

HOUSE AMENDMENTS TO HOUSE BILL 2983

By COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 5

1 On page 1 of the printed bill, line 3, after “537.348” insert “and section 3, chapter 205, Oregon
2 Laws 2001”.

3 Delete lines 5 through 29 and delete pages 2 through 8 and insert:

4 “**SECTION 1.** ORS 536.050 is amended to read:

5 “536.050. (1) The Water Resources Department may collect the following fees in advance:

6 “(a) For examining an application for a permit:

7 “(A) To appropriate water, except as provided under ORS 543.280 for an application for a hy-
8 droelectric project:

9 “(i) A base fee of \$700 for an appropriation of water through a single use, point of diversion or
10 point of appropriation;

11 “(ii) \$250 for the first second-foot or fraction thereof appropriated under the permit;

12 “(iii) \$250 for each additional second-foot or fraction thereof appropriated under the permit;

13 “(iv) \$250 for each additional use, point of diversion or point of appropriation included in the
14 application;

15 “(v) If appropriating stored water, \$25 for the first acre-foot or fraction thereof up to 20 acre-
16 feet, plus \$1 for each additional acre-foot or fraction thereof; and

17 “(vi) If appropriating ground water, in addition to any other fees, \$300 for each application filed.

18 “(B) To store water under ORS 537.400 or 537.534 (4):

19 “(i) A base fee of \$700;

20 “(ii) \$25 for the first acre-foot or fraction thereof up to 20 acre-feet, plus \$1 for each additional
21 acre-foot or fraction thereof; and

22 “(iii) \$100 for each additional storage location.

23 “(C) To exclusively appropriate stored water:

24 “(i) A base fee of \$400; and

25 “(ii) \$25 for the first acre-foot or fraction thereof up to 20 acre-feet, plus \$1 for each additional
26 acre-foot or fraction thereof.

27 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to appropriate or store
28 water:

29 “(A) A base fee of \$400 for recording the permit; and

30 “(B) An additional fee of \$500 if the permit is issued pursuant to a final order that contains
31 provisions requested by the applicant for mitigating impacts to the proposed water source.

32 “(c) For filing and recording the assignment or partial assignment of a water right application,
33 permit or license under ORS 537.220 or 537.635, \$75.

34 “(d) For copying records in the department, \$2 for the first page and 50 cents for each additional
35 page.

1 “(e) For certifying copies, documents, records or maps, \$10 for each certificate.
2 “(f) For a blueprint copy of any map or drawing, the actual cost of the work.
3 “(g) For a computer-generated map, the actual cost of the work.
4 “(h) For examining an application for approval of a change to an existing water right or permit:
5 “(A) A base fee of \$900 for a change to a single water right or permit;
6 “(B) \$700 for each additional type of change requested;
7 “(C) For a request for a change in place of use or type of use or for a water exchange under
8 ORS 540.533, \$250 for each second-foot or fraction thereof requested beyond the first second-foot;
9 “(D) \$400 for each additional water right or permit included in the application; and
10 “(E) An additional fee of \$300 per application, if the application is for an additional point of
11 appropriation, a change in a point of appropriation or a change from surface water to ground water
12 or for substitution as described in ORS 540.524.
13 “(i) For examining an application for a temporary change in place of use under ORS 540.523, for
14 a temporary transfer under ORS 540.585 or for a temporary change in place of use, a change in the
15 point of diversion to allow for the appropriation of ground water or a change of a primary right to
16 a supplemental right under ORS 540.570, a base fee of \$600 for the first water right or permit, plus
17 \$200 for each additional water right or permit included in the application and:
18 “(A) For nonirrigation uses, \$150 for each second-foot or fraction thereof requested beyond the
19 first second-foot; or
20 “(B) For irrigation uses, \$2 per acre of land irrigated or, if the application and required map
21 are submitted to the department in a department-approved digital format, 50 cents per acre of land
22 irrigated.
23 “(j) For submitting a protest to the department:
24 “(A) \$600 if the protest is by a nonapplicant; and
25 “(B) \$300 if the protest is by an applicant.
26 “(k) For filing an application for extension of time within which irrigation or other works shall
27 be completed or a water right perfected, \$500.
28 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee established by rule by the
29 Water Resources Commission.
30 “(m) For filing, examining and certifying a petition under ORS 541.329, \$300 plus 10 cents per
31 acre of water involved in the application. For purposes of computing this fee, when any acreage
32 within a quarter quarter of a section is involved, the 10 cents per acre shall apply to all acres in
33 that quarter quarter of a section. Notwithstanding the fee amount established in this paragraph, a
34 district notifying the department under ORS 541.327 (4) shall pay the actual cost of filing, examining
35 and certifying the petition.
36 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120, \$150.
37 “(o) For participating in a contested case proceeding under ORS 537.170, 537.622 or 543A.130,
38 \$350.
39 “(p) Except for an applicant, for obtaining a copy of both a proposed final order and a final or-
40 der for a water right application under ORS 537.140 to 537.252, 537.505 to 537.795 or 543A.005 to
41 543A.300 or an extension issued under ORS 537.230, 537.248 or 537.630, \$20.
42 “(q) For examining an application to store water under ORS 537.409:
43 “(A) A base fee of \$300; and
44 “(B) \$25 for each acre-foot or fraction thereof.
45 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075, the amount established

