

**SENATE AMENDMENTS TO
B-ENGROSSED HOUSE BILL 3544
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 27

1 On page 1 of the printed B-engrossed bill, line 2, delete “and”.

2 In line 5, after “543.765” insert “and sections 30, 33a and 48, chapter 282, Oregon Laws 2025
3 (Enrolled House Bill 3342); and repealing sections 5, 32, 33 and 39, chapter 282, Oregon Laws 2025
4 (Enrolled House Bill 3342)”.

5 On page 3, after line 41, insert:

6 “**SECTION 3a.** If House Bill 3342 becomes law, section 3 of this 2025 Act is amended to read:

7 “**Sec. 3.** (1) To initiate a contested case proceeding that is subject to this section and section
8 2 of this 2025 Act:

9 “(a) Any person may submit a protest against a proposed final order.

10 “(b) Unless a timeline is otherwise specified under ORS chapter 537, 540 or 541, the protest must
11 be submitted within 45 days after publication of the notice of the proposed final order in a weekly
12 public notice of the Water Resources Department or, if weekly public notice is not required, within
13 45 days after issuance of notice of the proposed final order.

14 “(c) The protest must:

15 “(A) Be in writing;

16 “(B) Include the name, address and telephone number of the protestant;

17 “(C) Include a description of the protestant’s interest in the proposed final order and, if the
18 protestant claims to represent the public interest, a precise statement of the public interest repres-
19 ented;

20 “(D) Include a detailed description of how the action proposed in the proposed final order would
21 impair or be detrimental to the protestant’s interest;

22 “(E) Raise an issue with sufficient specificity to allow response to the issue, as described in
23 subsection (3)(b) of this section;

24 “(F) Identify any citation of legal authority supporting the protest, if known; and

25 “(G) Include the protest fee required under ORS 536.050.

26 “(2) If a protest is submitted [*as described in subsection (5) of this section*], within 30 days after
27 the deadline for filing a protest:

28 “(a) Any person who supports the proposed final order may file a request for party status for
29 the purpose of participating in any contested case proceeding on the proposed final order or for
30 judicial review of a final order resulting from the proposed final order.

31 “(b) The request for party status must:

32 “(A) Be in writing.

33 “(B) Meet all requirements established in rule by the Water Resources Commission.

34 “(C) Include the fees described in ORS 536.050 (1)(n) and (o).

1 “(3) In a contested case proceeding under this section:

2 “(a) A hearing need not occur if:

3 “(A) All issues in the contested case are resolved as part of a settlement;

4 “(B) The protest is withdrawn; or

5 “(C) The protestant defaults.

6 “(b) A protest must raise an issue with sufficient specificity to allow response to the issue. To
7 raise an issue with sufficient specificity, the protest must:

8 “(A) Identify the recommended findings of fact, conclusions of law or conditions of approval to
9 which the protestant objects; and

10 “(B) Explain how the issues raised in the protest are within the jurisdiction of the department.

11 “(c) Not later than the end of the protest period, each person that submits a protest shall raise
12 all reasonably ascertainable issues and submit all reasonably available arguments that support the
13 person’s position.

14 “(d) A failure to raise a reasonably ascertainable issue in a protest or a failure to provide suf-
15 ficient specificity to afford the department an opportunity to respond to the issue precludes judicial
16 review of that issue.

17 “(4) If no protest on a proposed final order that is subject to this section and section 2 of this
18 2025 Act is timely received, as a matter of law, the proposed final order shall become a final order
19 on the date that is 33 days after the close of the time period for submitting a protest, with no further
20 action required by the department.

21 “(5) Notwithstanding subsection (4) of this section, not more than 33 days after the close of the
22 time period for submitting a protest, the department may withdraw a proposed final order for re-
23 consideration and issuance of a superseding proposed final order.

24 “(6) The department shall refund the fees described in ORS 536.050 (1)(o) if party status is de-
25 nied.

26 “(7) The Water Resources Commission may adopt rules necessary to implement this section.”.

