

House Bill 4101

Sponsored by Representative MCLANE; Representatives JENSON, SHEEHAN, WAND, WHISNANT, Senator VERGER (Pre-session filed.)

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**.

Directs Water Resources Department to aggressively pursue development of Columbia River Basin water resources.

Establishes Columbia River Task Force to make recommendations for new allocations of specified amounts of water from sources within Columbia River Basin. Requires Water Resources Commission to consider and take action on task force recommendations. Requires commission to make written findings if commission disapproves allocation recommendation or is unable to make resources available in accordance with recommendation. Requires commission to include findings in annual progress report to interim committee of Legislative Assembly. Establishes deadlines for commencement and completion of basin program amendments necessary for allocation implementation.

Sunsetts task force on date of convening of 2014 regular session.

Establishes Columbia River Basin Water Supply Development Account. Continuously appropriates moneys in account to Water Resources Department and specifies uses of account moneys. Assesses fee on new or additional withdrawals of Columbia River Basin water for agricultural or industrial use. Provides for deposit of fee to account. Eliminates fee on July 1, 2042.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to Columbia River Basin water; appropriating money; and declaring an emergency.

Whereas Oregon benefits greatly from production in the agricultural and fishing industries; and

Whereas Oregon has an interest in maintaining its aquifers and maintaining sufficient flows in its rivers; and

Whereas Oregon has an interest in ensuring and improving upon the wise and efficient use of its water resources; and

Whereas Oregon needs to increase the amount of acreage used for agricultural production, particularly in the Columbia River Basin; and

Whereas the creation of an appropriate task force will assist the Legislative Assembly in forming policies, programs and plans to ensure that Oregon realizes increased benefits from agriculture and fishing, to protect Oregon interests regarding aquifers, river flows and water uses and to meet the need for increased agricultural production; now, therefore,

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

SECTION 1. The Legislative Assembly finds and declares that a need exists for a program to develop Columbia River Basin water resources. The Water Resources Department is directed to aggressively pursue the development of Columbia River Basin water resources to benefit both in-stream flows and out-of-stream water needs.

SECTION 2. (1) The Columbia River Task Force is established, consisting of 10 members. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint task force members residing within the Columbia River Basin as follows:

(a) Two members shall be representatives of Indian tribes;

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 (b) Two members shall be representatives of local governments;
- 2 (c) Two members shall be representatives of agricultural interests;
- 3 (d) Two members shall be representatives of industrial interests; and
- 4 (e) Two members shall be representatives of natural resource conservation interests.

5 (2) The task force shall develop recommendations for new allocations totaling 450,000
6 acre-feet of water from surface or storage sources for use within the Columbia River Basin.
7 The allocation recommendation shall identify basin-wide allocation amounts by type of use
8 for the purposes of:

9 (a) Providing agricultural users with alternatives to ground water use;

10 (b) Providing water resources adequate for satisfying water rights sought in applications
11 pending before the Water Resources Department on the effective date of this 2012 Act; and

12 (c) Meeting new municipal, domestic, agricultural and industrial needs.

13 (3) A majority of the voting members of the task force constitutes a quorum for the
14 transaction of business.

15 (4) Official action by the task force requires the approval of a majority of the voting
16 members of the task force.

17 (5) The appointing authorities shall jointly select one task force member to serve as
18 chairperson.

19 (6) If there is a vacancy for any cause, the appointing authorities shall jointly make an
20 appointment to become immediately effective.

21 (7) The task force shall meet at times and places specified by the call of the chairperson
22 or of a majority of the voting members of the task force.

23 (8) The task force may adopt rules necessary for the operation of the task force.

24 (9) The task force shall submit allocation recommendations developed under subsection
25 (2) of this section to the Water Resources Commission no later than January 1, 2013.

26 (10) The Water Resources Department shall provide staff support to the task force.

27 (11) Members of the task force are not entitled to compensation, but may be reimbursed
28 for actual and necessary travel and other expenses incurred by them in the performance of
29 their official duties in the manner and amounts provided for in ORS 292.495. Claims for ex-
30 penses shall be paid out of funds appropriated to the department for purposes of the task
31 force.

32 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
33 the task force in the performance of its duties and, to the extent permitted by laws relating
34 to confidentiality, to furnish such information and advice as the members of the task force
35 consider necessary to perform their duties.

36 **SECTION 3.** (1) The Water Resources Commission shall review the allocation recom-
37 mendations submitted to the commission by the Columbia River Task Force under section 2
38 of this 2012 Act. If the commission approves an allocation recommendation of the task force,
39 subject to ORS 536.310, the commission shall amend the basin program for the Columbia
40 River Basin as provided under ORS 536.300 by classifying or reclassifying water resources
41 within the basin as necessary to allow the allocation.

42 (2) If the commission disapproves an allocation recommendation of the task force or is
43 unable to make water resources available in accordance with the allocation recommendation,
44 the commission shall make specific written findings stating good cause for the commission
45 to disapprove the allocation recommendation or stating that the commission is unable to

1 make water resources available in accordance with the allocation recommendation. The
 2 commission shall include the written findings with the annual report submitted under section
 3 4 of this 2012 Act.

