

A-Engrossed
Senate Bill 267

Ordered by the Senate March 20
Including Senate Amendments dated March 20

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., for Water Resources Department)

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.

Requires Water Resources Department to report to Eighty-first Legislative Assembly regarding pilot program allowing specified irrigation districts and water control districts to temporarily transfer water use to another location within district. **Limits type of water use for which transfer is allowed. Requires public notice before replacement district participates in pilot program. Requires annual public notice identifying districts possibly intending to participate in pilot program.** Extends duration of pilot program.

A BILL FOR AN ACT

1
2 Relating to a pilot program for the temporary transfer of water use within a district; creating new
3 provisions; and amending sections 23 and 25, chapter 705, Oregon Laws 2003.

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

5 **SECTION 1. The Water Resources Department shall report to the Eighty-first Legislative**
6 **Assembly, no later than January 31, 2021, on the operation of the pilot project established**
7 **under section 23, chapter 705, Oregon Laws 2003.**

8 **SECTION 2. Section 23, chapter 705, Oregon Laws 2003, as amended by section 1, chapter 283,**
9 **Oregon Laws 2009, is amended to read:**

10 **Sec. 23.** (1) In order to increase district water management flexibility, the Water Resources
11 Department shall establish a pilot project in which districts may temporarily allow, for water uses
12 subject to transfer, the use of water on any land within the legal boundaries of the district estab-
13 lished pursuant to ORS chapter 545, 547, 552, 553 or 554.

14 (2) The use of water on any land within the legal boundaries of the district may be allowed if:

15 (a) The rate and duty, and the total number of acres to which water will be applied under the
16 transfer, do not exceed existing limits on the water use subject to transfer;

17 (b) The type of use authorized under the water use subject to transfer **is for irrigation and**
18 remains the same; and

19 (c) The land from which the water use is being transferred does not receive any water under
20 the right being transferred during the irrigation season in which the change is made.

21 (3) The department shall allow the pilot project to be implemented in the Talent Irrigation Dis-
22 trict, the Owyhee Irrigation District, the Tualatin Valley Irrigation District, the Central Oregon
23 Irrigation District, the Swalley Irrigation District, the Westland Irrigation District, the North Unit
24 Irrigation District, the Arnold Irrigation District, the Stanfield Irrigation District, the West Exten-
25 sion Irrigation District, the Hermiston Irrigation District, the Medford Irrigation District, the

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 Sutherlin Water Control District, the Santiam Water Control District and the Ochoco Irrigation
2 District or their successor districts. However, any district participating in the project must:

3 (a) Have defined state district boundaries;

4 (b) Have a management structure that can ensure that water is applied only where the water
5 use is authorized;

6 (c) Not irrigate an area in any one irrigation season that exceeds the maximum number of acres
7 allowed to be irrigated under the original water right;

8 (d) Have a full and accurate measurement of the water appropriated;

9 (e) Have an accurate map identifying the location of authorized use, by priority date, for review
10 upon request and provide a copy of the map to the watermaster; and

11 (f) Have on file statements by any landowner affected by the water use change indicating that
12 the landowner agrees to the change.

13 (4) If any of the specified districts are unable to participate in the project, the department may
14 identify another district for the project. **Before allowing another district to participate in the
15 project for the first time, the department shall publish notice of the planned participation
16 by publication in the weekly notice published by the department and shall allow the public
17 at least 20 days to provide information to assist the department in determining whether the
18 district meets the qualifications required under subsection (3) of this section.**

19 (5) The department may require that use of water under the pilot project cease and that the use
20 revert to the use allowed under the water right of record if the department determines that:

21 (a) The district does not meet the qualifications established in subsection (3) of this section;

22 (b) The water is being used in a manner that violates the requirements in subsection (2) of this
23 section; or

24 (c) The changes made to the use of water would result in injury to existing water rights or an
25 enlargement of the original water right.

26 **(6) The department shall annually, prior to commencement of the irrigation season,
27 publish notice of the districts that might intend to make use of the pilot program during the
28 year. The notice shall identify the districts by name and provide the contact information for
29 the watermasters for the districts. The department shall publish the notice by publication in
30 the weekly notice published by the department.**

31 [(6)] (7) Use of water under the pilot project constitutes a beneficial use of water and does not
32 constitute nonuse for purposes of forfeiture under ORS 540.610.

33 **SECTION 3.** Section 25, chapter 705, Oregon Laws 2003, as amended by section 2, chapter 10,
34 Oregon Laws 2007, and section 3, chapter 283, Oregon Laws 2009, is amended to read:

35 **Sec. 25.** Sections 22 and 23, chapter 705, Oregon Laws 2003, are repealed on [June 30, 2016]
36 **January 2, 2022.**

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