitting a notice of intent pursuant to subsection (5) of this section, the City of Pendleton shall hold a public meeting in the water basin in which the right is located to discuss the proposed project and receive comments from the public.

(7) Within 14 days after receiving a notice of intent submitted pursuant to subsection (5) of this section, the department shall, in the weekly **public** notice published by the department, give public notice of the submission of the notice of intent.

(8) The Confederated Tribes of the Umatilla Indian Reservation and the City of Pendleton have entered into an agreement addressing the development and use of the City of Pendleton's water rights in the Umatilla River and the impact on tribal interests from such development. The agreement includes implementation of the minimum streamflow in the main stem of the Umatilla River resulting from the exercise by the City of Pendleton of its surface water right of the north fork of the Umatilla River under this section. The City of Pendleton shall exercise such right consistent with the agreement or successor agreements between the City of Pendleton and the tribes provided in this subsection. In no event will the City of Pendleton exercise the right granted under this section so as to reduce streamflows in the Umatilla River to be less than state in-stream water rights for the Umatilla River existing as of January 1, 2002.

SECTION 39. ORS 540.524 is amended to read:

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

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

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

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

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

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

SECTION 40. ORS 540.570 is amended to read:

540.570. (1) Provided that the proposed transfer complies with all of the provisions of this subsection and will not result in injury to any existing water right, a district with a manager may, for one irrigation season, temporarily transfer the place of use of water appurtenant to any land within the legal boundaries of the district to an equal acreage elsewhere within the legal boundaries of that district or temporarily transfer the type of use identified in a right to store water. A temporary transfer of the place of use may occur if:

(a) The rate and duty, and the total number of acres to which water will be applied under the transfer, do not exceed existing limits on the water use subject to transfer;

(b) The type of use authorized under the water use subject to transfer remains the same; and

(c) The land from which the water use is being transferred does not receive any water under the right being transferred during the irrigation season in which the change is made.

(2) Provided that the proposed transfer complies with all the provisions of this subsection and will not result in injury to or enlargement of an existing water right, a district with a manager may, for one irrigation season, temporarily change the point of diversion or appropriation combined with a change in place of use, change the point of diversion in the event that an emergency prevents the district from diverting water from its authorized point of diversion, change the point of diversion to allow for the appropriation of ground water or change a primary right to a supplemental right if:

(a) The land on which the water is to be used is within the district's legal boundaries established pursuant to ORS chapter 545, 547, 552, 553 or 554;

(b) The other terms of the permit or certificate remain the same, including the beneficial use for which the water is used and the number of acres to which water is applied;

(c) The diversion is provided with a proper fish screen, if required by the Water Resources Department; and

(d) For a proposal to transfer the point of diversion to allow for the appropriation of ground water, the proposed change meets the standards set forth in ORS 540.531 (2).

(3) When a district or an owner or an owner's agent within a district who is subject to the charges or assessments of the district wishes to use water on alternate acreage within the district, if the district has approved the owner's request, the district shall submit to the department a petition seeking a temporary transfer under this section. The district shall submit the petition prior to making the proposed change. The petition may contain changes to one or more tax lots within the district and shall:

(a) Include the information required under ORS 540.574 (3);

(b) Be accompanied by a map in a form satisfactory to the department and certified by the district. If the water right is on a tract of land of five acres or less, the assessor's tax map with a notation of the acres of water right shall be sufficient for identification of the tract and place of use;

(c) Include a statement that a written authorization for the transfer from each landowner affected by the particular temporary transfer is on file with the district;

(d) Include any other information required by rules of the Water Resources Commission; and

(e) Include a fee in the amount required under ORS 536.050 (1)(i).

(4) The district shall notify each affected landowner that the department may reject the transfer or may require mitigation to avoid injury to other water rights. Upon receipt of a completed petition under subsection (3) of this section, the department shall place a summary of the petition in the weekly **public** notice published by the department. The department shall accept written public comments on the petition for 30 days following publication of the weekly **public** notice. The department shall consider comments that pertain to the potential for injury to an existing water right or to the enlargement of the water use subject to transfer in determining whether to condition, reject or revoke a temporary transfer.