4 (3) A proposed amendment to the basin program may address any allocation or combi-
 5 nation of allocations recommended by the task force and approved by the commission. The
 6 commission shall make a good faith effort to make water available under an amended basin
 7 program no later than May 1, 2013, for implementing one or more of the recommended and
 8 approved allocations. The commission shall complete all necessary basin program amend-
 9 ments in time to make water available no later than January 1, 2018, for carrying out each
 10 of the recommended and approved allocations.

11 (4) The commission may not make an amendment to a basin program under this section
 12 that would deny an allocation of conserved water to a person who submits an application for
 13 approval of the allocation under ORS 537.465. However, subject to the in-stream flow allo-
 14 cation preference in ORS 537.470, the commission may use the portion of conserved water
 15 allocated to the state under ORS 537.470 as an available resource under this section.

16 **SECTION 4.** (1) The Water Resources Commission shall annually report on activities
 17 under section 3 of this 2012 Act in the manner described in ORS 192.245 to an interim com-
 18 mittee of the Legislative Assembly dealing with natural resources. Each annual report must
 19 provide an update on commission actions and progress regarding the Columbia River Task
 20 Force allocation recommendations. The report must include any recommendations of the
 21 commission for proposed legislation necessary or desirable to carry out recommended and
 22 approved allocations.

23 (2) The commission shall make the first report under this section no later than October
 24 1, 2013. The commission shall make the final report under this section no later than October
 25 1, 2018.

26 **SECTION 5.** (1) The Columbia River Basin Water Supply Development Account is estab-
 27 lished in the State Treasury, separate and distinct from the General Fund. Interest earned
 28 by the Columbia River Basin Water Supply Development Account shall be credited to the
 29 account. Moneys in the account are continuously appropriated to the Water Resources De-
 30 partment for the purpose of carrying out a program to support water development projects
 31 within the Columbia River Basin. Except as provided in subsections (2) and (4) of this section,
 32 water development projects receiving funding from the account must be for the assessment,
 33 planning or development of new above-ground or below-ground water storage facilities.

34 (2) Moneys in the account may not be expended for the development phase of a water
 35 development project described in subsection (1) of this section until the department com-
 36 pletes an evaluation of:

- 37 (a) The water uses to be served by the water development project;
- 38 (b) The quantity of water necessary for meeting the water uses; and
- 39 (c) The benefits and costs to this state of meeting the water uses, including but not
 40 limited to short-term and long-term economic, cultural and environmental impacts.

41 (3) In conducting an evaluation under subsection (2) of this section, the department may
 42 rely on studies and information developed by other sources, including but not limited to
 43 studies and information developed by any source to comply with state and federal permit
 44 requirements. The department shall prepare a preliminary evaluation summarizing the
 45 studies of information reviewed and setting forth the findings and conclusions of the de-

1 department. The department shall make the preliminary evaluation available for public com-
2 ment for a period of at least 30 days prior to completing the evaluation process.

3 (4) In addition to any water development project described in subsection (1) of this sec-
4 tion, if the Legislative Assembly makes specific findings that a water development project
5 within the Columbia River Basin will address a particular long-term water supply need,
6 moneys in the account may be expended for a water development project to:

7 (a) Improve or alter the operation of an existing water storage facility;

8 (b) Provide a supply of surface water;

9 (c) Implement water conservation projects;

10 (d) Enhance water supplies for the Walla Walla River or the Umatilla River through ex-
11 change or other means;

12 (e) Recharge aquifer levels;

13 (f) Result in water efficiency; or

14 (g) Provide access to new water supplies for both in-stream flows and out-of-stream wa-
15 ter needs.

16 SECTION 6. (1) In addition to any other fee or charge, the Water Resources Department
17 shall assess a fee on each water right or other department approval of a withdrawal of
18 Columbia River Basin water for agricultural or industrial use. The amount of the fee is \$10
19 for each acre-foot of new or additional annual water use authorized under the water right
20 or other approval. Moneys collected from the fee assessed under this section shall be depos-
21 ited in the State Treasury to the credit of the Columbia River Basin Water Supply Develop-
22 ment Account established in section 5 of this 2012 Act.

23 (2) Notwithstanding section 5 of this 2012 Act, the department may not expend an amount
24 exceeding the equivalent of \$1 per acre-foot of water use from fees collected under this sec-
25 tion to pay the department's costs of administering the account.

26 SECTION 7. Section 2 of this 2012 Act is repealed on the date of the convening of the 2014
27 regular session of the Legislative Assembly as specified in ORS 171.010.

28 SECTION 8. Sections 3 and 4 of this 2012 Act are repealed January 2, 2020.

29 SECTION 9. Section 6 of this 2012 Act applies to withdrawals of Columbia River Basin
30 water for which the Water Resources Department issues a water right or other approval on
31 or after the effective date of this 2012 Act.

32 SECTION 10. Section 6 of this 2012 Act is repealed July 1, 2042.

33 SECTION 11. This 2012 Act being necessary for the immediate preservation of the public
34 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
35 on its passage.

36