

A-Engrossed
House Bill 3372

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by Representatives OWENS, HELM; Representatives GAMBA, HARTMAN, JAVADI

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows exempt wells to use a set amount of water per day for irrigating lawns and gardens. (Flesch Readability Score: 67.3).

[Digest: The Act tells an agency to study exempt uses of water. (Flesch Readability Score: 64.9).]

[Directs the Water Resources Department to study exempt uses of water. Directs the department to submit findings to the interim committees of the Legislative Assembly related to water not later than September 15, 2026.]

Permits certain exempt ground water users to withdraw up to 3,000 gallons of water per day for watering any lawn or noncommercial or commercial garden that does not exceed one-half acre.

Specifies that the total combined use for industrial or commercial purposes, when combined with a commercial garden, may not exceed 5,000 gallons per day.

A BILL FOR AN ACT

1
2 Relating to exempt uses of water; amending ORS 536.900, 537.545 and 540.045.

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

4 **SECTION 1.** ORS 537.545 is amended to read:

5 537.545. (1) **Subject to subsection (3) of this section**, a registration, certificate of registration,
6 application for a permit, permit, certificate of completion or ground water right certificate under
7 ORS 537.505 to 537.795 and 537.992 is not required for the use of ground water for:

8 (a) Stockwatering purposes, unless the use exceeds 12,000 gallons per day and occurs at a new
9 confined animal feeding operation, as defined in ORS 468B.215;

10 (b) Watering any lawn or noncommercial **or commercial** garden not exceeding one-half acre in
11 area **in an amount not exceeding 3,000 gallons a day**;

12 (c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located
13 within a critical ground water area established pursuant to ORS 537.730 to 537.740;

14 (d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

15 (e) Down-hole heat exchange purposes;

16 (f) Any single industrial or commercial purpose, **other than for watering any lawn or com-**
17 **mercial garden**, in an amount not exceeding 5,000 gallons a day; or

18 (g) Land application, so long as the ground water:

19 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
20 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
21 for confined animal feeding purposes;

22 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
23 reused water has never been discharged to the waters of the state; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
 2 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
 3 system or ORS 468B.215 to operate a confined animal feeding operation.

4 (2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the
 5 extent that the use is beneficial, constitutes a right to appropriate ground water equal to that es-
 6 tablished by a ground water right certificate issued under ORS 537.700.

7 **(3) A ground water use for purposes of watering a commercial garden that is exempt**
 8 **under subsection (1)(b) of this section, when combined with the use of water for purposes**
 9 **that are exempt under subsection (1)(f) of this section, may not exceed 5,000 gallons a day.**

10 [(3)] (4) Except for the use of water under subsection (1)(g) of this section, the Water Resources
 11 Commission by rule may require any person or public agency using ground water for any such
 12 purpose to furnish information with regard to such ground water and the use thereof. For a use of
 13 water described in subsection (1)(g) of this section, the Department of Environmental Quality or the
 14 State Department of Agriculture shall provide to the Water Resources Department a copy of the
 15 permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for
 16 reuse. The permit shall provide the information regarding the place of use of such water and the
 17 nature of the beneficial reuse.

18 [(4)] (5) If it is necessary for the Water Resources Department to regulate the use or distribution
 19 of ground water, including uses for purposes that are exempt under subsection (1) of this section,
 20 the department shall use as a priority date for the exempt uses the date indicated in the log for the
 21 well filed with the department under ORS 537.765 or other documentation provided by the well
 22 owner showing when water use began.

23 [(5)] (6) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that con-
 24 structs a well to allow ground water use for a purpose that is exempt under subsection (1) of this
 25 section shall provide the Water Resources Department with a map showing the exact location of the
 26 well on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that
 27 constructs a well shall provide a map required by this subsection to the department, along with the
 28 well log required by ORS 537.765, no later than 30 days after the well is completed. The map must
 29 be prepared in accordance with standards established by the department. The map and well log must
 30 be accompanied by the fee described in subsection [(6)] (7) of this section to record the exempt
 31 ground water use.

