

HOUSE BILL 3342-4: Water Right Transactions Process Improvements – Amendment Updates

Section	-1 Amendments (initial draft that is no longer considered)	-4 Amendments (revisions that build on -1 Amendments)
1-2	Default to electronic documents: Shift to providing electronic documents, unless an applicant requests paper copies, for initial reviews, proposed final orders, draft preliminary determinations, preliminary determinations, final orders, and draft certificates. Final certificates would still be mailed.	No change in function from -1 amendment for electronic documents. The new draft adds permissive authority to use newspaper notice as an option for any public notice.
3-7, 18	Utilize OWRD weekly notice for transfers, hydroelectric projects, and some certificates: Require notice in the OWRD weekly public notice, rather than newspaper notice for two consecutive weeks. The amendment does not change existing newspaper notice processes for new water rights.	For transfers, the new draft also requires newspaper notice for a proposed final order stage if more than 5 water rights are injured as a result of the change.
8-9	Allow OWRD to pass along credit/debit card processing fees: Authorize cost recovery to enable voluntarily use of credit/debit payment options that OWRD could not previously afford to offer.	No change in function from -1 amendment.
10-11	Technical fix relating to withdrawal from appropriation: The current withdrawal statute requires an “order” of withdrawal. At the time it was adopted, an order included rules, but the APA was later changed to distinguish an order from rules. An order must name specific individuals, which is impossible for withdrawal orders that deal with future use, rendering the tool unimplementable for new withdrawals. The amendment fixes that issue by changing the withdrawal process to occur by rule rather than order.	No change in function from -1 amendment.
12-16, 20-22	Applications for new water rights in areas of no availability: OWRD will return a new water right application and refund the relevant portion of fees if an application is in a Critical Groundwater Area or an area that is restrictively classified or withdrawn.	Clarifies that the source is designated, not the area. Clarifies that, for classified areas under ORS 536.340, application return only applies if the use is subject to restriction. Does not apply to application for recovery of groundwater under artificial recharge or aquifer storage and recovery project. Applies to pending water right applications only if (1) application has not yet been issued a PFO, (2) application was submitted after the restriction was established, and (3) <u>the permit is not related to the recovery of ground water under an artificial recharge or aquifer storage and recovery project.</u>
17-19, 23-24	Changes of appropriation for groundwater into areas of no availability: Previous draft provided that OWRD shall deny a proposed point of appropriation transfer or permit amendment into a CGWA, restricted or withdrawn area, or may deny a point of appropriation/ place of use change into groundwater management area (water quality), when the original water use was occurring outside those areas. A change in point of appropriation may also be denied due to injury if a CGWA is in the process of being assessed or declared.	The new draft removes the mandate and instead provides permissive authority that OWRD may deny a proposed change in point of appropriation if for a source of restricted ground water. <u>Removes groundwater management area (quality) provisions.</u> Removes authority to deny change in point of appropriation due to injury if CGWA is in the process of being assessed or declared.

25-27	Limits on non-municipal extensions: Increases the development timeline from 5 to 7 years for new permits. Eliminates extensions for non-municipal water rights. For pending extension requests where a proposed final order has not been issued, extensions may be granted for a maximum of 2 years if: a portion of water has been used within the original development period, the original before-use fish protection conditions were satisfied, and use is not in management area (CGWA, restrictive classification, withdrawal).	The revised version extends the development timeline from 5 to 7 years, retains existing process for extensions for quasi-municipal, group domestic and group domestic expanded permits, and sets a new maximum one-time extension of 20 years for quasi-municipal and 10 years for group domestic and group domestic expanded. All extensions require good cause. For pending extension applications and permits that have been issued a proposed final order, the new draft no longer limits extensions in CGWA, restrictively classified, or withdrawn areas. The new draft does require satisfaction of fish-related conditions and that a portion of the water quantity to be developed to receive the additional 2-year extension.
5, 14, 20-22, 28-29	Phased processing for new water rights and transfers; phased fee payment for new water rights: Requires an affirmative confirmation for OWRD to continue processing the application within 30 days after the initial review is issued. For new water right applications, a portion of fees would be paid upfront, and remainder must be paid within 30 days of the initial review. If an applicant chooses not to move forward, OWRD closes the file without further action.	The new draft revises the previously proposed confirmation period for new water rights from 30 days to 90 days. For transfers, the draft provides for up to 90 days, with 30 days to respond affirmatively regarding any outstanding information needed and an additional 60 days allowed with good cause.
30-31	Effective date of process improvements: Allows process improvements to apply to existing applications that have not received a PFO prior to the effective date of the bill. This applies efficiency/transparency measures to the backlog as well	Revising previous content, the new draft specifies an operative date of April 1, 2026, and applies relevant process sections to applications and petitions submitted after the operative date.
32, 33	New water right applications in groundwater management areas: Makes explicit authority that OWRD may deny an application for new water rights when justified in a groundwater management area (water quality).	Revising previous content, the new draft does not include the previously proposed permissive authority to deny an application for new water rights when justified in a groundwater management area (water quality).
Other Components of the -4 Amendment		
31a	Allow proposed final orders (PFO) to automatically become final if no protests are received: OWRD is currently required to draft a separate PFO and FO even in cases where no protest is filed. To reduce redundancy, the draft provides that, 33 days after the protest period closes on a PFO, if no protest is received and OWRD does not issue a superseding order, the PFO will become final as a matter of law.	
32, 33	Simplify process to request standing / intervention: The current process for someone to intervene in support of a PFO is cumbersome, permits late intervention that can delay the process, and results in more administrative work. Instead of the current two-step process, utilize a one-step process where any person wishing to intervene in support of a PFO must petition for party status within 30 days of the protest deadline and pay the associated fee, if a protest is filed. Applies to applications that have not been issued a PFO.	
5	Settled and withdrawn protests: The new draft provides that a hearing is not required if all issues in the contested case are resolved pursuant to a settlement, the protest is withdrawn, or the protestant defaults. This eliminates time and expense currently associated with administration of hearings where there are no longer any active issues to address.	