

House Bill 3430

Sponsored by Representative SANCHEZ

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**.

Eliminates routine staying of Water Resources Commission or Water Resources Department final order enforcement upon filing of petition for judicial review of order.

A BILL FOR AN ACT

1
2 Relating to stays of final orders; creating new provisions; and amending ORS 536.075.

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

4 **SECTION 1.** ORS 536.075 is amended to read:

5 536.075. (1) Any party affected by a final order other than contested case issued by the Water
6 Resources Commission or Water Resources Department may appeal the order to the Circuit Court
7 of Marion County or to the circuit court of the county in which all or part of the property affected
8 by the order is situated. The review shall be conducted according to the provisions of ORS 183.484,
9 183.486, 183.497 and 183.500. A final order other than contested case issued by the Water Resources
10 Commission or the Water Resources Department must state on the first page of the order that the
11 order is a final order other than contested case, that the order is subject to judicial review under
12 ORS 183.484 and that any petition for judicial review of the order must be filed within the time
13 specified by ORS 183.484 (2). Any order other than contested case issued by the Water Resources
14 Commission or by the Water Resources Department that does not comply with the requirements of
15 this section is not a final order.

16 (2) Any party affected by a final order in a contested case issued by the Water Resources
17 Commission or the Water Resources Department may appeal the order to the Court of Appeals.

18 (3) An appeal under subsection (2) of this section shall be conducted as provided in ORS 183.482
19 except as specifically provided in subsections (4), (5) and (6) **and (5)** of this section.

20 (4) The petition *[shall]* **for judicial review must** state the facts showing how the petitioner is
21 adversely affected by the order and the ground or grounds upon which the petitioner contends the
22 order should be reversed or remanded.

23 *[(5) The filing of a petition in either the circuit court or the Court of Appeals shall stay enforcement*
24 *of the order of the commission or the department unless the commission or the department determines*
25 *that substantial public harm will result if the order is stayed. If the commission or the department*
26 *denies the stay, the denial shall be in writing and shall specifically state the substantial public harm*
27 *that will result from allowing the stay.]*

28 [(6)] **(5)** The review by the Court of Appeals under subsection (2) of this section shall be on the
29 entire record forwarded by the commission or department. The court may remand the case for fur-
30 ther evidence taking, correction or other necessary action. The court may affirm, reverse, modify
31 or supplement the order appealed from, and make such disposition of the case as the court deter-

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 mines to be appropriate.

2 [(7)] (6) The provisions of this section [*shall*] **do** not apply to any proceeding under ORS 537.670
3 to 537.695 or ORS chapter 539.

4 [(8)] (7) For the purposes of this section, “final order” and “contested case” have the meanings
5 given those terms in ORS 183.310.

6 **SECTION 2. The amendments to ORS 536.075 by section 1 of this 2019 Act apply to pe-**
7 **titions for judicial review filed on or after the effective date of this 2019 Act.**

8
