

# Enrolled House Bill 4004

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Agriculture, Land Use, Natural Resources, and Water for Representatives Ken Helm, Mark Owens)

CHAPTER .....

AN ACT

Relating to natural resources; creating new provisions; amending ORS 308A.707, 536.032, 537.230, 537.623 and 537.630; and prescribing an effective date.

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

**SECTION 1.** Section 2 of this 2026 Act is added to and made a part of ORS 308A.700 to 308A.733.

**SECTION 2.** (1) This section applies to land that is qualified for special assessment under ORS 321.709, relating to qualification as small tract forestland.

(2)(a) Notwithstanding ORS 308A.707, additional taxes may not be imposed and shall remain a potential tax liability with respect to land described in subsection (1) of this section if, as of the date the disqualification is taken into account on the assessment and tax roll, the land is disqualified from special assessment solely because of the effects of Douglas-fir mortality.

(b) For each year that land qualifies for deferral of additional taxes under this section, the county assessor shall enter the notation “potential additional tax liability” on the assessment and tax roll.

(3) To obtain deferral under this section, the landowner must submit to the county assessor, on or before July 1 of the assessment year to which the deferral relates, written notification requesting deferral and attesting to the effects of Douglas-fir mortality on the land.

(4) When the land is disqualified from special assessment other than as described in subsection (2)(a) of this section:

- (a) The additional taxes shall become due as provided in ORS 308A.707; and
- (b) The land shall, as of the property tax year next following the property tax year for which the landowner submitted the written notification under subsection (3) of this section:
  - (A) Be valued under ORS 308.232 at its real market value as defined by law; and
  - (B) Be assessed at its assessed value under ORS 308.146 or as otherwise provided by law.

**SECTION 3.** ORS 308A.707 is amended to read:

308A.707. (1) Notwithstanding ORS 308A.706, **and except as provided in section 2 of this 2026 Act**, additional taxes shall be imposed on land that is disqualified from small tract forestland assessment under ORS 321.712 or 321.716. If after disqualification the land remains specially assessed under a special assessment program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G), the additional taxes shall be computed under subsection (2) of this section. If after disqualification the land

is not specially assessed under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G), the additional taxes shall be computed under subsection (3) of this section.

(2)(a) The additional taxes for disqualified small tract forestland that is qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G) shall be equal to the difference between the taxes assessed against the land under ORS 321.700 to 321.754 and the taxes that would have been assessed against the land:

(A) Under ORS 321.257 to 321.390, if the land is located in western Oregon; or

(B) Under ORS 321.805 to 321.855, if the land is located in eastern Oregon.

(b) The number of years for which additional taxes shall be calculated shall equal the lesser of 10 years or the number of consecutive years the land has been assessed as small tract forestland.

(3)(a) The additional taxes for disqualified small tract forestland that is not qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G) shall be equal to the sum of:

(A) The amount determined under subsection (2) of this section; and

(B) The difference between the taxes that would have been assessed against the land under ORS 321.257 to 321.390, if located in western Oregon, or ORS 321.805 to 321.855, if located in eastern Oregon, and the taxes that would otherwise have been assessed against the land, for the lesser of the number of consecutive years the land was forestland or five years.

(b) Notwithstanding paragraph (a)(B) of this subsection, if any provision of ORS 308A.700 to 308A.733 would cause the deferral or elimination of additional taxes that are imposed under ORS 308A.703 or 308A.712, that provision shall also cause the deferral or elimination of the additional taxes imposed under paragraph (a)(B) of this subsection, under the same terms, requirements and conditions that additional taxes under ORS 308A.700 to 308A.733 are deferred or eliminated.

(4) The additional taxes described in this section shall be imposed and collected at the same time and in the same manner as additional taxes described in ORS 308A.703 are imposed and collected.

(5) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

(7) As used in this section, "forestland," "western Oregon" and "eastern Oregon" have the meanings given those terms in ORS 321.700.

