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

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 subsections (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 limitation 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 concurrent; and

(b) The holders of the water rights measure and report to the Water Resources Department 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 described 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

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.

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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 al-
lowing 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 ef-
fected 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 sub-
section (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.