

# Senate Bill 653

Sponsored by Senator NELSON

## 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 holder of or applicant for limited license for aquifer storage and recovery to apply for certificate to use water within artificial delivery system for hydroelectric purposes.

## A BILL FOR AN ACT

1  
2 Relating to aquifer restoration projects; amending ORS 543.765.

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

4 **SECTION 1.** ORS 543.765 is amended to read:

5 543.765. (1) Notwithstanding ORS 537.145 and ORS chapter 543, the holder of a water right, **or**  
6 **the holder of or applicant for issuance of a limited license for aquifer storage and recovery,**  
7 may apply to the Water Resources Department for a certificate to use water for hydroelectric pur-  
8 poses within an artificial delivery system under [*the applicant's*] **that** existing water right **or under**  
9 **the issued or pending limited license for aquifer storage and recovery.** If the proposed hydro-  
10 electric project qualifies for a Federal Energy Regulatory Commission exemption, the applicant **for**  
11 **a hydroelectric certificate** may use the expedited application process under this section.

12 (2) An application, which shall be on a form provided by the department, for a hydroelectric  
13 certificate under this section must include:

14 (a) The certificate number, or decree reference if no confirming certificate has been issued, of  
15 the applicant's existing water right associated with the proposed hydroelectric project.

16 (b) A copy of a Federal Energy Regulatory Commission exemption application, if applicable.

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

19 (d) A statement by the applicant that the amount of water used by the proposed hydroelectric  
20 project will not exceed the amount authorized and used under the applicant's existing water right  
21 for beneficial use without waste.

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

23 (f) An application processing fee of \$500. The department shall deposit fees collected under this  
24 section into the Water Resources Department Hydroelectric Fund established pursuant to ORS  
25 536.015.

26 (g) A map or drawing and all other data concerning the proposed hydroelectric project, as may  
27 be prescribed by the department. The map or drawing must be of sufficient quality and scale to es-  
28 tablish the location of the existing point of diversion and the proposed location of the hydroelectric  
29 facility.

30 (h) If the water to be used for the proposed hydroelectric project is delivered by a public entity  
31 other than the applicant for a certificate under this section, a statement from that entity that the

**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 entity will be able to deliver water as described in the application.

2 (i) Evidence that the water has been used over the past five years according to the terms and  
3 conditions of the applicant's existing water right described in paragraph (a) of this subsection.

4 (3) If an applicant provides the information required by subsection (2) of this section:

5 (a) The Water Resources Department shall provide notice to both the State Department of Fish  
6 and Wildlife and the public, and provide a 30-day period for public comment.

7 (b) The Water Resources Department may issue a final order and certificate to use water for  
8 hydroelectric purposes upon making a final determination that the proposed hydroelectric use does  
9 not impair, or is not detrimental to, the public interest in the manner provided in ORS 537.170 (8).

10 (4) If the Water Resources Department determines that public interest issues have been identi-  
11 fied, the department shall issue a final order denying the application. The department shall also is-  
12 sue a final order denying the application if the department identifies issues related to the public  
13 interest. If the applicant does not appeal the final order as provided in ORS chapter 183 and, within  
14 one year of the department's final order denying the applicant's application, files an application with  
15 the department for a preliminary permit to operate a hydroelectric project as provided in ORS  
16 537.130 and 543.210, the applicant shall receive a credit toward the applicant's application fees in  
17 the amount of \$500.

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

19 (a) Fish screens, by-pass devices and fish passages as required by the State Department of Fish  
20 and Wildlife.

21 (b) That use of water be limited to periods when the applicant's existing water right is put to  
22 beneficial use without waste and that the amount used is not greater than the quantity of water  
23 diverted to satisfy the authorized specific use under the existing water right described in subsection  
24 (2)(a) of this section.

25 (c) That use of water be limited by rate, duty, season and any other limitations of the applicant's  
26 existing water right described in subsection (2)(a) of this section.

27 (d) That the applicant measure and report the quantity of water diverted.

28 *[(e) Any other conditions the Water Resources Department deems necessary to protect the public  
29 interest.]*

30 *[(f)]* (e) That the restrictions established in ORS 543.660 shall apply as conditions of use to a  
31 certificate issued under this section to a district as defined in ORS 543.655.

32 *[(g)]* (f) That a certificate issued under this section shall be invalidated upon a change in the  
33 point of diversion of the existing water right described in subsection (2)(a) of this section.

34 *[(h) The Water Resources Department shall conduct a review of certificates issued under this sec-  
35 tion and shall issue a final order and a superseding certificate that corresponds to any changes or  
36 adjustments made to the applicant's existing water right described in subsection (2)(a) of this section.]*

37 *[(i)]* (g) That the right to use water under a certificate issued under this section is invalidated  
38 if the Federal Energy Regulatory Commission exemption related to the certificate is canceled or  
39 invalidated.

40 **(h) Any other conditions the Water Resources Department deems necessary to protect  
41 the public interest.**

42 **(6) The Water Resources Department shall conduct a review of certificates issued under  
43 this section and shall issue a final order and a superseding certificate that corresponds to  
44 any changes or adjustments made to the applicant's existing water right described in sub-  
45 section (2)(a) of this section.**

