

House Bill 3525

Sponsored by Representatives SCHAUFLER, JENSON, BOONE, BUTLER

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**.

Directs Water Resources Department to issue permits to appropriate water from Upper Columbia River for use in Columbia Basin. Allows issuance only to persons who will use water in lieu of using ground water from critical ground water areas, to recharge or replenish ground water in critical ground water areas, to support business development projects or to provide additional water for use by municipal corporation.

Limits appropriation to 500,000 acre-feet per year. Specifies allocation of appropriation between allowed uses.

Establishes Columbia River Water Account. Continuously appropriates moneys to Water Resources Department.

Repeals authority of department to issue permits on January 2, 2034. Provides that repeal of authority does not affect permits issued before January 2, 2034.

A BILL FOR AN ACT

1
2 Relating to Columbia River water; and appropriating money.

3 Whereas the agricultural region of northeast Oregon along the Columbia River has some of the
4 richest farm soils in the world but, due to restrictions on the use of water, this land is underutilized
5 and the area's vast potential for economic development has remained largely untapped; and

6 Whereas the ground water level in the Columbia Basin is receding and even severe restrictions
7 on the withdrawal of ground water have not replenished critically low ground water levels; and

8 Whereas farmers in the Columbia Basin are forced to plant low-return crops because of the lack
9 of ground water and, in many cases, have allowed their rich farm lands to sit idle; and

10 Whereas the basin plan adopted for the Columbia River includes a reservation of 30,000,000
11 acre-feet of water from the Upper Columbia River for economic use in Oregon, but Oregon uses only
12 approximately 2,000,000 acre-feet of that reservation; and

13 Whereas by withdrawing reserved water from the Upper Columbia River for recharging ground
14 water and irrigation, Oregon can create a thriving agricultural oasis in the rich soils of northeast-
15 ern Oregon, allowing farmers to cultivate high-value fruits and vegetables on an additional 100,000
16 acres, which, when processed locally, will create a substantial number of new jobs and add millions
17 of dollars in revenues and increased property values to the state's economy; and

18 Whereas the added revenues and increased property values resulting from the use of the re-
19 served water will benefit schools, public health care and services to children and families and will
20 improve public safety; and

21 Whereas the additional cultivation and processing resulting from the use of the reserved water
22 will promote vital research and development in the agricultural and food processing clusters of the
23 state's economy; and

24 Whereas appropriation of an additional 500,000 acre-feet per year from the main stem of the
25 Columbia River for 25 years is necessary to preserve, recharge and replenish ground water in crit-
26 ical ground water areas, to permit business development projects and to supplement municipal uses

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 of water; and

2 Whereas use of water from the main stem of the Columbia River in lieu of water in critical
 3 ground water areas will ensure the preservation of water resources in the Columbia Basin, permit-
 4 ting municipalities to be less dependent upon wells for drinking water; and

5 Whereas recharging and replenishing critical ground water areas in the Columbia Basin with
 6 reserved Columbia River water will benefit fish and wildlife in the Columbia Basin and the Columbia
 7 River; and

8 Whereas Oregon’s utilization of up to the 2.7 percent average annual withdrawal rate main-
 9 tained by the State of Washington will not have a detrimental effect on fish in the Columbia River
 10 or on other uses of Columbia River water; now, therefore,

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

12 **SECTION 1. As used in sections 1 to 6 of this 2007 Act:**

13 (1) **“Best management practices” means a practice or combination of practices involving**
 14 **the diversion, distribution and application of or the use of water resources that is both**
 15 **cost-effective and practicable, adopted for the purpose of achieving greater water use effi-**
 16 **ciency.**

17 (2) **“Business development project” has the meaning given that term in ORS 285B.050.**

18 (3) **“Columbia Basin” means the counties in the State of Oregon that are appurtenant to**
 19 **the Upper Columbia River or in which are located tributaries of the Upper Columbia River.**

20 (4) **“Critical ground water area” means an area designated a critical ground water area**
 21 **under ORS 537.730.**

22 (5) **“Upper Columbia River” means that portion of the Columbia River that is upstream**
 23 **from Bonneville Dam, including those areas inundated by impounded waters at full pool ele-**
 24 **vations.**