**SECTION 4.** ORS 308A.707, as amended by section 3 of this 2026 Act, is amended to read:

308A.707. (1) Notwithstanding ORS 308A.706, [and except as provided in section 2 of this 2026 Act,] additional taxes shall be imposed on land that is disqualified from small tract forestland assessment under ORS 321.712 or 321.716. If after disqualification the land remains specially assessed under a special assessment program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G), the additional taxes shall be computed under subsection (2) of this section. If after disqualification the land is not specially assessed under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G), the additional taxes shall be computed under subsection (3) of this section.

(2)(a) The additional taxes for disqualified small tract forestland that is qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G) shall be equal to the difference between the taxes assessed against the land under ORS 321.700 to 321.754 and the taxes that would have been assessed against the land:

(A) Under ORS 321.257 to 321.390, if the land is located in western Oregon; or

(B) Under ORS 321.805 to 321.855, if the land is located in eastern Oregon.

(b) The number of years for which additional taxes shall be calculated shall equal the lesser of 10 years or the number of consecutive years the land has been assessed as small tract forestland.

(3)(a) The additional taxes for disqualified small tract forestland that is not qualified for special assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), (F) or (G) shall be equal to the sum of:

(A) The amount determined under subsection (2) of this section; and

(B) The difference between the taxes that would have been assessed against the land under ORS 321.257 to 321.390, if located in western Oregon, or ORS 321.805 to 321.855, if located in eastern Oregon, and the taxes that would otherwise have been assessed against the land, for the lesser of the number of consecutive years the land was forestland or five years.

(b) Notwithstanding paragraph (a)(B) of this subsection, if any provision of ORS 308A.700 to 308A.733 would cause the deferral or elimination of additional taxes that are imposed under ORS 308A.703 or 308A.712, that provision shall also cause the deferral or elimination of the additional taxes imposed under paragraph (a)(B) of this subsection, under the same terms, requirements and conditions that additional taxes under ORS 308A.700 to 308A.733 are deferred or eliminated.

(4) The additional taxes described in this section shall be imposed and collected at the same time and in the same manner as additional taxes described in ORS 308A.703 are imposed and collected.

(5) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

(6) The amount determined to be due under this section may be paid to the tax collector prior to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

(7) As used in this section, "forestland," "western Oregon" and "eastern Oregon" have the meanings given those terms in ORS 321.700.

**SECTION 5. (1) The Water Resources Department shall promote and facilitate enrollment in the federal Conservation Reserve Enhancement Program (132 Stat. 4534, 16 U.S.C. 3831a) for water users in this state who voluntarily cancel ground water rights in areas where the department is not allowing new rights to use ground water for irrigation.**

**(2) To carry out the provisions of subsection (1) of this section, the department may enter into grant agreements and contracts and issue direct payments to program enrollees.**

**SECTION 6.** ORS 536.032 is amended to read:

536.032. Subject to confirmation by the Senate in the manner provided in section 4, Article III, Oregon Constitution, the Governor shall appoint a Water Resources Director. The director shall be an individual qualified by training and experience and shall serve for a term of four years at the pleasure of the Governor. The director [*or a principal assistant*] must [*be*] **ensure that a registered engineer experienced in water-related engineering is employed by the Water Resources Department to carry out the department's functions under ORS 540.443 to 540.491.**

**SECTION 7.** ORS 537.230 is amended to read:

537.230. (1) As used in this section, "undeveloped portion" means the difference between the maximum rate or duty specified in a water right permit and the maximum rate or duty diverted as of the later of:

(a) June 29, 2005;

(b) The time specified in the permit to perfect the water right; or

(c) The time specified in the last-approved extension of time to perfect the water right.

