

**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 on a temporary or perma-**  
6 **nent basis may lease or accept a gift of,** *[or lease]* all or a portion of an  
7 existing water right *[or accept a gift of all or a portion of an existing water*  
8 *right]* for conversion to an in-stream water right. Any water right converted  
9 to an in-stream water right under this section shall retain the priority date  
10 of the water right purchased, leased or received as a gift. *[At the request of*  
11 *the person the Water Resources Commission shall issue a new certificate for*  
12 *the in-stream water right showing the original priority date of the purchased,*  
13 *gifted or leased water right. A person who transfers a water right by purchase,*  
14 *lease or gift under this subsection shall comply]* **Except as provided in**  
15 **subsections (4) to (6) of this section, a transfer under this section must**  
16 **be in compliance** with the requirements for the transfer of a water right  
17 under ORS 540.505 to 540.585.

18 **“(2) Subject to subsections (3) to (8) 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 *[such]* **the** lease, the  
22 use of the water right as an in-stream water right shall be considered a

1 beneficial use. The term of the lease may not exceed five years. There  
2 is no limitation on the number of times that the lease may be renewed.

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

7 “(a) The uses are not concurrent; and

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

11 “(4) A person who has an existing water right and wishes to lease  
12 the water right as described in subsection (2) of this section may apply  
13 for department approval of a temporary change of use for a period not  
14 to exceed five years. An application for a change of use under this  
15 section must:

16 “(a) Be submitted in writing to the department;

17 “(b) Be accompanied by the appropriate fee for an in-stream water  
18 lease as set forth in ORS 536.050; and

19 “(c) Include:

20 “(A) The name of the owner;

21 “(B) The existing use of the water;

22 “(C) A description of the premises upon which the water is used  
23 under the existing water right;

24 “(D) A description of the body of water in which it is proposed that  
25 the leased water be used for an in-stream purpose;

26 “(E) The in-stream purpose proposed to be made of the leased wa-  
27 ter;

28 “(F) Evidence that the water has been used over the past five years  
29 according to the terms and conditions of the owner’s water right cer-  
30 tificate or that the water right is not subject to forfeiture under ORS

1 **540.610; and**

2 **“(G) Any other information the Water Resources Commission by**  
3 **rule may require.**

4 **“(5) Notwithstanding any notice and waiting requirements under**  
5 **ORS 540.505 to 540.585, the department shall approve by order an ap-**  
6 **plication under subsection (4) of this section for a temporary change**  
7 **of use if the department determines that the temporary change of use**  
8 **will not injure any existing water right.**

9 **“(6) All uses of water for which a temporary change of use is ap-**  
10 **proved under subsection (5) of this section shall revert automatically**  
11 **to the use described in the water right certificate upon expiration of**  
12 **the lease. Any renewal of the lease is subject to the filing of a new**  
13 **application under subsection (4) of this section and approval under**  
14 **subsection (5) of this section of the new application.**

15 **“(7) The time during which water is used under a temporary change**  
16 **of use approved under subsection (5) of this section does not apply**  
17 **toward a finding of forfeiture under ORS 540.610.**

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

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

24 **“537.348. (1) Any person may purchase[, or on a temporary or permanent**  
25 **basis may lease or accept a gift of,] or lease all or a portion of an existing**  
26 **water right or accept a gift of all or a portion of an existing water right**  
27 **for conversion to an in-stream water right. Any water right converted to an**  
28 **in-stream water right under this section shall retain the priority date of the**  
29 **water right purchased, leased or received as a gift. [Except as provided in**  
30 **subsections (4) to (6) of this section, a transfer under this section must be in**

1 *compliance with the requirements for the transfer of a water right under ORS*  
2 *540.505 to 540.585.] At the request of the person the Water Resources*  
3 **Commission shall issue a new certificate for the in-stream water right**  
4 **showing the original priority date of the purchased, gifted or leased**  
5 **water right.**

6 “(2) [*Subject to subsections (3) to (8) of this section,*] Any person who has  
7 an existing water right may lease all or a portion of the existing water right  
8 for use as an in-stream water right for a specified period without the loss  
9 of the original priority date. During the term of the lease, the use of the  
10 water right as an in-stream water right shall be considered a beneficial use.  
11 [*The term of the lease may not exceed five years. There is no limitation on the*  
12 *number of times that the lease may be renewed.*]

13 “(3) **A person who transfers a water right by purchase, lease or gift**  
14 **under this section shall comply with the requirements for the transfer**  
15 **of a water right under ORS 540.505 to 540.585.**

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

20 “[*(a) The uses are not concurrent; and*]

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

24 “[*(4) A person who has an existing water right and wishes to lease the*  
25 *water right as described in subsection (2) of this section may apply for de-*  
26 *partment approval of a temporary change of use for a period not to exceed five*  
27 *years. An application for a change of use under this section must:*]

28 “[*(a) Be submitted in writing to the department;*]

29 “[*(b) Be accompanied by the appropriate fee for an in-stream water lease*  
30 *as set forth in ORS 536.050; and*]

1       “[(c) *Include:*]

2       “[(A) *The name of the owner;*]

3       “[(B) *The existing use of the water;*]

4       “[(C) *A description of the premises upon which the water is used under the*

5 *existing water right;*]

6       “[(D) *A description of the body of water in which it is proposed that the*

7 *leased water be used for an in-stream purpose;*]

8       “[(E) *The in-stream purpose proposed to be made of the leased water;*]

9       “[(F) *Evidence that the water has been used over the past five years ac-*

10 *cording to the terms and conditions of the owner’s water right certificate or*

11 *that the water right is not subject to forfeiture under ORS 540.610; and]*

12       “[(G) *Any other information the Water Resources Commission by rule may*

13 *require.*]

14       “[(5) *Notwithstanding any notice and waiting requirements under ORS*

15 *540.505 to 540.585, the department shall approve by order an application under*

16 *subsection (4) of this section for a temporary change of use if the department*

17 *determines that the temporary change of use will not injure any existing water*

18 *right.*]

19       “[(6) *All uses of water for which a temporary change of use is approved*

20 *under subsection (5) of this section shall revert automatically to the use de-*

21 *scribed in the water right certificate upon expiration of the lease. Any renewal*

22 *of the lease is subject to the filing of a new application under subsection (4)*

23 *of this section and approval under subsection (5) of this section of the new*

24 *application.*]

25       “[(7) *The time during which water is used under a change of use approved*

26 *under subsection (5) of this section does not apply toward a finding of forfei-*

27 *ture under ORS 540.610.*]

28       “[(8) *The department at any time may revoke or modify an order issued for*

29 *a lease under subsection (2) of this section if the department determines that*

30 *the use of the water right for in-stream use under the lease has resulted in or*

1 *may result in injury to an existing water right.]*

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

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

6 **“SECTION 5. (1) The amendments to ORS 537.348 by section 1 of this**  
7 **2013 Act apply to leases and lease renewals entered into on or after the**  
8 **effective date of this 2013 Act.**

9 **“(2) Notwithstanding the amendments to ORS 537.348 by section 2**  
10 **of this 2013 Act, any lease or renewal allowing the split use of water**  
11 **between an existing water right and an in-stream water right during**  
12 **the same water or calendar year and having a term that began before**  
13 **the operative date of the amendments to ORS 537.348 by section 2 of**  
14 **this 2013 Act may continue in effect until the earlier of the expiration**  
15 **of the term or five years after the operative date of the amendments**  
16 **to ORS 537.348 by section 2 of this 2013 Act.”.**

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