27 On page 7, after line 9, insert:

28 “**SECTION 5a. If House Bill 3342 becomes law, section 32, chapter 282, Oregon Laws 2025**
29 **(Enrolled House Bill 3342) (amending ORS 537.153), is repealed and ORS 537.153, as amended**
30 **by section 5 of this 2025 Act, is amended to read:**

31 “537.153. (1) Within 60 days after the Water Resources Department proceeds with the applica-
32 tion under ORS 537.150 (5)(c), the department shall complete application review and issue a pro-
33 posed final order approving or denying the application or approving the application with
34 modifications or conditions. The department may request the applicant to provide additional infor-
35 mation needed to complete the review. If the department requests additional information, the request
36 shall be specific and shall be sent to the applicant by registered mail. The department shall specify
37 a date by which the information must be returned, which shall be not less than 10 days after the
38 department mails the request to the applicant. If the department does not receive the information
39 or a request for a time extension under ORS 537.175 by the date specified in the request, the de-
40 partment may reject the application and may refund fees in accordance with ORS 536.050 (4)(a). The
41 time period specified by the department in a request for additional information shall allow the de-
42 partment to comply with the 60-day time limit established by this subsection.

43 “(2) In reviewing the application under subsection (1) of this section, the department shall pre-
44 sume that a proposed use will not impair or be detrimental to the public interest if the proposed
45 use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or

1 given a preference under ORS 536.310 (12), if water is available, if the proposed use will not injure
2 other water rights and if the proposed use complies with rules of the Water Resources Commission.
3 This shall be a rebuttable presumption and may be overcome by a preponderance of evidence that
4 either:

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

6 “(b) The proposed use will impair or be detrimental to the public interest as demonstrated in
7 comments, in a protest under section 3 of this 2025 Act or in a finding of the department that shows:

8 “(A) The specific public interest under ORS 537.170 (5) that would be impaired or detrimentally
9 affected; and

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

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

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

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

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

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

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

22 “(f) A draft permit, including any proposed conditions, or a recommendation to deny the appli-
23 cation;

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

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

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

31 “(5) A person who asks to receive a copy of the department’s final order shall submit to the
32 department the fee required under ORS 536.050 (1)(p), unless the person has previously requested
33 copies and has paid the fee required under ORS 537.150 (7), the person is a protestant and has paid
34 the fee required under ORS 536.050 (1)(j) or the person has party status and has paid the fees re-
35 quired under ORS 536.050 (1)(n) and (o).

36 “(6) The provisions of sections 2 and 3 of this 2025 Act, and rules adopted thereunder, apply to
37 a contested case proceeding on a proposed final order issued under this section.

38 “(7) Within 60 days after the close of the period for receiving protests, if a protest was timely
39 submitted, the Water Resources Director shall:

40 “(a) Issue a final order as provided under ORS 537.170 (1) or (2), if the applicant has not filed
41 a protest and the director finds that there are no significant issues related to the proposed use of
42 water;

43 “(b) Schedule a contested case hearing if a protest has been submitted; or

44 “(c) Provide any person who timely submitted a protest or request for party status with an es-
45 timate of the timing of referring the contested case to the Office of Administrative Hearings for a

1 hearing and notice that parties may provide settlement proposals.”.

2 On page 17, after line 1, insert:

3 **“SECTION 16a. If House Bill 3342 becomes law, section 33, chapter 282, Oregon Laws 2025**
4 **(Enrolled House Bill 3342) (amending ORS 537.621), is repealed and ORS 537.621, as amended**
5 **by section 16 of this 2025 Act, is amended to read:**

6 “537.621. (1) Within 60 days after the Water Resources Department proceeds with the applica-
7 tion under ORS 537.620 (5)(c), the department shall complete application review and issue a pro-
8 posed final order approving or denying the application or approving the application with
9 modifications or conditions. The department may request the applicant to provide additional infor-
10 mation needed to complete the review. If the department requests additional information, the request
11 shall be specific and shall be sent to the applicant by registered mail. The department shall specify
12 a date by which the information must be returned, which shall be not less than 10 days after the
13 department mails the request to the applicant. If the department does not receive the information
14 or a request for a time extension under ORS 537.627 by the date specified in the request, the de-
15 partment may reject the application and may refund fees in accordance with ORS 536.050 (4)(a). The
16 time period specified by the department in a request for additional information shall allow the de-
17 partment to comply with the 60-day time limit established by this subsection.

