

Enrolled
House Bill 2145

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Water Resources Department)

CHAPTER

AN ACT

Relating to the performance of work on wells; creating new provisions; and amending ORS 536.090, 536.750, 536.900, 537.545, 537.747, 537.753, 537.762, 537.763, 537.765, 537.780, 537.789 and 537.791 and sections 2 and 7, chapter 496, Oregon Laws 2001.

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

SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS 537.747 to 537.795.

SECTION 2. The Water Well Abandonment, Repair and Replacement Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Water Well Abandonment, Repair and Replacement Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Water Resources Department for the purpose of carrying out the program purposes described in section 3 of this 2021 Act. The fund shall consist of any moneys designated for deposit in the fund or for carrying out the program purposes, including but not limited to appropriations or other provisions of moneys by the Legislative Assembly and public or private moneys from gifts, grants or donations.

SECTION 3. (1) As used in this section, “repair” may include, but is not limited to, a well deepening.

(2) Moneys in the Water Well Abandonment, Repair and Replacement Fund may be disbursed under authority of the Water Resources Director for the purposes described in this section. The Water Resources Department may disburse moneys from the fund to provide financial assistance:

(a) To a person, as defined in ORS 536.007, or member of a federally recognized Indian tribe in Oregon to permanently abandon a water well or to repair or replace a water well that is used for household purposes;

(b) To nonprofit, governmental or other institutions that meet qualifications established by Water Resources Commission rules, for programs to permanently abandon water wells and to repair or replace water wells used for household purposes;

(c) As cost-sharing with other programs to permanently abandon water wells and to repair or replace water wells used for household purposes; or

(d) To pay the cost of direct services of a water well constructor licensed under ORS 537.747 to purchase necessary materials and perform the work needed for abandoning, repairing or replacing water wells that are eligible under this section.

(3) Except as provided in subsection (4) of this section, financial assistance provided under subsection (2) of this section may not exceed:

(a) 75 percent of the cost to permanently abandon a water well;
(b) 75 percent of the cost to repair or to replace a water well used for household purposes; or

(c) 50 percent of the cost of developing a program to permanently abandon, repair or replace water wells, when paid to an institution described in subsection (2)(b) of this section.

(4) Notwithstanding subsection (3) of this section, financial assistance provided under subsection (2) of this section to an individual with lower income, as defined by the department, may cover the full cost of the materials or work described in subsection (2) of this section.

(5) An expenditure from the fund is subject to at least one of the following purposes:

(a) The permanent abandonment, repair or replacement of water wells in which deficiencies in the well construction might:

(A) Result in waste, loss of artesian pressure or ground water declines;

(B) Serve as a conduit for contamination; or

(C) Otherwise be a detriment to public health or safety.

(b) The repair or replacement of water wells used for household purposes by persons of lower or moderate income.

(c) The replacement of water wells used for household purposes in areas of declining ground water levels where other sources of water for household purposes are not feasible.

(d) The abandonment, repair or replacement of water wells consistent with water resources management purposes specified by rule by the commission.

(e) The abandonment, repair or replacement of water wells damaged due to natural disasters.

(6) If the department provides funding to an institution under subsection (2)(b) of this section, the department shall require that the institution:

(a) Use accounting, auditing and fiscal procedures that conform with generally accepted government accounting standards;

(b) Give preference to persons of lower or moderate income and to small businesses that do not qualify for other financing;

(c) Demonstrate past success in offering, underwriting, servicing and managing loans or grants to:

(A) Persons of lower or moderate income; or

(B) Persons representing a wide range of qualifications for credit; and

(d) Have a plan for engaging other stakeholders in outreach and marketing efforts for a loan or grant program.

(7) The department may enter into contracts, intergovernmental agreements or other arrangements with public or private entities for any purposes consistent with this section.

(8) The commission may adopt rules to implement this section, including rules that:

(a) Prioritize the issuance of the funding for a purpose described in subsection (5) of this section.

(b) Establish a preference for providing the funding to individuals of moderate or lower income.

(c) Establish that the funding may only be provided to individuals of moderate or lower income.

SECTION 4. ORS 536.090 is amended to read:

536.090. (1) In carrying out the duties, functions and powers prescribed by law, the Water Resources Commission shall appoint a ground water advisory committee to:

(a) Advise the commission on all matters relating to:

(A) Rules for the development, securing, use and protection of ground water; and

(B) Licensing of well constructors, including the examination of such persons for license.

(b) Review the proposed expenditure of all revenues generated under ORS 537.762 [(5)]. At least once each year, and before the expenditure of such funds on new program activities, the Water Resources Department and the ground water advisory committee shall develop jointly a proposed expenditure plan for concurrence by the Water Resources Commission. The plan may be modified, if necessary, upon the joint recommendation of the department and the ground water advisory committee with concurrence by the commission.

(2) The committee shall consist of nine members who represent a range of interests or expertise. At least three of the members shall be individuals actively engaged in some aspect of the water supply or monitoring well drilling industry. Members shall serve for such terms as the commission may specify. The committee shall meet at least once every three months and at other times and places as the commission may specify.

(3) A member of the committee shall not receive compensation, but at the discretion of the commission may be reimbursed for travel expenses incurred, subject to ORS 292.495.

SECTION 5. ORS 536.750 is amended to read:

536.750. (1) Notwithstanding any provision of ORS chapters 536 to 543A, after a declaration that a severe, continuing drought exists, the Water Resources Commission may:

(a) Issue without first conducting a hearing under ORS 537.170, a temporary permit for an emergency use of water;

(b) Allow a temporary change in use, place of use or point of diversion of water without complying with the notice and waiting requirements under ORS 540.520;

(c) Notwithstanding the priority of water rights, grant preference of use to rights for human consumption or stock watering use;

(d) Waive the notice requirements under ORS 537.753 and the [report] **start card** required under ORS 537.762;

(e) Allow a temporary exchange of water without giving notice as required under ORS 540.535; and

(f) Utilize an expedited notice and waiting requirement established by rule for the substitution of a supplemental ground water right for a primary water right under drought conditions in place of the notice and waiting requirement provided in ORS 540.524.

