

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3544**

1 In line 2 of the printed bill, after “water” insert “; creating new pro-
2 visions; and amending ORS 536.050, 536.750, 537.140, 537.147, 537.153, 537.170,
3 537.175, 537.225, 537.227, 537.295, 537.297, 537.343, 537.409, 537.420, 537.445,
4 537.470, 537.621, 537.622, 537.625, 537.628, 537.629, 540.520, 540.524, 540.537,
5 540.560, 540.641, 543.255 and 543.765.”.

6 Delete lines 4 through 8 and insert:
7

8 **“UNIFORM PROCESS FOR CONTESTED CASES**
9

10 **“SECTION 1. Sections 2 and 3 of this 2025 Act are added to and**
11 **made a part of ORS chapter 536.**

12 **“SECTION 2. (1) As used in this section and section 3 of this 2025**
13 **Act, ‘contested case’ has the meaning given that term in ORS 183.310.**

14 **“(2) This section and section 3 of this 2025 Act and rules adopted**
15 **thereunder apply to:**

16 **“(a) A contested case proceeding under a provision of ORS chapter**
17 **537, 540 or 541 that references this section.**

18 **“(b) A contested case proceeding on an application related to the**
19 **use of water under a provision of ORS chapter 537, 540 or 541 in which**
20 **the contested case proceeding is provided for in rule or order and the**
21 **rule or order refers to this section.**

1 **“(3) The Water Resources Commission and the Office of Adminis-**
2 **trative Hearings shall establish a uniform process for hearing con-**
3 **tested cases that is consistent with this section and with ORS chapter**
4 **183. The contested case proceeding must be conducted in accordance**
5 **with applicable provisions of ORS chapter 183 that govern contested**
6 **cases, except as otherwise provided in this section and section 3 of this**
7 **2025 Act and administrative rules adopted under this section and sec-**
8 **tion 3 of this 2025 Act, or as specified in ORS chapters 537, 540 and 541.**

9 **“(4) The Water Resources Department, in consultation with the**
10 **Office of Administrative Hearings, shall establish one or more default**
11 **hearing schedules that govern contested case hearings and provide**
12 **that the process, from a referral for a hearing to a completion of the**
13 **hearing, must be completed in not more than 180 days, except as pro-**
14 **vided in subsection (5) of this section. The default schedule must in-**
15 **clude deadlines for discovery requests and responses and motions to**
16 **compel discovery and may include other deadlines.**

17 **“(5) The Office of Administrative Hearings may allow an extension**
18 **of the hearing schedule only under the following circumstances:**

19 **“(a) The department requests a different schedule for a particular**
20 **contested case.**

21 **“(b) The chief administrative law judge determines that adhering**
22 **to the default schedule is not feasible in a particular contested case.**

23 **“(c) The administrative law judge assigned to the case determines**
24 **that modifying the default schedule for a particular contested case**
25 **serves the public interest, is necessary to provide due process or is in**
26 **the interest of justice.**

27 **“(6) An administrative law judge may require oral testimony in lieu**
28 **of written testimony if practicable and if the requirement streamlines**
29 **a contested case proceeding.**

30 **“(7) The administrative law judge shall determine the venue for**

1 conducting the hearing and shall give preference to conducting a
2 hearing by a remote method.

3 “(8) The Water Resources Department may request that the Office
4 of Administrative Hearings authorize the assignment of a settlement
5 administrative law judge. If the office assigns a settlement adminis-
6 trative law judge to a case, the parties have 60 days after the date of
7 the referral to reach a settlement of the case before continuing to a
8 hearing. If the department refers the case for review with a settlement
9 administrative law judge and the case does not resolve within 60 days
10 after the date of the referral, the case proceeds to a contested case
11 hearing and the contested case hearing must be completed within 180
12 days after the end of the 60-day period, except as provided in sub-
13 section (5) of this section.

14 “(9) If parties may file with the Water Resources Commission ex-
15 ceptions to a final order, the exceptions must be limited to addressing
16 the interpretation of a statute or rule.

17 “(10) The commission shall establish standard timelines for the de-
18 partment to rule on a request for party status.

19 “(11) The commission may adopt rules necessary to implement this
20 section.

21 **“SECTION 3. (1) To initiate a contested case proceeding that is**
22 **subject to this section and section 2 of this 2025 Act:**

23 “(a) Any person adversely affected or aggrieved may submit a pro-
24 test against a proposed final order.

25 “(b) Unless a timeline is otherwise specified under this section or
26 section 2 of this 2025 Act, the protest must be submitted within 45 days
27 after publication of the notice of the proposed final order in a weekly
28 public notice of the Water Resources Department.