25 **SECTION 2. (1) The Water Resources Department shall issue a permit to appropriate**
 26 **water from the Upper Columbia River for use in the Columbia Basin to a person who will**
 27 **use the water:**

28 (a) **In lieu of using ground water from critical ground water areas that the person would**
 29 **otherwise be able to legally use, or that the person is unable to use because of a curtailment**
 30 **order;**

31 (b) **To recharge or replenish ground water in critical ground water areas;**

32 (c) **To support a business development project; or**

33 (d) **To provide additional water for a municipal corporation that already holds a water**
 34 **right for municipal use of water.**

35 (2) **A permit may be issued under this section only to a person who has a means to de-**
 36 **liver the water through ownership or authorized use of a water delivery system. In addition,**
 37 **a person who applies for a permit under this section for the purpose of supporting a business**
 38 **development project must:**

39 (a) **Be certified by the Water Resources Department as capable of employing best man-**
 40 **agement practices; and**

41 (b) **Execute an agreement with the department in which the person agrees to use best**
 42 **management practices in the use of the water.**

43 (3) **A permit issued under this section for the use of water from the Upper Columbia**
 44 **River in lieu of using ground water from critical ground water areas is not affected by any**
 45 **subsequent curtailment of use of water from the critical ground water areas.**

1 (4) Subject to subsection (5) of this section, the Water Resources Department shall issue
2 permits for appropriation of water until 500,000 acre-feet per year are appropriated.

3 (5) The Water Resources Department shall ensure that water appropriated under this
4 section is apportioned in the following manner to holders of permits issued under this sec-
5 tion:

6 (a) 195,000 acre-feet per year to permit holders who will use the water in lieu of ground
7 water in critical ground water areas or to recharge or replenish ground water in critical
8 ground water areas.

9 (b) 300,000 acre-feet per year to permit holders who will use the water to support busi-
10 ness development projects.

11 (c) 5,000 acre-feet per year to permit holders who will use the water to provide additional
12 water for a municipal corporation.

13 (6) ORS 537.135 (5) does not apply to the recharging of water authorized by this section.

14 **SECTION 3.** (1) The Water Resources Department may not charge a fee for the appro-
15 priation of water under sections 1 to 6 of this 2007 Act that is used for one of the purposes
16 specified in section 2 (1)(a), (b) or (d).

17 (2) The Water Resources Department shall charge an annual fee of \$10 for each acre-foot
18 of water appropriated under sections 1 to 6 of this 2007 Act that is used to support a business
19 development project and that is in excess of the water otherwise permitted for use by the
20 business development project on the effective date of this 2007 Act.

21 (3) All moneys received by the Water Resources Department under this section shall be
22 paid into the State Treasury and deposited into the General Fund to the credit of the
23 Columbia River Water Account established under section 4 of this 2007 Act.

24 **SECTION 4.** The Columbia River Water Account is established within the General Fund.
25 Moneys deposited in the account are continuously appropriated to the Water Resources De-
26 partment for the purposes of:

27 (1) Administering sections 1 to 6 of this 2007 Act; and

28 (2) Developing in-stream water conservation projects managed in coordination with
29 federally recognized Indian tribes in Oregon whose reservation or trust lands include the
30 Columbia River or Columbia Basin.

31 **SECTION 5.** The rights of a person holding a permit issued under section 2 of this 2007
32 Act are in addition to and not in lieu of any rights conferred by the Water Rights Act as
33 defined in ORS 537.010.

34 **SECTION 6.** The Water Resources Commission shall adopt rules to implement sections
35 1 to 6 of this 2007 Act.

36 **SECTION 7.** On or before April 1, 2008, all state agencies shall amend or repeal all rules
37 of the agencies as necessary to make the agencies' rules consistent with sections 1 to 6 of
38 this 2007 Act.

39 **SECTION 8.** Sections 1 to 7 of this 2007 Act are repealed January 2, 2034.

40 **SECTION 9.** The repeal of sections 1 to 7 of this 2007 Act by section 8 of this 2007 Act
41 does not affect the validity of any permits issued under section 2 of this 2007 Act before
42 January 2, 2034, and the appropriations of water made under sections 1 to 6 of this 2007 Act
43 survive the repeal of sections 1 to 7 of this 2007 Act.