

HB 3544-2  
(LC 3657)  
3/3/25 (AG/ps)

Requested by Representative HELM

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3544**

In line 2 of the printed bill, after “water” insert “; creating new provisions; amending ORS 536.050, 536.750, 536.900, 537.140, 537.147, 537.153, 537.170, 537.225, 537.295, 537.297, 537.343, 537.409, 537.420, 537.445, 537.470, 537.575, 537.621, 537.625, 537.628, 537.629, 540.520, 540.524, 540.537, 540.560, 540.574, 540.576, 540.580, 540.631, 540.641, 541.329, 541.331, 543.255 and 543.765; and repealing ORS 537.175, 537.227, 537.622, 537.627 and 540.578”.

Delete lines 4 through 8 and insert:

**“UNIFORM PROCESS FOR CONTESTED CASES**

**“SECTION 1. Sections 2 and 3 of this 2025 Act are added to and made a part of ORS chapter 536.**

**“SECTION 2. (1) As used in this section and section 3 of this 2025 Act, ‘contested case’ has the meaning given that term in ORS 183.310.**

**“(2) Notwithstanding the provisions of ORS chapter 183, this section and section 3 of this 2025 Act and rules adopted thereunder apply to:**

**“(a) A contested case proceeding under a provision of ORS chapter 537, 540 or 541 that references this section.**

**“(b) A contested case proceeding on an application to use water under a provision of ORS chapter 537, 540 or 541 in which the contested case proceeding occurs at the discretion of the Water Resources De-**

1 **partment.**

2 **“(3) The Water Resources Commission shall adopt rules establishing**  
3 **a uniform process for hearing contested cases that:**

4 **“(a) Establish a default hearing schedule that governs contested**  
5 **case hearings unless:**

6 **“(A) The department requests a different schedule for a particular**  
7 **contested case.**

8 **“(B) Adhering to the default schedule is not feasible in a particular**  
9 **contested case.**

10 **“(C) Modifying the default schedule for a particular contested case**  
11 **serves the public interest or the interest of justice.**

12 **“(b) Provide that for a hearing on a contested case, the part of the**  
13 **process from referral to a hearing to completion of closing arguments**  
14 **must be completed in not more than 180 days.**

15 **“(c) Require in-person testimony in lieu of written testimony where**  
16 **practicable to streamline contested case proceedings.**

17 **“(d) Instruct the department to periodically post in the weekly**  
18 **public notice published by the department a projected schedule of up-**  
19 **coming hearings and a description of factors that the department**  
20 **considers in prioritizing contested case hearings.**

21 **“(e) Require that, before referring a case for a contested case**  
22 **hearing, the department must:**

23 **“(A) Notify the parties to the case that the case is likely to be re-**  
24 **ferred for a contested case hearing and describe the likely timeline for**  
25 **referral.**

26 **“(B) Offer to engage in settlement discussion until the date of re-**  
27 **ferral.**

28 **“(C) Notify the parties that, once a case has been referred for a**  
29 **contested case hearing:**

30 **“(i) Closing arguments in the hearing must be completed within 180**

1 days of the referral.

2 “(ii) The department is unlikely to request an extension of a hear-  
3 ing schedule to facilitate settlement discussion after the referral.

4 “(D) Describe a list of issues that will be heard.

5 “(E) Provide information on how a person can obtain the file for  
6 the contested case from the department.

7 “(f) Authorize the assignment of a settlement judge to settlement  
8 cases, with the concurrence of a representative of the department.

9 “(g) Establish a default that hearings shall be held remotely.

10 “(h) Authorize the department to determine at the time of a refer-  
11 ral whether motions for summary determination will be allowed for a  
12 particular contested case, based on whether most or all of the issues  
13 raised in the protest are likely to present genuine issues of material  
14 fact.

15 “(i) Provide that requests for the production of documents by the  
16 department as part of a contested case constitute public records re-  
17 quests.

18 “(j) Limit the number of interrogatories and requests for admission  
19 that a party may make.

20 “(k) Establish page limits for exceptions.

21 “(L) Provide that, if parties may file exceptions to a final order, the  
22 exceptions will be limited to addressing the interpretation of a statute  
23 or rule.

24 “(m) Implement the provisions of this section and section 3 of this  
25 2025 Act.

26 “(4) A failure of the department to comply with requirements de-  
27 scribed in subsection (3)(d) or (e) of this section does not constitute a  
28 procedural error that is subject to judicial review unless a protestant  
29 can demonstrate prejudice to substantial rights.

30 “SECTION 3. (1) To initiate a contested case proceeding that is

1 subject to this section and section 2 of this 2025 Act:

2 “(a) Any person may submit a protest against a proposed final order  
3 on an application, if the Water Resources Department provides for a  
4 contested case hearing on the protest.

5 “(b) The protest must be submitted within:

6 “(A) Forty-five days after publication of the notice of the proposed  
7 final order in a weekly public notice of the department; or

8 “(B) A number of days established by the Water Resources Com-  
9 mission by rule under this section.

10 “(c) The protest must:

11 “(A) Be in writing;

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

14 “(C) Include a description of the protestant’s interest in the pro-  
15 posed final order and, if the protestant claims to represent the public  
16 interest, a precise statement of the public interest represented;

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

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

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

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

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

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

1       **“(b) The request for party status must:**

2       **“(A) Be in writing.**

3       **“(B) Meet all requirements established in rule by the commission.**

4       **“(C) Include the fee described in ORS 536.050 (1)(n).**

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

6       **“(a) A hearing need not occur if:**

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

9       **“(B) The protest is withdrawn; or**

10       **“(C) The protestant defaults.**

11       **“(b) A protest must raise an issue with sufficient specificity to allow**  
12 **response to the issue, which may include:**

13       **“(A) Identifying any recommended findings of fact, conclusions of**  
14 **law or conditions of approval on which the issue is premised;**

15       **“(B) Specifying one or more provisions of law within the**  
16 **department’s jurisdiction on which the issue is based; and**

17       **“(C) Alleging facts sufficient to show that the protestant is entitled**  
18 **to the relief or action requested.**

19       **“(c) A failure to raise an issue before a protest deadline precludes:**

20       **“(A) Consideration of the issue at a hearing.**

21       **“(B) Judicial review based on the issue.**

22       **“(d) A hearing must be limited in scope to properly raised issues.**

23       **“(e) An order on a motion to compel discovery is not subject to**  
24 **appeal to the chief administrative law judge.**

25       **“(f) A ruling in a previous final order must be treated as controlling**  
26 **precedent by an administrative law judge if:**

27       **“(A) The final order containing the ruling was issued following a**  
28 **contested case hearing;**

29       **“(B) The final order containing the ruling is publicly accessible on**  
30 **a website of the department on a web page that publishes proposed and**

1 **final orders in contested case hearings;**

2 **“(C) The department verifies that the legal interpretation of the**  
3 **department has not changed since the final order containing the ruling**  
4 **was issued;**

5 **“(D) The ruling has not been overturned by a court; and**

6 **“(E) The administrative law judge includes in a proposed final or-**  
7 **der, and the department includes in a final order, a statement ac-**  
8 **knowledging that the legal issue was properly raised by a party and**  
9 **preserved for appeal.**

10 **“(4) If no protest on a proposed final order that is subject to this**  
11 **section and section 2 of this 2025 Act is timely received, as a matter**  
12 **of law, the proposed final order shall become a final order on the date**  
13 **that is 30 days after the close of the time period for submitting a**  
14 **protest, with no further action required by the department.**

15 **“(5) Notwithstanding subsection (4) of this section, not more than**  
16 **30 days after the close of the time period for submitting a protest, the**  
17 **department may withdraw a proposed final order for reconsideration**  
18 **and issuance of a superseding proposed final order.**

19  
20 **“CONTESTED CASES**

21  
22 **“SECTION 4. ORS 537.140 is amended to read:**

23 **“537.140. (1)(a) Each application for a permit to appropriate water shall**  
24 **be made to the Water Resources Department on a form prescribed by the**  
25 **department and shall set forth:**

26 **“(A) The name and mailing address of the applicant;**

27 **“(B) The source of water supply including the name and mailing address**  
28 **of any owner of the land upon which the source of the water supply is lo-**  
29 **cated;**

30 **“(C) The nature and amount of the proposed use;**

1 “(D) The location and description of the proposed ditch, canal or other  
2 work, including the name and mailing address of the owner of any lands that  
3 are not owned by the applicant and that are crossed by the proposed ditch,  
4 canal or other work even if the applicant has obtained written authorization  
5 or an easement from the owner;

6 “(E) A statement declaring whether the applicant has written authori-  
7 zation or an easement permitting access to nonowned land crossed by the  
8 proposed ditch, canal or other work;

9 “(F) The time within which it is proposed to begin construction;

10 “(G) The time required for completion of the construction;

11 “(H) The time for the complete application of the water to the proposed  
12 use; and

13 “(I) Any other information required in the application form that is nec-  
14 essary to evaluate the application as established by statute and rule.

15 “(b) If for agricultural purposes, the application shall give the legal sub-  
16 divisions of the land and the acreage to be irrigated, as near as may be.

17 “(c) Except as provided in subsection (2) of this section, if for power  
18 purposes, the application shall give the nature of the works by means of  
19 which the power is to be developed, the head and amount of water to be  
20 utilized, and the uses to which the power is to be applied.

21 “(d) If for construction of a reservoir, the application shall give the  
22 height of dam, the capacity of the reservoir, and the uses to be made of the  
23 impounded waters.

24 “(e) If for municipal water supply, the application shall give the present  
25 population to be served, and, as near as may be, the future requirements of  
26 the city.

27 “(f) If for mining purposes, the application shall give the nature of the  
28 mines to be served, and the methods of supplying and utilizing the water.

29 “(2) Any person who has applied to the Federal Energy Regulatory Com-  
30 mission for a preliminary permit or an exemption from licensing shall, at the

1 same time, apply to the Water Resources Department for a permit to appro-  
2 priate water for a hydroelectric project. An applicant for a permit to appro-  
3 priate water for a new hydroelectric project shall submit to the department  
4 a complete copy of any application for the project filed with the Federal  
5 Energy Regulatory Commission or other federal agency. If the copy of the  
6 federal application is filed with the department at the same time it is filed  
7 with the federal agency, at the department's discretion such copy may fulfill  
8 the requirements for an application under subsection (1) of this section.

9 “(3) Each application shall be accompanied by any map or drawing and  
10 all other data concerning the proposed project and the applicant's ability and  
11 intention to construct the project, as may be prescribed by the Water Re-  
12 sources Commission. The accompanying data shall be considered a part of  
13 the application.

14 “(4) The map or drawing required to accompany the application shall be  
15 of sufficient quality and scale to establish the location of the proposed point  
16 of diversion and the proposed place of use identified by tax lot, township,  
17 range, section and nearest quarter-quarter section along with a notation of  
18 the acreage of the proposed place of use, if appropriate. In addition, the de-  
19 partment shall accept locational coordinate information, including latitude  
20 and longitude as established by a global positioning system. If the applica-  
21 tion is for a water right for a municipal use, the map need not identify the  
22 proposed place of use by tax lot.

23 “(5) Each application for a permit to appropriate water shall be accom-  
24 panied by the examination fee set forth in ORS 536.050 (1).

25 “(6) If the proposed use of the water is for operation of a mining operation  
26 as defined in ORS 517.952, the applicant shall provide the information re-  
27 quired under this section as part of the consolidated application under ORS  
28 517.952 to 517.989.

29 “[7) *Notwithstanding any provision of ORS chapter 183, an application for*  
30 *a permit to appropriate water shall be processed in the manner set forth in*



1 *ORS 537.120 to 537.360. Nothing in ORS chapter 183 shall be construed to*  
2 *allow additional persons to participate in the process. To the extent that any*  
3 *provision in ORS chapter 183 conflicts with a provision set forth in ORS*  
4 *537.120 to 537.360, the provisions in ORS 537.120 to 537.360 shall control.]*

5 **“SECTION 5.** ORS 537.153 is amended to read:

6 “537.153. (1) Within 60 days after the Water Resources Department pro-  
7 ceeds with the application under ORS 537.150 (5), the department shall com-  
8 plete application review and issue a proposed final order approving or  
9 denying the application or approving the application with modifications or  
10 conditions. The department may request the applicant to provide additional  
11 information needed to complete the review. If the department requests addi-  
12 tional information, the request shall be specific and shall be sent to the ap-  
13 plicant by registered mail. The department shall specify a date by which the  
14 information must be returned, which shall be not less than 10 days after the  
15 department mails the request to the applicant. If the department does not  
16 receive the information [*or a request for a time extension under ORS*  
17 *537.175*] by the date specified in the request, the department may reject the  
18 application and may refund fees in accordance with ORS 536.050 (4)(a). The  
19 time period specified by the department in a request for additional informa-  
20 tion shall allow the department to comply with the 60-day time limit estab-  
21 lished by this subsection.

