

**PROPOSED AMENDMENTS TO
HOUSE BILL 2400**

1 On page 1 of the printed bill, line 2, delete “541.651 and”.

2 Delete lines 5 through 24 and delete pages 2 and 3 and insert:

3 **“SECTION 1. (1) Notwithstanding section 18, chapter 784, Oregon**
4 **Laws 2013, any report that the task force established by section 18,**
5 **chapter 784, Oregon Laws 2013, submits as provided in ORS 192.245 to**
6 **the Governor, the President of the Senate, the Speaker of the House**
7 **of Representatives and the Water Resources Commission prior to April**
8 **1, 2015, is deemed to have satisfied the reporting requirement imposed**
9 **on the task force under section 18, chapter 784, Oregon Laws 2013.**

10 **“(2) Notwithstanding section 19, chapter 784, Oregon Laws 2013, any**
11 **report that the task force established by section 19, chapter 784,**
12 **Oregon Laws 2013, submits as provided in ORS 192.245 to the Governor,**
13 **the President of the Senate, the Speaker of the House of Represen-**
14 **tatives and the Water Resources Commission prior to January 31, 2015,**
15 **is deemed to have satisfied the reporting requirement imposed on the**
16 **task force under section 19, chapter 784, Oregon Laws 2013.**

17 **“SECTION 2. Section 20, chapter 784, Oregon Laws 2013, is amended to**
18 **read:**

19 **“Sec. 20.** (1) On or after the date that the Water Resources Commission
20 receives a copy of the task force report required under section 19 [*of this 2013*
21 *Act*], **chapter 784, Oregon Laws 2013,** the commission shall adopt rules to
22 establish a methodology for use in determining the seasonally varying flows

1 for a stream of interest. In adopting the rules, the commission shall give
2 consideration to adoption of the methodology described in the task force re-
3 port. The commission shall complete adoption of the rule in time for the rule
4 to take effect on January 1, [2015] **2016**. As used in this subsection, ‘sea-
5 sonally varying flow’ has the meaning given that term in [section 1 of this
6 2013 Act] **ORS 541.651**.

7 “(2) The commission shall appoint the task force established in section
8 19 [of this 2013 Act], **chapter 784, Oregon Laws 2013**, as provided in ORS
9 183.333 to act as an advisory committee to the commission for the consider-
10 ation of rule adoption under this section.

11 **“SECTION 3.** Section 22, chapter 784, Oregon Laws 2013, is amended to
12 read:

13 **“Sec. 22.** Section 18 [of this 2013 Act], **chapter 784, Oregon Laws 2013**,
14 is repealed on [the date of the convening of the 2015 regular session of the
15 Legislative Assembly as specified in ORS 171.010] **July 1, 2015**.

16 **“SECTION 4.** The Legislative Assembly intends that the amend-
17 ments to section 22, chapter 784, Oregon Laws 2013, by section 3 of this
18 2015 Act operate retroactively to February 2, 2015, and that the opera-
19 tion and effect of section 18, chapter 784, Oregon Laws 2013, continue
20 unaffected from February 2, 2015, to June 30, 2015. Any otherwise
21 lawful action of the task force established under section 18, chapter
22 784, Oregon Laws 2013, taken on or after February 2, 2015, and on or
23 before the earlier of June 30, 2015, or the effective date of this 2015 Act
24 is ratified and approved.

25 **“SECTION 5.** Section 23, chapter 784, Oregon Laws 2013, is amended to
26 read:

27 **“Sec. 23.** Section 19 [of this 2013 Act], **chapter 784, Oregon Laws 2013**,
28 is repealed on [the date of the convening of the 2016 regular session of the
29 Legislative Assembly as specified in ORS 171.010] **January 1, 2016**.

30 **“SECTION 6.** ORS 541.689 is amended to read:

1 “541.689. (1) The Water Resources Department shall make a determination
2 as provided under subsection (2) of this section if an application for a loan
3 or grant from the Water Supply Development Account is for a project that
4 requires a [*new*] water storage or aquifer recharge permit or limited license
5 for the storage of water outside of the official irrigation season and:

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

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

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

10 “(2) The department shall review a completed application for a project
11 described in subsection (1) of this section to determine whether the applica-
12 ble seasonally varying flows have been established under this section for the
13 stream of interest. If the department determines that the applicable sea-
14 sonally varying flows have not **previously** been established, the department
15 shall establish the seasonally varying flows before issuing a loan or grant
16 from the account. The department may use account moneys to pay the cost
17 of establishing a seasonally varying flow and to pay other costs directly re-
18 lated to project development.

19 “(3) The **Water Resources** Department shall establish any seasonally
20 varying flows under subsection (2) of this section in consultation with the
21 State Department of Fish and Wildlife and any affected Indian tribes. The
22 **Water Resources** Department may rely upon existing scientific data and
23 analysis or may fund new data and analysis. The **Water Resources** Depart-
24 ment shall establish seasonally varying flows using a methodology estab-
25 lished by Water Resources Commission rules. [*If seasonally varying flows are*
26 *established for a stream,*]

27 “(4) **If the department establishes applicable seasonally varying**
28 **flows for the stream of interest, the department shall make the sea-**
29 **sonally varying flows a condition of:**

30 “(a) **The new or existing water storage or aquifer recharge permit**

1 **or limited license for the storage of water issued for any project de-**
2 **scribed in subsection (1) of this section that receives a loan or grant**
3 **from the account; and**

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

8 “[a] (A) [*Is for a project receiving*] **Receives** a loan or grant from the
9 account;

10 “[b] (B) **Is** for the storage of water outside of the official irrigation
11 season; and

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

14 “[4] (5) The applicant for **or holder of** a permit or license described in
15 subsection [(3)] (4)(b) of this section may request that **the applicable** sea-
16 sonally varying flows **established under subsection (2) of this section for**
17 **the stream of interest** be altered based upon new information. There is,
18 however, a rebuttable presumption that existing applicable seasonally vary-
19 ing flows protect and maintain the biological, ecological and physical func-
20 tions of the stream to the extent required by commission rules.

21 “[5] (6) The department shall condition [*the new*] **a** water storage permit
22 and resulting certificate, [*new*] aquifer recharge permit and resulting certifi-
23 cate or [*new*] limited license [*associated with*] **for** a project that receives a
24 grant or loan from the account **and meets the other conditions described**
25 **in subsection (4) of this section** to protect the seasonally varying flow in
26 effect at the time the loan or grant is issued for the project.

27 “[6] (7) For purposes of any project that receives a loan or grant from
28 the account and [*has the characteristics described in subsection (1) of this*
29 *section, or any project*] **meets the other conditions** described in subsection
30 [(3)] (4) of this section, the department shall use a seasonally varying flow

1 methodology provided by commission rules in lieu of any other methodologies
2 for determining seasonally varying flows or any methodologies for deter-
3 mining peak and ecological flows outside of the official irrigation season.

4 “[7] (8) Subsections (1) to [(6)] (7) of this section do not eliminate or
5 alter any applicable standard for department review of an application to de-
6 termine whether water is available for purposes of reviewing an application
7 for a new water storage or aquifer recharge permit or a limited license for
8 the storage of water.

9 **“SECTION 7. This 2015 Act being necessary for the immediate**
10 **preservation of the public peace, health and safety, an emergency is**
11 **declared to exist, and this 2015 Act takes effect on its passage.”.**

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