(5) Use of water on lands from which the right is transferred and in the new temporary location during the same irrigation season or calendar year is prohibited and may subject the district and the landowner to civil penalties.

(6) The department may condition, reject or revoke a temporary transfer at any time to the extent necessary to avoid injury if the department finds the transfer is causing injury to an existing water right.

(7) Upon expiration of the temporary transfer period, all uses of water for which a temporary transfer is allowed under this section shall revert automatically to the terms and conditions of the original water right permit, certificate or adjudication under ORS chapter 539 as evidenced by a court decree.

(8) The time during which water is used under an approved temporary transfer order does not apply toward a finding of forfeiture under ORS 540.610.

SECTION 41. ORS 540.580 is amended to read:

540.580. (1) In accordance with this section, a district may by petition request that the Water Resources Department approve the permanent transfer of the place of use of water within a district as long as the proposed transfer complies with all of the following:

(a) The rate, duty and total number of acres to which water is to be applied under the water use subject to transfer are not exceeded;

(b) The use authorized under the water use subject to transfer remains the same;

(c) The change in place of use will not result in injury to any existing water right; and

(d) The land from which the water right is removed by the transfer shall receive no water under the transferred right.

(2) A district may submit a petition for a permanent transfer prior to or subsequent to the change in place of use, but no later than the end of the calendar year in which the change occurs. The petition submitted by the district may include an unlimited number of transfers within the same petition. A petition under this section shall:

(a) Include the information required under ORS 540.574 (3), except for the statement that a notice under ORS 540.572 (2) has been given;

(b) Be accompanied by a map in a form satisfactory to the department and certified by the district. If the water right is on a tract of land of five acres or less, the assessor's tax map with a notation of the acres of water right shall be sufficient for identification of the tract and place of use;

(c) Include a statement that each landowner affected by a permanent transfer has authorized the transfer in a writing that is on file with the district;

(d) Include any other information required by rules of the Water Resources Commission; and

(e) Include the fee required under ORS 536.050 (1)(h) for a change in the place of use.

(3) If a district allows a change in the place of use of water before obtaining the approval of the department, the district shall:

(a) Notify each affected landowner that the change is subject to the approval of the department and that the department may reject the transfer or may require mitigation to avoid injury to other water right holders; and

(b) Notify the department in advance of the change. The notice shall include:

(A) The name of the district and the certificate number of each water right that is the subject of the change;

(B) The names of the users within the district from whose lands and to whose lands water rights are to be transferred;

(C) A general description of the users' lands by township, range, quarter quarter section and tax lot number, and of the water right, for each parcel from which and to which water rights are to be transferred; and

(D) A description of the use that is proposed to be made of the water on each parcel.

(4) Upon receipt of the notice required under subsection (3)(b) of this section, the department shall provide public notice in the weekly **public** notice published by the department.

(5) If a district allows a change in the place of use of water before obtaining approval of the department under this section, the department may direct the district to cease delivery of water or mitigate injury where the change in place of use is causing injury to an existing water right.

(6) Within 15 days after the filing of a petition under subsection (2) of this section, the department shall include notice of the petition in the weekly **public** notice published by the department. Within 30 days after *[the mailing]* **publication** of the department's weekly **public** notice, any potentially affected holder of an existing water right may file, jointly or severally, with the department, a protest against approval of the petition.

(7) Subject to the provisions of subsection (8) of this section, whenever a timely protest is filed, or in the opinion of the Water Resources Director a hearing is necessary to determine whether the proposed changes as described in the petition would result in injury to existing water rights, the department may hold a hearing on the petition. Notice and conduct of the hearing shall be according to the provisions of ORS chapter 183 pertaining to contested cases, shall be scheduled within 45

days after the filing of the petition, and shall be held in the area where the rights are located unless all parties and persons who filed a protest under this subsection stipulate otherwise.

(8) If a water user within the district files a protest claiming injury to a water right delivery by the district, no contested case hearing shall be required, but the district shall resolve the matter directly with the water user.

