

**PROPOSED AMENDMENTS TO
HOUSE BILL 2400**

1 On page 1 of the printed bill, line 8, delete “January 31,” and insert
2 “March 10.”.

3 On page 2, delete lines 39 through 45.

4 On page 3, delete lines 1 through 41 and insert:

5 **“SECTION 7.** ORS 541.689 is amended to read:

6 “541.689. (1) The Water Resources Department shall make a determination
7 as provided under subsection (2) of this section if an application for a loan
8 or grant from the Water Supply Development Account is for a project that
9 requires a [*new*] water storage or aquifer recharge permit or limited license
10 for the storage of water [*outside of the official irrigation season*] **during pe-**
11 **riods when water is available for storage** and:

12 “(a) Impounds surface water on a perennial stream;

13 “(b) Diverts water from a stream that supports state or federally listed
14 sensitive, threatened or endangered fish species; or

15 “(c) Diverts more than 500 acre-feet of surface water annually.

16 “(2) The department shall review a completed application for a project
17 described in subsection (1) of this section to determine whether the applica-
18 ble seasonally varying flows have been established under this section for the
19 stream of interest. If the department determines that the applicable sea-
20 sonally varying flows have not **previously** been established, the department
21 shall establish the seasonally varying flows before issuing a loan or grant
22 from the account. The department may use account moneys to pay the cost

1 of establishing a seasonally varying flow and to pay other costs directly re-
2 lated to project development.

3 “(3) The department shall establish any seasonally varying flows under
4 subsection (2) of this section in consultation with the State Department of
5 Fish and Wildlife and any affected Indian tribes. The department may rely
6 upon existing scientific data and analysis or may fund new data and analysis.
7 The department shall establish seasonally varying flows using a methodology
8 established by Water Resources Commission rules. *[If seasonally varying*
9 *flows are established for a stream,]*

10 “(4) **If the department establishes applicable seasonally varying**
11 **flows for a stream of interest, the department must make the sea-**
12 **sonally varying flows a condition of:**

13 “(a) **The new or existing water storage or aquifer recharge permit**
14 **or limited license for the storage of water issued for any project de-**
15 **scribed in subsection (1) of this section that subsequently receives a**
16 **loan or grant from the account; and**

17 “(b) *[A subsequent]* **The new or existing** water storage or aquifer re-
18 charge permit or limited license for the storage of water *[must be conditioned*
19 *in accordance with the applicable seasonally varying flows if the license or*
20 *permit]* **issued for any project that:**

21 “[a] (A) *[Is for a project receiving]* **Subsequently receives** a loan or
22 grant from the account;

23 “[b] (B) **Is for the storage of water** *[outside of the official irrigation*
24 *season]* **during periods when water is available for storage; and**

25 “[c] (C) **Has a diversion point that is subject to seasonally varying**
26 **flows.**

27 “[4] (5) The applicant for **or holder of** a permit or license described in
28 subsection [(3)] (4)(b) of this section may request that **the applicable sea-**
29 **sonally varying flows established under subsection (2) of this section for**
30 **a stream of interest** be altered based upon new information. There is,

1 however, a rebuttable presumption that existing applicable seasonally vary-
2 ing flows protect and maintain the biological, ecological and physical func-
3 tions of the stream to the extent required by commission rules.

4 “[5] (6) The department shall condition [*the new*] a water storage permit
5 and resulting certificate, [*new*] aquifer recharge permit and resulting certifi-
6 cate or [*new*] limited license [*associated with a project that receives a grant*
7 *or loan from the account*] **for a project described in subsection (4) of this**
8 **section** to protect the seasonally varying flow in effect at the time the loan
9 or grant is issued for the project.

10 “[6] (7) For purposes of any project [*that receives a loan or grant from*
11 *the account and has the characteristics described in subsection (1) of this sec-*
12 *tion, or any project*] described in subsection [(3)] (4) of this section, the de-
13 partment shall use a seasonally varying flow methodology provided by
14 commission rules in lieu of any other methodologies for determining sea-
15 sonally varying flows or any methodologies for determining peak and eco-
16 logical flows [*outside of the official irrigation season*] **during periods when**
17 **water is available for storage.**

18 “[7] (8) Subsections (1) to [(6)] (7) of this section do not eliminate or
19 alter any applicable standard for department review of an application to de-
20 termine whether water is available for purposes of reviewing an application
21 for a new water storage or aquifer recharge permit or a limited license for
22 the storage of water.”.

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