

**PROPOSED AMENDMENTS TO
SENATE BILL 199**

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
4 Laws 2001, is amended to read:

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

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

22 **“(3) A lease of all or a portion of an existing water right for use as**

1 an in-stream water right under subsection (2) of this section may allow
2 the split use of water between the existing water right and the in-
3 stream water right during the same calendar year, provided:

4 “(a) The uses of the existing water right and the in-stream water
5 right are not concurrent; and

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

9 “(4) A person who has an existing water right and wishes to lease
10 the water right as described in subsection (2) of this section must file
11 a request and obtain department approval of the lease. Upon receipt
12 of the request, the department shall provide notice of the request by
13 inclusion in the weekly notice published by the department. Any
14 allegation of injury must be delivered to the department no later than
15 21 days after publication of the request in the weekly notice.

16 “(5) After publishing notice of a request made under subsection (2)
17 of this section and allowing time for the delivery of allegations of in-
18 jury, the department shall issue an order approving the request if the
19 department finds that the leasing of the water right for in-stream use
20 can be effected without injury to other existing water rights or can
21 be conditioned to prevent injury to other existing water rights. If the
22 lease is for the split use of water between the existing water right and
23 the in-stream water right during the same calendar year, the condi-
24 tions imposed in the order approving the request must include, but
25 need not be limited to, compliance with subsection (3) of this section.

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

30 **SECTION 2.** ORS 537.348, as amended by section 2, chapter 205, Oregon

1 Laws 2001, and section 1 of this 2013 Act, is amended to read:

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

12 “(2) *[Subject to subsections (3) to (6) of this section,]* Any person who has
13 an existing water right may lease all or a portion of the existing water right
14 for use as an in-stream water right for a specified period without the loss
15 of the original priority date. During the term of the lease, the use of the
16 water right as an in-stream water right shall be considered a beneficial use.
17 *[The term of the lease may not exceed five years. There is no limitation on the*
18 *number of times that the lease may be renewed.]*

19 “[3] *A lease of all or a portion of an existing water right for use as an*
20 *in-stream water right under subsection (2) of this section may allow the split*
21 *use of water between the existing water right and the in-stream water right*
22 *during the same calendar year, provided:]*

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

25 “[b] *The holders of the water rights measure and report to the Water Re-*
26 *sources Department the use of the existing water right and the in-stream water*
27 *right.]*

28 “[4] *A person who has an existing water right and wishes to lease the*
29 *water right as described in subsection (2) of this section must file a request*
30 *and obtain department approval of the lease. Upon receipt of the request, the*

1 department shall provide notice of the request by inclusion in the weekly notice
2 published by the department. Any allegation of injury must be delivered to the
3 department no later than 21 days after publication of the request in the weekly
4 notice.]

5 “[5) After publishing notice of a request made under subsection (2) of this
6 section and allowing time for the delivery of allegations of injury, the depart-
7 ment shall issue an order approving the request if the department finds that
8 the leasing of the water right for in-stream use can be effected without injury
9 to other existing water rights or can be conditioned to prevent injury to other
10 existing water rights. If the lease is for the split use of water between the ex-
11 isting water right and the in-stream water right during the same calendar
12 year, the conditions imposed in the order approving the request must include,
13 but need not be limited to, compliance with subsection (3) of this section.]

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

18 **“SECTION 3. The amendments to ORS 537.348 by section 2 of this**
19 **2013 Act become operative on January 2, 2020.**

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

22 **“SECTION 5. (1) The amendments to ORS 537.348 by section 1 of this**
23 **2013 Act apply to leases and lease renewals entered into on or after the**
24 **effective date of this 2013 Act.**

25 **“(2) Notwithstanding the amendments to ORS 537.348 by section 2**
26 **of this 2013 Act, any lease or lease renewal allowing the split use of**
27 **water between an existing water right and an in-stream water right**
28 **during the same water or calendar year and having a term that began**
29 **before the operative date of the amendments to ORS 537.348 by section**
30 **2 of this 2013 Act may continue in effect until the earlier of the expi-**

1 **ration of the term or five years after the operative date of the**
2 **amendments to ORS 537.348 by section 2 of this 2013 Act.”.**

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