

House Bill 3467

Sponsored by Representative DINGFELDER

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**.

Modifies description of reservoirs eligible for alternate permit application process.

A BILL FOR AN ACT

1
2 Relating to reservoirs; amending ORS 537.409.

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

4 **SECTION 1.** ORS 537.409 is amended to read:

5 537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for applying for a water
6 right permit, an owner of a reservoir may submit an application to the Water Resources Department
7 to issue a water right permit under ORS 537.211 or a certificate under ORS 537.250 according to the
8 process set forth in this section if the reservoir:

9 (a) Has a storage capacity of less than 9.2 acre-feet [*or*] **and** a dam or impoundment structure
10 less than 10 feet in height;

11 (b) Does not injure any existing water right;

12 (c) Does not pose a significant detrimental impact to existing fishery resources as determined
13 on the basis of information submitted by the State Department of Fish and Wildlife; and

14 (d) Is not prohibited under ORS 390.835.

15 (2) An application for a water right permit for a reservoir under subsection (1) of this section
16 shall provide sufficient information to demonstrate compliance with the criteria set forth in sub-
17 section (1) of this section. The application shall:

18 (a) Include the quantity of water to be stored by the reservoir, a map indicating the location
19 of the reservoir and the source of the water used to fill the reservoir; and

20 (b) Be accompanied by the fee established in ORS 536.050 (1)(q).

21 (3) The map required under subsection (2) of this section need not be prepared by a water right
22 examiner certified under ORS 537.798. The map submitted with the application shall comply with
23 standards established by the Water Resources Commission.

24 (4) Within 60 days after receiving an application under subsection (1) of this section, the Water
25 Resources Department shall provide public notice of the application in the manner the department
26 determines to be the most appropriate.

27 (5) Within 60 days after the department provides public notice under subsection (4) of this sec-
28 tion, any person may submit detailed, legally obtained information in writing, requesting the de-
29 partment to deny the application for a permit on the basis that the reservoir:

30 (a) Would result in injury to an existing water right; or

31 (b) Would pose a significant detrimental impact to existing fishery resources.

32 (6) In accordance with rules established by the Water Resources Commission for an expedited

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 public interest review process for applications submitted under this section or in response to a re-
 2 quest under subsection (5) of this section, the department shall conduct a public interest review of
 3 the reservoir application. The review shall be limited to issues pertaining to:

- 4 (a) Water availability;
- 5 (b) Potential detrimental impact to existing fishery resources; and
- 6 (c) Potential injury to existing water rights.

7 (7) Within 180 days after the department receives an application for a permit under subsection
 8 (1) of this section, the department shall issue a final order granting or denying the permit or
 9 granting the permit with conditions.

10 (8) If the department issues an order under subsection (7) of this section denying the permit, the
 11 applicant may request a contested case hearing, which shall be conducted in accordance with ap-
 12 plicable provisions of ORS chapter 183.

13 (9) If the department does not find injury or impact under subsection (6) of this section and the
 14 department issues a final order under subsection (7) of this section allowing the issuance of a permit,
 15 the order shall be subject to judicial review of orders in other than contested cases as provided in
 16 ORS chapter 183.

17 (10) Notwithstanding the requirement for a survey under ORS 537.230 (4), a survey of the ap-
 18 propriation is not required for a reservoir that has a storage capacity of less than 9.2 acre-feet of
 19 water **and a dam or impoundment structure less than 10 feet in height**. For a reservoir quali-
 20 fying under this subsection, a permittee shall submit to the department a claim of beneficial use
 21 within one year after the date of completion of construction. A claim of beneficial use for a reservoir
 22 qualifying under this subsection shall require only a written affidavit signed by the permittee that
 23 includes the following:

- 24 (a) The dimensions of the reservoir **and of adjacent structures, if applicable**.
- 25 (b) The maximum capacity of the reservoir in acre-feet.
- 26 (c) A map identifying the location of the reservoir. The map shall comply with standards estab-
 27 lished by the Water Resources Commission. The map required under this subsection need not be
 28 prepared by a water right examiner certified under ORS 537.798.

29 (11) Any person applying for a secondary permit for the use of stored water from a reservoir
 30 qualifying under subsection (10) of this section shall submit a survey prepared by a water right ex-
 31 aminer certified under ORS 537.798. The survey required under this subsection shall apply to the
 32 storage reservoir and to the secondary use of the water in the reservoir.