

House Bill 3950

Sponsored by Representative LEWIS, Senator GIROD

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 a landowner in a certain area to store water for preventing or fighting fires. (Flesch Readability Score: 60.1).

Allows a person who owns property on which a certain spring originates to store water from the spring for use for fire prevention and fire suppression if the person obtains a permit.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to stored water; creating new provisions; amending ORS 537.147 and 537.409; and pre-
3 scribing an effective date.

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

5 **SECTION 1. Notwithstanding ORS 538.120, a person who owns property on which a spring**
6 **originates and flows off premises may store water from the spring for use for fire prevention**
7 **or fire suppression if the person is granted:**

8 (1) **A water right permit for a reservoir under ORS 537.409; or**

9 (2) **A permit to use stored water under ORS 537.147.**

10 **SECTION 2.** ORS 537.147 is amended to read:

11 537.147. (1) Notwithstanding the process for applying for a water right permit established in ORS
12 537.150 to 537.230, a person may, pursuant to this section, apply to the Water Resources Department
13 for a water right permit to use stored water. A person applying under this section for a water right
14 permit to use stored water shall submit:

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

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

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

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

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

28 (4) **Notwithstanding ORS 538.120, the department may grant a permit under this section**
29 **to a person described in section 1 of this 2025 Act if:**

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 (a) The person applies for the permit as described in subsection (1) of this section; and
2 (b) The department determines that no public interest issues as identified in ORS 537.170
3 (8) have been raised through the comments submitted or performs the public interest review
4 required by ORS 537.153 (2).

5 (5) Any use of the stored water other than for fire prevention or fire suppression re-
6 quires an application for a permit under ORS 537.140 and application processing pursuant to
7 ORS 537.140 (7).

8 [(4)] (6) At a minimum, a water right permit issued by the department for use of stored water
9 under this section shall be conditioned to require:

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

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

13 [(5)] (7) Within 10 days of issuing a water right permit under this section, the department shall
14 provide notice of the permit issuance in the weekly notice published by the department and to per-
15 sons who have submitted comments pursuant to subsection (2) of this section.

16 **SECTION 3.** ORS 537.409 is amended to read:

17 537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for applying for a water
18 right permit, an owner of a reservoir may submit an application to the Water Resources Department
19 to issue a water right permit under ORS 537.211 or a certificate under ORS 537.250 according to the
20 process set forth in this section if the reservoir:

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

23 (b) Does not injure any existing water right;

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

26 (d) Is not prohibited under ORS 390.835.

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

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

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

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

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

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

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

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

44 (6) In accordance with rules established by the Water Resources Commission for an expedited
45 public interest review process for applications submitted under this section or in response to a re-

1 quest under subsection (5) of this section, the department shall conduct a public interest review of
 2 the reservoir application. The review shall be limited to issues pertaining to:

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

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

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

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

16 **(10) Notwithstanding ORS 538.120, the department may grant a permit under this section**
 17 **to a person described in section 1 of this 2025 Act if:**

18 **(a) The person applies for the permit as described in subsections (1) and (2) of this sec-**
 19 **tion; and**

20 **(b) The department does not find injury or impact under subsection (6) of this section.**

21 **(11) Any use of the stored water other than for fire prevention or fire suppression re-**
 22 **quires an application for a permit under ORS 537.140 and application processing pursuant to**
 23 **ORS 537.140 (7).**

24 ~~[(10)]~~ (12) Notwithstanding the requirement for a survey under ORS 537.230, a survey of the
 25 appropriation is not required for a reservoir that has a storage capacity of less than 9.2 acre-feet
 26 of water. For a reservoir qualifying under this subsection, a permittee shall submit to the depart-
 27 ment a claim of beneficial use within one year after the date of completion of construction. A claim
 28 of beneficial use for a reservoir qualifying under this subsection shall require only a written affi-
 29 davit signed by the permittee that includes the following:

- 30 (a) The dimensions of the reservoir.
- 31 (b) The maximum capacity of the reservoir in acre-feet.
- 32 (c) A map identifying the location of the reservoir. The map shall comply with standards estab-
 33 lished by the Water Resources Commission. The map required under this subsection need not be
 34 prepared by a water right examiner certified under ORS 537.798.

35 ~~[(11)]~~ (13) Any person applying for a secondary permit for the use of stored water from a res-
 36 ervoir qualifying under subsection ~~[(10)]~~ (12) of this section shall submit a survey prepared by a
 37 water right examiner certified under ORS 537.798. The survey required under this subsection shall
 38 apply to the storage reservoir and to the secondary use of the water in the reservoir.

39 **SECTION 4. This 2025 Act takes effect on the 91st day after the date on which the 2025**
 40 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**