

**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 **original** pri-
9 ority date of the water right. [*purchased, leased or received as a gift. At the*
10 *request of the person the Water Resources Commission shall issue a new cer-*
11 *tificate for the in-stream water right showing the original priority date of the*
12 *purchased, gifted or leased water right. A person who transfers a water right*
13 *by purchase, lease or gift under this subsection shall comply] **A permanent***
14 **transfer under this section must be in compliance** with the requirements
15 for the transfer of a water right under ORS 540.505 to 540.585.

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

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

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

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

10 **“(4) A person who has an existing water right and wishes to lease**
11 **the water right as described in subsection (2) of this section must file**
12 **a request and obtain department approval of the lease. Upon receipt**
13 **of the request, the department shall provide notice of the request by**
14 **inclusion in the weekly notice published by the department. Any**
15 **allegation of injury must be delivered to the department no later than**
16 **21 days after publication of the request in the weekly notice.**

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

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

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

3 “537.348. (1) Any person may purchase or lease all or a portion of an ex-
4 isting water right or accept a gift of all or a portion of an existing water
5 right for conversion to an in-stream water right. Any water right converted
6 to an in-stream water right under this section shall retain the original pri-
7 ority date of the water right. A permanent transfer under this section must
8 be in compliance with the requirements for the transfer of a water right
9 under ORS 540.505 to 540.585.

10 “(2) Subject to subsections (3) to [(6)] **(5)** of this section, any person who
11 has an existing water right may lease all or a portion of the existing water
12 right for use as an in-stream water right for a specified period without the
13 loss of the original priority date. During the term of the lease, the use of the
14 water right as an in-stream water right shall be considered a beneficial use.
15 The term of the lease may not exceed five years. There is no limitation on
16 the number of times that the lease may be renewed.

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

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

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

26 “[(4)] **(3)** A person who has an existing water right and wishes to lease
27 the water right as described in subsection (2) of this section must file a re-
28 quest and obtain department approval of the lease. Upon receipt of the re-
29 quest, the department shall provide notice of the request by inclusion in the
30 weekly notice published by the department. Any allegation of injury must

1 be delivered to the department no later than 21 days after publication of the
2 request in the weekly notice.

3 “[5] (4) After publishing notice of a request made under subsection (2)
4 of this section and allowing time for the delivery of allegations of injury, the
5 department shall issue an order approving the request if the department finds
6 that the leasing of the water right for in-stream use can be effected without
7 injury to other existing water rights or can be conditioned to prevent injury
8 to other existing water rights. *[If the lease is for the split use of water be-*
9 *tween the existing water right and the in-stream water right during the same*
10 *calendar year, the conditions imposed in the order approving the request must*
11 *include, but need not be limited to, compliance with subsection (3) of this sec-*
12 *tion.]*

13 “[6] (5) The department at any time may revoke or modify an order is-
14 sued for a lease under subsection (2) of this section if the department deter-
15 mines that the use of the water right for in-stream use under the lease has
16 resulted in or may result in injury to an existing water right.

17 **“SECTION 3. The amendments to ORS 537.348 by section 2 of this**
18 **2013 Act become operative on January 2, 2024.**

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

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

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

1 to ORS 537.348 by section 2 of this 2013 Act.”.

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