22 “(2) In reviewing the application under subsection (1) of this section, the  
23 department shall presume that a proposed use will not impair or be detri-  
24 mental to the public interest if the proposed use is allowed in the applicable  
25 basin program established pursuant to ORS 536.300 and 536.340 or given a  
26 preference under ORS 536.310 (12), if water is available, if the proposed use  
27 will not injure other water rights and if the proposed use complies with rules  
28 of the Water Resources Commission. This shall be a rebuttable presumption  
29 and may be overcome by a preponderance of evidence that either:

30 “(a) One or more of the criteria for establishing the presumption are not

1 satisfied; or

2 “(b) The proposed use will impair or be detrimental to the public interest  
3 as demonstrated in comments, in a protest under [subsection (6) of this] sec-  
4 tion **3 of this 2025 Act** or in a finding of the department that shows:

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

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

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

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

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

16 “(c) An assessment of water availability and the amount of water neces-  
17 sary for the proposed use;

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

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

22 “(f) A draft permit, including any proposed conditions, or a recommen-  
23 dation to deny the application;

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

26 “(h) The date by which protests to the proposed final order must be re-  
27 ceived by the department.

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

1 proposed final order by publication in the weekly notice published by the  
2 department.

3 *“[(5) Any person who supports a proposed final order may request standing*  
4 *for purposes of participating in any contested case proceeding on the proposed*  
5 *final order or for judicial review of a final order. A request for standing shall*  
6 *be in writing and shall be accompanied by the fee established under ORS*  
7 *536.050 (1)(n).]*

8 *“[(6) Any person may submit a protest against a proposed final order. A*  
9 *protest shall be in writing and shall include:]*

10 *“[(a) The name, address and telephone number of the protestant;]*

11 *“[(b) A description of the protestant’s interest in the proposed final order*  
12 *and, if the protestant claims to represent the public interest, a precise statement*  
13 *of the public interest represented;]*

14 *“[(c) A detailed description of how the action proposed in the proposed final*  
15 *order would impair or be detrimental to the protestant’s interest;]*

16 *“[(d) A detailed description of how the proposed final order is in error or*  
17 *deficient and how to correct the alleged error or deficiency;]*

18 *“[(e) Any citation of legal authority supporting the protest, if known; and]*

19 *“[(f) The protest fee required under ORS 536.050.]*

20 *“[(7) Requests for standing and protests on the proposed final order shall*  
21 *be submitted within 45 days after publication of the notice of the proposed final*  
22 *order in the weekly notice published by the department. Any person who asks*  
23 *to receive a copy of the department’s final order shall submit to the department*  
24 *the fee required under ORS 536.050 (1)(p), unless the person has previously*  
25 *requested copies and paid the required fee under ORS 537.150 (7), the person*  
26 *is a protestant and has paid the fee required under ORS 536.050 (1)(j) or the*  
27 *person has standing and has paid the fee under ORS 536.050 (1)(n).]*

28 **“(5) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
29 **adopted thereunder, apply to a contested case proceeding on a pro-**  
30 **posed final order issued under this section.**

1        “[8] (6) Within 60 days after the close of the period for receiving pro-  
2 tests, **if a protest was timely submitted**, the Water Resources Director  
3 shall:

4        “(a) Issue a final order as provided under ORS 537.170 [(6)] **(3) or (4), if**  
5 **the applicant has not filed a protest and the director finds that there**  
6 **are no significant issues related to the proposed use of water; or**

7        “(b) Schedule a contested case hearing if a protest has been submitted and  
8 [if:] **provide any person who timely submitted a protest or request for**  
9 **party status with an estimate of the timing of referring the contested**  
10 **case to the Office of Administrative Hearings for a hearing.**

11        “[A] *Upon review of the issues, the director finds that there are significant*  
12 *disputes related to the proposed use of water; or]*

13        “[B] *Within 30 days after the close of the period for submitting protests,*  
14 *the applicant requests a contested case hearing.]*

15        **“SECTION 6.** ORS 537.170 is amended to read:

16        “537.170. [(1) *Within 45 days after the Water Resources Director schedules*  
17 *a contested case hearing under ORS 537.153 (8), the Water Resources Depart-*  
18 *ment shall hold the contested case hearing. The issues to be considered in the*  
19 *contested case hearing shall be limited to issues identified by the administra-*  
20 *tive law judge.]*

21        “[2] *Notwithstanding the provisions of ORS chapter 183 pertaining to*  
22 *contested case proceedings, the parties to any contested case hearing initiated*  
23 *under this section shall be limited to:]*

24        “[a] *The applicant;]*

25        “[b] *Any person who timely filed a protest; and]*

26        “[c] *Any person who timely filed a request for standing under ORS 537.153*  
27 *(5) and who requests to intervene in the contested case hearing prior to the*  
28 *start of the proceeding.]*

29        “[3] *The contested case proceeding shall be conducted in accordance with*  
30 *the applicable provisions of ORS chapter 183 except:]*

1       “(a) As provided in subsections (1) and (2) of this section; and]

2       “(b) An interlocutory appeal under ORS 183.480 (3) shall not be allowed.]

3       “(4) If applicable, an application to appropriate water for the generation  
4 of electricity submitted under ORS 537.140 shall be included in the consol-  
5 idated review and hearings process under ORS 543.255.]

6       “(5) Each person submitting a protest or a request for standing shall raise  
7 all reasonably ascertainable issues and submit all reasonably available argu-  
8 ments supporting the person’s position by the close of the protest period. Fail-  
9 ure to raise a reasonably ascertainable issue in a protest or in a hearing or  
10 failure to provide sufficient specificity to afford the Water Resources Depart-  
11 ment an opportunity to respond to the issue precludes judicial review based  
12 on that issue.]

13       “[(6)] (1) If a **protest of a proposed final order issued under ORS**  
14 **537.153 is filed under section 3 of this 2025 Act and**, after the contested  
15 case hearing or, if a hearing is not held, after the close of the period allowed  
16 to file a protest, the **Water Resources** Director determines that the pro-  
17 posed use does not comply with the standards set forth in ORS 543.017 or  
18 rules adopted by the Water Resources Commission under ORS 543.017 or  
19 would otherwise impair or be detrimental to the public interest, the director  
20 shall issue a final order rejecting the application or modifying the proposed  
21 final order to conform to the public interest.

22       “(2) If a **protest of a proposed final order issued under ORS 537.153**  
23 **is filed under section 3 of this 2025 Act and**, after the contested case  
24 hearing or, if a hearing is not held, after the close of the period allowed to  
25 file a protest, the director determines that the proposed use would not impair  
26 or be detrimental to the public interest, the director shall issue a final order  
27 approving the application or otherwise modifying the proposed final order.

28       “(3) A final order **described in subsection (1) or (2) of this section**  
29 may set forth any of the provisions or restrictions to be included in the  
30 permit concerning the use, control and management of the water to be ap-

1 appropriated for the project, including, but not limited to, a specification of  
2 reservoir operation and minimum releases to protect the public interest.

3 “[~~(7)~~ If a contested case hearing is not held:]

4 “[~~(a)~~ Where the final order modifies the proposed final order, the applicant  
5 may request and the department shall schedule a contested case hearing as  
6 provided under subsection (3) of this section by submitting the information  
7 required for a protest under ORS 537.153 (6) within 14 days after the director  
8 issues the final order. However, the issues on which a contested case hearing  
9 may be requested and conducted under this paragraph shall be limited to is-  
10 sues based on the modifications to the proposed final order.]

11 “[~~(b)~~ Only the applicant or a protestant may appeal the provisions of the  
12 final order in the manner established in ORS chapter 183 for appeal of order  
13 other than contested cases.]

14 **“(4) If a protest of a proposed final order issued under ORS 537.153**  
15 **is filed under section 3 of this 2025 Act by a person other than the**  
16 **applicant and, as described in ORS 537.153 (6)(a), the director issues a**  
17 **final order without holding a contested case hearing, a protestant may**  
18 **appeal the provisions of the final order in the manner established in**  
19 **ORS chapter 183 for appeal of orders in other than contested cases.**

20 “[~~(8)~~] **(5)** If the presumption of public interest under ORS 537.153 (2) is  
21 overcome, then before issuing a final order, the director or the commission,  
22 if applicable, shall make the final determination of whether the proposed use  
23 or the proposed use as modified in the proposed final order would impair or  
24 be detrimental to the public interest by considering:

25 **“(a)** Conserving the highest use of the water for all purposes, including  
26 irrigation, domestic use, municipal water supply, power development, public  
27 recreation, protection of commercial and game fishing and wildlife, fire pro-  
28 tection, mining, industrial purposes, navigation, scenic attraction or any  
29 other beneficial use to which the water may be applied for which it may have  
30 a special value to the public.

1 “(b) The maximum economic development of the waters involved.

2 “(c) The control of the waters of this state for all beneficial purposes,  
3 including drainage, sanitation and flood control.

4 “(d) The amount of waters available for appropriation for beneficial use.

5 “(e) The prevention of wasteful, uneconomic, impracticable or unreason-  
6 able use of the waters involved.

7 “(f) All vested and inchoate rights to the waters of this state or to the  
8 use of the waters of this state, and the means necessary to protect such  
9 rights.

10 “(g) The state water resources policy formulated under ORS 536.295 to  
11 536.350 and 537.505 to 537.534.

12 “[9] (6) Upon issuing a final order, the director shall notify the appli-  
13 cant and each person who submitted written comments or protests or other-  
14 wise requested notice of the final order and send a copy of the final order  
15 to any person who requested a copy and paid the fee required under ORS  
16 536.050 (1)(p).

17 **“SECTION 7.** ORS 537.225 is amended to read:

18 “537.225. (1) Notwithstanding ORS 537.220 and 537.635, except as provided  
19 in subsection (6) of this section, a record landowner holding a water right  
20 permit for an irrigation, nursery, temperature control, stock watering or  
21 agricultural water use that has a subsequent completion date may apply for  
22 assignment of all or part of the water right permit and for the issuance of  
23 a replacement water right permit that reflects that assignment. To obtain the  
24 assignment and replacement water right permits, the applicant shall submit  
25 an application to the Water Resources Department that includes, at a mini-  
26 mum:

27 “(a) A map prepared by a certified water right examiner and meeting de-  
28 partment mapping standards that identifies the authorized place of use, rate  
29 of use, any applicable acre-feet allowances, tax lots and points of diversion  
30 or appropriation;

1 “(b) A copy of the deed showing that the applicant is an owner of the  
2 land;

3 “(c) An affidavit certifying that the water right has not been conveyed  
4 or withheld;

5 “(d) A statement by the applicant that the most recent water use under  
6 the permit, if any, has been exercised within relevant terms and conditions  
7 of the permit; and

8 “(e)(A) Agreements to the assignment and to the request for the issuance  
9 of replacement water right permits submitted jointly or individually by all  
10 owners of the land to which the water right is appurtenant; or

11 “(B) An assignment of interest and request for the issuance of replace-  
12 ment water right permits submitted by one or more of the owners of land to  
13 which the water right is appurtenant and information identifying the names,  
14 addresses and proportionate interests for those owners not submitting the  
15 assignment and request.

16 “(2) In addition to the application contents described in subsection (1) of  
17 this section, the department may require that the applicant provide any ad-  
18 ditional information the department deems appropriate to determining  
19 whether to approve the application.

20 “(3) Upon receiving an application under subsection (1) of this section,  
21 the department shall determine and notify the applicant of the fees payable  
22 under ORS 536.050 for processing the application. Upon receipt of the ap-  
23 propriate processing fees, the department shall:

24 “(a) Verify the address of each owner of the lands identified on the map  
25 contained in the application;

26 “(b) Verify that the deed supplied with the application matches the prop-  
27 erty proposed for assignment;

28 “(c) Prepare a statement that the proposed replacement water right per-  
29 mits will not result in the enlargement of the original water right, a pro-  
30 posed final order and drafts of replacement water right permits;



1 “(d) No later than one week prior to the date of the weekly notice de-  
2 scribed in paragraph (e) of this subsection, mail copies of the application, the  
3 map, the existing water right permit, the proposed final order and the draft  
4 replacement water right permits to each owner of land to which the existing  
5 water right is appurtenant; and

6 “(e) Provide public notice of the application in the weekly notice pub-  
7 lished by the department.

8 “[*(4) The department shall allow comment on the application for 30 days*  
9 *following public notice of the application in the weekly notice published by the*  
10 *department. Any protest against the proposed final order must be submitted*  
11 *no later than 45 days after the date of the weekly notice published by the de-*  
12 *partment. A protest must be filed in the manner provided in ORS 537.227.]*

13 **“(4) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
14 **adopted thereunder, apply to a contested case proceeding on a pro-**  
15 **posed final order issued under this section, except that the issues**  
16 **raised in a protest must directly pertain to whether the proposed re-**  
17 **placement water right permits are authorized under and in conform-**  
18 **ance with this section.**

19 “(5) If the department determines that an application under subsection (1)  
20 of this section to assign all or part of a water right permit has been properly  
21 filed, and that the issuance of replacement water right permits will not re-  
22 sult in the enlargement of the original water right or otherwise cause injury  
23 to other water right holders, the department shall issue one or more re-  
24 placement water right permits to reflect the assignment. The replacement  
25 water right permits:

26 “(a) Must have the same conditions as the replaced water right permit,  
27 including but not limited to priority date, source of water and type of use;

28 “(b) May not add or change a point of diversion or point of appropriation;

29 “(c) May not result in the enlargement of the water use authorized under  
30 the replaced water right permit;

1 “(d) Must apportion the rate, and if applicable the duty, in proportion to  
2 the amount of land to which the water right is appurtenant; and

3 “(e) Must identify the land to which the replacement water right permit  
4 is appurtenant and the owner of that land.