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

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

27 “(b) The proposed use would not ensure the preservation of the public welfare, safety and health
28 as demonstrated in comments, in a protest under section 3 of this 2025 Act or in a finding of the
29 department that shows:

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

32 “(B) Specifically how the identified aspect of the public welfare, safety and health under ORS
33 537.525 would be impaired or be adversely affected.

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

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

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

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

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

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

45 “(f) A draft permit, including any proposed conditions, or a recommendation to deny the appli-

1 cation;

2 “(g) Whether the rebuttable presumption under subsection (2) of this section has been estab-
3 lished;

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

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

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

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

19 “(6) The provisions of sections 2 and 3 of this 2025 Act, and rules adopted thereunder, apply to
20 a contested case proceeding on a proposed final order issued under this section.

21 “(7) Any person who asks to receive a copy of the department’s final order shall submit to the
22 department the fee required under ORS 536.050 (1)(p), unless the person has previously requested
23 copies and paid the required fee under ORS 537.620 (7), the person is a protestant and has paid the
24 fee required under ORS 536.050 (1)(j) or the person has requested party status and has paid the fee
25 under ORS 536.050 (1)(n) and (o).

26 “(8) Within 60 days after the close of the period for receiving protests, if a timely protest was
27 submitted, the Water Resources Director shall:

28 “(a) Issue a final order as provided under ORS 537.625 (1), if the applicant has not filed a protest
29 and the director finds that there are no significant issues related to the proposed use of water;

30 “(b) Schedule a contested case hearing if a protest has been submitted; or

31 “(c) Provide any person who timely submitted a protest or request for party status with an es-
32 timate of the timing of referring the case to the Office of Administrative Hearings for a hearing and
33 notice that parties may provide settlement proposals.

34 “**SECTION 16b.** If House Bill 3342 becomes law, section 33a, chapter 282, Oregon Laws 2025
35 (Enrolled House Bill 3342), is amended to read:

36 “**Sec. 33a.** The amendments to ORS 537.153 and 537.621 by sections [32 and 33 of this 2025
37 Act] **5a and 16a of this 2025 Act** apply to requests for standing on proposed final orders issued on
38 or after the operative date specified in section 48 [of this 2025 Act], **chapter 282, Oregon Laws 2025**
39 **(Enrolled House Bill 3342).**”.

40 On page 20, after line 40, insert:

41 “**SECTION 20a.** If House Bill 3342 becomes law, section 5, chapter 282, Oregon Laws 2025
42 **(Enrolled House Bill 3342) (amending ORS 540.520), is repealed and ORS 540.520, as amended**
43 **by section 20 of this 2025 Act, is amended to read:**

44 “540.520. (1)(a) Except when the application is made under ORS 541.327 or when an application
45 for a temporary transfer is made under ORS 540.523, if the holder of a water use subject to transfer

1 for irrigation, domestic use, manufacturing purposes, or other use, for any reason desires to change
2 the place of use, the point of diversion, or the use made of the water, an application to make such
3 change, as the case may be, shall be filed with the Water Resources Department.

4 “(b) A holder of a water right certificate that authorizes the storage of water may change the
5 type of use identified in the water right certificate, as described in this section.

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

7 “(a) The name of the owner;

8 “(b) The previous use of the water;

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

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

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

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

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

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

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

26 “[5] *Upon the filing of the application the department shall give notice by publication in a news-*
27 *paper having general circulation in the area in which the water rights are located, for a period of at*
28 *least two weeks and not less than one publication each week. The notice shall include the date on which*
29 *the last notice by publication will occur. The cost of the publication shall be paid by the applicant in*
30 *advance to the department. In applications for only a change in place of use or for a change in the*
31 *point of diversion of less than one-fourth mile, and where there are no intervening diversions between*
32 *the old diversion of the applicant and the proposed new diversion, no newspaper notice need be pub-*
33 *lished. The department shall include notice of such applications in the weekly notice published by the*
34 *department.]*

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

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

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

42 “(B) **Notify the department to continue processing the application and provide any out-**
43 **standing information to the department.**

44 “(b) **If, within 30 days from the date of the notice, the applicant does not notify the de-**
45 **partment as provided in paragraph (a) of this subsection, does not provide all outstanding**

1 information as provided in paragraph (a)(B) of this subsection or notifies the department to
2 stop processing the application, the department shall close the file for the application and
3 take no further action on the application. The department may allow an applicant up to 60
4 additional days to provide outstanding information if the applicant requests additional time
5 and the department determines that the applicant is undertaking reasonable efforts to pro-
6 vide the information in a timely manner to the department.

