

HB 3544-B8
(LC 3657)
6/26/25 (DJ/AG/ps)

Requested by JOINT COMMITTEE ON WAYS AND MEANS

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

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

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

5 On page 3, after line 41, insert:

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

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

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

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

16 “(c) The protest must:

17 “(A) Be in writing;

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

19 “(C) Include a description of the protestant’s interest in the proposed final
20 order and, if the protestant claims to represent the public interest, a precise

statement of the public interest represented;

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

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

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

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

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

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

“(b) The request for party status must:

“(A) Be in writing.

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

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

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

“(a) A hearing need not occur if:

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

“(B) The protest is withdrawn; or

“(C) The protestant defaults.

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

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

1 “(B) Explain how the issues raised in the protest are within the jurisdic-
2 tion of the department.

3 “(c) Not later than the end of the protest period, each person that submits
4 a protest shall raise all reasonably ascertainable issues and submit all rea-
5 sonably available arguments that support the person’s position.

6 “(d) A failure to raise a reasonably ascertainable issue in a protest or a
7 failure to provide sufficient specificity to afford the department an opportu-
8 nity to respond to the issue precludes judicial review of that issue.

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

14 “(5) Notwithstanding subsection (4) of this section, not more than 33 days
15 after the close of the time period for submitting a protest, the department
16 may withdraw a proposed final order for reconsideration and issuance of a
17 superseding proposed final order.

18 “(6) The department shall refund the fees described in ORS 536.050 (1)(o)
19 if party status is denied.

20 “(7) The Water Resources Commission may adopt rules necessary to im-
21 plement this section.”.

22 On page 7, after line 9, insert:

23 **“SECTION 5a. If House Bill 3342 becomes law, section 32, chapter**
24 **282, Oregon Laws 2025 (Enrolled House Bill 3342) (amending ORS**
25 **537.153), is repealed and ORS 537.153, as amended by section 5 of this**
26 **2025 Act, is amended to read:**

27 “537.153. (1) Within 60 days after the Water Resources Department pro-
28 ceeds with the application under ORS 537.150 (5)(c), the department shall
29 complete application review and issue a proposed final order approving or
30 denying the application or approving the application with modifications or

1 conditions. The department may request the applicant to provide additional
2 information needed to complete the review. If the department requests addi-
3 tional information, the request shall be specific and shall be sent to the ap-
4 plicant by registered mail. The department shall specify a date by which the
5 information must be returned, which shall be not less than 10 days after the
6 department mails the request to the applicant. If the department does not
7 receive the information or a request for a time extension under ORS 537.175
8 by the date specified in the request, the department may reject the applica-
9 tion and may refund fees in accordance with ORS 536.050 (4)(a). The time
10 period specified by the department in a request for additional information
11 shall allow the department to comply with the 60-day time limit established
12 by this subsection.

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

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

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

26 “(A) The specific public interest under ORS 537.170 (5) that would be im-
27 paired or detrimentally affected; and

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

30 “(3) The proposed final order shall cite findings of fact and conclusions

1 of law and shall include but need not be limited to:

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

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

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

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

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

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

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

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

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

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

30 “(6) The provisions of sections 2 and 3 of this 2025 Act, and rules adopted

1 thereunder, apply to a contested case proceeding on a proposed final order
2 issued under this section.

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

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

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

10 “(c) Provide any person who timely submitted a protest or request for
11 party status with an estimate of the timing of referring the contested case
12 to the Office of Administrative Hearings for a hearing and notice that par-
13 ties may provide settlement proposals.”.

14 On page 17, after line 1, insert:

15 **“SECTION 16a. If House Bill 3342 becomes law, section 33, chapter**
16 **282, Oregon Laws 2025 (Enrolled House Bill 3342) (amending ORS**
17 **537.621), is repealed and ORS 537.621, as amended by section 16 of this**
18 **2025 Act, is amended to read:**

19 “537.621. (1) Within 60 days after the Water Resources Department pro-
20 ceeds with the application under ORS 537.620 (5)(c), the department shall
21 complete application review and issue a proposed final order approving or
22 denying the application or approving the application with modifications or
23 conditions. The department may request the applicant to provide additional
24 information needed to complete the review. If the department requests addi-
25 tional information, the request shall be specific and shall be sent to the ap-
26 plicant by registered mail. The department shall specify a date by which the
27 information must be returned, which shall be not less than 10 days after the
28 department mails the request to the applicant. If the department does not
29 receive the information or a request for a time extension under ORS 537.627
30 by the date specified in the request, the department may reject the applica-

tion 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 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.

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

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

“(b) A brief statement that explains the criteria considered relevant to the decision, including the applicable basin program and the compatibility of the

1 proposed use with applicable land use plans;

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

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

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

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

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

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

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

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

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

30 “(6) The provisions of sections 2 and 3 of this 2025 Act, and rules adopted

1 thereunder, apply to a contested case proceeding on a proposed final order
2 issued under this section.

3 “(7) Any person who asks to receive a copy of the department’s final order
4 shall submit to the department the fee required under ORS 536.050 (1)(p),
5 unless the person has previously requested copies and paid the required fee
6 under ORS 537.620 (7), the person is a protestant and has paid the fee re-
7 quired under ORS 536.050 (1)(j) or the person has requested party status and
8 has paid the fee under ORS 536.050 (1)(n) and (o).

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

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

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

16 “(c) Provide any person who timely submitted a protest or request for
17 party status with an estimate of the timing of referring the case to the Office
18 of Administrative Hearings for a hearing and notice that parties may provide
19 settlement proposals.