5 “(6) This section does not apply to municipal or quasi-municipal permits  
6 or to permits held by a unit of local government, including but not limited  
7 to permits held by a port or water authority or a district. As used in this  
8 subsection, ‘unit of local government’ has the meaning given that term in  
9 ORS 190.003 and ‘district’ has the meaning given that term in ORS 540.505.

10 **“SECTION 8.** ORS 537.295 is amended to read:

11 “537.295. (1) If the holder of a permit to appropriate water for hydroelec-  
12 tric purposes under this chapter fails, after receiving notice under ORS  
13 537.289 (2), to amend the joint agreement so the holder continues to qualify  
14 as a municipal applicant, or if the holder of the permit has assigned owner-  
15 ship of the permit to an entity other than a municipal corporation or district,  
16 the Water Resources Commission shall initiate proceedings to cancel the  
17 permit.

18 “[*(2) A proceeding to cancel a permit under subsection (1) of this section*  
19 *shall be conducted according to the provisions under ORS chapter 183 for a*  
20 *contested case hearing.*]

21 **“(2) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
22 **adopted thereunder, apply to a contested case proceeding on a pro-**  
23 **posed final order issued under this section.**

24 **“SECTION 9.** ORS 537.297 is amended to read:

25 “537.297. (1) If the owner of a certificate to appropriate water for hydro-  
26 electric purposes under this chapter fails, after receiving notice under ORS  
27 537.289 (2), to amend the joint agreement so the owner continues to qualify  
28 as a municipal applicant, or if the holder of the certificate has assigned  
29 ownership of the certificate to an entity other than a municipal corporation  
30 or district, the Water Resources Commission shall initiate proceedings to

1 cancel the certificate.

2 “[*(2) A proceeding to cancel a certificate under subsection (1) of this section*  
3 *shall be conducted according to the provisions under ORS chapter 183 for a*  
4 *contested case hearing.*]

5 “**(2) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
6 **adopted thereunder, apply to a contested case proceeding on a pro-**  
7 **posed final order issued under this section.**

8 “**SECTION 10.** ORS 537.409 is amended to read:

9 “537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for  
10 applying for a water right permit, an owner of a reservoir may submit an  
11 application to the Water Resources Department to issue a water right permit  
12 under ORS 537.211 or a certificate under ORS 537.250 according to the pro-  
13 cess set forth in this section if the reservoir:

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

16 “(b) Does not injure any existing water right;

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

20 “(d) Is not prohibited under ORS 390.835.

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

25 “(a) Include the quantity of water to be stored by the reservoir, a map  
26 indicating the location of the reservoir and the source of the water used to  
27 fill the reservoir; and

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

29 “(3) The map required under subsection (2) of this section need not be  
30 prepared by a water right examiner certified under ORS 537.798. The map

submitted with the application shall comply with standards established by the Water Resources Commission.

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

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

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

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

“(6) In accordance with rules established by the Water Resources Commission for an expedited public interest review process for applications submitted under this section or in response to a request under subsection (5) of this section, the department shall conduct a public interest review of the reservoir application. The review shall be limited to issues pertaining to:

“(a) Water availability;

“(b) Potential detrimental impact to existing fishery resources; and

“(c) Potential injury to existing water rights.

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

*“(8) If the department issues an order under subsection (7) of this section denying the permit, the applicant may request a contested case hearing, which shall be conducted in accordance with applicable provisions of ORS chapter 183.]*

*“(9) If the department does not find injury or impact under subsection (6)*

1 *of this section and the department issues a final order under subsection (7) of*  
2 *this section allowing the issuance of a permit, the order shall be subject to*  
3 *judicial review of orders in other than contested cases as provided in ORS*  
4 *chapter 183.]*

5 **“(8) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
6 **adopted thereunder, apply to a contested case proceeding on a pro-**  
7 **posed final order issued under this section.**

8 “[~~(10)~~] **(9)** Notwithstanding the requirement for a survey under ORS  
9 537.230, a survey of the appropriation is not required for a reservoir that has  
10 a storage capacity of less than 9.2 acre-feet of water. For a reservoir quali-  
11 fying under this subsection, a permittee shall submit to the department a  
12 claim of beneficial use within one year after the date of completion of con-  
13 struction. A claim of beneficial use for a reservoir qualifying under this  
14 subsection shall require only a written affidavit signed by the permittee that  
15 includes the following:

16 “(a) The dimensions of the reservoir.

17 “(b) The maximum capacity of the reservoir in acre-feet.

18 “(c) A map identifying the location of the reservoir. The map shall comply  
19 with standards established by the Water Resources Commission. The map  
20 required under this subsection need not be prepared by a water right exam-  
21 iner certified under ORS 537.798.

22 “[~~(11)~~] **(10)** Any person applying for a secondary permit for the use of  
23 stored water from a reservoir qualifying under subsection [~~(10)~~] **(9)** of this  
24 section shall submit a survey prepared by a water right examiner certified  
25 under ORS 537.798. The survey required under this subsection shall apply  
26 to the storage reservoir and to the secondary use of the water in the reser-  
27 voir.

28 **“SECTION 11.** ORS 537.420 is amended to read:

29 **“537.420. (1)** Whenever a permit holder fails to comply with the laws of  
30 the state and the requirements of the permit as to the commencement of

1 work with due diligence, completion of the work of construction or the ap-  
2 plication of the water for a beneficial use, and the permit is subject to can-  
3 cellation as provided in ORS 537.410 to 537.450, the Water Resources  
4 [Commission] **Department** shall[, *not less than 30 nor more than 60 days*  
5 *prior to the hearing provided for in ORS 537.445, notify*] **issue a proposed**  
6 **final order canceling the permit and serve notice of the proposed final**  
7 **order, in accordance with ORS 183.415, on** each person who, according to  
8 [Water Resources] department records, is the holder of a water right permit  
9 or certificate whose right may be injured by the proposed cancellation.

10 “(2) The notice [shall] **must:**

11 “(a) Require the holder of the permit to appear before the [commission]  
12 **department** at the time and place designated in the notice, and show cause  
13 why the permit described in the notice should not be canceled for the reasons  
14 therein specified.

15 “(b) [The notice shall] Contain a brief statement of the grounds for can-  
16 cellation [and shall be served in accordance with ORS 183.415].

17 “**SECTION 12.** ORS 537.445 is amended to read:

18 “537.445. [(1) If the Water Resources Commission proposes to cancel a per-  
19 mit or appropriation under ORS 537.410 to 537.450, opportunity for hearing  
20 shall be accorded as provided in ORS chapter 183.]

21 “(1) **The provisions of sections 2 and 3 of this 2025 Act, and rules**  
22 **adopted thereunder, apply to a contested case proceeding on a pro-**  
23 **posed final order issued under ORS 537.410 to 537.450.**

24 “(2) If a petition for review of an order canceling a permit or appropri-  
25 ation is filed under ORS 536.075, the [commission shall] **Water Resources**  
26 **Department may** not cancel the permit or appropriation under ORS 537.440  
27 until the petitioner’s right of review is exhausted and the order is finally  
28 approved.

29 “**SECTION 13.** ORS 537.470 is amended to read:

30 “537.470. (1) Upon receipt of an application for allocation of conserved

1 water under ORS 537.465, the Water Resources [*Commission*] **Department**  
2 shall give notice of receipt of the application in accordance with ORS 540.520  
3 (5).

4 “(2) The [*commission*] **department** shall allocate conserved water as pro-  
5 vided in subsection (3) of this section and approve modifications of water  
6 rights as provided in subsection [(6)] (7) of this section. The [*commission*]  
7 **department** may not allocate conserved water pursuant to an application  
8 under ORS 537.465 if the application is filed more than five years after the  
9 conservation measure was implemented.

10 “(3) After determining the quantity of conserved water, if any, required  
11 to mitigate the effects on other water rights, the [*commission*] **department**  
12 shall allocate 25 percent of the remaining conserved water to the state and  
13 75 percent to the applicant, unless the applicant proposes a higher allocation  
14 to the state or more than 25 percent of the funds used to finance the con-  
15 servation measures comes from federal or state public sources. If more than  
16 25 percent of the funds used to finance the conservation measures comes  
17 from federal or state public sources and is not subject to repayment, the  
18 [*commission*] **department** shall allocate to the state a percentage equal to  
19 the percentage of public funds used to finance the conservation measures and  
20 allocate to the applicant a percentage equal to the percentage of other funds  
21 used to finance the conservation measures. If the [*commission*] **department**  
22 determines that the water allocated to the state is necessary to support in-  
23 stream flow purposes in accordance with ORS 537.332 to 537.360, the water  
24 shall be converted to an in-stream water right. If the water allocated to the  
25 state is not necessary to support in-stream flow purposes, it shall revert to  
26 the public for appropriation by the next user in priority. In no event, how-  
27 ever, shall the applicant receive less than 25 percent of the remaining con-  
28 served water unless the applicant proposes a higher allocation to the state.

29 “[*(4) The commission shall notify the applicant and any other person re-*  
30 *questing notice, of the action the commission intends to take under subsection*

1 *(3) of this section. Any person objecting to the proposed allocation may file a*  
2 *protest requesting a contested case hearing before the commission.]*

3 **“(4) The department shall:**

4 **“(a) Issue a proposed final order on the application.**

5 **“(b) Serve the proposed final order in accordance with ORS 183.415.**

6 **“(c) Provide notice of the proposed final order to any other person**  
7 **requesting notice.**

8 **“(5) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
9 **adopted thereunder, apply to a contested case proceeding on a pro-**  
10 **posed final order issued under this section.**

11 **“[(5)] (6) The modification of water rights under an allocation of con-**  
12 **served water may not require a separate request for transfer under ORS**  
13 **540.520.**

14 **“[(6)] (7) After the [commission] department completes the allocation of**  
15 **conserved water under subsection (3) of this section, the [commission] de-**  
16 **partment shall issue orders for proposed new certificates covering the**  
17 **changes in the original water rights. Once the conservation project is com-**  
18 **pleted, separate new certificates preserving the previously established prior-**  
19 **ity of rights shall be issued to cover the unaffected portion of the water**  
20 **rights and separate new certificates indicating the priority of rights as set**  
21 **forth in ORS 537.485 shall be issued to cover the right to the use of the al-**  
22 **located water.**

23 **“SECTION 14. ORS 537.621 is amended to read:**

24 **“537.621. (1) Within 60 days after the Water Resources Department pro-**  
25 **ceeds with the application under ORS 537.620 (5), the department shall com-**  
26 **plete application review and issue a proposed final order approving or**  
27 **denying the application or approving the application with modifications or**  
28 **conditions. The department may request the applicant to provide additional**  
29 **information needed to complete the review. If the department requests addi-**  
30 **tional information, the request shall be specific and shall be sent to the ap-**



plicant by registered mail. The department shall specify a date by which the information must be returned, which shall be not less than 10 days after the department mails the request to the applicant. *[If the department does not receive the information or a request for a time extension under ORS 537.627 by the date specified in the request, the department may reject the application and may refund fees in accordance with ORS 536.050 (4)(a).]* The time period specified by the department in a request for additional information shall allow the department to comply with the 60-day time limit established by this subsection.

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

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

“(b) The proposed use would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, in a protest under *[subsection (7) of this]* section **3 of this 2025 Act** or in a finding of the department that shows:

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

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

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

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

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

8 “(c) An assessment of water availability and the amount of water neces-  
9 sary for the proposed use;

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

12 “(e) An assessment of whether the proposed use would ensure the preser-  
13 vation of the public welfare, safety and health as described in ORS 537.525;

14 “(f) A draft permit, including any proposed conditions, or a recommen-  
15 dation to deny the application;

16 “(g) Whether the rebuttable presumption under subsection (2) of this sec-  
17 tion has been established;

18 “(h) The date by which protests to the proposed final order must be re-  
19 ceived by the department; and

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

21 “(4) In establishing the flow rate and duty of water allowed, the depart-  
22 ment may consider a general basin-wide standard, but first shall evaluate  
23 information submitted by the applicant to demonstrate the need for a flow  
24 rate and duty higher than the general standard. If the applicant provides  
25 such information, the department shall authorize the requested rate and duty  
26 except upon specific findings related to the application to support a deter-  
27 mination that a lesser amount is needed. If the applicant does not provide  
28 information to demonstrate the need for a flow rate and duty higher than the  
29 general basin-wide standard, the department may apply the general standards  
30 without specific findings related to the application.