1 by the Water Resources Director under ORS 543A.410.

2 “(s) For examining an application for a substitution made under ORS 540.524:

3 “(A) A base fee of \$630 for the first well substitution; and

4 “(B) A fee of \$300 for each additional well substitution.

5 “(t) For examining an application for an allocation of conserved water under ORS 537.455 to

6 537.500:

7 “(A) A base fee of \$850 for the first water right that is part of the allocation; and

8 “(B) An additional fee of \$300 for each water right that is part of the allocation beyond the first

9 water right.

10 “(u) For submitting a water management and conservation plan pursuant to rules of the com-

11 mission:

12 “(A) \$400, if the plan is submitted by an agricultural water supplier;

13 “(B) \$800, if the plan is submitted by a municipal water supplier serving a population of 1,000

14 or fewer persons; or

15 “(C) \$1,600, if the plan is submitted by a municipal water supplier serving a population of more

16 than 1,000 persons.

17 “(v) For examining a new application for an in-stream water right lease under ORS 537.348:

18 “(A) \$400 for an application for a lease with four or more landowners or four or more water

19 rights; or

20 “(B) \$250 for all other applications.

21 “(w) For examining an application for an in-stream water right lease renewal, \$100, **except as**

22 **provided in subsection (3)(b) of this section.**

23 “(x) For submitting a claim of beneficial use under a permit having a priority date of July 9,

24 1987, or later, \$150.

25 “(y) For submitting a request no later than 60 days after cancellation of a permit under ORS

26 537.260 to reinstate the permit, \$400.

27 “(z) For submitting a request for a basin program exception under ORS 536.295, \$500.

28 “(2)(a) The department may charge a dam owner an annual fee based upon the dam’s hazard

29 rating as determined by the department. The fees the department may charge the dam owner are:

30 “(A) \$75 for a dam with a low hazard rating.

31 “(B) \$150 for a dam with a significant hazard rating.

32 “(C) \$500 for a dam with a high hazard rating.

33 “(D) If the dam owner fails to pay an annual fee on or before six months after the billing date,

34 a late fee of \$100.

35 “(b) If a dam owner fails to pay an annual fee or a late fee charged by the department, the de-

36 partment may, after giving the dam owner notice by certified mail, place a lien on the real property

37 where the dam is located for the fees owed by the dam owner.

38 “(3) Notwithstanding the fees established under subsection (1) of this section[,]:

39 “(a) The commission may establish lower examination and permit fees by rule for:

40 “[a] (A) The right to appropriate water for a storage project of five acre-feet or less; or

41 “[b] (B) The right to appropriate water for the purpose of allowing the applicant to water

42 livestock outside of a riparian area, as that term is defined in ORS 541.351.