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

11 “(A) Proceed with processing the application.

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

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

21 “[6)] (8) *[The department shall issue a proposed final order approving or denying the application*
22 *or approving the application with modifications or conditions.]* Within 30 days after the publication
23 in the department’s weekly public notice any person may file a protest against the proposed final
24 order.

25 “[7)] (9) The provisions of sections 2 and 3 of this 2025 Act, and rules adopted thereunder, apply
26 to a contested case proceeding on a proposed final order issued under this section.

27 “[8)] (10) If in the opinion of the Water Resources Director a hearing is necessary to determine
28 whether the proposed changes as described by the application would result in injury to existing
29 water rights, the department shall hold a hearing on the matter.

30 “[9)] (11) An application for a change of use under this section is not required if the beneficial
31 use authorized by the water use subject to transfer is irrigation and the owner of the water right
32 uses the water for incidental agricultural, stock watering and other uses related to irrigation use,
33 so long as there is no increase in the rate, duty, total acreage benefited or season of use.

34 “[10)] (12) A water right transfer under subsection (1) of this section is not required for a
35 general industrial use that was not included in a water right certificate issued for a specific indus-
36 trial use if:

37 “(a) The quantity of water used for the general industrial use is not greater than the rate al-
38 lowed in the original water right and not greater than the quantity of water diverted to satisfy the
39 authorized specific use under the original water right;

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

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

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

45 “(B) The water right certificate number;

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

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

4 On page 21, after line 27, insert:

5 “**SECTION 21a. If House Bill 3342 becomes law, section 39, chapter 282, Oregon Laws 2025**
6 **(Enrolled House Bill 3342) (amending ORS 540.524), is repealed.**

7 “**SECTION 21b.** If House Bill 3342 becomes law, section 30, chapter 282, Oregon Laws 2025
8 (Enrolled House Bill 3342), is amended to read:

9 “**Sec. 30.** Notwithstanding ORS 536.031 (1), sections 9, 24 and 29 [*of this 2025 Act*], **chapter 282,**
10 **Oregon Laws 2025 (Enrolled House Bill 3342)**, and rules adopted thereunder, and the amendments
11 to ORS 536.045, 537.145, 537.150, 537.211, 537.252, 537.470, 537.610, 537.620, [540.520,] 540.535, 540.585,
12 543.220, by sections 2 to 4, 6, 7, 14, 17, 19, 20, 37 and 42 [*of this 2025 Act*], **chapter 282, Oregon**
13 **Laws 2025 (Enrolled House Bill 3342), and the amendments to ORS 540.520 by section 20a of**
14 **this 2025 Act**, and rules adopted thereunder, apply to applications and petitions submitted on or
15 after the operative date specified in section 48 [*of this 2025 Act*], **chapter 282, Oregon Laws 2025**
16 **(Enrolled House Bill 3342).**

17 “**SECTION 21c.** If House Bill 3342 becomes law, section 48, chapter 282, Oregon Laws 2025
18 (Enrolled House Bill 3342), is amended to read:

19 “**Sec. 48. (1)** Sections 9, 13, 24, 29 and 31 [*of this 2025 Act*], **chapter 282, Oregon Laws 2025**
20 **(Enrolled House Bill 3342)**, and the amendments to ORS 536.045, 536.410, 537.145, 537.147, 537.150,
21 [537.153,] 537.211, 537.225, 537.230, 537.252, 537.348, 537.470, 537.610, 537.620, [537.621,] 537.630,
22 538.450, [540.520, 540.524,] 540.535, 540.570, 540.580, 540.585, 543.220, 543A.035, 543A.040, 543A.055
23 and 543A.120 by sections 2 to 4, 6, 7, 10, 14, 17, 19, 20, 25, 26, [32, 33 and] 34 to 38 and 40 to 46
24 [*of this 2025 Act*], **chapter 282, Oregon Laws 2025 (Enrolled House Bill 3342)**, become operative
25 on April 1, 2026.

26 “**(2)** The amendments to ORS 537.153, 537.621 and 540.520 by sections 5a, 16a and 20a of
27 **this 2025 Act become operative on April 1, 2026.**”.