

HB 4004-13
(LC 242)
2/6/26 (ASD/gpb/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE, LAND USE, NATURAL RESOURCES, AND WATER (at the request of Representatives Ken Helm, Mark Owens)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4004**

1 On page 1 of the printed bill, line 2, after “308A.707” insert “, 537.230 and
2 537.630”.

3 On page 2, after line 29, insert:

4 **“SECTION 4.** ORS 537.230 is amended to read:

5 “537.230. (1) As used in this section, ‘undeveloped portion’ means the dif-
6 ference between the maximum rate or duty specified in a water right permit
7 and the maximum rate or duty diverted as of the later of:

8 “(a) June 29, 2005;

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

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

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

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

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

5 **“(B) Appeal of a local, state or federal government decision relating**
6 **to the project has delayed completion of the construction and benefi-**
7 **cial application of the right.**

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

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

12 **“(ii) Submit a complete application to the department within the**
13 **time fixed originally in the permit to complete construction of pro-**
14 **posed works and apply water beneficially; or**

15 **“(B)(i) Have been previously granted an extension of time for the**
16 **permit, including an extension of time under section 27 (3), chapter**
17 **282, Oregon Laws 2025; and**

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

21 **“(d) An extension of time under paragraph (b) of this subsection**
22 **may not exceed seven years from the date that the extension applica-**
23 **tion is approved by the department.**

24 **“(3) The holder of a permit for municipal use shall commence and com-**
25 **plete the construction of any proposed works within 20 years from the date**
26 **on which a permit for municipal use is issued under ORS 537.211. The con-**
27 **struction must proceed with reasonable diligence and be completed within**
28 **the time specified in the permit, not to exceed 20 years. However, the de-**
29 **partment may order and allow an extension of time to complete construction**
30 **or to perfect a water right beyond the time specified in the permit under the**

1 following conditions:

2 “(a) The holder shows good cause. In determining the extension, the de-
3 partment shall give due weight to the considerations described under ORS
4 539.010 (5) and to whether other governmental requirements relating to the
5 project have significantly delayed completion of construction or perfection
6 of the right;

7 “(b) The extension of time is conditioned to require that the holder sub-
8 mit, and obtain department approval of, a water management and conserva-
9 tion plan;

10 “(c) The extension of time is conditioned to provide that the holder may
11 divert the undeveloped portion of the permit only upon approval by the de-
12 partment of the water management and conservation plan; and

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

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

30 “(b) Notwithstanding paragraph (a) of this subsection, the Water Re-

1 sources Department may, for good cause shown, order and allow one extension
2 of time to complete construction and apply water beneficially, not
3 exceeding:

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

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

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

13 “(5) Except as provided in subsection (6) of this section and ORS 537.409,
14 upon completion of beneficial use as required under this section, the holder
15 of a permit shall hire a water right examiner certified under ORS 537.798 to
16 survey the appropriation. Within one year after application of water to a
17 beneficial use or the beneficial use date allowed in the permit, the holder
18 shall submit a map of the survey as required by the Water Resources Department,
19 that shall accompany the request for a water right certificate
20 submitted to the department under ORS 537.250. If any property described in
21 the permit is not included in the request for a water right certificate, the
22 holder shall state the identity of the record owner of that property.

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

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

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

30 “(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right

1 certificate under ORS 537.250 for a supplemental water right, the holder of
2 a permit shall have a facility capable of handling the full rate and duty of
3 water requested from the supplemental source and be otherwise ready, will-
4 ing and able to use the amount of water requested, up to the amount of water
5 approved in the water right permit. To obtain a certificate for a supple-
6 mental water right, the holder is not required to have actually used water
7 from the supplemental source if:

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

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

14 **“SECTION 5.** ORS 537.630 is amended to read:

15 “537.630. (1) As used in this section, ‘undeveloped portion’ means the dif-
16 ference between the maximum rate or duty specified in a water right permit
17 and the maximum rate or duty appropriated as of the later of:

18 “(a) June 29, 2005;

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

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

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

29 **“(b) Notwithstanding paragraph (a) of this subsection, the depart-**
30 **ment may, for good cause shown, order and allow one extension of**

1 time under this paragraph to complete construction of proposed works
2 and apply water beneficially if the department determines that:

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

7 “(B) Appeal of a local, state or federal government decision relating
8 to the project has delayed completion of the construction and benefi-
9 cial application of the right.