(2) The commission by rule may establish procedures for carrying out the provisions of this section and a schedule of fees that must accompany a request under subsection (1) of this section.

SECTION 6. ORS 537.747 is amended to read:

537.747. (1) No person shall advertise services to construct, alter, abandon or convert wells, offer to enter or enter into a contract with another person or public agency to construct, alter, abandon or convert a well for such other person, cause any well construction, alteration, abandonment or conversion to be performed under such a contract or operate well drilling machinery without possessing a water well constructor's license therefor in good standing issued by the Water Resources Department. The department shall adopt a single water well constructor's license that may specify the type of well, type of well alteration or construction or type of well drilling machine operation for which the water well constructor is qualified.

(2) Notwithstanding subsection (1) of this section, a person may operate a well drilling machine without a water well constructor's license if supervised by one who possesses such a license.

(3) A person shall be qualified to receive a water well constructor's license if the person:

(a) Is at least 18 years of age.

(b) Has passed a written examination conducted by the department to determine fitness to operate as a water well constructor.

(c) Has paid a license fee and an examination fee according to the fee schedule set forth under subsection (6) of this section.

(d) Has one year or more experience in the operation of well drilling machinery.

(e) Provides evidence that the person has completed an arc welding training course from a community college, received a professional welding certification, passed a welding proficiency test or otherwise completed professional welding training.

(4) Upon fulfillment of all the requirements set out in subsection (3) of this section, the department shall issue the applicant a water well constructor's license in a form prescribed by the department. The license may be issued for a period of two years.

(5) A water well constructor's license shall expire on June 30 or on such date as may be specified by department rule. A person may renew a license by submitting an application and the appropriate fees any time before the license expires but not later than one year after the license expires. A person who renews a license within the 12 months after the license expires may either pay a penalty fee set forth under subsection (6)(d) of this section or requalify for a water well constructor's license in accordance with subsection (3) of this section. If a person fails to renew a license within 12 months after expiration, the person must comply with the requirements of subsection (3) of this section for a new water well constructor's license.

(6) The department shall collect in advance the following fees:

(a) An examination fee of \$20.

(b) A license fee of \$150.

(c) A renewal fee of \$150, **if the license is renewed on or before the expiration date.**

(d) Unless a person requalifies for a water well constructor's license in accordance with subsection (3) of this section, a water well constructor shall pay a renewal fee of \$250 if *[the]* **an expired** license is renewed *[within]* **on or before** 12 months after **the expiration date.**

(e) If a person requalifies for a water well constructor's license under subsection (3) of this section, the person shall pay the renewal fee established under paragraph (c) of this subsection.

(7) The department may revoke, suspend or refuse to renew any water well constructor's license when it appears to the satisfaction of the department, after notice and opportunity to be heard by the licensee, that the licensee has failed to comply with the provisions of ORS 537.505 to 537.795 and 537.992 applicable to such licensee or any order or rule adopted thereunder applicable to such licensee, or has made a **material misrepresentation or** material misstatement of fact on an application for a license or well log or established a pattern of conduct that willfully or negligently violates any provision of ORS 537.505 to 537.795 and 537.992, or any rule adopted pursuant thereto, applicable to such licensee.

(8) The *[provisions of]* **requirement in** subsection (3)(d) of this section *[requiring one year or more experience in the operation of well drilling machinery do]* **does** not apply to any person who, on July 1, 1981, holds the license required by this section and who continues thereafter to maintain the license in good standing.

(9) The requirement in subsection (3)(e) of this section does not apply to any person who, on July 1, 2023, holds the license required by this section and who continues thereafter to maintain the license in good standing.

(10) If the department observes a welding deficiency on a well, the department may order the licensee who welded the well to, within a reasonable time, complete an arc welding training course from a community college, acquire a professional welding certification, pass a welding proficiency test or otherwise complete professional welding training.

[(9)] (11) The fees collected under subsection (6) of this section shall be paid into the Water Resources Department Water Right Operating Fund. Such moneys are continuously appropriated to the Water Resources Department to pay the department's expenses in administering and enforcing the water well constructor's licensing program.

SECTION 7. ORS 537.753 is amended to read:

537.753. (1) Any person who contracts or offers services to contract to construct, alter, abandon or convert wells shall have in effect a surety bond or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, running to the State of Oregon in the sum of \$20,000, ensuring that in the construction, alteration, abandonment or conversion of wells, the principal shall comply with all the provisions of ORS 537.505 to 537.795 and 537.992 that are applicable to such construction, alteration, abandonment or conversion and to the rules and standards of well construction, alteration, abandonment and conversion that have been prescribed by the Water Re-

sources Commission. The bond or letter of credit shall be filed with the Water Resources Commission.

(2) The Water Resources Commission or any person injured by failure of a water well constructor to comply with the provisions of the bond or letter of credit has a right of action on the bond or letter of credit in the name of the injured person. However, the aggregate liability of the surety or letter of credit issuer to all such persons may not exceed the sum of the bond or letter of credit.

(3) A proceeding against the bond or letter of credit under subsection (2) of this section may not be commenced unless the commission notifies the water well constructor of the alleged violation within three years after the date the water well report is filed with the commission.