43 “(b) **The department may not collect the fee for an application described under subsection**

44 **(1)(w) of this section unless:**

45 “(A) **The department determines that the applicant is receiving compensation under the**

1 **in-stream water right lease; or**

2 **“(B) Before the end of the lease renewal period covered by the application:**

3 **“(i) The applicant permanently withdraws from all activities by which the applicant**
4 **makes beneficial use of the existing water right, as determined under rules of the commis-**
5 **sion; or**

6 **“(ii) The ownership of the property appurtenant to the in-stream water right lease**
7 **transfers by sale, devise or other means to a person other than the applicant.**

8 “(4)(a) The director may refund all or part of a fee paid to the department under this section if
9 the director determines that a refund of the fee is appropriate in the interests of fairness to the
10 public or necessary to correct an error of the department.

11 “(b) The director may refund all or part of the protest fee described in subsection (1)(j) of this
12 section to the legal owner or occupant who filed a protest under ORS 540.641 if an order of the
13 [*Water Resources*] commission establishes that all or part of a water right has not been canceled or
14 modified under ORS 540.610 to 540.650.

15 “(5) The director may waive all or part of a fee for a change to a water right permit under ORS
16 537.211 (4), a change to a water right subject to transfer under ORS 540.520 or 540.523 or an allo-
17 cation of conserved water under ORS 537.470, if the change or allocation of conserved water is:

18 “(a) Made pursuant to ORS 537.348;

19 “(b) Necessary to complete a project funded under ORS 541.375; or

20 “(c) Approved by the State Department of Fish and Wildlife as a change or allocation of con-
21 served water that will result in a net benefit to fish and wildlife habitat.

22 “(6) Notwithstanding the fees established pursuant to this section, the commission may adopt
23 by rule reduced fees for persons submitting materials to the department in a digital format approved
24 by the department.

25 “(7) All moneys received under this section, less any amounts refunded under subsection (4) of
26 this section, shall be deposited in the Water Resources Department Water Right Operating Fund.

27 “(8) Notwithstanding subsection (7) of this section, all fees received by the department for power
28 purposes under ORS 543.280 shall be deposited in the Water Resources Department Hydroelectric
29 Fund established by ORS 536.015.

30 **“SECTION 2.** ORS 536.050, as amended by section 12, chapter 819, Oregon Laws 2009, is
31 amended to read:

32 “536.050. (1) The Water Resources Department may collect the following fees in advance:

33 “(a) For examining an application for a permit:

34 “(A) To appropriate water, except as provided under ORS 543.280 for an application for a hy-
35 droelectric project:

36 “(i) A base fee of \$500 for an appropriation of water through a single use, point of diversion or
37 point of appropriation;

38 “(ii) \$200 for the first second-foot or fraction thereof appropriated under the permit;

39 “(iii) \$100 for each additional second-foot or fraction thereof appropriated under the permit;

40 “(iv) \$200 for each additional use, point of diversion or point of appropriation included in the
41 application; and

42 “(v) If appropriating stored water, \$20 for the first acre-foot or fraction thereof up to 20 acre-
43 feet, plus \$1 for each additional acre-foot or fraction thereof.

44 “(B) To store water under ORS 537.400 or 537.534 (4):

45 “(i) A base fee of \$500; and

1 “(ii) \$20 for the first acre-foot or fraction thereof up to 20 acre-feet, plus \$1 for each additional
2 acre-foot or fraction thereof.

3 “(C) To exclusively appropriate stored water:

4 “(i) A base fee of \$250; and

5 “(ii) \$15 for the first acre-foot or fraction thereof up to 10 acre-feet, plus \$1 for each additional
6 acre-foot or fraction thereof.

7 “(b) For recording a permit to appropriate or store water, \$300.

8 “(c) For filing and recording the assignment or partial assignment of a water right application,
9 permit or license under ORS 537.220 or 537.635, \$50.

10 “(d) For copying records in the department, \$2 for the first page and 50 cents for each additional
11 page.

12 “(e) For certifying copies, documents, records or maps, \$10 for each certificate.

13 “(f) For a blueprint copy of any map or drawing, the actual cost of the work.

14 “(g) For a computer-generated map, the actual cost of the work.

15 “(h) For examining an application for approval of a change to an existing water right or permit:

16 “(A) A base fee of \$400 for a change to a single water right or permit;

17 “(B) \$400 for each additional type of change requested;

18 “(C) For a request for a change in place of use or type of use or for a water exchange under
19 ORS 540.533, \$200 for each second-foot or fraction thereof requested beyond the first second-foot;
20 and

21 “(D) \$200 for each additional water right or permit included in the application.

