

Requested by Representative OWENS

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2244**

1 On page 1 of the printed bill, line 3, after “pending;” delete the rest of  
2 the line and line 4 and insert “amending ORS 536.075.”

3 Delete lines 6 through 28 and delete page 2 and insert:

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

5 “536.075. (1)(a) Any party affected by a final order other than contested  
6 case issued by the Water Resources Commission or Water Resources De-  
7 partment may appeal the order to the Circuit Court of Marion County or to  
8 the circuit court of the county in which all or part of the property affected  
9 by the order is situated.

10 **“(b) A party that files a petition under this subsection to appeal a**  
11 **final order that regulates off a diversion, appropriation or other use**  
12 **of surface or ground water in favor of a senior water right holder that**  
13 **made a call for water shall, on the day of the filing, mail a copy of the**  
14 **petition, via first class mail, to the senior water right holder.**

15 **“(c)** The review shall be conducted according to the provisions of ORS  
16 183.484, 183.486, 183.497 and 183.500.

17 **“(d)** A final order other than contested case issued by the Water Re-  
18 sources Commission or the Water Resources Department must state on the  
19 first page of the order:

20 **“(A)** That the order is a final order other than contested case[.];

21 **“(B)** That the order is subject to judicial review under ORS 183.484

1 [and];

2 “(C) That any petition for judicial review of the order must be filed  
3 within the time specified by ORS 183.484 (2)[.]; **and**

4 “(D) **If the order regulates off a diversion, appropriation or other**  
5 **use of surface or ground water in favor of a senior water right holder**  
6 **that made a call for water, the name and address of the senior water**  
7 **right holder.**

8 “(e) Any order other than contested case issued by the [*Water Resources*  
9 *Commission or by the Water Resources Department*] **commission or the de-**  
10 **partment** that does not comply with the requirements of this section is not  
11 a final order.

12 “(2) Any party affected by a final order in a contested case issued by the  
13 [*Water Resources Commission or the Water Resources Department*] **commis-**  
14 **sion or the department** may appeal the order to the Court of Appeals.

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

18 “(4) The petition shall state the facts showing how the petitioner is ad-  
19 versely affected by the order and the ground or grounds upon which the  
20 petitioner contends the order should be reversed or remanded.

21 “(5) The filing of a petition in either the circuit court or the Court of  
22 Appeals shall stay enforcement of the order of the commission or the de-  
23 partment unless the commission or the department determines that substan-  
24 tial public harm will result if the order is stayed. If the commission or the  
25 department denies the stay, the denial shall be in writing and shall specif-  
26 ically state the substantial public harm that will result from allowing the  
27 stay.

28 “(6) The review by the Court of Appeals under subsection (2) of this sec-  
29 tion shall be on the entire record forwarded by the commission or depart-  
30 ment. The court may remand the case for further evidence taking, correction

1 or other necessary action. The court may affirm, reverse, modify or supple-  
2 ment the order appealed from, and make such disposition of the case as the  
3 court determines to be appropriate.

4 “(7) The provisions of this section shall not apply to any proceeding under  
5 ORS 537.670 to 537.695 or ORS chapter 539.

6 “(8) [*For the purposes of this section, ‘final order’ and ‘contested case’*] **As**  
7 **used in this section, ‘contested case’ and ‘final order’** have the meanings  
8 given those terms in ORS 183.310.”.

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