(4) If a well is to be constructed, altered, abandoned or converted by a person that is not licensed under ORS 537.747 on property owned by that person, the person shall obtain a permit from the commission before beginning work. Application for the permit shall be in the form prescribed by the commission and must be accompanied by a fee of \$500. At the time *[the permit is obtained,]* **of filing the permit**, the applicant also shall *[file with]* **submit to** the commission a bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 running to the State of Oregon in the sum of \$10,000, ensuring that in the construction, alteration, abandonment or conversion of the well the landowner shall comply with all the provisions of ORS 537.505 to 537.795 and 537.992 that are applicable to the construction, alteration, abandonment or conversion of wells and to the rules and standards of well construction, alteration, abandonment and conversion that have been prescribed by the commission. Before the person who constructs, alters, abandons or converts a well referred to in this subsection seals the well, the person must give 10 days' written notice *[of the construction, alteration, abandonment or conversion to the commission]* **to the Water Resources Department so department personnel can be present to observe the work**. After expiration of the notice period, the well may be sealed even if the *[commission]* **department** has not caused the well to be inspected.

SECTION 8. ORS 537.762 is amended to read:

537.762. (1) Each person required to possess a license under ORS 537.747 who has entered into a contract to construct, alter, abandon or convert a well or cause a well to be constructed, altered, abandoned or converted shall, before beginning work on the well, make a report to the Water Resources Commission containing:

- (a) The name and post-office address of the owner of the well.
- (b) The approximate location of the well.
- (c) The proposed depth and diameter of the well.
- (d) The proposed purpose or use of the ground water from the well.

(2) The commission shall furnish a convenient means for submitting the reports referred to in subsection (1) of this section to each person who possesses a license under ORS 537.747.

(3) A separate report shall be furnished under subsection (1) of this section for each well that is constructed, altered, abandoned or converted.

(4) The report furnished under subsection (1) of this section shall be confidential and maintained as such for one year or until the well log required under ORS 537.765 is received by the commission, whichever is earlier. Nothing in this subsection prohibits the commission from using the report for enforcement actions during the period the report is considered confidential.

(5) Each report form submitted under subsection (1) of this section for the construction of a new well, deepening of an existing well, or conversion of a well shall be accompanied by a fee of ~~[\$225]~~ **\$350**. Notwithstanding the fee established pursuant to this subsection, the commission may adopt by rule a reduced fee for persons submitting materials to the Water Resources Department in a digital format approved by the department.

(6) The moneys paid to the commission under subsection (5) of this section shall be paid into the Water Resources Department Operating Fund. All interest, if any, from moneys received under subsection (5) of this section shall inure to the benefit of the Water Resources Department. Such

moneys and interest earned on such moneys are continuously appropriated to the department to be used to pay the costs of the department to employ personnel to inspect wells and well construction.

SECTION 9. ORS 537.762, as amended by section 8 of this 2021 Act, is amended to read:

537.762. (1) **As used in this section:**

(a) **“Licensed or permitted person” means a person licensed under ORS 537.747 or permitted under ORS 537.753 (4).**

(b) **“Start card” means a form containing all information required by the Water Resources Department as a notification that a licensed or permitted person will commence work on a well.**

[(1)] (2) Each *[person required to possess a license under ORS 537.747]* **licensed or permitted person** who has entered into a contract to construct, alter, abandon or convert a well or cause a well to be constructed, altered, abandoned or converted shall, **not earlier than 60 days and not later than 72 hours** before beginning work on the well, *[make a report]* **submit a start card** to the *[Water Resources Commission]* **department** containing:

(a) The name, **telephone number, electronic mail address** and post-office address of the owner of the well.

(b) The approximate location of the well **by county tax lot number, township, range, section and nearest quarter-quarter section.**

(c) **The street address nearest to the proposed well.**

(d) **The latitude and longitude of the well as established by a global positioning system.**

[(c)] (e) The proposed depth and diameter of the well.

[(d)] (f) The proposed purpose or use of the ground water from the **proposed** well.

(g) **The time frame proposed for beginning and completing the construction, alteration, abandonment or conversion.**

(h) **The time frame proposed for annular seal placement.**

(i) **The well identification label number, if assigned.**

(j) **The water right application, permit or certificate number, if applicable.**

(k) **The original well log number, if applicable.**

(L) **The type of work proposed.**

(m) **Notification of any need for special standards.**

(n) **The signature and license number, if applicable, of the bonded and licensed or permitted person who would undertake the work.**

(o) **For an existing well, the current purpose or use of the well and the existing depth and diameter of the well.**

[(2)] *The commission shall furnish a convenient means for submitting the reports referred to in subsection (1) of this section to each person who possesses a license under ORS 537.747.]*

(3) **The department shall furnish a convenient means for licensed or permitted persons to submit start card information under this section.**

[(3)] (4) A separate *[report shall be furnished under subsection (1) of this section]* **start card is required** for each well that is constructed, altered, abandoned or converted.

[(4)] (5) *[The report furnished under subsection (1) of]* **A start card submitted under** this section shall be confidential and maintained as such for one year or until the well log required under ORS 537.765 is received by the *[commission]* **department**, whichever is earlier. Nothing in this subsection prohibits the *[commission]* **department** from using *[the report]* **a start card** for enforcement actions during the period the *[report]* **start card** is *[considered]* confidential.

(6) **On the date that work on the well commences, the licensed or permitted person shall, before commencing work, notify the department that the work is about to commence. If the proposed date of seal placement is not the date proposed on the start card required by this section, the licensed or permitted person shall notify the department of the change at least four hours before placing the seal.**

(7) The Water Resources Commission may adopt rules establishing precision requirements and standards for global positioning system equipment used to obtain information submitted under subsection (2) of this section.

(8) Unless the licensed or permitted person submitting a start card under this section has requested and received an extension, a start card expires if construction, alteration, abandonment or conversion of a well does not begin on or before 60 days after submission of the start card. If a start card expires, a new start card and fee must be submitted in compliance with this section before construction, alteration, abandonment or conversion of the well may occur. If a start card is withdrawn before expiring, the licensed or permitted person that submitted the start card may request that the fee paid for the withdrawn start card be transferred to a new start card.

(9) The commission may establish by rule an exception to any time frame established in this section for areas requiring special standards and for any other purpose identified by the commission.

