

Requested by HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
HOUSE BILL 4016**

1 On page 1 of the printed bill, delete lines 4 through 30 and delete pages
2 2 and 3 and insert:

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

4 **“(a) ‘Determined claim’ means a water right within the Upper**
5 **Klamath Basin determined and established in an order of determi-**
6 **nation certified by the Water Resources Director under ORS 539.130.**

7 **“(b) ‘Klamath Project’ has the meaning given that term in ORS**
8 **542.620.**

9 **“(c) ‘Qualifying district’ means:**

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

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

12 **“(C) A water improvement district organized under ORS chapter**
13 **552;**

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

15 **“(E) A nonpublic water control entity organized under ORS chapter**
16 **554; or**

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

19 **“(2) Except as provided in subsection (3) of this section, a qualifying**
20 **district may temporarily transfer the place of use identified in a de-**
21 **termined claim from land that is within the boundaries of the quali-**

1 **fyng district to other land within the boundaries of the qualifying**
2 **district if:**

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

4 **“(b) The qualifying district is named as a claimant of the deter-**
5 **mined claim in the Amended and Corrected Findings of Fact and Order**
6 **of Determination filed with the Klamath County Circuit Court on**
7 **February 28, 2014;**

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

10 **“(d) The rate and duty, and the total number of acres to which**
11 **water will be applied under the temporary transfer, do not exceed ex-**
12 **isting limits on the determined claim;**

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

15 **“(f) The land from which the determined claim is temporarily re-**
16 **moved does not receive any water during an irrigation season for**
17 **which the water is temporarily transferred for use on other land; and**

18 **“(g) The qualifying district:**

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

21 **“(B) Has a management structure that can ensure the water is ap-**
22 **plied only where the water use is authorized;**

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

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

27 **“(E) Has an accurate map identifying the location for the author-**
28 **ized place of use and proposed place of use available for review upon**
29 **request;**

30 **“(F) Provides a copy of the map described in subparagraph (E) of**

1 **this paragraph to the watermaster annually no later than the earlier**
2 **of April 15 or the start of the irrigation; and**

3 **“(G) Has on file statements by any landowner affected by the water**
4 **use change indicating that the landowner agrees to the change.**

5 **“(3) The Water Resources Department may require that the change**
6 **in the place of use of water under this section cease and that use re-**
7 **vert to the place of use allowed under the determined claim, only if:**

8 **“(a) The department determines that:**

9 **“(A) The water is being used in a manner that violates the re-**
10 **quirements of this section;**

11 **“(B) The changes made to the place of use of water would result in**
12 **injury to other determined claims or existing water rights; or**

13 **“(C) The changes made to the place of use of water would result in**
14 **an enlargement of the determined claim;**

15 **“(b) A court stays the determined claim; or**

16 **“(c) A court issues an order or judgment on the determined claim**
17 **that alters or denies the claim.**

18 **“(4) Water use under this section is not admissible as evidence of**
19 **water use in a court adjudication regarding a determined claim.**

20 **“(5) Water use on land within the preceding five years is not a cri-**
21 **terion in evaluating eligibility of the land for a transfer under this**
22 **section.**

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

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

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

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

29 **“(c) ‘Qualifying district’ means:**

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

1 “(B) A drainage district organized under ORS chapter 547;
2 “(C) A water improvement district organized under ORS chapter 552;
3 “(D) A water control district organized under ORS chapter 553;
4 “(E) A nonpublic water control entity organized under ORS chapter 554;

5 or

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

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

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

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

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

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

21 “(e) The type of use authorized under the determined claim is for irri-
22 gation and remains the same under the temporary transfer;

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

26 “(g) The qualifying district:

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

29 “(B) Has a management structure that can ensure the water is applied
30 only where the water use is authorized;

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

4 “(D) Fully and accurately measures the water appropriated;

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

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

10 “**(E) Has an accurate map identifying the location for the author-**
11 **ized place of use and proposed place of use by priority date for review**
12 **upon request and provides a copy of the map to the watermaster no**
13 **later than March 1 of each year; and**

14 “[~~(G)~~ (F) Has on file statements by any landowner affected by the water
15 use change indicating that the landowner agrees to the change.

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

19 “(a) The department determines that:

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

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

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

26 “(b) A court stays the determined claim; or

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

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

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

3 **“SECTION 3. The amendments to section 1 of this 2018 Act by sec-**
4 **tion 2 of this 2018 Act become operative on January 1, 2019.**

5 **“SECTION 4. Section 1 of this 2018 Act is repealed on January 2,**
6 **2026.**

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

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