

A-Engrossed
Senate Bill 788

Ordered by the Senate May 6
Including Senate Amendments dated May 6

Sponsored by Senator DINGFELDER, Representative SHIELDS; Senators MONROE, ROSENBAUM, Representatives BAILEY, DEMBROW, WITT

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.

[Makes legislative findings regarding peak and ecological flows. Requires Water Resources Department to ensure that water storage project contains provisions to ensure protection of peak and ecological flows necessary to maintain stream morphology and habitat before department issues certain permits or limited licenses.]

Imposes \$250 recording fee for specified ground water uses that are exempt from certain regulations. Requires Water Resources Department to collect fee. Requires department to deposit fee to credit of Water Resources Department Water Right Operating Fund for specified purposes.

Requires owner of land on which well is drilled for ground water use that is exempt from certain regulations to provide department with map showing exact location of well. Specifies procedures by which map must be provided.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to water; creating new provisions; amending ORS 537.545 and 540.045; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 537.545 is amended to read:

6 537.545. (1) No registration, certificate of registration, application for a permit, permit, certif-
7 icate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is
8 required for the use of ground water for:

9 (a) Stockwatering purposes;

10 (b) Watering any lawn or noncommercial garden not exceeding one-half acre in area;

11 (c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located
12 within a critical ground water area established pursuant to ORS 537.730 to 537.740;

13 (d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;

14 (e) Down-hole heat exchange purposes;

15 (f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day;

16 or

17 (g) Land application, so long as the ground water:

18 (A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625
19 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water
20 for confined animal feeding purposes;

21 (B) Is reused for irrigation purposes and the period of irrigation is a period during which the
22 reused water has never been discharged to the waters of the state; and

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 (C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the
2 State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal
3 system or ORS 468B.215 to operate a confined animal feeding operation.

4 (2) *[The use of]* **A ground water [for a] use for a purpose that is** exempt under subsection (1)
5 of this section, to the extent that *[it]* **the use** is beneficial, constitutes a right to appropriate ground
6 water equal to that established by a ground water right certificate issued under ORS 537.700.

7 (3) Except for the use of water under subsection (1)(g) of this section, the Water Resources
8 Commission by rule may require any person or public agency using ground water for any such
9 purpose to furnish information with regard to such ground water and the use thereof. For a use of
10 water described in subsection (1)(g) of this section, the Department of Environmental Quality or the
11 State Department of Agriculture shall provide to the Water Resources Department a copy of the
12 permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for
13 reuse. The permit shall provide the information regarding the place of use of such water and the
14 nature of the beneficial reuse.

15 *[(3)]* (4) If it is necessary for the Water Resources Department to regulate the use or distribution
16 of ground water, including uses **for purposes that are** exempt under subsection (1) of this section,
17 the department shall use as a priority date for the exempt uses the date indicated in the log for the
18 well filed with the department under ORS 537.765 or other documentation provided by the well
19 owner showing when water use began.

20 (5) **The Water Resources Department shall collect a fee of \$250 for recording a ground**
21 **water use for a purpose that is exempt under subsection (1) of this section if the use is for**
22 **one or more of the purposes described in subsection (1)(b), (d) or (f) of this section. Moneys**
23 **from fees collected under this subsection shall be deposited to the credit of the Water Re-**
24 **sources Department Water Right Operating Fund. Notwithstanding ORS 536.009, moneys**
25 **deposited to the operating fund under this subsection shall be used only for the purposes of**
26 **conducting ground water studies, carrying out ground water monitoring and the adminis-**
27 **tration and enforcement of this subsection and subsections (3), (6) and (7) of this section.**

28 (6) **Except as provided in this subsection, the owner of land on which a well is drilled to**
29 **allow ground water use for a purpose that is exempt under subsection (1) of this section shall**
30 **provide the Water Resources Department with a map showing the exact location of the well**
31 **on the tax lot. The landowner shall provide a map required by this subsection to the de-**
32 **partment no later than 30 days after the well is completed. The map must be prepared by a**
33 **licensed water well constructor, certified water right examiner or registered land surveyor**
34 **in accordance with standards established by the department. A landowner is not required to**
35 **submit a map for a well that replaces an existing well.**

36 (7) **The commission shall adopt rules to implement, administer and enforce subsection (6)**
37 **of this section.**

38 **SECTION 2.** ORS 540.045 is amended to read:

39 540.045. (1) Each watermaster shall:

40 (a) Regulate the distribution of water among the various users of water from any natural surface
41 or ground water supply in accordance with the users' existing water rights of record in the Water
42 Resources Department.

43 (b) Upon the request of the users, distribute water among the various users under any partner-
44 ship ditch, pipeline or well or from any reservoir, in accordance with the users' existing water rights
45 of record in the department.

1 (c) Divide the waters of the natural surface and ground water sources and other sources of
2 water supply among the canals, ditches, pumps, pipelines and reservoirs taking water from the
3 source for beneficial use, by regulating, adjusting and fastening the headgates, valves or other con-
4 trol works at the several points of diversion of surface water or the several points of appropriation
5 of ground water, according to the users' relative entitlements to water.

6 (d) Attach to the headgate, valve or other control works the watermaster regulates under par-
7 agraph (c) of this subsection, a written notice dated and signed by the watermaster, setting forth
8 that the headgate, valve or other control works has been properly regulated and is wholly under the
9 control of the watermaster.

10 (e) Perform any other duties the Water Resources Director may require.

11 (2) When a watermaster must rely on a well log or other documentation to regulate the use or
12 distribution of ground water, the regulation shall be in accordance with ORS 537.545 [(3)] (4).

13 (3) For purposes of regulating the distribution or use of water, any stored water released in
14 excess of the needs of water rights calling on that stored water shall be considered natural flow,
15 unless the release is part of a water exchange under the control of, and approved by, the
16 watermaster.

17 (4) As used in this section, "existing water rights of record" includes all completed permits,
18 certificates, licenses and ground water registration statements filed under ORS 537.605 and related
19 court decrees.

20 **SECTION 3. (1) ORS 537.545 (5) applies to the recording of a water use for which a pri-**
21 **ority date is not established under ORS 537.545 (4) prior to the effective date of this 2009 Act.**

22 **(2) ORS 537.545 (6) applies to wells completed on or after the effective date of this 2009**
23 **Act.**

24 **SECTION 4. This 2009 Act being necessary for the immediate preservation of the public**
25 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
26 **on its passage.**

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