

Senate Bill 589

Sponsored by Senator WHITSETT

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 qualifying person to apply for water right certificate or water right permit to obtain water from Crescent Lake. Creates temporary expedited process for Water Resources Department action on applications and requests for water right certificates or water right permits to obtain water from Crescent Lake.

Sunset January 2, 2014.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the appropriation of Crescent Lake water; and declaring an emergency.

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

4 **SECTION 1. (1) Except as provided in subsection (3) of this section, the Water Resources**
5 **Department shall approve an application and issue a water right certificate authorizing a**
6 **person to obtain water from the Crescent Lake reservoir located near the border between**
7 **Deschutes County and Klamath County if:**

8 (a) **Granting of the water right would not impair an existing water right;**

9 (b) **The water right is for single or group domestic purposes in an amount not exceeding**
10 **15,000 gallons per day;**

11 (c) **The water right is appurtenant to land on which an owner or occupant made benefi-**
12 **cial use of water from the reservoir for domestic purposes in at least one calendar year**
13 **ending on or before December 31, 2010; and**

14 (d) **The person agrees in writing to hold harmless any irrigation district or other entity**
15 **operating the reservoir from liability arising from the use of reservoir water under the water**
16 **right and posts adequate security for that agreement as determined by the department.**

17 (2) **Notwithstanding ORS 537.260, a water right certificate issued under this section is not**
18 **subject to reduction, contest or cancellation for failure to prove or complete use of the wa-**
19 **ter.**

20 (3) **If a property lacks an existing system for delivering water from the Crescent Lake**
21 **reservoir to the property on the date of the water right application, the department shall**
22 **issue the person a water right permit. The department may not include in the permit any**
23 **condition for the perfection of the water right other than the completion of a system for**
24 **delivering the water. If the person provides the department with evidence that a system for**
25 **delivering the water has been completed and requests the issuance of a water right certif-**
26 **icate, the department shall consider the water right perfected and issue the person a water**
27 **right certificate.**

28 **SECTION 2. Notwithstanding any contrary provision of ORS chapter 537, the following**
29 **shall apply for the processing of an application or request filed under section 1 of this 2011**

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 **Act:**

2 (1) No later than 15 days after receiving an application under section 1 of this 2011 Act,
 3 the Water Resources Department shall determine whether the application is complete and
 4 not defective, including payment of the appropriate fees. The department shall allow a person
 5 submitting an incomplete or defective application an opportunity to complete the application
 6 or remedy any defect.

7 (2) No later than 15 days after receiving an application under section 1 of this 2011 Act
 8 that is complete and not defective, the department shall process the application and issue a
 9 proposed final order approving or denying the application.

10 (3) No later than seven days after issuing the proposed final order, the department shall
 11 include the proposed final order in the weekly notice published by the department. The notice
 12 shall require that any person wishing to protest the proposed final order deliver notice of the
 13 protest to the department no later than 10 days after publication of the proposed final order.

14 (4) No later than 10 days after the close of the period for receiving protests of the pro-
 15 posed final order, the department shall issue the water right certificate or water right permit
 16 or shall schedule a contested case hearing if a protest is received and:

17 (a) Upon review of the issues, the Water Resources Director finds that there are signif-
 18 icant disputes related to whether the proposed water right certificate or water right permit
 19 qualifies under section 1 of this 2011 Act; or

20 (b) The applicant requests a contested case hearing.

21 (5) If a person is issued a water right permit under section 1 of this 2011 Act, the de-
 22 partment shall issue the person a water right certificate no later than 15 days after the
 23 person provides evidence that a delivery system for the water has been completed and re-
 24 quests the issuance of a water right certificate.

25 **SECTION 3.** Section 2 of this 2011 Act applies to applications and requests made under
 26 section 1 of this 2011 Act that are received by the Water Resources Department on or before
 27 December 31, 2012. Applications and requests made under section 1 of this 2011 Act that are
 28 received by the department after December 31, 2012, shall be subject to the normal process-
 29 ing timelines established by law.

30 **SECTION 4.** Sections 2 and 3 of this 2011 Act are repealed January 2, 2014.

31 **SECTION 5.** This 2011 Act being necessary for the immediate preservation of the public
 32 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
 33 on its passage.

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