22 “(i) For examining an application for a temporary change in place of use under ORS 540.523, for
23 a temporary transfer under ORS 540.585 or for a temporary change in place of use, a change in the
24 point of diversion to allow for the appropriation of ground water or a change of a primary right to
25 a supplemental right under ORS 540.570, a base fee of \$200 for the first water right or permit, plus
26 \$50 for each additional water right or permit included in the application and:

27 “(A) For nonirrigation uses, \$80 for each second-foot or fraction thereof requested beyond the
28 first second-foot; or

29 “(B) For irrigation uses, \$1 per acre of land irrigated or, if the application and required map
30 are submitted to the department in a department-approved digital format, 25 cents per acre of land
31 irrigated.

32 “(j) For submitting a protest to the department, \$350.

33 “(k) For filing an application for extension of time within which irrigation or other works shall
34 be completed or a water right perfected, \$350.

35 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee established by rule by the
36 Water Resources Commission.

37 “(m) For filing, examining and certifying a petition under ORS 541.329, \$250 plus 10 cents per
38 acre of water involved in the application. For purposes of computing this fee, when any acreage
39 within a quarter quarter of a section is involved, the 10 cents per acre shall apply to all acres in
40 that quarter quarter of a section. Notwithstanding the fee amount established in this paragraph, a
41 district notifying the department under ORS 541.327 (4) shall pay the actual cost of filing, examining
42 and certifying the petition.

43 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120, \$100.

44 “(o) For participating in a contested case proceeding under ORS 537.170, 537.622 or 543A.130,
45 \$250.

1 “(p) Except for an applicant, for obtaining a copy of both a proposed final order and a final or-
2 der for a water right application under ORS 537.140 to 537.252, 537.505 to 537.795 or 543A.005 to
3 543A.300 or an extension issued under ORS 537.230, 537.248 or 537.630, \$10.

4 “(q) For examining an application to store water under ORS 537.409:

5 “(A) A base fee of \$80; and

6 “(B) \$20 for each acre-foot or fraction thereof.

7 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075, the amount established
8 by the Water Resources Director under ORS 543A.410.

9 “(s) For examining an application for a substitution made under ORS 540.524, \$280.

10 “(t) For examining an application for an allocation of conserved water under ORS 537.455 to
11 537.500, \$700.

12 “(u) For submitting a water management and conservation plan pursuant to rules of the com-
13 mission:

14 “(A) \$250, if the plan is submitted by an agricultural water supplier;

15 “(B) \$500, if the plan is submitted by a municipal water supplier serving a population of 1,000
16 or fewer persons; or

17 “(C) \$1,000, if the plan is submitted by a municipal water supplier serving a population of more
18 than 1,000 persons.

19 “(v) For examining a new application for an in-stream water right lease under ORS 537.348:

20 “(A) \$200 for an application for a lease with four or more landowners or four or more water
21 rights; or

22 “(B) \$100 for all other applications.

23 “(w) For examining an application for an in-stream water right lease renewal, \$50, **except as**
24 **provided in subsection (2)(b) of this section.**

25 “(2) Notwithstanding the fees established under subsection (1) of this section[,]:

26 “(a) The commission may establish lower examination and permit fees by rule for:

27 “[a] (A) The right to appropriate water for a storage project of five acre-feet or less; or

28 “[b] (B) The right to appropriate water for the purpose of allowing the applicant to water
29 livestock outside of a riparian area, as that term is defined in ORS 541.351.

30 “(b) **The department may not collect the fee for an application described under subsection**
31 **(1)(w) of this section unless:**

32 “(A) **The department determines that the applicant is receiving compensation under the**
33 **in-stream water right lease; or**

34 “(B) **Before the end of the lease renewal period covered by the application:**

35 “(i) **The applicant permanently withdraws from all activities by which the applicant**
36 **makes beneficial use of the existing water right, as determined under rules of the commis-**
37 **sion; or**

38 “(ii) **The ownership of the property appurtenant to the in-stream water right lease**
39 **transfers by sale, devise or other means to a person other than the applicant.**

40 “(3)(a) The director may refund all or part of a fee paid to the department under this section if
41 the director determines that a refund of the fee is appropriate in the interests of fairness to the
42 public or necessary to correct an error of the department.

