

# House Bill 3661

Sponsored by COMMITTEE ON ENVIRONMENT AND WATER

## 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**.

Reduces amount of ground water for single domestic use exempted from registration, permit, certificate and other requirements. Limits watering of lawns and noncommercial gardening areas by inclusion in gallon limits for domestic use and use for single industrial or commercial purpose. Authorizes Water Resources Commission to adopt rules requiring person to obtain permit before initiating certain otherwise exempted uses in area classified or reclassified to limit new ground water use, withdrawn from appropriation for nonexempt purposes or located in designated critical ground water area.

Applies to ground water use for exempted purpose initiated on or after effective date of Act.

## A BILL FOR AN ACT

1  
2 Relating to exempt ground water uses; creating new provisions; and amending ORS 536.900, 537.545  
3 and 540.045.

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) **Except as provided in subsection (2) of this section**, no registration, certificate  
7 of registration, application for a permit, permit, certificate of completion or ground water right  
8 certificate under ORS 537.505 to 537.795 and 537.992 is 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)*] **(b)** 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 **(c) Single domestic purposes in an amount not exceeding 5,000 gallons per day, including**  
15 **the watering of any lawn or noncommercial garden areas that in total do not exceed one-half**  
16 **acre;**

17 **(d) Group domestic purposes in an amount not exceeding 15,000 gallons per day, including**  
18 **the watering of any lawn or noncommercial garden areas that in total do not exceed one-half**  
19 **acre;**

20 (e) Down-hole heat exchange purposes;

21 (f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons [*a*  
22 *day*] **per day, including the watering of any lawn or noncommercial garden areas that in total**  
23 **do not exceed one-half acre; or**

24 (g) Land application, [*so long as*] **if** the ground water:

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

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

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

5 **(2) The Water Resources Commission may require that a person obtain a permit before**  
 6 **initiating the use of ground water for a purpose described in subsection (1) of this section,**  
 7 **if the source of ground water supply:**

8 (a) **Has been classified or reclassified under ORS 536.340 to limit new ground water uses;**

9 (b) **Is subject to an order of withdrawal issued under ORS 536.410 that does not prohibit**  
 10 **appropriation for the exempt purpose; or**

11 (c) **Notwithstanding subsection (1)(b) of this section, is located in an area that has been**  
 12 **designated as a critical ground water area by a rule adopted under ORS 537.730.**

13 [(2)] (3) A ground water use for a purpose that is exempt under subsection (1) of this section,  
 14 to the extent that the use is beneficial, constitutes a right to appropriate ground water equal to that  
 15 established by a ground water right certificate issued under ORS 537.700.

16 [(3)] (4) Except for the use of water under subsection (1)(g) of this section, the Water Resources  
 17 Commission by rule may require any person or public agency using ground water for any such  
 18 purpose to furnish information with regard to such ground water and the use *[thereof]* **made of the**  
 19 **ground water.** For a use of water described in subsection (1)(g) of this section, the Department of  
 20 Environmental Quality or the State Department of Agriculture shall provide to the Water Resources  
 21 Department a copy of the permit issued under ORS 468B.050 or 468B.215 authorizing the land ap-  
 22 plication of ground water for reuse. The permit shall provide the information regarding the place  
 23 of use of such water and the nature of the beneficial reuse.

24 [(4)] (5) If it is necessary for the Water Resources Department to regulate the use or distribution  
 25 of ground water, including uses for purposes that are exempt under subsection (1) of this section,  
 26 the department shall use as a priority date for the exempt uses the date indicated in the log for the  
 27 well filed with the department under ORS 537.765 or other documentation provided by the well  
 28 owner showing when water use began.

29 [(5)] (6) The owner of land on which a well is drilled to allow ground water use for a purpose  
 30 that is exempt under subsection (1) of this section shall provide the Water Resources Department  
 31 with a map showing the exact location of the well on the tax lot. The landowner shall provide a  
 32 map required by this subsection to the department no later than 30 days after the well is completed.  
 33 The map must be prepared in accordance with standards established by the department.

34 [(6)] (7) The owner of land on which a well described in subsection [(5)] (6) of this section is  
 35 located shall file the exempt ground water use with the Water Resources Department for recording.  
 36 The filing must be accompanied by the fee described in subsection [(7)] (8) of this section. The filing  
 37 must be received by the department no later than 30 days after the well is completed.

38 [(7)] (8) The Water Resources Department shall collect a fee of \$300 for recording an exempt  
 39 ground water use under subsection [(6)] (7) of this section. Moneys from fees collected under this  
 40 subsection shall be deposited to the credit of the Water Resources Department Water Right Oper-  
 41 ating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall  
 42 be used for the purposes of evaluating ground water supplies, conducting ground water studies,  
 43 carrying out ground water monitoring, processing ground water data and the administration and  
 44 enforcement of this subsection and subsections [(3), (5), (6) and (8)] (4), (6), (7) and (9) of this sec-  
 45 tion.

1        [(8)] (9) The Water Resources Commission:

2        (a) **May adopt rules to implement, administer and enforce subsection (2) of this section;**  
 3        **and**

4        (b) Shall adopt rules to implement, administer and enforce subsections [(5) to (7)] (6) to (8) of  
 5 this section.

6        **SECTION 2.** ORS 536.900 is amended to read:

7        536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources  
 8 Commission may impose a civil penalty on a person for any of the following:

9        (a) Violation of any of the terms or conditions of a permit, certificate or license issued under  
 10 ORS chapters 536 to 543A.

11        (b) Violation of ORS 537.130 or 537.535.

12        (c) Violation of ORS 537.545 [(5) or] (6) **or (7)** or of a rule described in ORS 537.545 [(8)] (9).

13        (d) Violation of any rule or order of the Water Resources Commission that pertains to well  
 14 maintenance.

15        (e) Violation of ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440,  
 16 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

17        (2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130,  
 18 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

19        (3) In the event the petitioner knowingly misrepresents the map and petition required in ORS  
 20 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established  
 21 by the commission. In addition, the petition and map shall be amended to correct the error at the  
 22 petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

23        (4) A civil penalty may not be imposed until the commission prescribes a reasonable time to  
 24 eliminate the violation. The commission shall notify the violator of the time allowed to correct a  
 25 violation within five days after the commission first becomes aware of the violation.

26        (5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the  
 27 use of water under ORS 540.150 may not be considered a violation under subsection (1) of this sec-  
 28 tion.

29        **SECTION 3.** ORS 540.045 is amended to read:

30        540.045. (1) Each watermaster shall:

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

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

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

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

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

2 (2) When a watermaster must rely on a well log or other documentation to regulate the use or  
3 distribution of ground water, the regulation shall be in accordance with ORS 537.545 [~~4~~] (5).

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

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

11 **SECTION 4. The amendments to ORS 537.545 by section 1 of this 2010 Act apply to the**  
12 **use of ground water for a purpose described in ORS 537.545 (1) that is initiated on or after**  
13 **the effective date of this 2010 Act.**

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