(10) The requirement in subsection (2) of this section that a licensed or permitted person must submit a start card not later than 72 hours before beginning work on a well does not apply:

(a) To a second or additional water well drilled on the same or a contiguous tax lot for the same landowner and for which a valid unexpired start card has been submitted pursuant to this section, if a start card for the second or additional water well is filed not later than the day the work on the water well begins.

(b) During water emergencies or casing height adjustments, if a start card is submitted before work begins.

(11) The Water Resources Director may, for good cause in exigent circumstances, waive any time frame established by this section.

[5] (12) Each *[report form]* **start card** submitted under *[subsection (1) of]* this section for the construction of a new well, deepening of an existing well or conversion of a well shall be accompanied by a fee of \$350. *[Notwithstanding the fee established pursuant to this subsection, the commission may adopt by rule a reduced fee for persons submitting materials to the Water Resources Department in a digital format approved by the department.]*

[6] (13) The moneys paid to the *[commission]* **department** under subsection [5] (12) of this section shall be paid into the Water Resources Department Operating Fund. All interest, if any, from moneys received under subsection [5] (12) of this section shall inure to the benefit of the *[Water Resources]* department. Such moneys and interest earned on such moneys are continuously appropriated to the department to be used to pay the costs of the department to employ personnel to inspect wells and well construction.

SECTION 10. ORS 537.762, as amended by sections 8 and 9 of this 2021 Act, is amended to read: 537.762. (1) As used in this section:

(a) "Licensed or permitted person" means a person licensed under ORS 537.747 or permitted under ORS 537.753 (4).

(b) "Start card" means a form containing all information required by the Water Resources Department as a notification that a licensed or permitted person will commence work on a well.

(2) Each licensed or permitted person who has entered into a contract to construct, alter, abandon or convert a well or cause a well to be constructed, altered, abandoned or converted shall, not earlier than 60 days and not later than 72 hours before beginning work on the well, submit a start card to the department containing:

(a) The name, telephone number, electronic mail address and post-office address of the owner of the well.

(b) The approximate location of the well by county tax lot number, township, range, section and nearest quarter-quarter section.

(c) The street address nearest to the proposed well.

(d) The latitude and longitude of the well as established by a global positioning system.

- (e) The proposed depth and diameter of the well.
 - (f) The proposed purpose or use of the ground water from the proposed well.
 - (g) The time frame proposed for beginning and completing the construction, alteration, abandonment or conversion.
 - (h) The time frame proposed for annular seal placement.
 - (i) The well identification label number, if assigned.
 - (j) The water right application, permit or certificate number, if applicable.
 - (k) The original well log number, if applicable.
 - (L) The type of work proposed.
 - (m) Notification of any need for special standards.
 - (n) The signature and license number, if applicable, of the bonded and licensed or permitted person who would undertake the work.
 - (o) For an existing well, the current purpose or use of the well and the existing depth and diameter of the well.
- (3) The department shall furnish a convenient means for licensed or permitted persons to submit start card information under this section.
- (4) A separate start card is required for each well that is constructed, altered, abandoned or converted.
- (5) A start card submitted under this section shall be confidential and maintained as such for one year or until the well log required under ORS 537.765 is received by the department, whichever is earlier. Nothing in this subsection prohibits the department from using a start card for enforcement actions during the period the start card is confidential.
- (6) On the date that work on the well commences, the licensed or permitted person shall, before commencing work, notify the department that the work is about to commence. If the proposed date of seal placement is not the date proposed on the start card required by this section, the licensed or permitted person shall notify the department of the change at least four hours before placing the seal.
- (7) The Water Resources Commission may adopt rules establishing precision requirements and standards for global positioning system equipment used to obtain information submitted under subsection (2) of this section.
- (8) Unless the licensed or permitted person submitting a start card under this section has requested and received an extension, a start card expires if construction, alteration, abandonment or conversion of a well does not begin on or before 60 days after submission of the start card. If a start card expires, a new start card and fee must be submitted in compliance with this section before construction, alteration, abandonment or conversion of the well may occur. If a start card is withdrawn before expiring, the licensed or permitted person that submitted the start card may request that the fee paid for the withdrawn start card be transferred to a new start card.
- (9) The commission may establish by rule an exception to any time frame established in this section for areas requiring special standards and for any other purpose identified by the commission.
- (10) The requirement in subsection (2) of this section that a licensed or permitted person must submit a start card not earlier than 60 days and not later than 72 hours before beginning work on a well does not apply:
- (a) To a second or additional water well drilled on the same or a contiguous tax lot for the same landowner and for which a valid unexpired start card has been submitted pursuant to this section, if a start card for the second or additional water well is filed not later than the day the work on the water well begins.
 - (b) During water emergencies or casing height adjustments, if a start card is submitted before work begins.
- (11) The Water Resources Director may, for good cause in exigent circumstances, waive any time frame established by this section.
- (12) Each start card submitted under this section for the construction of a new well, deepening of an existing well or conversion of a well shall be accompanied by a fee of \$350. **A start card shall**

be submitted to the department by electronic means, unless the department authorizes a different means of submission.

(13) The moneys paid to the department under subsection (12) of this section shall be paid into the Water Resources Department Operating Fund. All interest, if any, from moneys received under subsection (12) of this section shall inure to the benefit of the department. Such moneys and interest earned on such moneys are continuously appropriated to the department to be used to pay the costs of the department to employ personnel to inspect wells and well construction.

SECTION 11. ORS 537.765 is amended to read:

537.765. (1) The business or activity of constructing new wells or altering, abandoning or converting existing wells is declared to be a business or activity affecting the public welfare, health and safety. In order to enable the state to protect the welfare, health and safety of its citizens, any person licensed under ORS 537.747, or any person or public agency constructing, altering, abandoning or converting a well, shall keep a log of each well constructed, altered, abandoned or converted and shall furnish a certified copy of the log to the Water Resources Commission within 30 days after the completion of the construction, alteration, abandonment or conversion.