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

6 “[*(6) Any person who supports a proposed final order may request standing*  
7 *for purposes of participating in any contested case proceeding on the proposed*  
8 *final order or for judicial review of a final order. A request for standing shall*  
9 *be in writing and shall be accompanied by the fee established under ORS*  
10 *536.050 (1)(n).*]

11 “[*(7) Any person may submit a protest against a proposed final order. A*  
12 *protest shall be in writing and shall include:*]

13 “[*(a) The name, address and telephone number of the protestant;*]

14 “[*(b) A description of the protestant’s interest in the proposed final order,*  
15 *and if the protestant claims to represent the public interest, a precise statement*  
16 *of the public interest represented;*]

17 “[*(c) A detailed description of how the action proposed in the proposed final*  
18 *order would impair or be detrimental to the protestant’s interest;*]

19 “[*(d) A detailed description of how the proposed final order is in error or*  
20 *deficient and how to correct the alleged error or deficiency;*]

21 “[*(e) Any citation of legal authority supporting the protest, if known; and*]

22 “[*(f) The protest fee required under ORS 536.050.*]

23 **“(6) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
24 **adopted thereunder, apply to a contested case proceeding on a pro-**  
25 **posed final order issued under this section.**

26 “[*(8)*] **(7)** [*Requests for standing and protests on the proposed final order*  
27 *shall be submitted within 45 days after publication of the notice of the pro-*  
28 *posed final order in the weekly notice published by the department.*] Any per-  
29 son who asks to receive a copy of the department’s final order shall submit  
30 to the department the fee required under ORS 536.050 (1)(p), unless the per-

son has previously requested copies and paid the required fee under ORS 537.620 (7), the person is a protestant and has paid the fee required under ORS 536.050 (1)(j) or the person has *[standing]* **requested party status** and has paid the fee under ORS 536.050 (1)(n).

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

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

“(b) Schedule a contested case hearing if a protest has been submitted and *[if:]* **provide any person who timely submitted a protest or request for party status with an estimate of the timing of referring the case to the Office of Administrative Hearings for a hearing.**

“(A) *Upon review of the issues, the director finds that there are significant disputes related to the proposed use of water; or]*

“(B) *Within 30 days after the close of the period for submitting protests, the applicant requests a contested case hearing.]*

**“SECTION 15.** ORS 537.625 is amended to read:

“537.625. (1) If, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Water Resources Director determines that the proposed use **that is the subject of an application filed under ORS 537.615** does not ensure the preservation of the public welfare, safety and health as described in ORS 537.525, the director shall issue a final order rejecting the application or modifying the proposed final order as necessary to ensure the preservation of the public welfare, safety and health as described in ORS 537.525. If, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the director determines that the proposed use would ensure the preservation of the public welfare, safety and health as described

1 in ORS 537.525, the director shall issue a final order approving the applica-  
2 tion or otherwise modifying the proposed final order. A final order may set  
3 forth any of the provisions or restrictions to be included in the permit con-  
4 cerning the use, control and management of the water to be appropriated for  
5 the project.

6 “[(2) *If a contested case hearing is not held:*]

7 “[*(a) Where the final order modifies the proposed final order, the applicant*  
8 *may request and the Water Resources Department shall schedule a contested*  
9 *case hearing as provided under ORS 537.622 (3) by submitting the information*  
10 *required for a protest under ORS 537.621 (7) within 14 days after the director*  
11 *issues the final order. However, the issues on which a contested case hearing*  
12 *may be requested and conducted under this paragraph shall be limited to is-*  
13 *ssues based on the modifications to the proposed final order.]*

14 “[*(b) Only the applicant or a protestant may appeal the provisions of the*  
15 *final order in the manner established in ORS chapter 183 for appeal of order*  
16 *other than contested cases.]*

17 “**(2) If a protest is filed by a person other than the applicant and,**  
18 **as provided in ORS 537.621 (8)(a), the director issues a final order**  
19 **without holding a contested case hearing, a protestant may appeal the**  
20 **provisions of the final order in the manner established in ORS chapter**  
21 **183 for appeal of orders in other than contested cases.**

22 “(3) If the presumption of public welfare, safety and health under ORS  
23 537.621 (2) is overcome, then before issuing a final order, the director or the  
24 Water Resources [Commission] **Department**, if applicable, shall make the  
25 final determination of whether the proposed use or the proposed use as  
26 modified in the proposed final order would preserve the public welfare, safety  
27 and health as described in ORS 537.525 by considering:

28 “(a) The conservation of the highest use of the water for all purposes,  
29 including irrigation, domestic use, municipal water supply, power develop-  
30 ment, public recreation, protection of commercial and game fishing and

1 wildlife, fire protection, mining, industrial purposes, navigation, scenic at-  
2 traction or any other beneficial use to which the water may be applied for  
3 which it may have a special value to the public.

4 “(b) The maximum economic development of the waters involved.

5 “(c) The control of the waters of this state for all beneficial purposes,  
6 including drainage, sanitation and flood control.

7 “(d) The amount of waters available for appropriation for beneficial use.

8 “(e) The prevention of wasteful, uneconomic, impracticable or unreason-  
9 able use of the waters involved.

10 “(f) All vested and inchoate rights to the waters of this state or to the  
11 use of the waters of this state, and the means necessary to protect such  
12 rights.

13 “(g) The state water resources policy.

14 “(4) Upon issuing a final order, the [*Water Resources*] department shall  
15 notify the applicant and each person who submitted written comments or  
16 protests or otherwise requested notice of the final order and send a copy of  
17 the final order to any person who requested a copy and paid the fee required  
18 under ORS 536.050 (1)(p).

19 “(5) A right to appropriate ground water under a permit has a priority  
20 from the date when the application was filed with the department.

21 “(6) If the use of water under the permit is for operation of a mining op-  
22 eration as defined in ORS 517.952:

23 “(a) Review of the application and approval or denial of the application  
24 shall be coordinated with the consolidated application process under ORS  
25 517.952 to 517.989. However, such review and approval or denial shall take  
26 into consideration all policy considerations for the appropriation of water  
27 as set forth in this chapter and ORS chapter 536.

28 “(b) The permit may be issued for exploration under ORS 517.702 to  
29 517.740, but the permit shall be conditioned on the applicant’s compliance  
30 with the consolidated application process.

1 “(c) The permit shall include a condition that additional conditions may  
2 be added to the use of water when a water right certificate is issued, or when  
3 the use of water is changed pursuant to ORS 540.520 and 540.530 to use for  
4 a mining operation.

5 **“SECTION 16.** ORS 537.628 is amended to read:

6 “537.628. (1) The Water Resources Department may approve an application  
7 for less ground water than applied for or upon terms, conditions and limita-  
8 tions necessary for the protection of the public welfare, safety and health.

9 “(2) In any event the department *[shall]* **may** not approve the application  
10 for more ground water than is applied for or than can be applied to a bene-  
11 ficial use.

12 “(3) *[No application shall be approved when the same will deprive]* **The**  
13 **department may not approve an application that deprives** those having  
14 prior rights of appropriation for a beneficial use of the amount of water to  
15 which they are lawfully entitled.

16 “[2) *If a contested case hearing is held, the department shall issue a final*  
17 *order:]*

18 “[a) *Within 270 days after scheduling the hearing for a contested case*  
19 *proceeding that involves three or more parties not including the department;*  
20 *and]*

21 “[b) *Within 180 days after scheduling the hearing for all other contested*  
22 *case proceedings.]*

23 **“SECTION 17.** ORS 540.520 is amended to read:

24 “540.520. (1)(a) Except when the application is made under ORS 541.327  
25 or when an application for a temporary transfer is made under ORS 540.523,  
26 if the holder of a water use subject to transfer for irrigation, domestic use,  
27 manufacturing purposes, or other use, for any reason desires to change the  
28 place of use, the point of diversion, or the use made of the water, an appli-  
29 cation to make such change, as the case may be, shall be filed with the  
30 Water Resources Department.

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

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

6 “(a) The name of the owner;

7 “(b) The previous use of the water;

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

9 “(d) A description of the premises upon which it is proposed to use the  
10 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 ac-  
14 cording to the terms and conditions of the owner’s water right certificate  
15 or that the water right is not subject to forfeiture under ORS 540.610.

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

25 “(4) If the application is to change the point of diversion, the transfer  
26 shall include a condition that the holder of the water right provide a proper  
27 fish screen at the new point of diversion, if requested by the State Depart-  
28 ment of Fish and Wildlife.

29 “(5) Upon the filing of the application the department shall give notice  
30 by publication in a newspaper having general circulation in the area in



1 which the water rights are located, for a period of at least two weeks and  
2 not less than one publication each week. The notice shall include the date  
3 on which the last notice by publication will occur. The cost of the publica-  
4 tion shall be paid by the applicant in advance to the department. In appli-  
5 cations for only a change in place of use or for a change in the point of  
6 diversion of less than one-fourth mile, and where there are no intervening  
7 diversions between the old diversion of the applicant and the proposed new  
8 diversion, no newspaper notice need be published. The department shall in-  
9 clude notice of such applications in the weekly notice published by the de-  
10 partment.

11 *“(6) Within 30 days after the last publication of a newspaper notice of the*  
12 *proposed transfer or the mailing of the department’s weekly notice, whichever*  
13 *is later, any person may file, jointly or severally, with the department, a protest*  
14 *against approval of the application.]*

15 **“(6) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
16 **adopted thereunder, apply to a contested case proceeding on a pro-**  
17 **posed final order issued under this section.**

18 *“(7) If [a timely protest is filed, or] in the opinion of the Water Resources*  
19 *Director a hearing is necessary to determine whether the proposed changes*  
20 *as described by the application would result in injury to existing water*  
21 *rights, the department shall hold a hearing on the matter. [Notice and con-*  
22 *duct of the hearing shall be under the provisions of ORS chapter 183, per-*  
23 *taining to contested cases, and shall be held in the area where the rights are*  
24 *located unless all parties and persons who filed a protest under this subsection*  
25 *stipulate otherwise.]*

26 *“(8) An application for a change of use under this section is not required*  
27 *if the beneficial use authorized by the water use subject to transfer is irri-*  
28 *gation and the owner of the water right uses the water for incidental agri-*  
29 *cultural, stock watering and other uses related to irrigation use, so long as*  
30 *there is no increase in the rate, duty, total acreage benefited or season of*

1 use.

2 “(9) A water right transfer under subsection (1) of this section is not re-  
3 quired for a general industrial use that was not included in a water right  
4 certificate issued for a specific industrial use if:

5 “(a) The quantity of water used for the general industrial use is not  
6 greater than the rate allowed in the original water right and not greater  
7 than the quantity of water diverted to satisfy the authorized specific use  
8 under the original water right;

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

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

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

16 “(B) The water right certificate number;

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

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

22 **“SECTION 18.** ORS 540.524 is amended to read:

23 “540.524. (1) Notwithstanding ORS 540.510 or 540.670, upon approval of an  
24 application submitted to the Water Resources Department, the holder of both  
25 a primary water right originating from a surface water source and a sup-  
26 plemental water right permit or certificate originating from a ground water  
27 source may substitute the use of the supplemental water right for the pri-  
28 mary water right. A substitution may not be made under this subsection if  
29 the use of the supplemental water right results in an enlargement or expan-  
30 sion of the primary water right. This subsection does not authorize a change

1 in place of use, type of use, point of diversion or point of appropriation.

2 “(2) An application required under subsection (1) of this section shall be  
3 submitted on forms provided by the department. The department may request  
4 additional information if necessary to assist with the injury evaluation. Each  
5 application shall be submitted with the fee described in ORS 536.050 (1)(s).

6 “[*(3) Upon receiving an application under subsection (1) of this section, the*  
7 *department shall provide notice, accept protests and conduct hearings on pro-*  
8 *tests in the manner described in ORS 540.520 (5), (6) and (7).*]

9 “**(3) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
10 **adopted thereunder, apply to a contested case proceeding on a pro-**  
11 **posed final order issued under this section.**

12 “(4) The Water Resources Director shall issue [*an*] **a proposed final** order  
13 approving or denying the substitution. If the proposed substitution will re-  
14 sult in injury to other water rights, the director shall prohibit or condition  
15 the use to avoid or mitigate the injury. The director shall issue [*an*] **a pro-**  
16 **posed final** order approving or denying the substitution within 90 days after  
17 the department receives an application under subsection (1) of this section.

18 “(5) For the purpose of ORS 540.610, a substituted primary surface water  
19 right shall be treated as a supplemental water right, and a substituted sup-  
20 plemental ground water right shall be treated as a primary water right.

21 “(6) A completed and approved substitution of a supplemental ground  
22 water right for a primary surface water right under this section may be  
23 terminated upon a request by the water right holder or by an order of the  
24 director if the director determines that the use of the ground water as the  
25 primary water right causes injury to other water rights. Upon termination,  
26 the substituted primary and supplemental water rights shall revert back to  
27 their original status.

28 “**SECTION 19.** ORS 540.560 is amended to read:

29 “540.560. (1) If the Water Resources Commission considers that a certif-  
30 icate of water right does not identify the lands to which the right is

1 appurtenant with sufficient specificity for management, delivery or transfer  
2 of that right, the commission may issue an order clarifying and refining the  
3 description of the land to which the water right is appurtenant.

4 “(2) An order issued under this section may not reduce the rate, duty or  
5 number of acres stated in the certificate of water right. The sole purpose of  
6 an addendum to a water right certificate is to better define the location of  
7 acreage to which the water right is appurtenant, where the certificate states  
8 only that the use is limited to a number of acres within a larger tract.