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

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

27 On page 20, after line 40, insert:

28 **“SECTION 20a.** If House Bill 3342 becomes law, section 5, chapter
29 **282, Oregon Laws 2025 (Enrolled House Bill 3342) (amending ORS**
30 **540.520), is repealed and ORS 540.520, as amended by section 20 of this**

1 **2025 Act, is amended to read:**

2 “540.520. (1)(a) Except when the application is made under ORS 541.327
3 or when an application for a temporary transfer is made under ORS 540.523,
4 if the holder of a water use subject to transfer for irrigation, domestic use,
5 manufacturing purposes, or other use, for any reason desires to change the
6 place of use, the point of diversion, or the use made of the water, an appli-
7 cation to make such change, as the case may be, shall be filed with the
8 Water Resources Department.

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

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

14 “(a) The name of the owner;

15 “(b) The previous use of the water;

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

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

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

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

21 “(g) Evidence that the water has been used over the past five years ac-
22 cording to the terms and conditions of the owner’s water right certificate
23 or that the water right is not subject to forfeiture under ORS 540.610.

24 “(3) If the application required under subsection (1) of this section is
25 necessary to allow a change in a water right pursuant to ORS 537.348, is
26 necessary to complete a project funded under ORS 541.932, or is approved by
27 the State Department of Fish and Wildlife as a change that will result in a
28 net benefit to fish and wildlife habitat, the **Water Resources** Department,
29 at the discretion of the Water Resources Director, may waive or assist the
30 applicant in satisfying the requirements of subsection (2)(c) and (d) of this

1 section. The assistance provided by the department may include, but need
2 not be limited to, development of an application map.

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

7 “[5] *Upon the filing of the application the department shall give notice by*
8 *publication in a newspaper having general circulation in the area in which the*
9 *water rights are located, for a period of at least two weeks and not less than*
10 *one publication each week. The notice shall include the date on which the last*
11 *notice by publication will occur. The cost of the publication shall be paid by*
12 *the applicant in advance to the department. In applications for only a change*
13 *in place of use or for a change in the point of diversion of less than one-fourth*
14 *mile, and where there are no intervening diversions between the old diversion*
15 *of the applicant and the proposed new diversion, no newspaper notice need be*
16 *published. The department shall include notice of such applications in the*
17 *weekly notice published by the department.]*

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

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

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

25 **“(B) Notify the department to continue processing the application**
26 **and provide any outstanding information to the department.**

27 **“(b) If, within 30 days from the date of the notice, the applicant**
28 **does not notify the department as provided in paragraph (a) of this**
29 **subsection, does not provide all outstanding information as provided**
30 **in paragraph (a)(B) of this subsection or notifies the department to**

1 stop processing the application, the department shall close the file for
2 the application and take no further action on the application. The de-
3 partment may allow an applicant up to 60 additional days to provide
4 outstanding information if the applicant requests additional time and
5 the department determines that the applicant is undertaking reason-
6 able efforts to provide the information in a timely manner to the de-
7 partment.

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

13 “(A) Proceed with processing the application.

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

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

25 “[~~(6)~~] (8) [*The department shall issue a proposed final order approving or*
26 *denying the application or approving the application with modifications or*
27 *conditions.*] Within 30 days after the publication in the department’s weekly
28 public notice any person may file a protest against the proposed final order.

29 “[~~(7)~~] (9) The provisions of sections 2 and 3 of this 2025 Act, and rules
30 adopted thereunder, apply to a contested case proceeding on a proposed final

1 order issued under this section.

2 “[8] (10) If in the opinion of the Water Resources Director a hearing is
3 necessary to determine whether the proposed changes as described by the
4 application would result in injury to existing water rights, the department
5 shall hold a hearing on the matter.

6 “[9] (11) An application for a change of use under this section is not
7 required if the beneficial use authorized by the water use subject to transfer
8 is irrigation and the owner of the water right uses the water for incidental
9 agricultural, stock watering and other uses related to irrigation use, so long
10 as there is no increase in the rate, duty, total acreage benefited or season
11 of use.

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

15 “(a) The quantity of water used for the general industrial use is not
16 greater than the rate allowed in the original water right and not greater
17 than the quantity of water diverted to satisfy the authorized specific use
18 under the original water right;

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

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

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

26 “(B) The water right certificate number;

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

30 “(D) A description of the general industrial use to be made of the water

1 after the change.”.

2 On page 21, after line 27, insert:

3 **“SECTION 21a. If House Bill 3342 becomes law, section 39, chapter**
4 **282, Oregon Laws 2025 (Enrolled House Bill 3342) (amending ORS**
5 **540.524), is repealed.**

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

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

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

20 **“Sec. 48. (1)** Sections 9, 13, 24, 29 and 31 [*of this 2025 Act*], **chapter 282,**
21 **Oregon Laws 2025 (Enrolled House Bill 3342)**, and the amendments to ORS
22 536.045, 536.410, 537.145, 537.147, 537.150, [537.153,] 537.211, 537.225, 537.230,
23 537.252, 537.348, 537.470, 537.610, 537.620, [537.621,] 537.630, 538.450, [540.520,
24 540.524,] 540.535, 540.570, 540.580, 540.585, 543.220, 543A.035, 543A.040,
25 543A.055 and 543A.120 by sections 2 to 4, 6, 7, 10, 14, 17, 19, 20, 25, 26, [32,
26 33 and] 34 to 38 and 40 to 46 [*of this 2025 Act*], **chapter 282, Oregon Laws**
27 **2025 (Enrolled House Bill 3342)**, become operative on April 1, 2026.

28 **“(2) The amendments to ORS 537.153, 537.621 and 540.520 by sections**
29 **5a, 16a and 20a of this 2025 Act become operative on April 1, 2026.”.**