

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Environment and Natural Resources

REVENUE: No revenue impact (-3)**FISCAL: Minimal fiscal impact (-3)****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Beth Reiley, Administrator**Meeting Dates:** 3/23, 4/15

WHAT THE MEASURE DOES: Authorizes Water Resources Director (Director) to participate in activities related to joint management entity for carrying out Upper Klamath Basin Comprehensive Agreement. Authorizes Director to request that circuit court sever one or more determined Klamath River Basin tribal water rights claims from other claims to water in Klamath River Basin; proceed separately on severed claims; and circuit court to enter judgment on severed claims. Allows court to enter general judgment on severed claims that affirms or modifies determination by Director. Allows court to condition general judgment regarding Klamath River Basin off-reservation claims resolved under comprehensive agreement or subsequently resolved, or regarding claims of nonparty filing exception. Provides grounds for entry of supplemental judgment. Provides for vacation of conditional general judgment if condition is not met. Allows court to adjudicate claims or return claims to director for fact-finding and determination following vacation of conditional general judgment. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: (Proposed -3 Amendment) Replaces measure. Authorizes Water Resources Department (Department) to participate in activities related to joint management entity consistent with settlement agreement. Defines “determined claim” as water right established by order of determination certified by Water Resources Director. Establishes during period judicial review is pending determined claim in off-project area is existing water right that may be leased and primary water right subject to temporary transfer. Stipulates lease and temporary transfer authority does not apply to water right that has been determined and established in order of determination that has been stayed and water right transfer that changes point of diversion upstream. Prohibits person from purchasing, leasing or accepting determined claim as gift for conversion to in-stream water right. Requires Department to deny, modify or revoke lease or temporary transfer of determined claim in off-project area if it has or is likely to result in injury to another determined claim or water right or enlargement of determined claim. Sunsets Act January 2, 2026. Declares emergency, effective on passage.

BACKGROUND: Passage of the Water Code in 1909 established, for the first time in Oregon, a system for acquiring, certifying and documenting rights to the use of water. Water rights that began before 1909 and federal water rights are determined through a process called an “adjudication.” There are two phases to an adjudication. In the first phase, the Water Resources Department (Department) determines federal and pre-1909 rights and then provisionally recognizes those determined rights; the second phase involves a court review of the agency’s decision. The court then issues a decree that identifies a priority date and other aspects of each water right. After the Department has delivered its determination to the court, a watermaster can regulate in favor of determined claims but these claims may not be transferred or leased until a final court decree is issued.

4/15/2015 10:32:00 AM *

This summary has not been adopted or officially endorsed by action of the committee.