9 “(3) Any order issued under this section shall be served on the legal  
10 owner of the land to which the water right is appurtenant and on the occu-  
11 pant of the land, by certified mail, return receipt requested. *[If the owner or*  
12 *occupant files a written request for a hearing within 30 days after service of*  
13 *the order, the commission shall conduct a hearing of the matter under ORS*  
14 *183.413 to 183.484.]*

15 “(4) **The provisions of sections 2 and 3 of this 2025 Act, and rules**  
16 **adopted thereunder, apply to a contested case proceeding on a pro-**  
17 **posed final order issued under this section.**

18 “[4)] (5) A final order under this section shall become an addendum to  
19 and shall be filed with the certificate of water right that the order clarifies.  
20 For all purposes, the final order shall constitute the description of the land  
21 to which the water right is appurtenant.

22 “**SECTION 20.** ORS 540.574 is amended to read:

23 “540.574. (1) In accordance with the requirements of subsection (3) of this  
24 section, a district may petition the Water Resources Commission for approval  
25 and acceptance of a district map indicating the transfer of the location and  
26 use of the water rights within the district or any part of the district. The  
27 map shall be in a form satisfactory to the commission and shall be certified  
28 by the district rather than a certified water right examiner. In no event shall  
29 the petition and map expand a water right of the district or its users beyond  
30 the total right of record for the district.

1       “(2) If the district complies with the requirements of ORS 540.572 to  
2   540.580, *[and after the opportunity for hearing under ORS 540.578,]* the com-  
3   mission shall issue an order approving the transfer and proceed as provided  
4   in ORS 540.530 (1) and (2).

5       “*[(2) If the commission denies the petition under subsection (1) of this sec-*  
6   *tion, the commission shall hold a hearing on the denial. Notice and conduct*  
7   *of the hearing shall be according to the provisions of ORS chapter 183 appli-*  
8   *cable to a contested case proceeding. The hearing shall be conducted in the*  
9   *area of the state where the right is located unless the parties and the persons*  
10   *who file the protest under this section stipulate otherwise.]*

11       “(3) The petition required under subsection (1) of this section shall in-  
12   clude:

13       “(a) The name of the district and the certificate number of each water  
14   right contained in the petition.

15       “(b) The names of all users within the district from whose lands water  
16   rights are to be transferred.

17       “(c) The names of all users within the district to whose lands water rights  
18   are to be transferred.

19       “(d) A general description of the district boundaries.

20       “(e) A general description of the users’ land and the water right for each  
21   parcel from which and to which water rights are to be transferred. If the  
22   water right is on a tract of land of five acres or less, a notation of the acres  
23   of water right on the assessor’s tax map shall be sufficient for identification  
24   of the place of use and the extent of use.

25       “(f) A description of the use that is proposed to be made of the water on  
26   each parcel.

27       “(g) An affirmation by the petitioner that the map and petition are accu-  
28   rate to the best of the petitioner’s knowledge.

29       “(h) A statement by the petitioner that notice has been given as required  
30   under ORS 540.572 (2), and that the water right has not previously been

1 forfeited under ORS 540.610 due to an earlier or longer period of nonuse.

2 **“SECTION 21.** ORS 540.576 is amended to read:

3 “540.576. (1) After filing a petition under ORS 540.572, the district shall  
4 send a copy of the petition and map and a notice to the users of the district  
5 whose right of record is to be transferred and who are to receive the trans-  
6 ferred right.

7 “(2) The copy of the petition and the notice shall be sent to the last-  
8 known address of the user with a return receipt requested.

9 “(3) The notice accompanying the petition shall advise the user that[:]

10 “[*(1) sixty*] **60** days after the date of mailing of the notice, the Water Re-  
11 sources Commission [*shall accept the petition and the water right shall be*  
12 *transferred unless a protest is filed or the petition does not meet the require-*  
13 *ments of ORS 540.572 to 540.580; and*] **will issue a proposed final order on**  
14 **the petition.**

15 “[*(2) The user has the right to protest the petition and transfer in the*  
16 *manner described in ORS 540.578.*]

17 **“(4) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
18 **adopted thereunder, apply to a contested case proceeding on a pro-**  
19 **posed final order issued under this section.**

20 **“(5) A certificate issued under this section for the transferred water**  
21 **shall have the evidentiary effect provided for in ORS 537.270 unless the**  
22 **right to appropriate water described in the certificate is forfeited after**  
23 **the certificate is issued.**

24 **“SECTION 22.** ORS 540.580 is amended to read:

25 “540.580. (1) In accordance with this section, a district may by petition  
26 request that the Water Resources Department approve the permanent trans-  
27 fer of the place of use of water within a district as long as the proposed  
28 transfer complies with all of the following:

29 “(a) The rate, duty and total number of acres to which water is to be  
30 applied under the water use subject to transfer are not exceeded;

1 “(b) The use authorized under the water use subject to transfer remains  
2 the same;

3 “(c) The change in place of use will not result in injury to any existing  
4 water right; and

5 “(d) The land from which the water right is removed by the transfer shall  
6 receive no water under the transferred right.

7 “(2) A district may submit a petition for a permanent transfer prior to  
8 or subsequent to the change in place of use, but no later than the end of the  
9 calendar year in which the change occurs. The petition submitted by the  
10 district may include an unlimited number of transfers within the same peti-  
11 tion. A petition under this section shall:

12 “(a) Include the information required under ORS 540.574 (3), except for  
13 the statement that a notice under ORS 540.572 (2) has been given;

14 “(b) Be accompanied by a map in a form satisfactory to the department  
15 and certified by the district. If the water right is on a tract of land of five  
16 acres or less, the assessor’s tax map with a notation of the acres of water  
17 right shall be sufficient for identification of the tract and place of use;

18 “(c) Include a statement that each landowner affected by a permanent  
19 transfer has authorized the transfer in a writing that is on file with the  
20 district;

21 “(d) Include any other information required by rules of the Water Re-  
22 sources Commission; and

23 “(e) Include the fee required under ORS 536.050 (1)(h) for a change in the  
24 place of use.

25 “(3) If a district allows a change in the place of use of water before ob-  
26 taining the approval of the department, the district shall:

27 “(a) Notify each affected landowner that the change is subject to the ap-  
28 proval of the department and that the department may reject the transfer or  
29 may require mitigation to avoid injury to other water right holders; and

30 “(b) Notify the department in advance of the change. The notice shall

1 include:

2 “(A) The name of the district and the certificate number of each water  
3 right that is the subject of the change;

4 “(B) The names of the users within the district from whose lands and to  
5 whose lands water rights are to be transferred;

6 “(C) A general description of the users’ lands by township, range, quarter  
7 quarter section and tax lot number, and of the water right, for each parcel  
8 from which and to which water rights are to be transferred; and

9 “(D) A description of the use that is proposed to be made of the water  
10 on each parcel.

11 “(4) Upon receipt of the notice required under subsection (3)(b) of this  
12 section, the department shall provide public notice in the weekly notice  
13 published by the department.

14 “(5) If a district allows a change in the place of use of water before ob-  
15 taining approval of the department under this section, the department may  
16 direct the district to cease delivery of water or mitigate injury where the  
17 change in place of use is causing injury to an existing water right.

18 “(6) Within 15 days after the filing of a petition under subsection (2) of  
19 this section, the department shall include notice of the petition in the weekly  
20 notice published by the department. Within 30 days after the mailing of the  
21 department’s weekly notice, any potentially affected holder of an existing  
22 water right may file, jointly or severally, with the department, a protest  
23 against approval of the petition.

24 “[7] *Subject to the provisions of subsection (8) of this section, whenever a*  
25 *timely protest is filed, or in the opinion of the Water Resources Director a*  
26 *hearing is necessary to determine whether the proposed changes as described*  
27 *in the petition would result in injury to existing water rights, the department*  
28 *may hold a hearing on the petition. Notice and conduct of the hearing shall*  
29 *be according to the provisions of ORS chapter 183 pertaining to contested*  
30 *cases, shall be scheduled within 45 days after the filing of the petition, and*



1 *shall be held in the area where the rights are located unless all parties and*  
2 *persons who filed a protest under this subsection stipulate otherwise.]*

3 **“(7) The provisions of sections 2 and 3 of this 2025 Act, and rules**  
4 **adopted thereunder, apply to a contested case proceeding on a pro-**  
5 **posed final order issued under this section.**

6 **“(8) Notwithstanding subsection (7) of this section,** if a water user  
7 within the district files a protest claiming injury to a water right delivery  
8 by the district, no contested case hearing shall be required, but the district  
9 shall resolve the matter directly with the water user.

10 **“(9) After examination or hearing, the department shall issue an order**  
11 **approving the transfer if the proposed change can be effected without injury**  
12 **to existing water rights. [If no hearing is scheduled under subsection (7) of**  
13 **this section, the order of the department shall be issued within 90 days after**  
14 **the date of the filing of the petition.] If the proposed change cannot be ef-**  
15 **fectured without injury to existing water rights, the department may condition**  
16 **approval, including requiring mitigation of the effects on other water rights,**  
17 **to the extent necessary to avoid injury. [If a hearing is scheduled, the de-**  
18 **partment shall issue a final order within 120 days after scheduling the hear-**  
19 **ing.]**

20 **“(10) Within 20 days after the director issues a final order under this**  
21 **section, the district or any protestant may file with the commission ex-**  
22 **ceptions to the final order. The commission shall issue an order granting or**  
23 **denying the exceptions within 30 days after receiving the exceptions.**

24 **“(11) If a certificate covering the water right has been previously issued,**  
25 **the department may amend the certificate or may cancel the certificate and**  
26 **issue a new certificate preserving the previously established priority of**  
27 **rights and covering the authorized changes. If only a portion of the water**  
28 **right covered by the previous certificate is affected by the changes, a sepa-**  
29 **rate new certificate may be issued to cover the unaffected portion of the**  
30 **water right. A certificate as amended or issued under this section has the**

1 evidentiary effect provided for in ORS 537.270 as to the new lands except  
2 when the right to appropriate water described in the certificate is abandoned  
3 after the certificate is amended or issued.

4 “(12) Notwithstanding the provisions of subsection (2) of this section, a  
5 petition filed on or before December 31, 1996, may include all changes in  
6 place of use allowed by a district after July 1, 1992, and before November  
7 30, 1996.

8 **“SECTION 23.** ORS 540.631 is amended to read:

9 “540.631. (1) Whenever it appears to the satisfaction of the Water Re-  
10 sources Commission upon the commission’s own determination or upon evi-  
11 dence submitted to the commission by any person that a perfected and  
12 developed water right has been forfeited as provided in ORS 540.610 (1), and  
13 would not be rebutted under ORS 540.610 (2), the commission shall initiate  
14 proceedings for the cancellation of such water right by causing written no-  
15 tice of such initiation of proceedings to be given by registered or certified  
16 mail, return receipt requested, to the legal owner of the lands to which the  
17 water right is appurtenant and to the occupant of such lands.

18 “(2) The notice to the legal owner shall:

19 “(a) Be addressed to the legal owner at the owner’s last address of record  
20 in the office of the county assessor of the county in which the lands are lo-  
21 cated.

22 “(b) [*The notice shall*] Contain a complete description of the water right  
23 and of the lands to which the water right is appurtenant.

24 “(c) [*The notice shall*] **Notwithstanding sections 2 and 3 of this 2025**  
25 **Act**, state that the legal owner or the occupant has a period of 60 days from  
26 the date of the mailing of the notice within which to protest the proposed  
27 cancellation of the water right.

28 **“SECTION 24.** ORS 540.641 is amended to read:

29 “540.641. (1) If the legal owner or the occupant receiving notice as pro-  
30 vided in ORS 540.631 fails to protest the proposed cancellation of the water

1 right within the 60-day period prescribed in the notice, the Water Resources  
2 Commission may enter an order canceling the water right.

3 “(2) If the legal owner or the occupant receiving notice as provided in  
4 ORS 540.631 files a protest against the proposed cancellation of the water  
5 right [*with the commission within the 60-day period prescribed in the notice,*  
6 *the commission shall fix a time and place for a hearing on the protest. The*  
7 *commission shall cause written notice of the hearing to be given at least 10*  
8 *days prior to the hearing to the person protesting the cancellation of the water*  
9 *right and to any other person who in the opinion of the commission is an in-*  
10 *terested party to the proceeding. The hearing shall be held by the commission*  
11 *and shall be conducted under the provisions of ORS chapter 183 pertaining to*  
12 *contested cases.*], **the provisions of sections 2 and 3 of this 2025 Act and**  
13 **rules adopted thereunder apply.**

14 “(3) After [*the*] a hearing the commission shall enter an order canceling  
15 the water right, canceling in part or modifying the water right, or declaring  
16 that the water right shall not be canceled or modified.

