

**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. **Except as provided in subsections (2) to (6)**  
13 **of this section,** a person who transfers a water right by purchase, lease or  
14 gift under this subsection shall comply with the requirements for the transfer  
15 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 **However, the total period for which a water right may be leased for**  
2 **split use as described in subsection (3) of this section may not exceed**  
3 **10 years regardless of the number of leases or renewals of leases issued**  
4 **for the water right.**

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

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

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

14 **“(4) A person who has an existing water right and wishes to lease**  
15 **the water right as described in subsection (2) of this section must file**  
16 **a request and obtain department approval of the lease. Upon receipt**  
17 **of the request, the department shall provide notice of the request by**  
18 **inclusion in the weekly notice published by the department. Any**  
19 **allegation of injury must be delivered to the department no later than**  
20 **21 days after publication of the request in the weekly notice.**

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

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

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

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

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

28       “[(3) A lease of all or a portion of an existing water right for use as an  
29 in-stream water right under subsection (2) of this section may allow the split  
30 use of the water between the existing water right and the in-stream water right

1 *during the same calendar year, provided:]*

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

4 *“(b) The holders of the water rights measure and report to the Water Re-*  
5 *sources Department the use of the existing water right and the in-stream water*  
6 *right.]*

7 *“[(4)] (3) A person who has an existing water right and wishes to lease*  
8 *the water right as described in subsection (2) of this section must file a re-*  
9 *quest and obtain department approval of the lease. Upon receipt of the re-*  
10 *quest, the department shall provide notice of the request by inclusion in the*  
11 *weekly notice published by the department. Any allegation of injury must*  
12 *be delivered to the department no later than 21 days after publication of the*  
13 *request in the weekly notice.*

14 *“[(5)] (4) After publishing notice of a request made under subsection (2)*  
15 *of this section and allowing time for the delivery of allegations of injury, the*  
16 *department shall issue an order approving the request if the department finds*  
17 *that the leasing of the water right for in-stream use can be effected without*  
18 *injury to other existing water rights or can be conditioned to prevent injury*  
19 *to other existing water rights. [If the lease is for the split use of water be-*  
20 *tween the existing water right and the in-stream water right during the same*  
21 *calendar year, the conditions imposed in the order approving the request must*  
22 *include, but need not be limited to, compliance with subsection (3) of this sec-*  
23 *tion.]*

24 *“[(6)] (5) The department at any time may revoke or modify an order is-*  
25 *sued for a lease under subsection (2) of this section if the department deter-*  
26 *mines that the use of the water right for in-stream use under the lease has*  
27 *resulted in or may result in injury to an existing water right.*

28 **“SECTION 3. The amendments to ORS 537.348 by section 2 of this**  
29 **2013 Act become operative on January 2, 2024.**

30 **“SECTION 4. Section 3, chapter 205, Oregon Laws 2001, as amended**

1 by section 1, chapter 355, Oregon Laws 2007, is repealed.

2 **“SECTION 5. (1) The amendments to ORS 537.348 by section 1 of this**  
3 **2013 Act apply to leases and lease renewals entered into on or after the**  
4 **effective date of this 2013 Act.**

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

15

---