(2)(a) Except for a holder of a permit for municipal, quasi-municipal, group domestic or group domestic expanded uses, the holder of a water right permit shall prosecute the construction of any proposed irrigation or other work with reasonable diligence and complete the construction within a reasonable time, as fixed in the permit by the Water Resources Department, not to exceed seven years from the date of approval.

**(b) Notwithstanding paragraph (a) of this subsection, the department may, for good cause shown, order and allow one extension of time under this paragraph to complete construction of proposed works and apply water beneficially if the department determines that:**

**(A) Delay by another local or state government or the federal government in issuing a permit relating to the project has delayed completion of the construction and beneficial application of the right; or**

**(B) Appeal of a local, state or federal government decision relating to the project has delayed completion of the construction and beneficial application of the right.**

**(c) To qualify for an extension of time under paragraph (b) of this subsection, a permit holder must either:**

**(A)(i) Have not been previously granted an extension of time for the permit; and**

**(ii) Submit a complete application to the department within the time fixed originally in the permit to complete construction of proposed works and apply water beneficially; or**

**(B)(i) Have been previously granted an extension of time for the permit, including an extension of time under section 27 (3), chapter 282, Oregon Laws 2025; and**

**(ii) Submit a complete application to the department within the time specified in the previous extension to complete construction of proposed works and apply water beneficially.**

**(d) An extension of time under paragraph (b) of this subsection may not exceed seven years from the date that the extension application is approved by the department.**

(3) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which a permit for municipal use is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

(a) The holder shows good cause. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right;

(b) The extension of time is conditioned to require that the holder submit, and obtain department approval of, a water management and conservation plan;

(c) The extension of time is conditioned to provide that the holder may divert the undeveloped portion of the permit only upon approval by the department of the water management and conservation plan; and

(d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned to maintain, in the portions of waterways affected by water use under the permit, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. The department shall base its finding on existing data and upon the advice of the State Department of Fish and Wildlife. An existing fish protection agreement between the permit holder and a state or federal agency that includes conditions to maintain the persistence of any listed fish species in the affected portion of the waterway is conclusive for purposes of the finding.

(4)(a) The holder of a right for quasi-municipal, group domestic or group domestic expanded uses shall complete construction of proposed works and apply water beneficially within seven years from the date on which a permit for such uses is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specific in the permit, not to exceed seven years.

(b) Notwithstanding paragraph (a) of this subsection, the Water Resources Department may, for good cause shown, order and allow one extension of time to complete construction and apply water beneficially, not exceeding:

(A) Twenty years from the date that the extension is approved for quasi-municipal use.

(B) Ten years from the date the extension is approved for group domestic use or group domestic expanded use.

(c) In determining the extension under paragraph (b) of this subsection, the department shall give due weight to considerations in ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of the construction and beneficial application of the right.

(5) Except as provided in subsection (6) of this section and ORS 537.409, upon completion of beneficial use as required under this section, the holder of a permit shall hire a water right examiner certified under ORS 537.798 to survey the appropriation. Within one year after application of

water to a beneficial use or the beneficial use date allowed in the permit, the holder shall submit a map of the survey as required by the Water Resources Department, that shall accompany the request for a water right certificate submitted to the department under ORS 537.250. If any property described in the permit is not included in the request for a water right certificate, the holder shall state the identity of the record owner of that property.

(6) The Water Resources Director may waive the requirement under subsection (5) of this section that a holder of a permit hire a water right examiner certified under ORS 537.798 if:

(a) The permit is a supplemental water right that shares the same distribution system and same place of use as the primary water right; and

(b) The department determines that there is sufficient information in the records of the department to determine proof of beneficial use.

(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under ORS 537.250 for a supplemental water right, the holder of a permit shall have a facility capable of handling the full rate and duty of water requested from the supplemental source and be otherwise ready, willing and able to use the amount of water requested, up to the amount of water approved in the water right permit. To obtain a certificate for a supplemental water right, the holder is not required to have actually used water from the supplemental source if:

(a) Water was available from the source of the primary water right and the primary water right was used pursuant to the terms of the primary water right; or

(b) The nonuse of water from the supplemental source occurred during a period of time within which the exercise of the supplemental water right permit was not necessary due to climatic conditions.