43 “(b) The director may refund all or part of the protest fee described in subsection (1)(j) of this
44 section to the legal owner or occupant who filed a protest under ORS 540.641 if an order of the
45 [Water Resources] commission establishes that all or part of a water right has not been canceled or

1 modified under ORS 540.610 to 540.650.

2 “(4) The director may waive all or part of a fee for a change to a water right permit under ORS
3 537.211 (4), a change to a water right subject to transfer under ORS 540.520 or 540.523 or an allo-
4 cation of conserved water under ORS 537.470, if the change or allocation of conserved water is:

5 “(a) Made pursuant to ORS 537.348;

6 “(b) Necessary to complete a project funded under ORS 541.375; or

7 “(c) Approved by the State Department of Fish and Wildlife as a change or allocation of con-
8 served water that will result in a net benefit to fish and wildlife habitat.

9 “(5) Notwithstanding the fees established pursuant to this section, the commission may adopt
10 by rule reduced fees for persons submitting materials to the department in a digital format approved
11 by the department.

12 “(6) All moneys received under this section, less any amounts refunded under subsection (3) of
13 this section, shall be deposited in the Water Resources Department Water Right Operating Fund.

14 “(7) Notwithstanding subsection (6) of this section, all fees received by the department for power
15 purposes under ORS 543.280 shall be deposited in the Water Resources Department Hydroelectric
16 Fund established by ORS 536.015.

17 “**SECTION 3.** ORS 537.348 is amended to read:

18 “537.348. (1) Any person may purchase or lease all or a portion of an existing water right or
19 accept a gift of all or a portion of an existing water right for conversion to an in-stream water right.
20 Any water right converted to an in-stream water right under this section shall retain the priority
21 date of the water right purchased, leased or received as a gift. At the request of the person the
22 Water Resources Commission shall issue a new certificate for the in-stream water right showing the
23 original priority date of the purchased, gifted or leased water right. A person who transfers a water
24 right by purchase, lease or gift under this subsection shall comply with the requirements for the
25 transfer of a water right under ORS 540.505 to 540.585.

26 “(2) Any person who has an existing water right may lease all or a portion of the existing water
27 right for use as an in-stream water right for a specified period without the loss of the original pri-
28 ority date. During the term of such lease, the use of the water right as an in-stream water right
29 shall be considered a beneficial use. **The in-stream water right lease may have a term of not**
30 **more than five years. Each renewal of the lease may have a term of not more than five**
31 **years. This subsection does not limit the number of times that a lease may be renewed.**

32 “(3) A lease of all or a portion of an existing water right for use as an in-stream water right
33 under subsection (2) of this section may allow the split use of the water between the existing water
34 right and the in-stream right during the same water or calendar year provided:

35 “(a) The uses are not concurrent; and

36 “(b) The holders of the water rights measure and report to the Water Resources Department the
37 use of the existing water right and the in-stream water right.

38 “(4) **A person applying for the renewal of an in-stream water right lease and seeking to**
39 **qualify under ORS 536.050 (3)(b) for exemption from the renewal fee must provide with the**
40 **renewal application a sworn statement that the person is not receiving compensation under**
41 **the lease. The statement must be in a form acceptable to the department. A person who has**
42 **an in-stream water right lease and under ORS 536.050 (3)(b) has not paid a renewal fee for**
43 **the lease must notify the department of any temporary or permanent change to the lease**
44 **no later than one year before the change occurs.**

45 “**SECTION 4.** ORS 537.348, as amended by section 3 of this 2011 Act, is amended to read:

1 “537.348. (1) Any person may purchase or lease all or a portion of an existing water right or
2 accept a gift of all or a portion of an existing water right for conversion to an in-stream water right.
3 Any water right converted to an in-stream water right under this section shall retain the priority
4 date of the water right purchased, leased or received as a gift. At the request of the person the
5 Water Resources Commission shall issue a new certificate for the in-stream water right showing the
6 original priority date of the purchased, gifted or leased water right. A person who transfers a water
7 right by purchase, lease or gift under this subsection shall comply with the requirements for the
8 transfer of a water right under ORS 540.505 to 540.585.

