

# House Bill 3164

Sponsored by Representatives HELM, OWENS

## 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**.

Makes permanent provisions conditionally allowing water right lease to split use of water between existing water right and in-stream water right within same year. Removes prohibition on leasing water right for split use for period of more than 10 years.

## A BILL FOR AN ACT

1  
2 Relating to the leasing of water rights for split use; amending ORS 537.348; and repealing sections  
3 3 and 5, chapter 165, Oregon Laws 2013.

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

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

7 537.348. (1) Any person may purchase or lease all or a portion of an existing water right or  
8 accept a gift of all or a portion of an existing water right for conversion to an in-stream water right.  
9 Any water right converted to an in-stream water right under this section shall retain the priority  
10 date of the water right purchased, leased or received as a gift. At the request of the person the  
11 Water Resources Commission shall issue a new certificate for the in-stream water right showing the  
12 original priority date of the purchased, gifted or leased water right. Except as provided in sub-  
13 sections (2) to [(5)] **(6)** of this section, a person who transfers a water right by purchase, lease or  
14 gift under this subsection shall comply with the requirements for the transfer of a water right under  
15 ORS 540.505 to 540.585.

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

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

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

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

29 [(3)] (4) A person who has an existing water right and wishes to lease the water right as de-  
30 scribed in subsection (2) of this section must file a request and obtain department approval of the  
31 lease. Upon receipt of the request, the department shall provide notice of the request by inclusion

**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 in the weekly notice published by the department. Any allegation of injury must be delivered to the  
2 department no later than 21 days after publication of the request in the weekly notice.

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

11 [(5)] (6) The department at any time may revoke or modify an order issued for a lease under  
12 subsection (2) of this section if the department determines that the use of the water right for in-  
13 stream use under the lease has resulted in or may result in injury to an existing water right.

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

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