**SECTION 8.** ORS 537.623 is amended to read:

537.623. (1) Notwithstanding ORS chapter 537, 540 or 541, a proposed final order issued by the Water Resources Department under ORS chapter 537, 540 or 541 for an application requesting that the department approve a new water right or a change to an existing water right or permit, registration or license, shall become, without further department action, a final order as a matter of law 33 days after the close of the time period for submitting a protest if:

(a) The department includes a provision in the proposed final order explaining that the proposed final order will become a final order under this section; and

(b) A protest is not **timely** received by the department [*within the 33 days*].

(2) Notwithstanding subsection (1) of this section, the department may withdraw a proposed final order for reconsideration and issuance of a superseding proposed final order not more than 33 days after the close of the time period for submitting a protest.

**SECTION 9.** ORS 537.630 is amended to read:

537.630. (1) As used in this section, "undeveloped portion" means the difference between the maximum rate or duty specified in a water right permit and the maximum rate or duty appropriated as of the later of:

(a) June 29, 2005;

(b) The time specified in the permit to perfect the water right; or

(c) The time specified in the last-approved extension of time to perfect the water right.

(2)(a) Except for the holder of a permit for municipal, quasi-municipal, group domestic or group domestic expanded uses, the holder of a permit issued pursuant to ORS 537.625 shall prosecute the construction of a well or other means of developing and securing the ground water with reasonable diligence and complete the construction within a reasonable time fixed in the permit by the Water Resources Department, not to exceed seven years after the date of approval of the application.

**(b) Notwithstanding paragraph (a) of this subsection, the department may, for good cause shown, order and allow one extension of time under this paragraph to complete construction of proposed works and apply water beneficially if the department determines that:**

**(A) Delay by another local or state government or the federal government in issuing a permit relating to the project has delayed completion of the construction and beneficial application of the right; or**

**(B) Appeal of a local, state or federal government decision relating to the project has delayed completion of the construction and beneficial application of the right.**

**(c) To qualify for an extension of time under paragraph (b) of this subsection, a permit holder must either:**

**(A)(i) Have not been previously granted an extension of time for the permit; and**

**(ii) Submit a complete application to the department within the time fixed originally in the permit to complete construction of proposed works and apply water beneficially; or**

**(B)(i) Have been previously granted an extension of time for the permit, including an extension of time under section 27 (3), chapter 282, Oregon Laws 2025; and**

**(ii) Submit a complete application to the department within the time specified in the previous extension to complete construction of proposed works and apply water beneficially.**

**(d) An extension of time under paragraph (b) of this subsection may not exceed seven years from the date that the extension application is approved by the department.**

(3)(a) The holder of a right for quasi-municipal, group domestic or group domestic expanded uses shall complete construction of proposed works and apply water beneficially within seven years from the date on which a permit for such uses is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed seven years.

(b) Notwithstanding paragraph (a) of this subsection, the department may, for good cause shown, order and allow one extension of time to complete construction and apply water beneficially, not exceeding:

(A) Twenty years from the date that the extension is approved for quasi-municipal use.

(B) Ten years from the date the extension is approved for group domestic use or group domestic expanded use.

(c) In determining the extension under paragraph (b) of this subsection, the department shall give due weight to considerations in ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of the construction and beneficial application of the right.

(4) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which the permit for municipal use is issued under ORS 537.625. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

(a) The holder shows good cause. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right;

(b) The extension of time is conditioned to require that the holder submit and obtain department approval of a water management and conservation plan;

(c) The extension of time is conditioned to provide that the holder may appropriate the undeveloped portion of the permit only upon approval by the department of a water management and conservation plan; and

(d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned to maintain, in the portions of waterways affected by water use under the permit, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. The department shall base its finding on existing data and upon the advice of the State Department of Fish and Wildlife. An existing fish protection agreement between the permit holder and a state or federal agency that includes conditions to maintain the persistence of any listed fish species in the affected portion of the waterway is conclusive for purposes of the finding.

