

SENATE AMENDMENTS TO SENATE BILL 199

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

February 26

1 On page 1 of the printed bill, line 3, delete “536.050 and”.

2 Delete lines 5 through 28 and delete pages 2 through 4 and insert:

3 “**SECTION 1.** ORS 537.348, as amended by section 2, chapter 205, Oregon Laws 2001, is
4 amended to read:

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

14 “(2) **Subject to subsections (3) to (6) of this section,** any person who has an existing water
15 right may lease all or a portion of the existing water right for use as an in-stream water right for
16 a specified period without the loss of the original priority date. During the term of [*such*] **the** lease,
17 the use of the water right as an in-stream water right shall be considered a beneficial use. **The term**
18 **of the lease may not exceed five years. There is no limitation on the number of times that**
19 **the lease may be renewed. However, the total period for which a water right may be leased**
20 **for split use as described in subsection (3) of this section may not exceed 10 years regardless**
21 **of the number of leases or renewals of leases issued for the water right.**

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

25 “(a) **The uses of the existing water right and the in-stream water right are not concu-**
26 **rent; and**

27 “(b) **The holders of the water rights measure and report to the Water Resources De-**
28 **partment the use of the existing water right and the in-stream water right.**

29 “(4) **A person who has an existing water right and wishes to lease the water right as**
30 **described in subsection (2) of this section must file a request and obtain department approval**
31 **of the lease. Upon receipt of the request, the department shall provide notice of the request**
32 **by inclusion in the weekly notice published by the department. Any allegation of injury must**
33 **be delivered to the department no later than 21 days after publication of the request in the**
34 **weekly notice.**

35 “(5) **After publishing notice of a request made under subsection (2) of this section and**

1 **allowing time for the delivery of allegations of injury, the department shall issue an order**
2 **approving the request if the department finds that the leasing of the water right for in-**
3 **stream use can be effected without injury to other existing water rights or can be condi-**
4 **tioned to prevent injury to other existing water rights. If the lease is for the split use of**
5 **water between the existing water right and the in-stream water right during the same cal-**
6 **endar year, the conditions imposed in the order approving the request must include, but need**
7 **not be limited to, compliance with subsection (3) of this section.**

8 **“(6) The department at any time may revoke or modify an order issued for a lease under**
9 **subsection (2) of this section if the department determines that the use of the water right**
10 **for in-stream use under the lease has resulted in or may result in injury to an existing water**
11 **right.**

12 **“SECTION 2.** ORS 537.348, as amended by section 2, chapter 205, Oregon Laws 2001, and sec-
13 tion 1 of this 2013 Act, is amended to read:

14 **“537.348. (1) Any person may purchase or lease all or a portion of an existing water right or**
15 **accept a gift of all or a portion of an existing water right for conversion to an in-stream water right.**
16 **Any water right converted to an in-stream water right under this section shall retain the priority**
17 **date of the water right purchased, leased or received as a gift. At the request of the person the**
18 **Water Resources Commission shall issue a new certificate for the in-stream water right showing the**
19 **original priority date of the purchased, gifted or leased water right. Except as provided in sub-**
20 **sections (2) to [(6)] (5) of this section, a person who transfers a water right by purchase, lease or**
21 **gift under this subsection shall comply with the requirements for the transfer of a water right under**
22 **ORS 540.505 to 540.585.**

23 **“(2) Subject to subsections (3) to [(6)] (5) of this section, any person who has an existing water**
24 **right may lease all or a portion of the existing water right for use as an in-stream water right for**
25 **a specified period without the loss of the original priority date. During the term of the lease, the**
26 **use of the water right as an in-stream water right shall be considered a beneficial use. The term of**
27 **the lease may not exceed five years. There is no limitation on the number of times that the lease**
28 **may be renewed. [However, the total period for which a water right may be leased for split use as**
29 **described in subsection (3) of this section may not exceed 10 years regardless of the number of leases**
30 **or renewals of leases issued for the water right.]**

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

34 **“[(a) The uses of the existing water right and the in-stream water right are not concurrent; and]**

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

37 **“[(4)] (3) A person who has an existing water right and wishes to lease the water right as de-**
38 **scribed in subsection (2) of this section must file a request and obtain department approval of the**
39 **lease. Upon receipt of the request, the department shall provide notice of the request by inclusion**
40 **in the weekly notice published by the department. Any allegation of injury must be delivered to the**
41 **department no later than 21 days after publication of the request in the weekly notice.**

42 **“[(5)] (4) After publishing notice of a request made under subsection (2) of this section and al-**
43 **lowing time for the delivery of allegations of injury, the department shall issue an order approving**
44 **the request if the department finds that the leasing of the water right for in-stream use can be ef-**
45 **fectuated without injury to other existing water rights or can be conditioned to prevent injury to other**

1 existing water rights. *[If the lease is for the split use of water between the existing water right and*
2 *the in-stream water right during the same calendar year, the conditions imposed in the order approving*
3 *the request must include, but need not be limited to, compliance with subsection (3) of this section.]*

4 “[(6)] (5) The department at any time may revoke or modify an order issued for a lease under
5 subsection (2) of this section if the department determines that the use of the water right for in-
6 stream use under the lease has resulted in or may result in injury to an existing water right.

7 “**SECTION 3. The amendments to ORS 537.348 by section 2 of this 2013 Act become op-**
8 **erative on January 2, 2024.**

9 “**SECTION 4. Section 3, chapter 205, Oregon Laws 2001, as amended by section 1, chapter**
10 **355, Oregon Laws 2007, is repealed.**

11 “**SECTION 5. (1) The amendments to ORS 537.348 by section 1 of this 2013 Act apply to**
12 **leases and lease renewals entered into on or after the effective date of this 2013 Act.**

13 “**(2) Notwithstanding the amendments to ORS 537.348 by section 2 of this 2013 Act, any**
14 **lease or lease renewal allowing the split use of water between an existing water right and**
15 **an in-stream water right during the same calendar year and having a term that began before**
16 **the operative date of the amendments to ORS 537.348 by section 2 of this 2013 Act may con-**
17 **tinue in effect until the earlier of the expiration of the term or five years after the operative**
18 **date of the amendments to ORS 537.348 by section 2 of this 2013 Act. This subsection does**
19 **not allow the total period for which a water right may be leased for the split use of water**
20 **during the same calendar year to exceed 10 years.”**

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