(9) After examination or hearing, the department shall issue an order approving the transfer if the proposed change can be effected without injury to existing water rights. If no hearing is scheduled under subsection (7) of this section, the order of the department shall be issued within 90 days after the date of the filing of the petition. If the proposed change cannot be effected without injury to existing water rights, the department may condition approval, including requiring mitigation of the effects on other water rights, to the extent necessary to avoid injury. If a hearing is scheduled, the department shall issue a final order within 120 days after scheduling the hearing.

(10) Within 20 days after the director issues a final order under this section, the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions.

(11) If a certificate covering the water right has been previously issued, the department may amend the certificate or may cancel the certificate and issue a new certificate preserving the previously established priority of rights and covering the authorized changes. If only a portion of the water right covered by the previous certificate is affected by the changes, a separate new certificate may be issued to cover the unaffected portion of the water right. A certificate as amended or issued under this section has the evidentiary effect provided for in ORS 537.270 as to the new lands except when the right to appropriate water described in the certificate is abandoned after the certificate is amended or issued.

(12) Notwithstanding the provisions of subsection (2) of this section, a petition filed on or before December 31, 1996, may include all changes in place of use allowed by a district after July 1, 1992, and before November 30, 1996.

SECTION 42. ORS 540.585 is amended to read:

540.585. (1) In accordance with the provisions of this section, a person may request that the Water Resources Department approve the temporary transfer of the place of use and type of use and temporarily change the point of diversion if necessary to convey water to the new temporary place of use, of all or a portion of a water right, for a period not to exceed 25 years if:

- (a) The person holds a water use subject to transfer;
- (b) The type of use specified in the original water use subject to transfer is irrigation;
- (c) The person to whom the right is transferred is:
 - (A) Located within the Deschutes River Basin; and

(B) A city, a quasi-municipal corporation, a domestic water supply district formed under ORS chapter 264, a water supplier as defined in ORS 448.115 or a water authority formed under ORS chapter 450;

- (d) The proposed use is municipal use; and
 - (e) The proposed temporary transfer will not result in injury to any existing water right.
- (2) An application for a temporary transfer under this section shall:

- (a) Be submitted in writing to the Water Resources Department;
- (b) Be accompanied by the appropriate fee for a change in the place of use and type of use as set forth in ORS 536.050;
- (c) Include the information required under ORS 540.520 (2); and
- (d) Include any other information the Water Resources Commission by rule may require.

(3)(a) Any portion of the use of a water right that is not temporarily transferred under this section may be used on the designated part of the lands described in the original water right permit, certificate or adjudication under ORS chapter 539 as evidenced by a court decree, if the use does not encompass more than the remaining portion of the lands, enlarge the water right or increase the rate, duty, total acreage benefited or season of use.

(b) The Water Resources Department shall designate the lands on which water may be applied under this subsection and shall prescribe mapping, measurement and recording requirements under this subsection.

(4) Upon expiration of a temporary transfer period, all uses of water for which a temporary transfer is allowed under this section shall revert automatically to the terms and conditions of the original water right permit, certificate or adjudication under ORS chapter 539 as evidenced by a court decree.

(5) The time during which water is used under an approved temporary transfer order does not apply toward a finding of forfeiture under ORS 540.610.

(6) The department may revoke a prior approval of a temporary transfer at any time if:

(a) The department finds that the transfer is causing injury to any existing water right; or

(b) The person fails to comply with the requirements prescribed by the department pursuant to subsection (3) of this section.

[(7) The department shall provide notice, in the manner provided in ORS 540.520 (5), that the department received an application for a temporary transfer under this section.]

(7) The department shall provide notice of the application in the weekly public notice of the department and accept written public comments for 30 days.

(8) The department may:

(a) Prescribe the duration of the temporary transfer period allowed under this section, up to 25 years;

(b) Impose conditions in the terms of the temporary transfer, including revocation of the transfer for noncompliance with applicable state, local or federal laws; and

(c) Determine the parties that may participate in the review of applications submitted under this section.

SECTION 43. ORS 543A.035 is amended to read:

543A.035. (1) Within 60 days after submitting a notice of intent under ORS 543A.030, the applicant shall submit to the Water Resources Department an application to reauthorize the water right for the state project on a form prescribed by the department.

