

A-Engrossed
House Bill 4016

Ordered by the House February 16
Including House Amendments dated February 16

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

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.

Authorizes qualifying district named in specified court filing as claimant of determined claim in Klamath Project to transfer place of use identified in claim to other land within qualifying district.
Sunsets January 2, 2026.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to determined claims; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) **“Determined claim” means a water right within the Upper Klamath Basin determined and established in an order of determination certified by the Water Resources Director under ORS 539.130.**

(b) **“Klamath Project” has the meaning given that term in ORS 542.620.**

(c) **“Qualifying district” means:**

(A) An irrigation district organized under ORS chapter 545;

(B) A drainage district organized under ORS chapter 547;

(C) A water improvement district organized under ORS chapter 552;

(D) A water control district organized under ORS chapter 553;

(E) A nonpublic water control entity organized under ORS chapter 554; or

(F) The Tulelake Irrigation District organized under California Water Code section 20500 et. seq.

(2) Except as provided in subsection (3) of this section, a qualifying district may temporarily transfer the place of use identified in a determined claim from land that is within the boundaries of the qualifying district to other land within the boundaries of the qualifying district if:

(a) The determined claim is located within the Klamath Project;

(b) The qualifying district is named as a claimant of the determined claim in the Amended and Corrected Findings of Fact and Order of Determination filed with the Klamath County Circuit Court on February 28, 2014;

(c) The determined claim is pending judicial review by the Klamath County Circuit Court;

(d) The rate and duty, and the total number of acres to which water will be applied under

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 the temporary transfer, do not exceed existing limits on the determined claim;

2 (e) The type of use authorized under the determined claim is for irrigation and remains
3 the same under the temporary transfer;

4 (f) The land from which the determined claim is temporarily removed does not receive
5 any water during an irrigation season for which the water is temporarily transferred for use
6 on other land; and

7 (g) The qualifying district:

8 (A) Has defined boundaries and includes the boundaries on a map the qualifying district
9 provides to the Water Resources Department;

10 (B) Has a management structure that can ensure the water is applied only where the
11 water use is authorized;

12 (C) Does not irrigate an area in any one irrigation season that exceeds the maximum
13 number of acres allowed to be irrigated under the determined claim;

14 (D) Fully and accurately measures the water appropriated;

15 (E) Has an accurate map identifying the location for the authorized place of use and
16 proposed place of use available for review upon request;

17 (F) Provides a copy of the map described in subparagraph (E) of this paragraph to the
18 watermaster annually no later than the earlier of April 15 or the start of the irrigation; and

19 (G) Has on file statements by any landowner affected by the water use change indicating
20 that the landowner agrees to the change.

21 (3) The Water Resources Department may require that the change in the place of use
22 of water under this section cease and that use revert to the place of use allowed under the
23 determined claim, only if:

24 (a) The department determines that:

25 (A) The water is being used in a manner that violates the requirements of this section;

26 (B) The changes made to the place of use of water would result in injury to other de-
27 termined claims or existing water rights; or

28 (C) The changes made to the place of use of water would result in an enlargement of the
29 determined claim;

30 (b) A court stays the determined claim; or

31 (c) A court issues an order or judgment on the determined claim that alters or denies
32 the claim.

33 (4) Water use under this section is not admissible as evidence of water use in a court
34 adjudication regarding a determined claim.

35 (5) Water use on land within the preceding five years is not a criterion in evaluating el-
36 igibility of the land for a transfer under this section.

37 **SECTION 2.** Section 1 of this 2018 Act is amended to read:

38 **Sec. 1.** (1) As used in this section:

39 (a) "Determined claim" means a water right within the Upper Klamath Basin determined and
40 established in an order of determination certified by the Water Resources Director under ORS
41 539.130.

42 (b) "Klamath Project" has the meaning given that term in ORS 542.620.

43 (c) "Qualifying district" means:

44 (A) An irrigation district organized under ORS chapter 545;

45 (B) A drainage district organized under ORS chapter 547;

1 (C) A water improvement district organized under ORS chapter 552;

2 (D) A water control district organized under ORS chapter 553;

3 (E) A nonpublic water control entity organized under ORS chapter 554; or

4 (F) The Tulelake Irrigation District organized under California Water Code section 20500 et. seq.

5 (2) Except as provided in subsection (3) of this section, a qualifying district may temporarily
6 transfer the place of use identified in a determined claim from land that is within the boundaries
7 of the qualifying district to other land within the boundaries of the qualifying district if:

8 (a) The determined claim is located within the Klamath Project;

9 (b) The qualifying district is named as a claimant of the determined claim in the Amended and
10 Corrected Findings of Fact and Order of Determination filed with the Klamath County Circuit Court
11 on February 28, 2014;

12 (c) The determined claim is pending judicial review by the Klamath County Circuit Court;

13 (d) The rate and duty, and the total number of acres to which water will be applied under the
14 temporary transfer, do not exceed existing limits on the determined claim;

15 (e) The type of use authorized under the determined claim is for irrigation and remains the same
16 under the temporary transfer;

17 (f) The land from which the determined claim is temporarily removed does not receive any water
18 during an irrigation season for which the water is temporarily transferred for use on other land; and

19 (g) The qualifying district:

20 (A) Has defined boundaries and includes the boundaries on a map the qualifying district provides
21 to the Water Resources Department;

22 (B) Has a management structure that can ensure the water is applied only where the water use
23 is authorized;

24 (C) Does not irrigate an area in any one irrigation season that exceeds the maximum number
25 of acres allowed to be irrigated under the determined claim;

26 (D) Fully and accurately measures the water appropriated;

27 *[(E) Has an accurate map identifying the location for the authorized place of use and proposed*
28 *place of use available for review upon request;]*

29 *[(F) Provides a copy of the map described in subparagraph (E) of this paragraph to the*
30 *watermaster annually no later than the earlier of April 15 or the start of the irrigation; and]*

31 **(E) Has an accurate map identifying the location for the authorized place of use and**
32 **proposed place of use by priority date for review upon request and provides a copy of the**
33 **map to the watermaster no later than March 1 of each year; and**

34 *[(G)] (F) Has on file statements by any landowner affected by the water use change indicating*
35 *that the landowner agrees to the change.*

36 (3) The Water Resources Department may require that the change in the place of use of water
37 under this section cease and that use revert to the place of use allowed under the determined claim,
38 *[only]* if:

39 (a) The department determines that:

40 (A) The water is being used in a manner that violates the requirements of this section;

41 (B) The changes made to the place of use of water would result in injury to other determined
42 claims or existing water rights; or

43 (C) The changes made to the place of use of water would result in an enlargement of the de-
44 termined claim;

45 (b) A court stays the determined claim; or

1 (c) A court issues an order or judgment on the determined claim that alters or denies the claim.

2 (4) Water use under this section is not admissible as evidence of water use in a court adjudi-
3 cation regarding a determined claim.

4 *[(5) Water use on land within the preceding five years is not a criterion in evaluating eligibility*
5 *of the land for a transfer under this section.]*

6 **SECTION 3. The amendments to section 1 of this 2018 Act by section 2 of this 2018 Act**
7 **become operative on January 1, 2019.**

8 **SECTION 4. Section 1 of this 2018 Act is repealed on January 2, 2026.**

9 **SECTION 5. This 2018 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect**
11 **on its passage.**

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