32 [(6)] (7) The Water Resources Department shall collect a fee of \$300 for recording an exempt
 33 ground water use under subsection [(5)] (6) of this section. Moneys from fees collected under this
 34 subsection shall be deposited to the credit of the Water Resources Department Water Right Oper-
 35 ating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall
 36 be used for the purposes of evaluating ground water supplies, conducting ground water studies,
 37 carrying out ground water monitoring, processing ground water data and the administration and
 38 enforcement of this subsection and subsections [(3), (5) and (7)] (4), (6) and (8) of this section.

39 [(7)] (8) The Water Resources Commission shall adopt rules to implement, administer and en-
 40 force subsections [(5) and (6)] (6) and (7) of this section.

41 **(9) As used in this section:**

42 (a) **“Commercial garden” means a garden that is used to grow plants to be sold, traded**
 43 **or bartered.**

44 (b) **“Commercial garden” does not mean a location that is described in ORS 537.387 (2)(a)**
 45 **where plants in the plant Cannabis family Cannabaceae are grown.**

1 **SECTION 2.** ORS 537.545, as amended by section 11, chapter 465, Oregon Laws 2023, is
2 amended to read:

3 537.545. (1) **Subject to subsection (3) of this section**, a registration, certificate of registration,
4 application for a permit, permit, certificate of completion or ground water right certificate under
5 ORS 537.505 to 537.795 and 537.992 is not required for the use of ground water for:

6 (a) Stockwatering purposes;

7 (b) Watering any lawn or noncommercial **or commercial** garden not exceeding one-half acre in
8 area **in an amount not exceeding 3,000 gallons a day**;

9 (c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located
10 within a critical ground water area established pursuant to ORS 537.730 to 537.740;

11 (d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

12 (e) Down-hole heat exchange purposes;

13 (f) Any single industrial or commercial purpose, **other than for watering any lawn or com-**
14 **mercial garden**, in an amount not exceeding 5,000 gallons a day; or

15 (g) Land application, so long as the ground water:

16 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
17 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
18 for confined animal feeding purposes;

19 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
20 reused water has never been discharged to the waters of the state; and

21 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
22 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
23 system or ORS 468B.215 to operate a confined animal feeding operation.

24 (2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the
25 extent that the use is beneficial, constitutes a right to appropriate ground water equal to that es-
26 tablished by a ground water right certificate issued under ORS 537.700.

27 **(3) A ground water use for purposes of watering a commercial garden that is exempt**
28 **under subsection (1)(b) of this section, when combined with the use of water for purposes**
29 **that are exempt under subsection (1)(f) of this section, may not exceed 5,000 gallons a day.**

30 [(3)] (4) Except for the use of water under subsection (1)(g) of this section, the Water Resources
31 Commission by rule may require any person or public agency using ground water for any such
32 purpose to furnish information with regard to such ground water and the use thereof. For a use of
33 water described in subsection (1)(g) of this section, the Department of Environmental Quality or the
34 State Department of Agriculture shall provide to the Water Resources Department a copy of the
35 permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for
36 reuse. The permit shall provide the information regarding the place of use of such water and the
37 nature of the beneficial reuse.

38 [(4)] (5) If it is necessary for the Water Resources Department to regulate the use or distribution
39 of ground water, including uses for purposes that are exempt under subsection (1) of this section,
40 the department shall use as a priority date for the exempt uses the date indicated in the log for the
41 well filed with the department under ORS 537.765 or other documentation provided by the well
42 owner showing when water use began.

43 [(5)] (6) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that con-
44 structs a well to allow ground water use for a purpose that is exempt under subsection (1) of this
45 section shall provide the Water Resources Department with a map showing the exact location of the

1 well on the tax lot. The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that
2 constructs a well shall provide a map required by this subsection to the department, along with the
3 well log required by ORS 537.765, no later than 30 days after the well is completed. The map must
4 be prepared in accordance with standards established by the department. The map and well log must
5 be accompanied by the fee described in subsection [(6)] (7) of this section to record the exempt
6 ground water use.