(2) The reauthorization application for a water right for the use of water for hydroelectric purposes shall set forth:

(a) The name and post-office address of the applicant;

(b) The location of the project by county and stream and, when appropriate, by city or nearby city;

(c) The amount of water in cubic feet per second;

(d) The theoretical water horsepower; and

(e) Any other information required in the application form.

(3) Upon receipt of a reauthorization application for the use of water for hydroelectric purposes, the Water Resources Department shall convene the Hydroelectric Application Review Team for the state project. The team shall consist of representatives of the Water Resources Department, the Department of Environmental Quality and the State Department of Fish and Wildlife and may include a representative of any other state agency that has regulatory or advisory responsibility for the state project or a resource or hazard affected by the state project.

(4) Within seven days after receiving a reauthorization application under subsection (3) of this section, the department shall notify any person who responded to the notice of intent and give public notice of the application in the weekly **public** notice published by the department. The notice shall include a request for comments on the application and information pertaining to how an interested person may obtain future notices about the application and participate in the reauthorization process.

(5) Within 45 days after the public notice under subsection (4) of this section, any person interested in the application shall request future notices about the state project and may submit written comments to the department.

SECTION 44. ORS 543A.040 is amended to read:

543A.040. (1) Within 60 days after the close of the period allowed for public comment under ORS 543A.035, the Hydroelectric Application Review Team shall determine whether the reauthorization application for the water right contains sufficient information to determine whether reauthorization of the state project will comply with ORS 543A.025.

(2) If the team decides that sufficient information is available to determine whether reauthorization of the water right for the state project will comply with ORS 543A.025, the team shall proceed with expedited processing of the reauthorization application. The team shall review the application and any public comments received on the application and prepare a draft proposed final order, including findings of fact and conclusions of law, for the water right. Upon completion of the draft proposed final order, the team shall give public notice of the draft proposed final order in the weekly **public** notice published by the Water Resources Department. The notice shall include a request for comments on the draft proposed final order.

(3) Within 60 days after the public notice under subsection (2) of this section, any person interested in the draft proposed final order shall submit written comments to the team. A person who submits written comments under this subsection shall identify the provision of the draft proposed final order in question and specify why the person objects to or supports the provision. The team shall review the comments received and may revise the draft proposed final order. Unless the department receives a request under subsection (4) of this section, the team shall submit a proposed final order to the department within 30 days after the close of the period for public comment on the draft proposed final order.

(4) If the draft proposed final order prepared by the team under subsection (2) of this section proposes to deny the application for reauthorization of the water right, the applicant may request the department to process the application in accordance with ORS 543A.045 to 543A.055. The applicant shall submit a request under this subsection within the 60-day period allowed for public comment on the draft proposed final order.

(5) Unless the department receives a request under subsection (4) of this section, the department shall issue the proposed final order in accordance with the provisions of ORS 543A.120 to 543A.300.

(6) If the team determines that additional information is necessary to determine whether reauthorization of the state project will comply with ORS 543A.025, the applicant shall comply with the process established in ORS 543A.045 to 543A.055 and 543A.120 to 543A.300.

SECTION 45. ORS 543A.055 is amended to read:

543A.055. (1) The Hydroelectric Application Review Team shall review the application report prepared under ORS 543A.050 and prepare a draft proposed final order approving or denying the reauthorization of the water right. The draft proposed final order shall include the findings required for a proposed final order under ORS 543A.120. Upon completion of the draft proposed final order, the Water Resources Department shall give public notice of the draft proposed final order in the weekly **public** notice published by the department. The notice shall include a request for comments on the draft proposed final order.

(2) Within 60 days after the public notice under subsection (1) of this section, any person interested in the draft proposed final order shall submit written comments to the team.

(3) Within 30 days after the close of the period for public comment on the draft proposed final order, the team shall make any revisions necessary in response to comments received and submit a proposed final order to the department.

(4) The department shall complete the reauthorization process in accordance with the provisions of ORS 543A.120 to 543A.300.

SECTION 46. ORS 543A.120 is amended to read:

543A.120. (1) A proposed final order prepared by a Hydroelectric Application Review Team and submitted to the Water Resources Department under ORS 543A.040, 543A.055 or 543A.105 shall be based on the application of the standards set forth in ORS 543A.025 and shall reflect the complete review of the water right application for compliance with applicable statutes and rules.