(2) The commission shall provide acknowledgment to the constructor of receipt of a well log submitted under subsection (1) of this section within 120 days of receipt.

(3) Each log required under subsection (1) of this section shall be in a form prescribed by the commission and shall show:

(a) The name and post-office address of the owner of the well and the person or public agency performing or causing the performance of the work of constructing, altering, abandoning or converting the well.

(b) The location of the well by county tax lot number, township, range and section, and to the nearest quarter-quarter section or latitude and longitude as established by a global positioning system, or with reference to government survey corners or monuments or corners of recorded plats.

(c) The dates of commencement and completion of the work of constructing, altering, abandoning or converting the well.

(d) The depth, diameter and type of the well.

(e) The kind and amount of the casing and where placed in the well, including the number and location of perforations or screens.

(f) The flow in cubic feet per second or gallons per minute of a flowing well, and the shut-in pressure in pounds per square inch.

(g) The static water level with reference to the land surface, and the drawdown with respect to the amount of water pumped per minute, when a pump test is made.

(h) The kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation, and the thickness of aquifers.

(i) The temperature of the ground water encountered and other characteristics of the ground water in detail as required by the commission.

(4) If required by the commission, the person, public agency or licensee referred to in subsection (1) of this section shall furnish to the commission samples of the ground water and of each change of formation in containers furnished and transportation expense paid by the commission.

(5) Not later than 120 days after a well log is submitted pursuant to this section, the Water Resources Department shall:

(a) Review the well log to identify any deficiencies and assess compliance with the standards that were in effect when the well that is the subject of the well log was constructed, altered, abandoned or converted.

(b) Notify the person licensed under ORS 537.747 or permitted under ORS 537.753 (4) who submitted the well log that the review has been completed.

SECTION 12. ORS 537.765, as amended by section 11 of this 2021 Act, is amended to read:

537.765. (1) **As used in this section, "licensed or permitted person" means a person licensed under ORS 537.747 or permitted under ORS 537.753 (4).**

[(1)] **(2)** The business or activity of constructing new wells or altering, abandoning or converting existing wells is declared to be a business or activity affecting the public welfare, health and safety. In order to enable the state to protect the welfare, health and safety of its [citizens,] **residents**, any [person licensed under ORS 537.747, or any person or public agency constructing, altering, abandoning or converting a well,] **licensed or permitted person** shall keep a log of each well constructed, altered, abandoned or converted and shall [furnish] **file** a certified copy of the log [to] **with** the Water Resources [Commission] **Department** within 30 days after the completion of the construction, alteration, abandonment or conversion.

[(2)] **(3)** The [commission] **department** shall provide **to a licensed or permitted person** acknowledgment [to the constructor] of receipt of a well log submitted under [subsection (1) of] this section within 120 days of receipt.

[(3)] **(4)** Each log [required under subsection (1) of] **that a licensed or permitted person files under** this section shall be in a form prescribed by the [commission] **department** and shall show:

(a) The name and post-office address of the owner of the well.

(b) The name and license number, if applicable, of [and] the licensed or permitted person [or public agency] performing [or causing the performance of] the work [of constructing, altering, abandoning or converting the well].

(c) The name and license number, if applicable, of the licensed or permitted person responsible for the work.

(d) The name of any person that assisted with the work.

[(b)] **(e)** The location of the well by county tax lot number, township, range and section, and to the nearest quarter-quarter section, [or] **and by the** latitude and longitude as established by a global positioning system[, or with reference to government survey corners or monuments or corners of recorded plats].

[(c)] **(f)** The dates of commencement and completion of the work of constructing, altering, abandoning or converting the well.

[(d)] **(g)** The depth, diameter and type of the well.

[(e)] **(h)** The kind and amount of the casing and where placed in the well, including the number and location of perforations or screens.

[(f)] **(i)** The flow in cubic feet per second or gallons per minute of a flowing well, and the shut-in pressure in pounds per square inch.

[(g)] **(j)** The static water level with reference to the land surface, and the drawdown with respect to the amount of water pumped per minute, when a pump test is made.

[(h)] **(k)** The kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation, and the thickness of aquifers.

[(i)] **(L)** The temperature of the ground water encountered and other characteristics of the ground water in detail as required by the [commission] **department**.

[(4)] **(5)** If required by the [commission] **department**, the [person, public agency or licensee referred to in subsection (1) of this section] **licensed or permitted person** shall furnish to the [commission] **department** samples of the ground water and of each change of formation in containers furnished and transportation expense paid by the [commission] **department**.

[(5)] **(6)** Not later than 120 days after a well log is submitted pursuant to this section, the [Water Resources] department shall:

(a) Review the well log to identify any deficiencies and assess compliance with the standards that were in effect when the well that is the subject of the well log was constructed, altered, abandoned or converted.

(b) Notify the [person licensed under ORS 537.747 or permitted under ORS 537.753 (4)] **licensed or permitted person** who submitted the well log that the review has been completed.

(7) The Water Resources Commission may adopt rules establishing precision requirements and standards for global positioning system equipment used to obtain information submitted under subsection (4)(e) of this section.

SECTION 13. ORS 537.765, as amended by sections 11 and 12 of this 2021 Act, is amended to read:

537.765. (1) As used in this section, "licensed or permitted person" means a person licensed under ORS 537.747 or permitted under ORS 537.753 (4).

(2) The business or activity of constructing new wells or altering, abandoning or converting existing wells is declared to be a business or activity affecting the public welfare, health and safety. In order to enable the state to protect the welfare, health and safety of its residents, any licensed or permitted person shall keep a log of each well constructed, altered, abandoned or converted and shall **electronically** file a certified copy of the log with the Water Resources Department within 30 days after the completion of the construction, alteration, abandonment or conversion.

(3) The department shall provide to a licensed or permitted person acknowledgment of receipt of a well log submitted under this section within 120 days of receipt.

