

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
House Committee On Rural Communities, Land Use, and Water

MEASURE: SB 206 A
CARRIER: Rep. McLane

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 05/26/15

Action: Do Pass.

Meeting Dates: 05/19, 05/26

Vote:

Yeas: 6 - Clem, Gilliam, Helm, McLane, Post, Witt

Exc: 1 - Gomberg

Prepared By: Ian Davidson, Committee Administrator

WHAT THE MEASURE DOES:

Defines “determined claim” as water right in Upper Klamath Basin and established by order of determination certified by Water Resources Department (Department) Director. Establishes during period judicial review is pending determined claim 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 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.

ISSUES DISCUSSED:

- Flexibility from temporary transfers and leases of irrigation water
- History of water disputes in Klamath River Basin
- Role of department as a result of legislation

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

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 two phase process called 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.

Senate Bill 206 A would allow a lease for instream use or the temporary transfer of determined water rights in the Klamath Basin.