

**PROPOSED AMENDMENTS TO  
SENATE BILL 264**

1 On page 1 of the printed bill, delete lines 5 through 24 and delete pages  
2 2 and 3 and insert:

3 **“SECTION 1. Sections 2 and 3 of this 2015 Act are added to and**  
4 **made a part of ORS chapter 539.**

5 **“SECTION 2. (1) As used in this section:**

6 **“(a) ‘Joint management entity’ means the entity that is:**

7 **“(A) Composed of the landowner entity, the Klamath Tribes, the**  
8 **United States and the State of Oregon; and**

9 **“(B) Responsible for overseeing the implementation of the settle-**  
10 **ment agreement.**

11 **“(b) ‘Landowner entity’ means the entity formed by eligible land-**  
12 **owners as provided in section 8 of the settlement agreement.**

13 **“(c) ‘Settlement agreement’ means the Upper Klamath Basin Com-**  
14 **prehensive Agreement that took effect April 18, 2014.**

15 **“(2) The Water Resources Department may participate in activities**  
16 **related to the joint management entity that are consistent with the**  
17 **terms of the settlement agreement. The activities may include, but**  
18 **need not be limited to:**

19 **“(a) Providing assistance in the formation of an Oregon tax-exempt**  
20 **nonprofit corporation to function as the joint management entity for**  
21 **the settlement agreement;**

22 **“(b) Drafting and giving approval of the articles of incorporation**

1 and bylaws of the corporation;

2 “(c) Contracting with the corporation;

3 “(d) Participating as a voting member of the board of directors for  
4 the corporation; and

5 “(e) Participating as a member of the technical team for the cor-  
6 poration.

7 **“SECTION 3. (1) As used in this section:**

8 “(a) ‘Determined claim’ means a water right in the off-project area  
9 determined and established in an order of determination certified by  
10 the Water Resources Director under ORS 539.130.

11 “(b) ‘Off-project area’ means the parts of the Wood Valley and of  
12 the Upper Sprague, Sycan, Lower Sprague, Middle Williamson and  
13 Lower Williamson River Basins that are within the area identified as  
14 the off-project area in the Upper Klamath Basin Comprehensive  
15 Agreement that took effect April 18, 2014.

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

19 “(a) An existing water right that may be leased for a term as pro-  
20 vided under ORS 537.348; and

21 “(b) A primary water right that is subject to temporary transfer for  
22 purposes of ORS 540.523.

23 “(3) Subsection (2) of this section:

24 “(a) Does not apply to a water right determined and established in  
25 an order of determination that has been stayed by the filing of a bond  
26 or irrevocable letter of credit under ORS 539.180;

27 “(b) Does not apply to a water right transfer that includes changing  
28 the point of diversion upstream; and

29 “(c) Does not allow a person to purchase, lease or accept a gift of  
30 a determined claim for conversion to an in-stream water right as de-

1 scribed in ORS 537.348 (1).

2 “(4) For purposes of determining under ORS 537.348 (5) or 540.523 (2)  
3 whether the Water Resources Department may approve a lease or  
4 temporary transfer of a determined claim, an injury to another de-  
5 termined claim is an injury to an existing water right. Notwith-  
6 standing ORS 537.348 (6) or 540.523 (5), the department shall deny,  
7 modify or revoke the lease or temporary transfer of a determined  
8 claim if the department determines that the lease or temporary  
9 transfer has resulted in, or is likely to result in:

10 “(a) Injury to another determined claim or other existing water  
11 right; or

12 “(b) Enlargement of the determined claim.

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

15 “(6) If a determined claim is removed from land by lease or tempo-  
16 rary transfer, the land from which the determined claim is removed  
17 may not receive water during the term of the lease or temporary  
18 transfer.

19 “SECTION 4. (1) Section 3 of this 2015 Act is repealed January 2,  
20 2020.

21 “(2) Notwithstanding the repeal of section 3 of this 2015 Act by  
22 subsection (1) of this section, subject to modification or revocation  
23 under section 3 of this 2015 Act, a lease or temporary transfer of a  
24 determined claim as defined in section 3 of this 2015 Act for a term  
25 beginning prior to January 2, 2020, may continue in effect for the term  
26 of the lease or temporary transfer. If a court judgment results in a  
27 modification of the determined claim, the parties may continue the  
28 lease or temporary transfer of all or part of the water right as modi-  
29 fied for all or part of the original term of the lease or temporary  
30 transfer.

1        **SECTION 5.** This 2015 Act being necessary for the immediate  
2        preservation of the public peace, health and safety, an emergency is  
3        declared to exist, and this 2015 Act takes effect on its passage.”.

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