(4) Each log that a licensed or permitted person files under this section shall be in a form prescribed by the department and shall show:

(a) The name and post-office address of the owner of the well.

(b) The name and license number, if applicable, of the licensed or permitted person performing the work.

(c) The name and license number, if applicable, of the licensed or permitted person responsible for the work.

(d) The name of any person that assisted with the work.

(e) The location of the well by county tax lot number, township, range and section, and to the nearest quarter-quarter section, and by the latitude and longitude as established by a global positioning system.

(f) The dates of commencement and completion of the work of constructing, altering, abandoning or converting the well.

(g) The depth, diameter and type of the well.

(h) The kind and amount of the casing and where placed in the well, including the number and location of perforations or screens.

(i) The flow in cubic feet per second or gallons per minute of a flowing well, and the shut-in pressure in pounds per square inch.

(j) The static water level with reference to the land surface, and the drawdown with respect to the amount of water pumped per minute, when a pump test is made.

(k) The kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation, and the thickness of aquifers.

(L) The temperature of the ground water encountered and other characteristics of the ground water in detail as required by the department.

(5) If required by the department, the licensed or permitted person shall furnish to the department samples of the ground water and of each change of formation in containers furnished and transportation expense paid by the department.

(6) Not later than 120 days after a well log is submitted pursuant to this section, the department shall:

(a) Review the well log to identify any deficiencies and assess compliance with the standards that were in effect when the well that is the subject of the well log was constructed, altered, abandoned or converted.

(b) Notify the licensed or permitted person who submitted the well log that the review has been completed.

(7) The Water Resources Commission may adopt rules establishing precision requirements and standards for global positioning system equipment used to obtain information submitted under subsection (4)(e) of this section.

(8) The commission may adopt rules that waive the electronic submittal requirement.

SECTION 14. ORS 537.780 is amended to read:

537.780. (1) In the administration of ORS 537.505 to 537.795 and 537.992, the Water Resources Commission may:

(a) Require that all flowing wells be capped or equipped with valves so that the flow of ground water may be completely stopped when the ground water is not actually being applied to a beneficial use.

(b) Enforce:

(A) General standards for the construction [*and*], **alteration, abandonment, conversion or** maintenance of wells and their casings, fittings, valves, pumps and back-siphoning prevention devices; and

(B) Special standards for the construction [*and*], **alteration, abandonment, conversion or** maintenance of particular wells and their casings, fittings, valves and pumps.

(c)(A) Adopt by rule and enforce when necessary to protect the ground water resource, standards for the construction, maintenance, abandonment or use of any hole through which ground water may be contaminated; or

(B) Enter into an agreement with, or advise, other state agencies that are responsible for holes other than wells through which ground water may be contaminated in order to protect the ground water resource from contamination.

(d) Enforce uniform standards for the scientific measurement of water levels and of ground water flowing or withdrawn from wells.

(e) Enter upon any lands for the purpose of inspecting wells, including wells exempt under ORS 537.545, casings, fittings, valves, pipes, pumps, measuring devices and back-siphoning prevention devices.

(f) Prosecute actions and suits to enjoin violations of ORS 537.505 to 537.795 and 537.992, and appear and become a party to any action, suit or proceeding in any court or before any administrative body when it appears to the satisfaction of the commission that the determination of the action, suit or proceeding might be in conflict with the public policy expressed in ORS 537.525.

(g) Call upon and receive advice and assistance from the Environmental Quality Commission or any other public agency or any person, and enter into cooperative agreements with a public agency or person.

(h) Adopt and enforce rules necessary to carry out the provisions of ORS 537.505 to 537.795 and 537.992 including but not limited to rules governing:

(A) The form and content of registration statements, certificates of registration, applications for permits, permits, certificates of completion, ground water right certificates, notices, proofs, maps, drawings, logs and licenses;

(B) Procedure in hearings held by the commission; and

(C) The circumstances under which the helpers of persons operating well drilling machinery may be exempt from the requirement of direct supervision by a licensed water well constructor.

(i) In accordance with applicable law regarding search and seizure, apply to any court of competent jurisdiction for a warrant to seize any well drilling machine used in violation of ORS 537.747 or 537.753.

(2) Notwithstanding any provision of subsection (1) of this section, in administering the provisions of ORS 537.505 to 537.795 and 537.992, the commission may not:

(a) Adopt any rule restricting ground water use in an area unless the rule is based on substantial evidence in the record of the Water Resources Department to justify the imposition of restrictions.

(b) Make any determination that a ground water use will impair, substantially interfere or unduly interfere with a surface water source unless the determination is based on substantial evidence. Such evidence may include reports or studies prepared with relation to the specific use or may be based on the application of generally accepted hydrogeological principles to the specific use.

(3) At least once every three years, the commission shall review any rule adopted under subsection (2) of this section that restricts ground water use in an area. The review process shall include public notice and an opportunity to comment on the rule.

SECTION 15. ORS 537.789 is amended to read:

537.789. [(1) *The well identification number provided by the Water Resources Department when the reporting requirement of ORS 537.762 is satisfied shall be recorded on the well by a person licensed under ORS 537.747 within 30 days after the associated well work is completed.*]

(1) **As used in this section, “licensed or permitted person” means a person licensed under ORS 537.747 or permitted under ORS 537.753 (4).**

(2) **A licensed or permitted person who files a well log under ORS 537.765 shall include on the well log the identification number provided by the Water Resources Department. The licensed or permitted person shall affix the identification number to the well no later than 30 days after completing work on the well.**

[(2)] (3) If a well does not have an identification number [recorded on] **affixed to** it at the time the property upon which the well is located is transferred, the owner of the property shall [record on] **affix to** the well the identification number obtained from the [Water Resources] department under ORS 537.791 within 30 days.

[(3)] (4) The identification number [on] **affixed to** the well shall be clearly visible to a person looking for the number and shall meet minimum standards as recommended by the ground water advisory committee appointed under ORS 536.090 and adopted by the Water Resources Commission.

