

B-Engrossed House Bill 3372

Ordered by the Senate May 16
Including House Amendments dated April 15 and Senate Amendments
dated May 16

Sponsored by Representatives OWENS, HELM, Senator PROZANSKI; Representatives GAMBA, GOMBERG,
HARTMAN, JAVADI, MARSH, NERON

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).

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.

Provides that the exemption applies to the use of water for growing industrial hemp but otherwise not to the use of water to grow plants in the plant Cannabis family Cannabaceae.
Provides that, for two years, the exemption does not apply to the use of ground water for watering any commercial garden in the Lower Umatilla Basin Groundwater Management Area.

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

Relating to exempt uses of water; creating new provisions; and amending ORS 536.900, 537.545 and 540.045.

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

SECTION 1. ORS 537.545 is amended to read:

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

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

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

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

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

(e) Down-hole heat exchange purposes;

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

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

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

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.

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

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

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

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

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

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

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

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

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

(9) As used in this section, "commercial garden":

(a) Means a garden that is used to grow plants to be sold, traded or bartered.

(b) Does not mean a location at which plants in the plant Cannabis family Cannabaceae

are grown, unless the plants are grown by a person licensed under ORS 571.281.

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

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

(a) Stockwatering purposes;

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

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

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

(e) Down-hole heat exchange purposes;

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

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

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

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

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

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

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

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

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

[(5)] (6) The person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well to allow ground water use for a purpose that is exempt under subsection (1) of this

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

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

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

(9) As used in this section, “commercial garden”:

(a) Means a garden that is used to grow plants to be sold, traded or bartered.

(b) Does not mean a location at which plants in the plant Cannabis family Cannabaceae are grown, unless the plants are grown by a person licensed under ORS 571.281.

SECTION 3. The exemption established by ORS 537.545 (1)(b) for the use of ground water for watering any commercial garden does not apply to the use of ground water for watering any commercial garden in the Lower Umatilla Basin Groundwater Management Area.

SECTION 4. Section 3 of this 2025 Act is repealed on January 2, 2028.

SECTION 5. ORS 536.900 is amended to read:

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

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

(b) ORS 537.130 or 537.535.

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

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

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

(f) ORS 537.897 or 537.898 (2).

(g) ORS 537.387.

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

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

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

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

4 (6) The commission may impose a civil penalty of not more than \$2,000 per occurrence for a
5 violation described in subsection (1)(g) of this section.

6 **SECTION 6.** ORS 540.045 is amended to read:

7 540.045. (1) Each watermaster shall:

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

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

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

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

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

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

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

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