

Enrolled Senate Bill 761

Sponsored by Senator NASH, Representative LEVY B; Senators BONHAM, MANNING JR,
MCLANE, SMITH DB, Representatives HELM, OWENS (Presession filed.)

CHAPTER

AN ACT

Relating to the Walla Walla basin.

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

SECTION 1. (1) As used in this section:

- (a) "District" has the meaning given that term in ORS 540.505.
- (b) "Water use subject to transfer" has the meaning given that term in ORS 540.505.

(2) Notwithstanding ORS 537.348, the Water Resources Department may approve an application by a district that is wholly or partly within the Walla Walla basin to lease all or a portion of an existing water right for temporary conversion to an in-stream water right, by splitting the rate and duty of the water right between an existing use and in-stream use, if:

(a) The application demonstrates that:

- (A) The water right is held in the name of the district;
- (B) The water use is a water use subject to transfer;
- (C) The existing use of the water under the water right is for irrigation; and
- (D) The district has diverted the full rate of water allowed in the water right, and the full duty of water allowed in the water right, if applicable, beneficially and without waste at least once in the five years preceding the application; and

(b) The department determines that:

- (A) Granting the lease will not cause injury to an existing water right;
- (B) The district is in compliance with any applicable water use measurement or reporting requirements;
- (C) The department has water use measurements for the water right for the five years preceding the application;
- (D) The district has assisted the department with evaluating the acres within the district, using satellite imagery, and has provided relevant input and information to the department; and
- (E) The district has filed affidavits to voluntarily cancel any acres that are subject to forfeiture under ORS 540.610.

(3) In reviewing an application under subsection (2) of this section, the department:

- (a) Shall publish notice of the application in the weekly public notice published by the department and accept any allegations of injury for at least 21 days after publication of the notice.
- (b) May not consider whether the lease will enlarge an existing water right.

(4) The terms of a lease under this section must provide that, during the term of the lease, the district:

- (a) May not increase the number of acres that are irrigated within the district;
- (b) May not increase the district's consumptive use of water under all water rights held in the name of the district and the water right that is subject to the lease;
- (c) May not increase the district's use of supplemental water rights or storage water rights;
- (d) Shall comply with a duty for the water right that the department assigns, if no duty otherwise applies to the water right; and
- (e) Shall measure the district's water use, above, below and at the point of diversion or points of rediversion and provide the measurements to the department in real time, to the satisfaction of the watermaster.

(5) At any point, if the department finds that a lease under this section causes injury to an existing water right:

- (a) The department may terminate the lease; and
- (b) If the lease is terminated pursuant to this subsection, the water use for the water right will revert to the terms of the original water right.

(6) The Water Resources Commission may adopt rules as needed to implement this section.

SECTION 2. Section 1 of this 2025 Act is repealed on January 2, 2030.

Passed by Senate April 23, 2025

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House May 19, 2025

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Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

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Tobias Read, Secretary of State