17 **“SECTION 25.** ORS 541.329 is amended to read:

18 “541.329. (1) Pursuant to the requirements of subsection (2) of this section,  
19 a district may petition the Water Resources Commission for approval and  
20 acceptance of a district map indicating the location and use of the water  
21 rights within the district or any part thereof. The petition and map shall be  
22 in a form satisfactory to the commission and shall be certified by the district  
23 rather than a certified water right examiner. For a district that notifies the  
24 Water Resources Department under ORS 541.327 (4), the map must be sub-  
25 mitted in an electronic format meeting the standards set by the department.  
26 The petition and map may not expand a water right of the district or its  
27 users beyond the total right of record of the district. If the district has met  
28 the requirements of ORS 541.325 to 541.331 [*and after the opportunity for*  
29 *hearing under ORS 541.331*], the commission shall instruct the director to  
30 issue a new certificate to the district listing the requested locations and uses

1 and retaining the original priority date. If the commission [*denies the peti-*  
2 *tion, the commission shall hold a hearing on the denial. Notice and conduct*  
3 *of the hearing shall be under the provisions of ORS chapter 183 pertaining to*  
4 *contested cases. The hearing shall be conducted in the area where the right is*  
5 *located unless the parties and the persons who file the protest under this sec-*  
6 *tion stipulate otherwise]* **issues a proposed final order denying the peti-**  
7 **tion, the provisions of sections 2 and 3 of this 2025 Act and rules**  
8 **adopted thereunder apply to a district's protest of the proposed final**  
9 **order.**

10 “(2) The petition required under subsection (1) of this section shall be  
11 submitted on or before July 1, 1994, or before June 30, 2010, for a district  
12 notifying the department under ORS 541.327 (4), and shall include:

13 “(a) The name of the district and the certificate number of each water  
14 right contained in the petition.

15 “(b) The names of all users within the district whose lands are included  
16 in the petition.

17 “(c) A general description of the district boundaries.

18 “(d) A general description of the users' land and all water rights per each  
19 parcel affected by the petition and the map. If the water right is on a tract  
20 of land of five acres or less, a notation of the acres of water right on the  
21 assessor's tax map shall be sufficient for identification of the place of use  
22 and the extent of use.

23 “(e) A description of the use that is proposed to be made of the water on  
24 each parcel.

25 “(f) An affirmation by the petitioner that the map and petition are accu-  
26 rate to the best of the petitioner's knowledge.

27 “(3) A petition submitted under this section shall contain no more acres  
28 of land than the least of the following:

29 “(a) The number of acres assessed by the district as of July 1, 1989;

30 “(b) The number of acres assessed by the district as of July 1, 1993; or

1       “(c) If a district notifies the department under ORS 541.327 (4), the num-  
2       ber of acres assessed by the district as of December 31, 2003.

3       “(4) Before submitting a petition under subsection (2) of this section, the  
4       district shall send a notice to the user of every parcel whose right of record  
5       is to be altered, as evidenced by the district’s records. This notice shall be  
6       sent to the last-known address for the user with a return receipt requested.  
7       The notice shall include the number of acre-feet of water or its equivalent,  
8       for which the user is being assessed, a general description or tax lot of the  
9       land to which the water is assigned, a description of the use and a request  
10      for confirmation that the information in the notice is correct. Thirty days  
11      after the notice is mailed, the district shall prepare a petition and map as  
12      described in subsections (1) and (2) of this section. Payment for water by the  
13      user or the user’s predecessor for a period of five years before the petition  
14      shall create a rebuttable presumption that the number of acres billed and  
15      paid by the user or the user’s predecessor is equal to the user’s water right.

16      “[(5) *Within 30 days after the commission issues a proposed order regarding*  
17      *the petition, the district shall send notice to the users of the district whose*  
18      *right of record is to be altered by the proposed order. This notice shall be sent*  
19      *to the last-known address of the user with a return receipt requested. The no-*  
20      *tice shall include the number of acres of land, or its equivalent, for which the*  
21      *user is being assessed, a general description or tax lot number of the land to*  
22      *which the water is assigned and a description of the use. In addition to the*  
23      *notice of the proposed order that the district sends to the users, the district*  
24      *shall publish at the same time notice in a newspaper having general circu-*  
25      *lation in the area in which the water rights are located for a period of at least*  
26      *two weeks. Not less than one publication in each week shall be made. The*  
27      *notice shall state:]*

28      “[(a) *The number of acres of water right that each parcel shall receive and*  
29      *the associated priority dates;]*

30      “[(b) *That the proposed map and order are available for inspection at the*

office of the district during normal business hours for a period of 60 days from the date of first publication;]

“(c) That not less than 60 days after the date of first publication, the commission shall approve the petition and map and issue a final order unless a protest is filed or the petition does not meet the requirements of subsections (1) and (2) of this section; and]

“(d) That the user has the right to protest the proposed order and map as described in ORS 541.331.]

“(6) (5) If the commission returns a petition or map to a district for correction, the commission may prescribe a deadline for the petitioner to provide additional information or correct the petition or map. If the petitioner fails to meet the deadline prescribed by the commission, the commission may deny the petition.

**“SECTION 26.** ORS 541.331 is amended to read:

“541.331. [(1) Any user may file with the Water Resources Department, within 60 days after the date of first publication, under ORS 541.329, a protest against a proposed order approving the petition. Whenever a timely protest is filed or in the opinion of the Water Resources Director a hearing is necessary to determine whether the district has met the requirements of ORS 541.325 to 541.333 or the proposed changes described in the proposed order would result in injury to existing water rights, the department shall hold a hearing on the matter. The hearing shall be conducted according to the provisions of ORS chapter 183 applicable to contested cases. The hearing shall be held in the area where the rights are located unless the parties and the persons who filed the protest under this section stipulate otherwise.]

“(2) (1) If after examination or hearing, the **Water Resources** Department finds that the district has met the requirements of ORS 541.325 to 541.331 and that the changes described in the proposed **final** order would not result in injury to existing water rights, the department shall issue a final order approving the petition and map as described in the proposed **final** or-

1 der. If a water right certificate for the water right has been issued previ-  
2 ously, the department shall cancel the previous certificate and issue a new  
3 certificate that conforms to the final order and map and retains the original  
4 priority date.

5 “[~~(3)~~] **(2)** A certificate issued under this section shall have the evidentiary  
6 effect provided for in ORS 537.270 except when the right to appropriate water  
7 described in the certificate is abandoned after the certificate is amended or  
8 issued.

9 “[~~(4)~~] **(3)** The department may approve for inclusion in a new certificate  
10 under ORS 541.329 and this section only land which, on July 1, 1993, or, if  
11 a district notifies the department under ORS 541.327 (4), on December 31,  
12 2003, is:

13 “(a) Land within the legal boundaries of the district as those boundaries  
14 were originally described or as they may have been changed by legally pre-  
15 scribed inclusion or exclusion proceedings.

16 “(b) Land for which inclusion in the district has been requested previ-  
17 ously as prescribed by law.

18 “(c) Land on which a previously perfected water right has been applied  
19 beneficially and for which the user has been charged or assessed by the dis-  
20 trict in at least one of the last five years and for which the user is currently  
21 being charged or assessed.

22 **“SECTION 27. ORS 537.175, 537.227, 537.622, 537.627 and 540.578 are**  
23 **repealed.**

24  
25 **“APPLICABILITY TO COMPLETED APPLICATIONS**

26  
27 **“SECTION 28. (1) Notwithstanding ORS 536.031 (1), rules adopted**  
28 **under section 2 or 3 of this 2025 Act apply to aspects of a contested**  
29 **case proceeding that occur on or after the effective date of this 2025**  
30 **Act, for a protest:**

1       “(a) That was submitted before, on or after the effective date of this  
2       2025 Act; and

3       “(b) That was not referred to the Office of Administrative Hearings  
4       before the effective date of this 2025 Act.

5       “(2) Notwithstanding sections 2 and 3 of this 2025 Act, not more  
6       than 90 days after the effective date of this 2025 Act:

7       “(a) A person may request party status in an existing contested case  
8       proceeding.

9       “(b) A protestant in an existing contested case proceeding shall  
10      amend the protest as necessary to comply with the provisions of  
11      sections 2 and 3 of this 2025 Act.

12      “SECTION 29. Section 28 of this 2025 Act is repealed on January 2,  
13      2040.

14  
15                               **“CONFORMING AMENDMENTS**

16  
17      “SECTION 30. ORS 536.050 is amended to read:

18      “536.050. (1) The Water Resources Department may collect the following  
19      fees in advance:

20      “(a) For examining an application for a permit:

21      “(A) To appropriate water, except as provided under ORS 543.280 for an  
22      application for a hydroelectric project:

23      “(i) A base fee of \$1,090 for an appropriation of water through a single  
24      use, point of diversion or point of appropriation;

25      “(ii) \$410 for the first second-foot or fraction thereof appropriated under  
26      the permit;

27      “(iii) \$410 for each additional second-foot or fraction thereof appropriated  
28      under the permit;

29      “(iv) \$410 for each additional use, point of diversion or point of appro-  
30      priation included in the application;



1 “(v) If appropriating stored water, \$41 for the first acre-foot or fraction  
2 thereof up to 20 acre-feet, plus \$1.40 for each additional acre-foot or fraction  
3 thereof; and

4 “(vi) If appropriating ground water, in addition to any other fees, \$480 for  
5 each application filed.

6 “(B) To store water under ORS 537.400 or 537.534 (4):

7 “(i) A base fee of \$1,090;

8 “(ii) \$41 for the first acre-foot or fraction thereof up to 20 acre-feet, plus  
9 \$1.40 for each additional acre-foot or fraction thereof; and

10 “(iii) \$160 for each additional storage location.

11 “(C) To exclusively appropriate stored water:

12 “(i) A base fee of \$610; and

13 “(ii) \$41 for the first acre-foot or fraction thereof up to 20 acre-feet, plus  
14 \$1.40 for each additional acre-foot or fraction thereof.

15 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to  
16 appropriate or store water:

17 “(A) A base fee of \$610 for recording the permit; and

18 “(B) An additional fee of \$790 if the permit is issued pursuant to a final  
19 order that contains provisions requested by the applicant for mitigating im-  
20 pacts to the proposed water source.

21 “(c) For filing and recording the assignment or partial assignment of a  
22 water right application, permit or license under ORS 537.220 or 537.635, \$120.

23 “(d) For copying records in the department, \$2.70 for the first page and  
24 70 cents for each additional page.

25 “(e) For certifying copies, documents, records or maps, \$14 for each cer-  
26 tificate.

27 “(f) For a blueprint copy of any map or drawing, the actual cost of the  
28 work.

29 “(g) For a computer-generated map, the actual cost of the work.

30 “(h) For examining an application for approval of a change to an existing

1 water right or permit:

2 “(A) A base fee of \$1,360 for a change to a single water right or permit;

3 “(B) \$1,090 for each additional type of change requested;

4 “(C) For a request for a change in place of use or type of use or for a  
5 water exchange under ORS 540.533, \$410 for each second-foot or fraction  
6 thereof requested beyond the first second-foot;

7 “(D) \$610 for each additional water right or permit included in the ap-  
8 plication;

9 “(E) An additional fee of \$480 per application, if the application is for an  
10 additional point of appropriation, a change in a point of appropriation or a  
11 change from surface water to ground water or for substitution as described  
12 in ORS 540.524; and

13 “(F) \$410 for each additional point of appropriation included in the ap-  
14 plication.

15 “(i) For examining an application for a temporary change in place of use  
16 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a  
17 temporary change in place of use, a change in the point of diversion to allow  
18 for the appropriation of ground water or a change of a primary right to a  
19 supplemental right under ORS 540.570, a base fee of \$950 for the first water  
20 right or permit, plus \$310 for each additional water right or permit included  
21 in the application and:

22 “(A) For nonirrigation uses, \$230 for each second-foot or fraction thereof  
23 requested beyond the first second-foot; or

24 “(B) For irrigation uses, \$2.70 per acre of land irrigated or, if the appli-  
25 cation and required map are submitted to the department in a department-  
26 approved digital format, 70 cents per acre of land irrigated.

27 “(j) For submitting a protest to the department:

28 “(A) \$950 if the protest is by a nonapplicant; and

29 “(B) \$480 if the protest is by an applicant.

30 “(k) For filing an application for extension of time within which irri-

gation or other works shall be completed or a water right perfected, \$780.

“(L) For a limited license under ORS 537.143 or 537.534 (2), the fee established by rule by the Water Resources Commission.

“(m) For filing, examining and certifying a petition under ORS 541.329, \$480 plus 10 cents per acre of water involved in the application. For purposes of computing this fee, when any acreage within a quarter quarter of a section is involved, the 10 cents per acre shall apply to all acres in that quarter quarter of a section. Notwithstanding the fee amount established in this paragraph, a district notifying the department under ORS 541.327 (4) shall pay the actual cost of filing, examining and certifying the petition.

“(n) For requesting standing under ORS [537.153, 537.621 or] 543A.120 **or section 3 of this 2025 Act**, \$270.

“(o) For participating in a contested case proceeding under ORS 537.170[, 537.622] or 543A.130, \$680.

“(p) Except for an applicant, for obtaining a copy of both a proposed final order and a final order for a water right application under ORS 537.140 to 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued under ORS 537.230, 537.248 or 537.630, \$35.

“(q) For examining an application to store water under ORS 537.409:

“(A) A base fee of \$480; and

“(B) \$41 for each acre-foot or fraction thereof.

“(r) For submitting a notice of intent under ORS 543A.030 or 543A.075, the amount established by the Water Resources Director under ORS 543A.410.