SECTION 16. ORS 537.791 is amended to read:

537.791. (1) A landowner may apply to the Water Resources Department for a number to identify a well on the landowner’s property.

[(2) *The Water Resources Department shall issue a number to identify a well that has not received a number through the reporting process required for wells under ORS 537.762 within 10 days after receipt of the application.*]

(2) **If the department has not previously assigned an identification number to the well, no later than 10 days after receiving an application under this section, the department shall assign an identification number to the well.**

SECTION 17. Section 2, chapter 496, Oregon Laws 2001, is amended to read:

Sec. 2. (1) There is established a Well Constructors Continuing Education Committee consisting of [four] **six** members appointed by the Water Resources Director as follows:

(a) **One person representing the Water Resources Department;**

[(a)] (b) Three persons from the well drilling industry licensed pursuant to ORS 537.747; [and]

[(b) *One person from the regulatory community.*]

(c) **One person having expertise in ground water quality or public health; and**

(d) **One person having expertise in employee safety.**

(2) The term of office of each member is three years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become effective immediately for the unexpired term.

(3) A member of the committee is entitled to travel expenses as provided in ORS 292.495.

(4) Members of the committee must be residents of this state who are knowledgeable about the principles of well construction.

(5) The committee shall select one of its members as chairperson and another as vice chairperson, for such terms and with the duties and powers necessary for the performance of the functions of such offices as the committee determines.

(6) [Three] **Four** members of the committee constitute a quorum for the transaction of business. At least [three] **four** members of the committee must approve all official actions or decisions of the committee.

SECTION 18. Section 7, chapter 496, Oregon Laws 2001, as amended by section 3, chapter 221, Oregon Laws 2007, and section 1, chapter 57, Oregon Laws 2014, is amended to read:

Sec. 7. Sections 2 and 4, chapter 496, Oregon Laws 2001, are repealed January 2, [2022] **2030**.

SECTION 19. If the Water Resources Department has information that a person has engaged, or is about to engage, in any activity that is or will be a violation of ORS 537.747, 537.753, 537.762 or 537.765 or the standards described in ORS 537.780 (1)(b) or (c), in addition to any other available remedies, the department may apply to the circuit court for Marion County, or to the circuit court for any county in which the activity has occurred or will occur, for a temporary or permanent injunction requiring the person to:

- (1) Refrain from the activity; and
- (2) Take any actions necessary to remedy any threat to groundwater supplies, public health or public safety.

SECTION 20. ORS 537.545 is amended to read:

537.545. (1) No registration, certificate of registration, application for a permit, permit, certificate of completion or ground water right certificate under ORS 537.505 to 537.795 and 537.992 is required for the use of ground water for:

- (a) Stockwatering purposes;
- (b) Watering any lawn or noncommercial garden not exceeding one-half acre in area;
- (c) Watering the lawns, grounds and fields not exceeding 10 acres in area of schools located within a critical ground water area established pursuant to ORS 537.730 to 537.740;
- (d) Single or group domestic purposes in an amount not exceeding 15,000 gallons a day;
- (e) Down-hole heat exchange purposes;
- (f) Any single industrial or commercial purpose in an amount not exceeding 5,000 gallons a day;

or

(g) Land application, so long as the ground water:

(A) Has first been appropriated and used under a permit or certificate issued under ORS 537.625 or 537.630 for a water right issued for industrial purposes or a water right authorizing use of water for confined animal feeding purposes;

(B) Is reused for irrigation purposes and the period of irrigation is a period during which the reused water has never been discharged to the waters of the state; and

(C) Is applied pursuant to a permit issued by the Department of Environmental Quality or the State Department of Agriculture under either ORS 468B.050 to construct and operate a disposal system or ORS 468B.215 to operate a confined animal feeding operation.

(2) A ground water use for a purpose that is exempt under subsection (1) of this section, to the extent that the use is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700.

(3) Except for the use of water under subsection (1)(g) of this section, the Water Resources Commission by rule may require any person or public agency using ground water for any such purpose to furnish information with regard to such ground water and the use thereof. For a use of water described in subsection (1)(g) of this section, the Department of Environmental Quality or the State Department of Agriculture shall provide to the Water Resources Department a copy of the permit issued under ORS 468B.050 or 468B.215 authorizing the land application of ground water for reuse. The permit shall provide the information regarding the place of use of such water and the nature of the beneficial reuse.

(4) If it is necessary for the Water Resources Department to regulate the use or distribution of ground water, including uses for purposes that are exempt under subsection (1) of this section, the department shall use as a priority date for the exempt uses the date indicated in the log for the well filed with the department under ORS 537.765 or other documentation provided by the well owner showing when water use began.

(5) The [owner of land on which a well is drilled] **person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well** to allow ground water use for a purpose that is exempt under subsection (1) of this section shall provide the Water Resources Department with a map showing the exact location of the well on the tax lot. The [landowner] **person licensed under ORS 537.747 or permitted under ORS 537.753 (4) that constructs a well** shall provide a map required by this subsection to the department, **along with the well log required by ORS 537.765,**

no later than 30 days after the well is completed. The map must be prepared in accordance with standards established by the department. **The map and well log must be accompanied by the fee described in subsection (6) of this section to record the exempt ground water use.**

[(6) The owner of land on which a well described in subsection (5) of this section is located shall file the exempt ground water use with the Water Resources Department for recording. The filing must be accompanied by the fee described in subsection (7) of this section. The filing must be received by the department no later than 30 days after the well is completed.]

[(7)] (6) The Water Resources Department shall collect a fee of \$300 for recording an exempt ground water use under subsection *[(6)] (5)* of this section. Moneys from fees collected under this subsection shall be deposited to the credit of the Water Resources Department Water Right Operating Fund. Notwithstanding ORS 536.009, moneys deposited to the fund under this subsection shall be used for the purposes of evaluating ground water supplies, conducting ground water studies, carrying out ground water monitoring, processing ground water data and the administration and enforcement of this subsection and subsections (3), (5), *[(6)]* and *[(8)] (7)* of this section.