(5) If the construction of any well or other means of developing and securing the ground water is completed after the date of approval of the application for a permit under ORS 537.625, within 30 days after the completion, or if the construction is completed before the date of approval, within 30 days after the date of approval, the permit holder shall file a certificate of completion with the Water Resources Department, disclosing:

- (a) The depth to the water table;
- (b) The depth, diameter and type of each well, and the kind and amount of the casing;
- (c) The capacity of the well pump in gallons per minute and the drawdown thereof;
- (d) The identity of the record owner of any property that was described in the application for a permit under ORS 537.625 but is not included in the certificate of completion; and
- (e) Any other information the department considers necessary.

(6) Upon completion of beneficial use necessary to secure the ground water as required under this section, the permit holder shall hire a water right examiner certified under ORS 537.798 to survey the appropriation. Within one year after applying the water to beneficial use or the beneficial use date allowed in the permit, the permit holder shall submit the survey as required by the Water Resources Department to the department along with the certificate of completion required under subsection (5) of this section. If any property described in the permit is not included in the request for a water right certificate, the holder of the permit shall state the identity of the record owner of that property.

(7) After the department has received a certificate of completion and a copy of the survey as required by subsections (5) and (6) of this section that show, to the satisfaction of the department, that an appropriation has been perfected in accordance with the provisions of ORS 537.505 to 537.795 and 537.992, except as provided in subsection (8) of this section, the department shall issue a ground water right certificate of the same character as that described in ORS 537.700. The certificate shall be recorded and transmitted to the applicant as provided in ORS 537.700.

(8) The department may not issue a water right certificate for municipal use under this section if:

- (a) An extension of time is required; and
  - (b) The order approving the extension of time has not become final by operation of law or on appeal.
- (9) The procedure for cancellation of a permit shall be as provided in ORS 537.260.

(10) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under subsection (7) of this section for a supplemental water right, the holder of a permit shall have a facility capable of handling the full rate and duty of water requested from the supplemental source and be otherwise ready, willing and able to use the amount of water requested, up to the amount of water approved in the water right permit. To obtain a certificate for a supplemental water right, the holder is not required to have actually used water from the supplemental source if:

- (a) Water was available from the source of the primary water right and the primary water right was used pursuant to the terms of the primary water right; or
- (b) The nonuse of water from the supplemental source occurred during a period of time within which the exercise of the supplemental water right permit was not necessary due to climatic conditions.

**SECTION 10. Section 2 of this 2026 Act is repealed on January 2, 2028.**

**SECTION 11. The amendments to ORS 537.230 and 537.630 by sections 7 and 9 of this 2026 Act apply to:**

**(1) Extension applications submitted on or after the effective date of this 2026 Act for permits for other than municipal, quasi-municipal, group domestic or group domestic expanded uses.**

**(2) Extension applications pending under ORS 537.230 or 537.630, for permits for other than municipal, quasi-municipal, group domestic or group domestic expanded uses, for which a proposed final order on the extension has not been issued before the effective date of this 2026 Act.**

**SECTION 12.** The amendments to ORS 308A.707 by section 4 of this 2026 Act become operative on January 2, 2028.

**SECTION 13.** This 2026 Act takes effect on the 91st day after the date on which the 2026 regular session of the Eighty-third Legislative Assembly adjourns sine die.

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**Passed by House February 24, 2026**

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Timothy G. Sekerak, Chief Clerk of House

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Julie Fahey, Speaker of House

**Passed by Senate March 4, 2026**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2026

**Approved:**

.....M,....., 2026

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2026

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Tobias Read, Secretary of State