

# House Bill 2785

Sponsored by Representative SCHAUFLER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows water right holder to apply to Water Resources Department for expedited application process for issuance of certificate to appropriate water for hydroelectric project purposes if certain conditions are met.

## A BILL FOR AN ACT

1  
2 Relating to hydroelectric projects.

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

4 **SECTION 1. (1) Notwithstanding ORS 537.145 and ORS chapter 543, a water right holder**  
5 **may apply to the Water Resources Department for a certificate to appropriate water for**  
6 **hydroelectric purposes within a delivery system under an existing ground water right or**  
7 **right to appropriate surface water. If the proposed hydroelectric project qualifies for a Fed-**  
8 **eral Energy Regulatory Commission (FERC) exemption, then the applicant may use the ex-**  
9 **pedited application process under this section.**

10 (2) **An application for a certificate under this section must include:**

11 (a) **The certificate number of the existing ground water right or right to appropriate**  
12 **surface water associated with the proposed hydroelectric project.**

13 (b) **A copy of a FERC exemption application, if applicable.**

14 (c) **A proposed schedule of annual water use and an estimate of the maximum power**  
15 **generation of the proposed hydroelectric project.**

16 (d) **A statement by the applicant that the amount of water used by the proposed hydro-**  
17 **electric project will not exceed the amount authorized under an existing water right for**  
18 **beneficial use without waste.**

19 (e) **A statement that the applicant owns or otherwise controls the water conveyance**  
20 **system.**

21 (f) **An application processing fee of \$500.**

22 (g) **A map or drawing and all other data concerning the proposed hydroelectric project,**  
23 **as may be prescribed by the Water Resources Commission. The map or drawing must be of**  
24 **sufficient quality and scale to establish the location of the existing point of diversion and the**  
25 **proposed location of the hydroelectric facility.**

26 (h) **If the water to be used for the proposed hydroelectric project is delivered by a public**  
27 **or private entity other than the applicant for a certificate under this section, a statement**  
28 **from that entity that the entity will be able to deliver water as described in the application.**

29 (3) **If an applicant provides the information required by subsection (2) of this section, the**  
30 **department may, after public notice and a 30-day period for public comment, issue a certif-**  
31 **icate to appropriate water for hydroelectric purposes upon making a final determination that**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 the proposed hydroelectric project does not impair or is not detrimental to the public inter-  
2 est in the manner provided in ORS 537.170 (8).

3 (4) If the department determines that issues related to the public interest have been  
4 identified, then the department shall treat an application submitted under this section in the  
5 manner described for an application submitted under ORS 537.150 and shall perform the  
6 public interest review required by ORS 537.153 (2).

7 (5) At a minimum, a certificate issued under this section must contain the following  
8 conditions:

9 (a) Fish screens, by-pass devices and fish passage if required by the State Department  
10 of Fish and Wildlife.

11 (b) That the use of water be limited to periods when the existing associated ground water  
12 right or right to appropriate surface water is put to beneficial use without waste.

13 (c) That use of water be limited by rate, duty, season and any other limitations of the  
14 existing water right.

15 (d) Any other conditions the Water Resources Department deems necessary to protect  
16 the public interest.

17 (e) The following statement: "If the underlying water right is canceled, transferred or  
18 adjusted in any way, the Water Resources Department will conduct a review of this certif-  
19 icate and may issue a superseding certificate that corresponds to any changes or adjust-  
20 ments that have been made to any underlying water right."

21 (6) A certificate issued under this section may not have its own priority date but instead  
22 shall rely on the priority date of any underlying water rights.

23 (7) If a certificate under this section is issued, the certificate holder must pay fees con-  
24 sistent with the fees described in ORS 543.078. Failure to pay a required fee invalidates a  
25 certificate issued under this section.

26 (8) The Water Resources Department shall issue invoices for fees required under this  
27 section, and the state shall have a preference lien for delinquent fees as provided in ORS  
28 543.082.

29 (9) The Water Resources Department shall publish weekly, in a department publication,  
30 notice of any certificates issued under this section. The Water Resources Department shall  
31 also provide notice of certificates issued under this section to persons who submitted public  
32 comments pursuant to subsection (3) of this section.