[(8)] (7) The Water Resources Commission shall adopt rules to implement, administer and enforce subsections (5) *[to (7)]* and **(6)** of this section.

SECTION 20a. ORS 536.900 is amended to read:

536.900. (1) In addition to any other liability or penalty provided by law, the Water Resources Commission may impose a civil penalty on a person for any of the following:

(a) Violation of any of the terms or conditions of a permit, certificate or license issued under ORS chapters 536 to 543A.

(b) Violation of ORS 537.130 or 537.535.

(c) Violation of ORS 537.545 (5) *[or (6)]* or of a rule described in ORS 537.545 *[(8)] (7)*.

(d) Violation of any rule or order of the Water Resources Commission that pertains to well maintenance.

(e) Violation of ORS 540.045, 540.145, 540.210, 540.310, 540.320, 540.330, 540.340, 540.435, 540.440, 540.570 (5), 540.710, 540.720 and 540.730 or rules adopted under ORS 540.145.

(2) A civil penalty may be imposed under this section for each day of violation of ORS 537.130, 537.535, 540.045, 540.310, 540.330, 540.570 (5), 540.710, 540.720 or 540.730.

(3) In the event the petitioner knowingly misrepresents the map and petition required in ORS 541.329, the commission may assess a penalty of up to \$1,000 based upon guidelines to be established by the commission. In addition, the petition and map shall be amended to correct the error at the petitioner's cost. Affected users shall be given notice as provided in ORS 541.329 (5).

(4) A civil penalty may not be imposed until the commission prescribes a reasonable time to eliminate the violation. The commission shall notify the violator of the time allowed to correct a violation within five days after the commission first becomes aware of the violation.

(5) Notwithstanding any term or condition of a permit, certificate or license, the rotation of the use of water under ORS 540.150 may not be considered a violation under subsection (1) of this section.

SECTION 21. ORS 537.763 is amended to read:

537.763. (1) There is established in the State Treasury the Water Resources Department Operating Fund to provide for the payment of the administrative expenses of the Water Resources Commission in carrying out the provisions of ORS 537.762.

(2) The Water Resources Department Operating Fund shall consist of:

(a) Fees received pursuant to ORS 537.762.

(b) All moneys received on behalf of the fund by gift, grant or appropriation, from whatever source.

(3) The Water Resources Department Operating Fund shall be separate and distinct from the General Fund. All interest **earned by the Water Resources Department Operating Fund**, if any, shall inure to the benefit of the *[Water Resources Department Operating Fund]* **fund**.

(4) In expending moneys in the [*Water Resources Department Operating Fund*] **fund** received from fees pursuant to ORS 537.762, the biennial limitations on expenditures of the Water Resources Department shall be:

- (a) No more than five percent for well inspection administrative support;
- (b) No more than 20 percent for well inspection technical and information services; and
- (c) No less than 75 percent for well inspection field investigation, [*and*] enforcement **and review of well logs.**

SECTION 22. On or before January 31, 2023, and on or before January 31, 2025, the Water Resources Department shall report to a committee or interim committee of the Legislative Assembly related to water, in the manner prescribed in ORS 192.245, on the department's review of well logs and inspection of wells. The reports shall describe, but need not be limited to:

(1) The number of well logs the department has identified as having deficiencies and the nature of the deficiencies.

(2) The number of inspected wells that had deficiencies and whether the nature of the deficiencies was observed on the well logs for the wells.

(3) The department's workload associated with reviewing well logs and inspecting wells.

SECTION 23. Sections 2 and 3 of this 2021 Act become operative on January 1, 2022.

SECTION 24. The amendments to ORS 537.765 by section 11 of this 2021 Act:

(1) Become operative on July 1, 2022.

(2) Apply to wells logs submitted on or after July 1, 2022.

SECTION 25. The amendments to ORS 537.747 by section 6 of this 2021 Act apply to license issuance, requalification or renewal for which an application is received by the Water Resources Department on or after July 1, 2023.

SECTION 26. The amendments to ORS 537.762 by section 9 of this 2021 Act apply to information submitted to the Water Resources Department on or after July 1, 2023, relating to the proposed construction, alteration, abandonment or conversion of a well.

SECTION 27. Section 19 of this 2021 Act and the amendments to ORS 536.090, 536.750, 537.747, 537.753, 537.762, 537.765, 537.780, 537.789 and 537.791 by sections 4 to 7, 9, 12 and 14 to 16 of this 2021 Act become operative on July 1, 2023.

SECTION 28. The amendments to ORS 537.762 and 537.765 by sections 10 and 13 of this 2021 Act become operative on July 1, 2024.

SECTION 29. The amendments to section 2, chapter 496, Oregon Laws 2001, by section 17 of this 2021 Act do not alter the term of office of a member serving on the Well Constructors Continuing Education Committee immediately prior to the effective date of this 2021 Act.

SECTION 30. Notwithstanding any other provision of law, the General Fund appropriation made to the Water Resources Department by section 1 (4), chapter __, Oregon Laws 2021 (Enrolled Senate Bill 5545), for the biennium beginning July 1, 2021, for technical services, is increased by \$575,415 for the purpose of carrying out the provisions of sections 3 and 22 of this 2021 Act and the amendments to ORS 537.747, 537.753, 537.762, 537.765 and 537.791 by sections 6, 7, 9, 11, 12 and 16 of this 2021 Act.

SECTION 31. In addition to and not in lieu of any other appropriation, there is appropriated to the Water Resources Department, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$100,000, for deposit in the Water Well Abandonment, Repair and Replacement Fund established by section 2 of this 2021 Act.

Passed by House June 24, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 26, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State