“(s) For examining an application for a substitution made under ORS 540.524:

“(A) A base fee of \$990 for the first well substitution; and

“(B) A fee of \$480 for each additional well substitution.

“(t) For examining an application for an allocation of conserved water under ORS 537.455 to 537.500:

1       “(A) A base fee of \$1,360 for the first water right that is part of the al-  
2 location; and

3       “(B) An additional fee of \$480 for each water right that is part of the  
4 allocation beyond the first water right.

5       “(u) For submitting a water management and conservation plan pursuant  
6 to rules of the commission:

7       “(A) \$680, if the plan is submitted by an agricultural water supplier;

8       “(B) \$1,220, if the plan is submitted by a municipal water supplier serving  
9 a population of 1,000 or fewer persons; or

10       “(C) \$2,450, if the plan is submitted by a municipal water supplier serving  
11 a population of more than 1,000 persons.

12       “(v) For examining a new application for an in-stream water right lease  
13 under ORS 537.348:

14       “(A) \$610 for an application for a lease with four or more landowners or  
15 four or more water rights; or

16       “(B) \$410 for all other applications.

17       “(w) For examining an application for an in-stream water right lease re-  
18 newal, \$150.

19       “(x) For submitting a claim of beneficial use under a permit or transfer  
20 having a priority date of July 9, 1987, or later, \$230.

21       “(y) For submitting a request no later than 60 days after cancellation of  
22 a permit under ORS 537.260 to reinstate the permit, \$610.

23       “(z) For submitting a request for a basin program exception under ORS  
24 536.295, \$780.

25       “(aa) For processing an application under ORS 537.225 for an assignment  
26 of water right to one or more landowners and issuance of replacement water  
27 right permits, the actual cost of the work.

28       “(2)(a) The department may charge a dam owner an annual fee based upon  
29 the dam’s hazard rating as determined by the department. The fees the de-  
30 partment may charge the dam owner are:

1 “(A) \$120 for a dam with a low hazard rating.

2 “(B) \$230 for a dam with a significant hazard rating.

3 “(C) \$790 for a dam with a high hazard rating.

4 “(D) If the dam owner fails to pay an annual fee on or before six months  
5 after the billing date, a late fee of \$140.

6 “(b) If a dam owner fails to pay an annual fee or a late fee charged by  
7 the department, the department may, after giving the dam owner notice by  
8 certified mail, place a lien on the real property where the dam is located for  
9 the fees owed by the dam owner.

10 “(3) Notwithstanding the fees established under subsection (1) of this  
11 section, the commission may establish lower examination and permit fees by  
12 rule for:

13 “(a) The right to appropriate water for a storage project of five acre-feet  
14 or less; or

15 “(b) The right to appropriate water for the purpose of allowing the ap-  
16 plicant to water livestock outside of a riparian area, as that term is defined  
17 in ORS 541.890.

18 “(4)(a) The director may refund all or part of a fee paid to the department  
19 under this section if the director determines that a refund of the fee is ap-  
20 propriate in the interests of fairness to the public or necessary to correct  
21 an error of the department.

22 “(b) The director may refund all or part of the protest fee described in  
23 subsection (1)(j) of this section to the legal owner or occupant who filed a  
24 protest under ORS 540.641 if an order of the Water Resources Commission  
25 establishes that all or part of a water right has not been canceled or modi-  
26 fied under ORS 540.610 to 540.650.

27 “(5) The director may waive all or part of a fee for a change to a water  
28 right permit under ORS 537.211 (4), a change to a water right subject to  
29 transfer under ORS 540.520 or 540.523 or an allocation of conserved water  
30 under ORS 537.470, if the change or allocation of conserved water is:

1 “(a) Made pursuant to ORS 537.348;

2 “(b) Necessary to complete a project funded under ORS 541.932; or

3 “(c) Approved by the State Department of Fish and Wildlife as a change  
4 or allocation of conserved water that will result in a net benefit to fish and  
5 wildlife habitat.

6 “(6) Notwithstanding the fees established pursuant to this section, the  
7 commission may adopt by rule reduced fees for persons submitting materials  
8 to the department in a digital format approved by the department.

9 “(7) All moneys received under this section, less any amounts refunded  
10 under subsection (4) of this section, shall be deposited in the Water Re-  
11 sources Department Water Right Operating Fund.

12 “(8) Notwithstanding subsection (7) of this section, all fees received by  
13 the department for power purposes under ORS 543.280 shall be deposited in  
14 the Water Resources Department Hydroelectric Fund established by ORS  
15 536.015.

16 **“SECTION 31.** ORS 536.750 is amended to read:

17 “536.750. (1) Notwithstanding any provision of ORS chapters 536 to 543A,  
18 after a declaration that a severe, continuing drought exists, the Water Re-  
19 sources Commission may:

20 “(a) Issue without first conducting a hearing under [ORS 537.170,] **sec-**  
21 **tion 3 of this 2025 Act** a temporary permit for an emergency use of water;

22 “(b) Allow a temporary change in use, place of use or point of diversion  
23 of water without complying with the notice and waiting requirements under  
24 ORS 540.520;

25 “(c) Notwithstanding the priority of water rights, grant preference of use  
26 to rights for human consumption or stock watering use;

27 “(d) Waive the notice requirements under ORS 537.753 and the start card  
28 required under ORS 537.762; **and**

29 “(e) Allow a temporary exchange of water without giving notice as re-  
30 quired under ORS 540.535[; *and*].

1       “(f) Utilize an expedited notice and waiting requirement established by  
2 rule for the substitution of a supplemental ground water right for a primary  
3 water right under drought conditions in place of the notice and waiting re-  
4 quirement provided in ORS 540.524.]

5       “(2) The commission by rule may establish procedures for carrying out the  
6 provisions of this section and a schedule of fees that must accompany a re-  
7 quest under subsection (1) of this section.

8       **“SECTION 32.** ORS 536.900 is amended to read:

9       “536.900. (1) In addition to any other liability or penalty provided by law,  
10 the Water Resources Commission may impose a civil penalty on a person for  
11 violation of:

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

14       “(b) ORS 537.130 or 537.535.

15       “(c) ORS 537.545 (5) or a rule described in ORS 537.545 (7).

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

17       “(e) ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435,  
18 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS  
19 540.145.

20       “(f) ORS 537.897 or 537.898 (2).

21       “(g) ORS 537.387.

22       “(2) A civil penalty may be imposed under this section for each day of  
23 violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710,  
24 540.720 or 540.730.

25       “(3) In the event the petitioner knowingly misrepresents the map and pe-  
26 tition required in ORS 541.329, the commission may assess a penalty of up  
27 to \$1,000 based upon guidelines to be established by the commission. In ad-  
28 dition, the petition and map shall be amended to correct the error at the  
29 petitioner’s cost. [*Affected users shall be given notice as provided in ORS*  
30 *541.329 (5)*].

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

5 “(5) Notwithstanding any term or condition of a permit, certificate or li-  
6 cense, the rotation of the use of water under ORS 540.150 may not be con-  
7 sidered a violation under subsection (1) of this section.

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

10 **“SECTION 33.** ORS 537.147 is amended to read:

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

16 “(a) A fee, in the amount required by ORS 536.050 for applications to ap-  
17 propriate stored water.

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

21 “(c) Evidence that the proposed use of the stored water is one of the au-  
22 thorized uses under the water right permit, certificate or decree that allows  
23 the storage of water.

24 “(2) If an applicant provides, to the satisfaction of the department, the fee  
25 and the information required by subsection (1) of this section, the department  
26 may, after public notice and a 30-day opportunity to submit comments on the  
27 application, issue a water right permit upon determining that no public in-  
28 terest issues as identified in ORS 537.170 [(8)] (5) have been raised through  
29 the comments submitted.

30 “(3) If the department determines that public interest issues have been



1 identified, then the department shall treat the application under this section  
2 as an application under ORS 537.150 and perform the public interest review  
3 required by ORS 537.153 (2).

4 “(4) At a minimum, a water right permit issued by the department for use  
5 of stored water under this section shall be conditioned to require:

6 “(a) Fish screens and by-pass devices and fish passage as may be required  
7 by the State Department of Fish and Wildlife; and

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

10 “(5) Within 10 days of issuing a water right permit under this section, the  
11 department shall provide notice of the permit issuance in the weekly notice  
12 published by the department and to persons who have submitted comments  
13 pursuant to subsection (2) of this section.

14 **“SECTION 34.** ORS 537.343 is amended to read:

15 “537.343. (1) A proposed final order issued under ORS 537.170 [(6)] **(3) or**  
16 **(5)** for an in-stream water right certificate may include any condition the  
17 Water Resources Director considers necessary, but which is consistent with  
18 the intent of ORS 537.332 to 537.360. The proposed final order may:

19 “(a) Approve the in-stream water right for the quantity of water re-  
20 quested;

21 “(b) Approve the requested in-stream water right for a lesser quantity of  
22 water; or

23 “(c) Reject the requested in-stream water right.

24 “(2) If the director reduces or rejects the in-stream water right as re-  
25 quested, or conditions the in-stream water right, the director shall include  
26 a statement of findings that sets forth the basis for the reduction, rejection  
27 or conditions. The director shall be the final authority in determining the  
28 level of in-stream flow necessary to protect the public use.

29 “(3) After the director issues a final order approving an in-stream water  
30 right, the Water Resources Department shall issue a certificate for an in-

stream water right according to the provisions of ORS 537.341.

**“SECTION 35.** ORS 537.575 is amended to read:

“537.575. (1) Any permit granted or application for a permit approved under ORS 537.510, 537.520, 537.530, 537.540, 537.550, 537.560, 537.570, 537.580, 537.590 and 537.600 prior to and still valid and in effect on August 3, 1955, is considered to be a permit issued under ORS 537.625.

“(2) Any application for a permit under ORS 537.510, 537.520, 537.530, 537.540, 537.550, 537.560, 537.570, 537.580, 537.590 and 537.600 prior to, pending and not yet approved on August 3, 1955, shall be governed as an application for a permit under ORS 537.615, 537.620, 537.621, [537.622] and 537.625.

**“SECTION 36.** ORS 537.629 is amended to read:

“537.629. (1) When an application discloses the probability of wasteful use or undue interference with existing wells or that any proposed use or well will impair or substantially interfere with existing rights to appropriate surface water by others, or that any proposed use or well will impair or substantially interfere with existing rights to appropriate ground water for the beneficial use of the water for its thermal characteristics, the Water Resources Department may impose conditions or limitations in the permit to prevent the same or reject the same after hearing, or, in the department’s discretion, request the Water Resources Commission to initiate a rulemaking proceeding to declare the affected area a critical ground water area under ORS 537.730 to 537.740.

“(2)(a) When an application discloses the probability that a proposed use or well will impair or interfere with the ability to extract heat from a well with a bottom hole temperature of at least 250 degrees Fahrenheit, the department may:

“(A) Approve the permit;

“(B) Impose conditions or limitations in the permit to prevent the probable interference or impairment; **or**

“[(C) After a hearing under ORS 537.622, reject the application; or]

1        “[D)] (C) Request the commission to initiate a rulemaking proceeding to  
2 declare the affected area a critical ground water area under ORS 537.730 to  
3 537.740.

4        “(b) In deciding whether to issue, deny or condition a permit under this  
5 subsection, the department shall consider any orders or permits applicable  
6 to the ground water reservoir issued by the State Geologist or the governing  
7 board of the State Department of Geology and Mineral Industries under ORS  
8 chapter 522.

9        **“SECTION 37.** ORS 540.537 is amended to read:

10       “540.537. (1) The Water Resources Commission shall issue an order al-  
11 lowing an exchange unless the commission finds any of the following:

12       “(a) The proposed exchange would adversely affect other appropriators.

13       “(b) The proposed exchanges would be too difficult to administer.

14       “(c) The proposed exchange would adversely affect the public interest as  
15 determined under ORS 537.170 [(8)] (5).

16       “(d) A sufficient quantity of water would not be available to replace the  
17 water to be used under the exchange. In determining whether replacement  
18 water will be equal to the water exchanged, the commission may consider  
19 relative consumptive uses and transmission losses.

20       “(2) The commission may include any condition the commission considers  
21 necessary in an order allowing an exchange.

22       “(3) The commission shall issue an order terminating the exchange:

23       “(a) If water is not applied under the exchange within the time fixed by  
24 the commission in the order approving the exchange;

25       “(b) Upon written request signed by all parties to the exchange;

26       “(c) Upon finding that any other termination condition specified in the  
27 original order has occurred; or

28       “(d) Upon attainment of a termination date specified in the original ex-  
29 change order.

30       “(4) For purposes of subsection (3) of this section, the time fixed for im-

1 plementing the exchange shall include any extension granted by the com-  
2 mission for good cause shown.

3 **“SECTION 38.** ORS 543.255 is amended to read:

4 “543.255. (1) Whenever the Water Resources Department receives an ap-  
5 plication to appropriate water for a new hydroelectric project under ORS  
6 537.140 to 537.320 or for a hydroelectric permit or license under ORS 543.010  
7 to 543.610, the department shall determine whether the impacts of the project  
8 would be cumulative with:

9 “(a) Impacts of other proposed hydroelectric projects for which an appli-  
10 cation is pending before the department; or

11 “(b) Existing hydroelectric projects in the same river basin.

