

**A-Engrossed**  
**Senate Bill 206**

Ordered by the Senate April 24  
Including Senate Amendments dated April 24

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D.)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows temporary lease or temporary transfer of upper Klamath Basin water right established by Water Resources Director in order of determination during period while judicial review of order is pending. Applies to leases and transfers under agreements entered into before January 2, [2020] **2026**.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to alterations in determined water rights in the upper Klamath Basin; and declaring an  
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section, "determined claim" means a water right in the**  
6 **Upper Klamath Basin determined and established in an order of determination certified by**  
7 **the Water Resources Director under ORS 539.130.**

8 **(2) Except as provided in subsections (3) and (4) of this section, during the period that**  
9 **judicial review of the order of determination is pending, a determined claim is:**

10 **(a) An existing water right that may be leased for a term as provided under ORS 537.348;**  
11 **and**

12 **(b) A primary water right that is subject to temporary transfer for purposes of ORS**  
13 **540.523.**

14 **(3) Subsection (2) of this section:**

15 **(a) Does not apply to a water right determined and established in an order of determi-**  
16 **nation that has been stayed by the filing of a bond or irrevocable letter of credit under ORS**  
17 **539.180;**

18 **(b) Does not apply to a water right transfer that includes changing the point of diversion**  
19 **upstream; and**

20 **(c) Does not allow a person to purchase, lease or accept a gift of a determined claim for**  
21 **conversion to an in-stream water right as described in ORS 537.348 (1).**

22 **(4) For purposes of determining under ORS 537.348 (5) or 540.523 (2) whether the Water**  
23 **Resources Department may approve a lease or temporary transfer of a determined claim,**  
24 **an injury to another determined claim is an injury to an existing water right.**  
25 **Notwithstanding ORS 537.348 (6) or 540.523 (5), the department shall deny, modify or revoke**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the lease or temporary transfer of a determined claim if the department determines that the  
2 lease or temporary transfer has resulted in, or is likely to result in:

3 (a) Injury to another determined claim or other existing water right; or

4 (b) Enlargement of the determined claim.

5 (5) The department shall revoke the lease or temporary transfer of a determined claim  
6 if a court judgment stays the determined claim.

7 (6) If a determined claim is removed from land by lease or temporary transfer, the land  
8 from which the determined claim is removed may not receive water during the term of the  
9 lease or temporary transfer.

10 SECTION 2. (1) Section 1 of this 2015 Act is repealed January 2, 2026.

11 (2) Notwithstanding the repeal of section 1 of this 2015 Act by subsection (1) of this sec-  
12 tion, subject to modification or revocation under section 1 of this 2015 Act, a lease or tem-  
13 porary transfer of a determined claim under section 1 of this 2015 Act for a term beginning  
14 prior to January 2, 2026, may continue in effect for the term of the lease or temporary  
15 transfer. If a court judgment results in a modification of the determined claim, the parties  
16 may continue the lease or temporary transfer of all or part of the water right as modified  
17 for all or part of the original term of the lease or temporary transfer.

18 SECTION 3. This 2015 Act being necessary for the immediate preservation of the public  
19 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
20 on its passage.