

House Bill 3800

Sponsored by Representatives OWENS, HELM

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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows an agency to take actions related to ground water in the Harney Basin. The Act tells the agency to take actions related to ground water in the Harney Basin. (Flesch Readability Score: 61.0).

Renames the "Greater Harney Valley Groundwater Area of Concern" the "Harney Basin Groundwater Management Area."

Establishes certain authorities and duties of the Water Resources Department related to the Harney Basin Groundwater Management Area.

A BILL FOR AN ACT

1
2 Relating to the use of ground water in the Harney Basin; creating new provisions; and amending
3 ORS 537.743.

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

5 **SECTION 1.** ORS 537.743 is amended to read:

6 537.743. (1) The Water Resources Department shall establish a program for the purpose of re-
7 placing, repairing or deepening domestic personal use wells that are affected by declining ground
8 water levels resulting from overallocation of ground water within the [*Greater Harney Valley*
9 *Groundwater Area of Concern*] **Harney Basin Groundwater Management Area**.

10 (2) In administering the program, the department:

11 (a) May enter into contracts, intergovernmental agreements or other arrangements with public
12 or private entities in order to work collaboratively to undertake the actions described in paragraph
13 (b) of this subsection;

14 (b) May award grants for costs related to the replacement, repair or deepening of the wells or
15 pay the cost of direct services of a water well constructor licensed under ORS 537.747 to perform
16 work needed to replace, repair or deepen the wells;

17 (c) Shall develop a process for applying for a grant or payment;

18 (d) May require a grantee or recipient of a payment to report to the department on the use of
19 the funds;

20 (e) Shall biennially review the program and report to the Water Resources Commission on pro-
21 gram implementation and outcomes to assess to what extent the purpose described in subsection (1)
22 of this section is being achieved; and

23 (f) Shall, based on the report, modify the program as necessary to better achieve the purpose
24 described in subsection (1) of this section.

25 (3) A grant or payment described in subsection (2)(b) of this section may provide:

26 (a) Up to 75 percent of the total cost of replacing, repairing or deepening the well, not to exceed
27 \$10,000 per well for replacement, repair or deepening; and

28 (b) If determined by the department to be necessary as part of replacing a well, up to \$3,500 for

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 the cost of abandoning the replaced well.

2 (4) In reviewing applications for a grant or payment, the department shall:

3 (a) Prioritize grants or payments for wells owned by or serving persons of lower or moderate
4 income;

5 (b) Prioritize grants or payments for wells based on the severity of changes and declines in
6 ground water, as determined by the department; and

7 (c) Consider other criteria determined by the department to be appropriate.

8 (5) To be eligible for funding, wells must:

9 (a) Be domestic personal use wells affected by declining ground water levels within the [*Greater*
10 *Harney Valley Groundwater Area of Concern*] **Harney Basin Groundwater Management Area**;

11 (b) Have served domestic personal use at a residence existing as of April 15, 2016; and

12 (c) Meet other criteria determined by the department.

13 (6) If replacement of a well is funded in whole or in part under the program, the replaced well
14 must be abandoned.

15 (7) The Water Resources Commission may adopt rules to implement the program. The commis-
16 sion shall, for purposes of the program, adopt by rule a definition for the term [*Greater Harney*
17 *Valley Groundwater Area of Concern*] or maintain in rule a definition for the term that the commission
18 adopted before September 25, 2021.] **“Harney Basin Groundwater Management Area.”**

19 **SECTION 2. (1) As used in this section, “Harney Basin Groundwater Management Area”**
20 **has the meaning given that term in rule pursuant to ORS 537.743.**

21 **(2) Notwithstanding any contrary provision of ORS chapters 536, 537, 538, 539 and 540, for**
22 **rights to use ground water within the Harney Basin Groundwater Management Area, the**
23 **Water Resources Department may:**

24 **(a) Modify the rate and duty of a certificated right to use ground water to reflect historic**
25 **beneficial use using a minimum of a five-year rolling average of the use within a subarea**
26 **established by rule, provided that the modified duty does not exceed the duty in the certif-**
27 **icated water right.**

28 **(b) Decline to accept applications for new rights to use ground water to irrigate land in**
29 **the subarea described in paragraph (a) of this subsection.**

30 **(c) Require measurement and reporting for existing rights to use ground water and**
31 **specify acceptable methods for the measurements and the frequency of the reports.**

32 **(d) Deny requested extensions for developing rights to use ground water.**

33 **(e) Specify in rules the department’s considerations and criteria for processing transfer**
34 **applications pursuant to ORS chapter 540 that relate to ground water.**

35 **(3) Notwithstanding any contrary provision of ORS chapters 536, 537, 538, 539 and 540, for**
36 **rights to use ground water within the Harney Basin Groundwater Management Area, the**
37 **department shall:**

38 **(a) Develop and implement a program for identifying and curtailing unauthorized use of**
39 **ground water.**

40 **(b) Develop and implement a program for identifying and canceling rights to use ground**
41 **water that are subject to cancellation under ORS 540.631.**

42 **(c) Adopt rules to establish an adaptive ground water management plan and program that**
43 **include:**

44 **(A) Objectives and metrics of success for managing ground water.**

45 **(B) Monitoring and data collection activities.**

1 **(C) Annual data analysis and reporting of trends in the levels of ground water and esti-**
2 **mates of the use of ground water.**

3 **(D) Milestones for evaluating the effectiveness of the department's management of**
4 **ground water.**

5 **(E) Adjustments to management of ground water to achieve the department's objectives**
6 **for managing ground water.**

7 **(F) Plans to create and update a Harney Basin ground water study model.**

8 **(G) Criteria for proceeding with a contested case proceeding for designated critical**
9 **ground water areas pursuant to ORS 537.730.**

10 **(H) Criteria for removing designations of critical ground water areas described in ORS**
11 **537.730.**

12 **(I) Review of the stockwatering exemption described in ORS 537.545 (1)(a).**

13 **(d) Establish a ground water advisory committee that meets at least once per year to**
14 **evaluate the effectiveness of the department's management of ground water and advise on**
15 **the management.**

16 **(e) Adopt rules to establish a mitigation program that allows the department to process**
17 **new applications to use ground water for purposes other than irrigation by reducing the**
18 **amount of water used under existing rights to use ground water.**

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