

# House Bill 3205

Sponsored by Representative CLEM

## 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 **as introduced**.

Requires that state and commercial water bottler enter into agreement for sharing gross amount received from sale of water prior to state agency transferring interest in real property having appurtenant water right to bottler or prior to Water Resources Department issuing water right to bottler for certain waters formerly reserved, conserved or withdrawn from appropriation.

Prohibits issuing commercial water bottler right to use water formerly reserved for in-stream use. Prohibits exchange of in-stream use of water to benefit commercial water bottler.

Provides that commercial water bottler's use of water in violation of requirements or prohibition is not beneficial use for purposes of water right forfeiture statutes. Creates rebuttable presumption that transfer of property interest or issuance of water right for formerly reserved or withdrawn water was subject to agreement requirement if commercial water bottler is allowed use of water less than one year after property interest transfer or issuance of water right. Creates rebuttable presumption that in-stream water right was issued or exchanged in violation of prohibition if commercial water bottler is allowed use of water less than one year after issuance or less than one year after first injury resulting from exchange.

## A BILL FOR AN ACT

1  
2 Relating to the use of water by commercial water bottlers.

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

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 536.**

5 **SECTION 2. (1) Prior to the transfer of a state agency interest in real property under**  
6 **subsection (2) of this section to a commercial water bottler or the issuance of a water right**  
7 **under subsection (3) of this section to a commercial water bottler, the state and the bottler**  
8 **shall enter into an agreement providing for the state to receive not less than 75 percent of**  
9 **the gross amount that the bottler receives from the sale of water made available for use by**  
10 **the bottler as a result of the transfer of interest or issuance of the water right.**

11 **(2) A state agency and a commercial water bottler shall enter into an agreement as**  
12 **provided under subsection (1) of this section in connection with any direct or indirect**  
13 **transfer of a state agency interest in real property that would allow the bottler to use water**  
14 **under a water right appurtenant to the property in a commercial water bottling process.**

15 **(3) A state agency and a commercial water bottler shall enter into an agreement as**  
16 **provided under subsection (1) of this section before the Water Resources Department issues**  
17 **a water right that would allow the bottler to use water in a commercial water bottling pro-**  
18 **cess if, at any time prior to the issuance of the water right, the water was:**

19 **(a) Withdrawn from appropriation under an order described in ORS 536.410;**

20 **(b) Reserved under ORS 537.356 at the request of a state agency for the purpose of future**  
21 **economic development;**

22 **(c) Allocated to a state agency under ORS 537.470 and is reserved for future out-of-**  
23 **stream use or is otherwise used or disposed of under ORS 537.490; or**

24 **(d) Purchased or received as a gift by a state agency under ORS 537.495.**

**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 (4)(a) The department may not issue a water right to, or for any party acting on behalf  
2 of, a commercial water bottler if, at any time prior to the issuance of the water right, the  
3 water was included in an in-stream water right reserved under ORS 537.336.

4 (b) A state agency may not consent to an exchange under ORS 540.537 that would injure  
5 an in-stream water right if the proposed exchange would benefit rights held by, or on behalf  
6 of, a commercial water bottler.

7 (5) The use of water by a commercial water bottler in violation of this section is not a  
8 beneficial use of the water for purposes of ORS 540.610 to 540.650. For purposes of this sub-  
9 section, there is a rebuttable presumption that:

10 (a) The transfer of a state agency interest in real property was subject to subsection (1)  
11 of this section if the commercial water bottler uses water under a water appurtenant to the  
12 property less than one year after the state agency transfers the state agency interest in the  
13 property.

14 (b) The issuance of a water right in water described in subsection (3) of this section was  
15 subject to subsection (1) of this section if the commercial water bottler uses water under the  
16 water right less than one year after the issuance of the water right.

17 (c) A water right described in subsection (4) of this section was issued to, or on behalf  
18 of, a commercial water bottler if the bottler uses water under the water right less than one  
19 year after the issuance of the water right by the department.

20 (d) An exchange described in subsection (4) of this section benefitted a water right held  
21 by, or on behalf of, a commercial water bottler if the bottler uses water under the exchange  
22 less than one year after the first injury to an in-stream water right.

23 **SECTION 3.** Section 2 of this 2017 Act applies to:

24 (1) State agency transfers of interests in real property finalized on or after the effective  
25 date of this 2017 Act;

26 (2) Water rights that the Water Resources Department issues on or after the effective  
27 date of this 2017 Act; and

28 (3) Water right exchanges to which a state agency agrees on or after the effective date  
29 of this 2017 Act.

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