7 [(6)] (7) The Water Resources Department shall collect a fee of \$300 for recording an exempt
8 ground water use under subsection [(5)] (6) of this section. Moneys from fees collected under this
9 subsection shall be deposited to the credit of the Water Resources Department Water Right Oper-
10 ating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall
11 be used for the purposes of evaluating ground water supplies, conducting ground water studies,
12 carrying out ground water monitoring, processing ground water data and the administration and
13 enforcement of this subsection and subsections [(3), (5) and (7)] (4), (6) and (8) of this section.

14 [(7)] (8) The Water Resources Commission shall adopt rules to implement, administer and en-
15 force subsections [(5) and (6)] (6) and (7) of this section.

16 **(9) As used in this section:**

17 (a) **“Commercial garden” means a garden that is used to grow plants to be sold, traded**
18 **or bartered.**

19 (b) **“Commercial garden” does not mean a location that is described in ORS 537.387 (2)(a)**
20 **where plants in the plant Cannabis family Cannabaceae are grown.**

21 **SECTION 3.** ORS 536.900 is amended to read:

22 536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources
23 Commission may impose a civil penalty on a person for violation of:

24 (a) A term or condition of a permit, certificate or license issued under ORS chapters 536 to
25 543A.

26 (b) ORS 537.130 or 537.535.

27 (c) ORS 537.545 [(5)] (6) or a rule described in ORS 537.545 [(7)] (8).

28 (d) A commission rule or order that pertains to well maintenance.

29 (e) ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5),
30 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

31 (f) ORS 537.897 or 537.898 (2).

32 (g) ORS 537.387.

33 (2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130,
34 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

35 (3) In the event the petitioner knowingly misrepresents the map and petition required in ORS
36 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established
37 by the commission. In addition, the petition and map shall be amended to correct the error at the
38 petitioner’s cost. Affected users shall be given notice as provided in ORS 541.329 (5).

39 (4) A civil penalty may not be imposed until the commission prescribes a reasonable time to
40 eliminate the violation. The commission shall notify the violator of the time allowed to correct a
41 violation within 10 business days after the commission first becomes aware of the violation.

42 (5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the
43 use of water under ORS 540.150 may not be considered a violation under subsection (1) of this sec-
44 tion.

45 (6) The commission may impose a civil penalty of not more than \$2,000 per occurrence for a

1 violation described in subsection (1)(g) of this section.

2 **SECTION 4.** ORS 540.045 is amended to read:

3 540.045. (1) Each watermaster shall:

4 (a) Regulate the distribution of water among the various users of water from any natural surface
5 or ground water supply in accordance with the users' existing water rights of record in the Water
6 Resources Department.

7 (b) Upon the request of the users, distribute water among the various users under any partner-
8 ship ditch, pipeline or well or from any reservoir, in accordance with the users' existing water rights
9 of record in the department.

10 (c) Divide the waters of the natural surface and ground water sources and other sources of
11 water supply among the canals, ditches, pumps, pipelines and reservoirs taking water from the
12 source for beneficial use, by regulating, adjusting and fastening the headgates, valves or other con-
13 trol works at the several points of diversion of surface water or the several points of appropriation
14 of ground water, according to the users' relative entitlements to water.

15 (d) Attach to the headgate, valve or other control works the watermaster regulates under par-
16 agraph (c) of this subsection, a written notice dated and signed by the watermaster, setting forth
17 that the headgate, valve or other control works has been properly regulated and is wholly under the
18 control of the watermaster.

19 (e) Perform any other duties the Water Resources Director may require.

20 (2) When a watermaster must rely on a well log or other documentation to regulate the use or
21 distribution of ground water, the regulation shall be in accordance with ORS 537.545 [(4)] (5).

22 (3) For purposes of regulating the distribution or use of water, any stored water released in
23 excess of the needs of water rights calling on that stored water shall be considered natural flow,
24 unless the release is part of a water exchange under the control of, and approved by, the
25 watermaster.

26 (4) As used in this section, "existing water rights of record" includes all completed permits,
27 certificates, licenses and ground water registration statements filed under ORS 537.605 and related
28 court decrees.

29