

# Enrolled House Bill 3164

Sponsored by Representatives HELM, OWENS; Representatives DEXTER, GAMBA, KROPF, LEVY  
E, MARSH

CHAPTER .....

AN ACT

Relating to the leasing of water rights for split use; amending ORS 537.348; and repealing sections  
3 and 5, chapter 165, Oregon Laws 2013.

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

**SECTION 1.** ORS 537.348, as amended by section 2, chapter 165, Oregon Laws 2013, is amended  
to read:

537.348. (1) Any person may purchase or lease all or a portion of an existing water right or  
accept a gift of all or a portion of an existing water right for conversion to an in-stream water right.  
Any water right converted to an in-stream water right under this section shall retain the priority  
date of the water right purchased, leased or received as a gift. At the request of the person the  
Water Resources Commission shall issue a new certificate for the in-stream water right showing the  
original priority date of the purchased, gifted or leased water right. Except as provided in sub-  
sections (2) to [(5)] (6) of this section, a person who transfers a water right by purchase, lease or  
gift under this subsection shall comply with the requirements for the transfer of a water right under  
ORS 540.505 to 540.585.

(2) Subject to subsections (3) to [(5)] (6) of this section, any person who has an existing water  
right may lease all or a portion of the existing water right for use as an in-stream water right for  
a specified period without the loss of the original priority date. During the term of the lease, the  
use of the water right as an in-stream water right shall be considered a beneficial use. The term  
of the lease may not exceed five years. **The term of the lease may be renewed.** There is no limi-  
tation on the number of times that the lease may be renewed.

**(3) A lease of all or a portion of an existing water right for use as an in-stream water  
right under subsection (2) of this section may allow the split use of the water between the  
existing water right and the in-stream water right during the same calendar year, provided:**

**(a) The uses of the existing water right and the in-stream water right are not concu-  
rent; and**

**(b) The holders of the water rights measure and report to the Water Resources Depart-  
ment the use of the existing water right and the in-stream water right.**

[(3)] (4) A person who has an existing water right and wishes to lease the water right as de-  
scribed in subsection (2) of this section must file a request and obtain department approval of the  
lease. Upon receipt of the request, the department shall provide notice of the request by inclusion  
in the weekly notice published by the department. Any allegation of injury must be delivered to the  
department no later than 21 days after publication of the request in the weekly notice.

[(4)] (5) After publishing notice of a request made under subsection (2) of this section and allowing time for the delivery of allegations of injury, the department shall issue an order approving the request if the department finds that the leasing of the water right for in-stream use can be effected without injury to other existing water rights or can be conditioned to prevent injury to other existing water rights. **If the lease is for the split use of water between the existing water right and the in-stream water right during the same calendar year, the conditions imposed in the order approving the request must include, but need not be limited to, compliance with subsection (3) of this section.**

[(5)] (6) The department at any time may revoke or modify an order issued for a lease under subsection (2) of this section if the department determines that the use of the water right for in-stream use under the lease has resulted in or may result in injury to an existing water right.

**SECTION 2. Sections 3 and 5, chapter 165, Oregon Laws 2013, are repealed.**

**Passed by House March 16, 2023**

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Timothy G. Sekerak, Chief Clerk of House

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Dan Rayfield, Speaker of House

**Passed by Senate April 27, 2023**

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Rob Wagner, President of Senate

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

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Shemia Fagan, Secretary of State