9 “(2) Any person who has an existing water right may lease all or a portion of the existing water
10 right for use as an in-stream water right for a specified period without the loss of the original pri-
11 ority date. During the term of such lease, the use of the water right as an in-stream water right
12 shall be considered a beneficial use. The in-stream water right lease may have a term of not more
13 than five years. Each renewal of the lease may have a term of not more than five years. This sub-
14 section does not limit the number of times that a lease may be renewed.

15 “(3) A lease of all or a portion of an existing water right for use as an in-stream water right
16 under subsection (2) of this section may allow the split use of the water between the existing water
17 right and the in-stream right during the same water or calendar year provided:

18 “(a) The uses are not concurrent; and

19 “(b) The holders of the water rights measure and report to the Water Resources Department the
20 use of the existing water right and the in-stream water right.

21 “(4) A person applying for the renewal of an in-stream water right lease and seeking to qualify
22 under ORS 536.050 [(3)(b)] **(2)(b)** for exemption from the renewal fee must provide with the renewal
23 application a sworn statement that the person is not receiving compensation under the lease. The
24 statement must be in a form acceptable to the department. A person who has an in-stream water
25 right lease and under ORS 536.050 [(3)(b)] **(2)(b)** has not paid a renewal fee for the lease must notify
26 the department of any temporary or permanent change to the lease no later than one year before
27 the change occurs.

28 “**SECTION 5.** ORS 537.348, as amended by section 2, chapter 205, Oregon Laws 2001, is
29 amended to read:

30 “537.348. (1) Any person may purchase or lease all or a portion of an existing water right or
31 accept a gift of all or a portion of an existing water right for conversion to an in-stream water right.
32 Any water right converted to an in-stream water right under this section shall retain the priority
33 date of the water right purchased, leased or received as a gift. At the request of the person the
34 Water Resources Commission shall issue a new certificate for the in-stream water right showing the
35 original priority date of the purchased, gifted or leased water right. A person who transfers a water
36 right by purchase, lease or gift under this subsection shall comply with the requirements for the
37 transfer of a water right under ORS 540.505 to 540.585.

38 “(2) Any person who has an existing water right may lease all or a portion of the existing water
39 right for use as an in-stream water right for a specified period without the loss of the original pri-
40 ority date. During the term of such lease, the use of the water right as an in-stream water right
41 shall be considered a beneficial use. **The in-stream water right lease may have a term of not**
42 **more than five years. Each renewal of the lease may have a term of not more than five**
43 **years. This subsection does not limit the number of times that a lease may be renewed.**

44 “(3) **A person applying for the renewal of an in-stream water right lease and seeking to**
45 **qualify under ORS 536.050 (2)(b) for exemption from the renewal fee must provide with the**

1 **renewal application a sworn statement that the person is not receiving compensation under**
2 **the lease. The statement must be in a form acceptable to the Water Resources Department.**
3 **A person who has an in-stream water right lease and under ORS 536.050 (2)(b) has not paid**
4 **a renewal fee for the lease must notify the department of any temporary or permanent**
5 **change to the lease no later than one year before the change occurs.**

6 **“SECTION 6.** Section 3, chapter 205, Oregon Laws 2001, as amended by section 1, chapter 355,
7 Oregon Laws 2007, is amended to read:

8 **“Sec. 3.** The amendments to ORS 537.348 by section 2, chapter 205, Oregon Laws 2001, become
9 operative on January 2, [2014] **2021.**

10 **“SECTION 7.** The amendments to ORS 536.050 by sections 1 and 2 of this 2011 Act apply
11 to in-stream water right leases for which a renewal application is filed with the Water Re-
12 sources Department on or after the effective date of this 2011 Act.

13 **“SECTION 8.** The amendments to ORS 537.348 by sections 3 and 5 of this 2011 Act apply
14 to in-stream water right leases entered into or renewed on or after the effective date of this
15 2011 Act.

16 **“SECTION 9.** The amendments to ORS 537.348 by section 4 of this 2011 Act become op-
17 erative July 1, 2013.”.