

House Bill 4016

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 **as introduced**.

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 claimed interest in a stream for which the Water Resources Director has issued an order of determination 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 a place of use identified in a determined claim 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 the temporary transfer, do not exceed existing limits on the determined claim;**

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

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

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 **(g) The qualifying district:**
2 **(A) Has defined boundaries;**
3 **(B) Has a management structure that can ensure the water is applied only where the**
4 **water use is authorized;**
5 **(C) Does not irrigate an area in any one irrigation season that exceeds the maximum**
6 **number of acres allowed to be irrigated under the determined claim;**
7 **(D) Fully and accurately measures the water appropriated; and**
8 **(E) Has on file statements by any landowner affected by the water use change indicating**
9 **that the landowner agrees to the change.**
10 **(3) The Water Resources Department may require that the change in the place of use**
11 **of water cease and that the place of use revert to the use allowed under the determined**
12 **claim, only if the department determines that:**
13 **(a) The water is being used in a manner that violates the requirements of subsection (2)**
14 **of this section;**
15 **(b) The changes made to the place of use of water would result in injury to other deter-**
16 **mined claims or existing water rights;**
17 **(c) The changes made to the place of use of water would result in an enlargement of the**
18 **determined claim; or**
19 **(d) A court stays the determined claim.**
20 **(4) Use of water as described in this section constitutes a beneficial use of water and does**
21 **not constitute nonuse for purposes of forfeiture under ORS 540.610.**

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

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

24 (a) “Determined claim” means a claimed interest in a stream for which the Water Resources
25 Director has issued an order of determination under ORS 539.130.

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

27 (c) “Qualifying district” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (g) The qualifying district:

4 (A) Has defined boundaries;

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

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

9 (D) Fully and accurately measures the water appropriated; *[and]*

10 **(E) Has an accurate map that identifies the authorized place of use by priority date,
11 makes the map available for review upon request and provides a copy of the map to the
12 watermaster on or before February 1 of each year; and**

13 *[(E)]* (F) Has on file statements by any landowner affected by the water use change indicating
14 that the landowner agrees to the change.

15 (3) The Water Resources Department may require that the change in the place of use of water
16 cease and that the place of use revert to the use allowed under the determined claim, only if the
17 department determines that:

18 (a) The water is being used in a manner that violates the requirements of subsection (2) of this
19 section;

20 (b) The changes made to the place of use of water would result in injury to other determined
21 claims or existing water rights;

22 (c) The changes made to the place of use of water would result in an enlargement of the deter-
23 mined claim; or

24 (d) A court stays the determined claim.

25 (4) Use of water as described in this section constitutes a beneficial use of water and does not
26 constitute nonuse for purposes of forfeiture under ORS 540.610.

27 **SECTION 3. The amendments to section 1 of this 2018 Act by section 2 of this 2018 Act
28 become operative on July 1, 2018.**

29 **SECTION 4. (1) Section 1 of this 2018 Act is repealed January 2, 2026.**

30 **(2) Notwithstanding the repeal of section 1 of this 2018 Act, subject to change as de-
31 scribed under section 1 (3) of this 2018 Act, a temporary transfer of place of use under sec-
32 tion 1 of this 2018 Act for a term beginning prior to January 2, 2026, may continue in effect
33 for the term of the temporary transfer. If a court judgment results in a modification of the
34 determined claim, the parties may continue a temporary transfer of place of use for all or
35 part of the water right as modified for all or part of the original term of the temporary
36 transfer.**

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

40