12 “(2) If the department determines that there is no possibility that the  
13 hydroelectric projects proposed in pending applications or existing projects  
14 may have cumulative effects, the Water Resources Director shall issue an  
15 order setting forth the department’s determination that there are no cumu-  
16 lative effects and the department’s decision that consolidated review is not  
17 required.

18 “(3) If the department determines that pending applications or existing  
19 projects may have cumulative effects, the Water Resources Commission shall  
20 conduct a consolidated review before approving any application in the af-  
21 fected river basin. A consolidated review process shall be conducted as a  
22 contested case hearing under the applicable provisions of ORS chapter 183  
23 and shall include a study of the individual and cumulative effects of proposed  
24 hydroelectric projects for which applications are pending before the depart-  
25 ment and existing hydroelectric projects. In its final order on an application,  
26 the commission or the department shall include its findings on cumulative  
27 impacts. The findings of the commission or department under this section  
28 must be sufficient to support the department’s decision to approve or deny  
29 an application.

30 “(4) Any application for a project in the same river basin filed after the

1 commission begins a consolidated review contested case hearing shall not be  
2 reviewed until the commission has issued final findings on cumulative effects  
3 for all projects included in the consolidated review proceeding.

4 “(5) At the request of an applicant for a permit to appropriate water for  
5 a new hydroelectric project under ORS 537.140 to 537.320 or for a permit or  
6 license under ORS 543.010 to 543.610, the commission may immediately upon  
7 receiving such application begin the consolidated review proceeding under  
8 subsection (3) of this section.

9 **“(6) If applicable, an application to appropriate water for the gen-**  
10 **eration of electricity submitted under ORS 537.140 shall be included in**  
11 **the consolidated review and hearings process under this section.**

12 **“SECTION 39.** ORS 543.765 is amended to read:

13 “543.765. (1) Notwithstanding ORS 537.145 and ORS chapter 543:

14 “(a) The holder of a water right may apply to the Water Resources De-  
15 partment for a certificate to use water for hydroelectric purposes within an  
16 artificial delivery system under the applicant’s existing water right.

17 “(b) A municipal corporation or people’s utility district, as defined in ORS  
18 261.010, may apply to the department for a certificate to use water for hy-  
19 droelectric purposes within a piped conduit in an artificial delivery system  
20 that is delivering water for municipal uses even if the municipal corporation  
21 or people’s utility district is not the holder of the underlying municipal wa-  
22 ter right, if the municipal corporation or people’s utility district obtains from  
23 the holder of the underlying municipal water right, and provides to the de-  
24 partment with the application, a written statement authorizing the municipal  
25 corporation or people’s utility district to use the water for hydroelectric  
26 purposes.

27 “(2) If the proposed hydroelectric project meets the applicable capacity  
28 limitation under this subsection and meets either the qualifications for a  
29 Federal Energy Regulatory Commission exemption from licensing or similar  
30 qualifications of another federal agency responsible for authorizing the

1 project, the applicant may use the expedited application process under this  
2 section regardless of which federal agency issues the authorization. To  
3 qualify under this subsection:

4 “(a) For a project that is to be built as part of an existing dam, the ca-  
5 pacity may not exceed five megawatts. Subsection (6)(b) of this section does  
6 not apply to a project described in this paragraph.

7 “(b) For in-conduit projects, the capacity may not exceed 15 megawatts  
8 for a nonmunicipal facility or 40 megawatts for a municipal facility. Projects  
9 described in this paragraph must comply with subsection (6)(b) of this sec-  
10 tion.

11 “(3) An application, which shall be on a form provided by the Water Re-  
12 sources Department, for a hydroelectric certificate under this section must  
13 include:

14 “(a) The certificate number, or decree reference if no confirming certifi-  
15 cate has been issued, of the applicant’s existing water right, or the under-  
16 lying water right, associated with the proposed hydroelectric project.

17 “(b) A copy of either a Federal Energy Regulatory Commission exemption  
18 application or a similar application submitted to the federal agency respon-  
19 sible for authorizing the project, if applicable.

20 “(c) A proposed schedule of annual water use and an estimate of the  
21 maximum power generation of the proposed hydroelectric project.

22 “(d) A statement by the applicant that the amount of water used by the  
23 proposed hydroelectric project will not exceed the amount authorized and  
24 used under the applicant’s existing water right, or the underlying water  
25 right, for beneficial use without waste.

26 “(e) A statement that the applicant owns or otherwise controls the water  
27 conveyance system.

28 “(f) An application processing fee of \$500. The department shall deposit  
29 fees collected under this section into the Water Resources Department Hy-  
30 droelectric Fund established pursuant to ORS 536.015.

1 “(g) A map or drawing and all other data concerning the proposed hy-  
2 droelectric project, as may be prescribed by the department. The map or  
3 drawing must be of sufficient quality and scale to establish the location of  
4 the existing point of diversion and the proposed location of the hydroelectric  
5 project.

6 “(h) If the water to be used for the proposed hydroelectric project is de-  
7 livered by a public entity other than the applicant for a certificate under this  
8 section, a statement from that entity that the entity will be able to deliver  
9 water as described in the application.

10 “(i) Evidence that the water has been used over the past five years ac-  
11 cording to the terms and conditions of the applicant’s existing water right,  
12 or the underlying water right, described in paragraph (a) of this subsection.

13 “(4) If an applicant provides the information required by subsection (3)  
14 of this section:

15 “(a) The Water Resources Department shall provide notice to both the  
16 State Department of Fish and Wildlife and the public, and provide a 30-day  
17 period for public comment.

18 “(b) The Water Resources Department may issue a final order and certifi-  
19 cate to use water for hydroelectric purposes upon making a final determi-  
20 nation that the proposed hydroelectric use does not impair, or is not  
21 detrimental to, the public interest in the manner provided in ORS 537.170  
22 [(8)] (5).

23 “(5) If the Water Resources Department determines that public interest  
24 issues have been identified, the department shall issue a final order denying  
25 the application. The department shall also issue a final order denying the  
26 application if the department identifies issues related to the public interest.  
27 If the applicant does not appeal the final order as provided in ORS chapter  
28 183 and, within one year of the department’s final order denying the  
29 applicant’s application, files an application with the department for a pre-  
30 liminary permit to operate a hydroelectric project as provided in ORS 537.130

1 and 543.210, the applicant shall receive a credit toward the applicant's ap-  
2 plication fees in the amount of \$500.

3 “(6) At a minimum, a certificate issued under this section must contain  
4 the following conditions:

5 “(a) Except as provided in paragraph (b) of this subsection, fish screens,  
6 by-pass devices and fish passages as required by the State Department of Fish  
7 and Wildlife.

8 “(b) If the application is for a hydroelectric project that is to be installed  
9 in or on a conduit delivery system, the certificate does not need to include  
10 a requirement for fish passage at the diversion point for the conduit delivery  
11 system if:

12 “(A) The hydroelectric generating equipment for the project is not located  
13 on a dam;

14 “(B) The hydroelectric generating equipment for the project is installed  
15 within or at the end of a conduit delivery system;

16 “(C) The conduit delivery system is operated for the distribution of water  
17 for agricultural, municipal or industrial consumption; and

18 “(D) Except as provided in subsection (16) of this section, the certificate  
19 includes a condition for the making of annual payments under subsection (15)  
20 of this section.

21 “(c) That use of water be limited to periods when the applicant's existing  
22 water right, or the underlying water right, is put to beneficial use without  
23 waste and that the amount used is not greater than the quantity of water  
24 diverted to satisfy the authorized specific use under the existing water right,  
25 or the underlying water right, described in subsection (3)(a) of this section.

26 “(d) That use of water be limited by rate, duty, season and any other  
27 limitations of the applicant's existing water right, or the underlying water  
28 right, described in subsection (3)(a) of this section.

29 “(e) That the applicant measure and report the quantity of water diverted.

30 “(f) That the restrictions established in ORS 543.660 shall apply as con-



1     ditions of use to a certificate issued under this section to a district as de-  
2     fined in ORS 543.655.

3     “(g) That a certificate issued under this section shall be invalidated upon  
4     a change in the point of diversion of the existing water right, or the under-  
5     lying water right, described in subsection (3)(a) of this section.

6     “(h) That the right to use water under a certificate issued under this  
7     section is invalidated if the federal exemption or authorization related to the  
8     certificate is canceled or invalidated.

9     “(i) Any other conditions the Water Resources Department deems neces-  
10    sary to protect the public interest.

11    “(7) The Water Resources Department shall conduct a review of certif-  
12    icates issued under this section and shall issue a final order and a super-  
13    seding certificate that corresponds to any changes or adjustments made to  
14    the applicant’s existing water right, or the underlying water right, described  
15    in subsection (3)(a) of this section.

16    “(8) Subsection (6)(b) of this section does not affect any requirement for  
17    fish passage applicable to a project that is otherwise required by law.

18    “(9) Upon request, the State Department of Fish and Wildlife and the  
19    Water Resources Department shall arrange a preapplication meeting with a  
20    person to discuss the requirements associated with the installation of a hy-  
21    droelectric project in an artificial delivery system.

22    “(10) A certificate issued under this section may not have its own priority  
23    date. The Water Resources Department may not regulate for or against any  
24    certificate issued under this section based on the priority date of the certif-  
25    icate.

26    “(11) A certificate issued under this section does not grant a right to di-  
27    vert water for hydroelectric purposes.

28    “(12) A certificate issued under this section may not be included in the  
29    determination of injury to other water rights pursuant to ORS chapter 540.

30    “(13) A certificate issued under this section is subject to review 50 years

1 after the date of issuance and pursuant to the terms described in this section.

2 “(14) Failure to fully develop and put to use a certificate issued under this  
3 section within five years of issuance invalidates the hydroelectric certificate.

4 “(15)(a) If a certificate contains a condition described in subsection (6)(b)  
5 of this section for annual payments, the payment shall be collected as pro-  
6 vided in paragraph (c) of this subsection. Except as provided in paragraph  
7 (b) of this subsection, the annual payment amount must be:

8 “(A) Except as provided in subparagraph (D) of this paragraph, for the  
9 first five years, four times the base hydropower fee amount assessed for the  
10 project under ORS 543.078 for the year.

11 “(B) Except as provided in subparagraph (D) of this paragraph, for the  
12 6th through 10th years, eight times the base hydropower fee amount assessed  
13 for the project under ORS 543.078 for the year.

14 “(C) Except as provided in subparagraph (D) of this paragraph, after the  
15 10th year, 15 times the base hydropower fee amount assessed for the project  
16 under ORS 543.078 for the year.

17 “(D) \$100 for any year in which the base hydropower fee amount assessed  
18 for the project under ORS 543.078 is less than \$100.

19 “(b) If the certificate is for a hydroelectric project that will operate on  
20 a partial-year basis, the fee shall be three-fifths of the amount established  
21 in paragraph (a) of this subsection.

22 “(c) The Water Resources Department shall collect the fee on behalf of  
23 the State Department of Fish and Wildlife and forward the fee moneys for  
24 crediting to the Fish Passage Restoration Subaccount created under ORS  
25 497.141.

26 “(16)(a) Notwithstanding subsection (15) of this section, a certificate for  
27 a project to install hydroelectric generating equipment as described in sub-  
28 section (6)(b) of this section may provide for the termination of annual pay-  
29 ments being made under subsection (15) of this section if, after the date the  
30 project commences operation:

1 “(A) The project provides for fish passages;

2 “(B) There is an agreement between the applicant and the State Depart-  
3 ment of Fish and Wildlife providing for fish passages associated with the  
4 project; or

5 “(C) A waiver or exemption has been issued under ORS 509.585 for the  
6 project.

7 “(b) A certificate for a project to install hydroelectric generating equip-  
8 ment as described in subsection (6)(b) of this section does not need to include  
9 a condition for the making of annual payments under subsection (15) of this  
10 section if:

11 “(A) There is an agreement between the applicant and the State Depart-  
12 ment of Fish and Wildlife providing for the conduit delivery system to have  
13 fish passages associated with the project; or

14 “(B) A waiver or exemption has been issued under ORS 509.585 for the  
15 project.

16 “(17) If a certificate under this section is issued, the certificate holder  
17 must pay fees consistent with the fees described in ORS 543.078. Failure to  
18 pay a required fee invalidates a certificate issued under this section.

19 “(18) The Water Resources Department shall issue invoices for fees re-  
20 quired under this section, and the state shall have a preference lien for de-  
21 linquent fees, as provided in ORS 543.082.

22 “(19) An applicant for a certificate issued under this section must provide  
23 evidence of a Federal Energy Regulatory Commission exemption or approval  
24 under a similar process by the federal agency responsible for authorizing the  
25 project before a certificate can be issued, if applicable.

26 “(20) Nothing in this section shall alter the preference of municipalities  
27 in ORS 543.260 (3) and 543.270.

28  
29 **“CAPTIONS**  
30

1       **“SECTION 40. The unit captions used in this 2025 Act are provided**  
2       **only for the convenience of the reader and do not become part of the**  
3       **statutory law of this state or express any legislative intent in the**  
4       **enactment of this 2025 Act.”.**

5