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

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

14 “(ii) Submit a complete application to the department within the
15 time fixed originally in the permit to complete construction of pro-
16 posed works and apply water beneficially; or

17 “(B)(i) Have been previously granted an extension of time for the
18 permit, including an extension of time under section 27 (3), chapter
19 282, Oregon Laws 2025; and

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

23 “(d) An extension of time under paragraph (b) of this subsection
24 may not exceed seven years from the date that the extension applica-
25 tion is approved by the department.

26 “(3)(a) The holder of a right for quasi-municipal, group domestic or group
27 domestic expanded uses shall complete construction of proposed works and
28 apply water beneficially within seven years from the date on which a permit
29 for such uses is issued under ORS 537.211. The construction must proceed
30 with reasonable diligence and be completed within the time specified in the

1 permit, not to exceed seven years.

2 “(b) Notwithstanding paragraph (a) of this subsection, the department
3 may, for good cause shown, order and allow one extension of time to com-
4 plete construction and apply water beneficially, not exceeding:

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

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

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

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

22 “(a) The holder shows good cause. In determining the extension, the de-
23 partment shall give due weight to the considerations described under ORS
24 539.010 (5) and to whether other governmental requirements relating to the
25 project have significantly delayed completion of construction or perfection
26 of the right;

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

30 “(c) The extension of time is conditioned to provide that the holder may

1 appropriate the undeveloped portion of the permit only upon approval by the
2 department of a water management and conservation plan; and

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

14 “(5) If the construction of any well or other means of developing and se-
15 curing the ground water is completed after the date of approval of the ap-
16 plication for a permit under ORS 537.625, within 30 days after the
17 completion, or if the construction is completed before the date of approval,
18 within 30 days after the date of approval, the permit holder shall file a cer-
19 tificate of completion with the Water Resources Department, disclosing:

20 “(a) The depth to the water table;

21 “(b) The depth, diameter and type of each well, and the kind and amount
22 of the casing;

23 “(c) The capacity of the well pump in gallons per minute and the
24 drawdown thereof;

25 “(d) The identity of the record owner of any property that was described
26 in the application for a permit under ORS 537.625 but is not included in the
27 certificate of completion; and

28 “(e) Any other information the department considers necessary.

29 “(6) Upon completion of beneficial use necessary to secure the ground
30 water as required under this section, the permit holder shall hire a water

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

9 “(7) After the department has received a certificate of completion and a
10 copy of the survey as required by subsections (5) and (6) of this section that
11 show, to the satisfaction of the department, that an appropriation has been
12 perfected in accordance with the provisions of ORS 537.505 to 537.795 and
13 537.992, except as provided in subsection (8) of this section, the department
14 shall issue a ground water right certificate of the same character as that
15 described in ORS 537.700. The certificate shall be recorded and transmitted
16 to the applicant as provided in ORS 537.700.

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

19 “(a) An extension of time is required; and

20 “(b) The order approving the extension of time has not become final by
21 operation of law or on appeal.

22 “(9) The procedure for cancellation of a permit shall be as provided in
23 ORS 537.260.

24 “(10) Notwithstanding ORS 537.410, for purposes of obtaining a water
25 right certificate under subsection (7) of this section for a supplemental water
26 right, the holder of a permit shall have a facility capable of handling the full
27 rate and duty of water requested from the supplemental source and be oth-
28 erwise ready, willing and able to use the amount of water requested, up to
29 the amount of water approved in the water right permit. To obtain a certif-
30 icate for a supplemental water right, the holder is not required to have ac-

1 tually used water from the supplemental source if:

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

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

8 **“SECTION 6. The amendments to ORS 537.230 and 537.630 by
9 sections 4 and 5 of this 2026 Act apply to:**

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

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

18 In line 30, delete “4” and insert “7”.

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