(2) The proposed final order shall cite findings of fact and conclusions of law and shall include but need not be limited to:

- (a) Confirmation or modification of the preliminary determinations made in the initial review;
 - (b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program, the compatibility of the proposed use with applicable land use plans and information set forth in the application report or final report on studies;
 - (c) An assessment of water availability and the amount of water necessary for the proposed use;
 - (d) An assessment of whether the proposed use would result in injury to existing water rights;
 - (e) An assessment of whether the proposed use would impair or be detrimental to the public interest as provided in ORS 543A.025;
 - (f) A draft certificate, including any proposed conditions, or a recommendation to deny the application; and
 - (g) The date by which protests to the proposed final order must be received by the department.
- (3) The department shall mail copies of the proposed final order, as submitted by the team, to the applicant and to persons who have requested copies and paid the fee required under ORS 536.050 (1)(p). The department also shall give public notice of the proposed final order in the weekly **public** notice published by the department.
- (4) Any person may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing and shall be accompanied by the fee established under ORS 536.050 (1)(n).
- (5) Any person may submit a protest against a proposed final order. A protest shall be in writing and shall include:
- (a) The name, address and telephone number of the protestant;
 - (b) A description of the protestant's interest in the proposed final order and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - (c) A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest;
 - (d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
 - (e) Any citation of legal authority supporting the protest, if known; and
 - (f) The protest fee required under ORS 536.050 (1)(j).
- (6) Requests for standing and protests on the proposed final order shall be submitted within 45 days after publication of the notice of the proposed final order in the weekly **public** notice published by the department. Any person who asks to receive a copy of the department's final order shall submit to the department the fee required under ORS 536.050 (1)(p), unless the person has previously requested copies and paid the required fee.
- (7) The Hydroelectric Application Review Team shall review any protest received and provide to the Water Resources Director a recommended response to any protest received.
- (8) Within 120 days after the close of the period for receiving protests and after consultation with the Hydroelectric Application Review Team, the director shall:
- (a) Issue a final order as provided under ORS 543A.130; or
 - (b) Schedule a contested case hearing if a protest has been submitted and if:
 - (A) Upon review of the issues, the director finds that there are significant disputes related to the proposed reauthorization of the project; or
 - (B) Within 30 days after the close of the period for submitting protests, the applicant requests a contested case hearing.
- (9) At the request of the applicant, the department may extend the time periods set forth in subsection (8) of this section for a reasonable period of time.
- (10) If the application is for reauthorization of a water right for a federally licensed project, the department may postpone the issuance of the final order until the Federal Energy Regulatory Commission license is issued.

CAPTIONS

SECTION 47. The unit captions used in this 2025 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2025 Act.

OPERATIVE DATE

SECTION 48. Sections 9, 13, 24, 29 and 31 of this 2025 Act and the amendments to ORS 536.045, 536.410, 537.145, 537.147, 537.150, 537.153, 537.211, 537.225, 537.230, 537.252, 537.348, 537.470, 537.610, 537.620, 537.621, 537.630, 538.450, 540.520, 540.524, 540.535, 540.570, 540.580, 540.585, 543.220, 543A.035, 543A.040, 543A.055 and 543A.120 by sections 2 to 7, 10, 14, 17, 19, 20, 25, 26, 32, 33 and 34 to 46 of this 2025 Act become operative on April 1, 2026.

EARLY AGENCY ACTION

SECTION 49. The Water Resources Department and the Water Resources Commission may take any action before the operative date specified in section 48 of this 2025 Act that is necessary to enable the department and the commission to exercise, on and after the operative date specified in section 48 of this 2025 Act, all of the duties, functions and powers conferred on the department and the commission by the provisions of this 2025 Act.

EFFECTIVE DATE

SECTION 50. This 2025 Act takes effect on the 91st day after the date on which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by House April 22, 2025

Received by Governor:

Repassed by House May 29, 2025

.....M.,....., 2025

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2025

.....
Julie Fahey, Speaker of House

.....
Tina Kotek, Governor

Passed by Senate May 27, 2025

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Rob Wagner, President of Senate

.....
Tobias Read, Secretary of State