29 “(c) The protest must:

30 “(A) Be in writing;

1 **“(B) Include the name, address and telephone number of the**
2 **protestant;**

3 **“(C) Include a description of the protestant’s interest in the pro-**
4 **posed final order and, if the protestant claims to represent the public**
5 **interest, a precise statement of the public interest represented;**

6 **“(D) Include a detailed description of how the action proposed in the**
7 **proposed final order would impair or be detrimental to the protestant’s**
8 **interest;**

9 **“(E) Raise an issue with sufficient specificity to allow response to**
10 **the issue, as described in subsection (3)(b) of this section;**

11 **“(F) Identify any citation of legal authority supporting the protest,**
12 **if known; and**

13 **“(G) Include the protest fee required under ORS 536.050.**

14 **“(2) If a protest is submitted as described in subsection (5) of this**
15 **section, within 30 days after the deadline for filing a protest:**

16 **“(a) Any person who supports the proposed final order may file a**
17 **request for party status for the purpose of participating in any con-**
18 **tested case proceeding on the proposed final order or for judicial re-**
19 **view of a final order resulting from the proposed final order.**

20 **“(b) The request for party status must:**

21 **“(A) Be in writing.**

22 **“(B) Meet all requirements established in rule by the Water Re-**
23 **sources Commission.**

24 **“(C) Include the fee described in ORS 536.050 (1)(n).**

25 **“(3) In a contested case proceeding under this section:**

26 **“(a) A hearing need not occur if:**

27 **“(A) All issues in the contested case are resolved as part of a**
28 **settlement;**

29 **“(B) The protest is withdrawn; or**

30 **“(C) The protestant defaults.**

1 **“(b) A protest must raise an issue with sufficient specificity to allow**
2 **response to the issue. To raise an issue with sufficient specificity, the**
3 **protestant must:**

4 **“(A) Identify the recommended findings of fact, conclusions of law**
5 **or conditions of approval to which the protestant objects; and**

6 **“(B) Specify the provisions of law within the department’s jurisdic-**
7 **tion on which the objection is based.**

8 **“(c) Not later than the end of the protest period, each person that**
9 **submits a protest or a request for party status shall raise all reason-**
10 **ably ascertainable issues and submit all reasonably available argu-**
11 **ments that support the person’s position.**

12 **“(d) A failure to raise a reasonably ascertainable issue in a protest**
13 **or a failure to provide sufficient specificity to afford the department**
14 **an opportunity to respond to the issue precludes judicial review that**
15 **is based on the reasonably ascertainable issue.**

16 **“(4) If no protest on a proposed final order that is subject to this**
17 **section and section 2 of this 2025 Act is timely received, as a matter**
18 **of law, the proposed final order shall become a final order on the date**
19 **that is 33 days after the close of the time period for submitting a**
20 **protest, with no further action required by the department.**

21 **“(5) Notwithstanding subsection (4) of this section, not more than**
22 **30 days after the close of the time period for submitting a protest, the**
23 **department may withdraw a proposed final order for reconsideration**
24 **and issuance of a superseding proposed final order.**

25 **“(6) The department shall refund the fees described in ORS 536.050**
26 **(1)(o) if party status is denied.**

27 **“(7) The Water Resources Commission may adopt rules necessary**
28 **to implement this section.**

29

30

“CONTESTED CASES

1 **“SECTION 4.** ORS 537.140 is amended to read:

2 “537.140. (1)(a) Each application for a permit to appropriate water shall
3 be made to the Water Resources Department on a form prescribed by the
4 department and shall set forth:

5 “(A) The name and mailing address of the applicant;

6 “(B) The source of water supply including the name and mailing address
7 of any owner of the land upon which the source of the water supply is lo-
8 cated;

9 “(C) The nature and amount of the proposed use;

10 “(D) The location and description of the proposed ditch, canal or other
11 work, including the name and mailing address of the owner of any lands that
12 are not owned by the applicant and that are crossed by the proposed ditch,
13 canal or other work even if the applicant has obtained written authorization
14 or an easement from the owner;

15 “(E) A statement declaring whether the applicant has written authori-
16 zation or an easement permitting access to nonowned land crossed by the
17 proposed ditch, canal or other work;

18 “(F) The time within which it is proposed to begin construction;

19 “(G) The time required for completion of the construction;

20 “(H) The time for the complete application of the water to the proposed
21 use; and

22 “(I) Any other information required in the application form that is nec-
23 essary to evaluate the application as established by statute and rule.

24 “(b) If for agricultural purposes, the application shall give the legal sub-
25 divisions of the land and the acreage to be irrigated, as near as may be.

26 “(c) Except as provided in subsection (2) of this section, if for power
27 purposes, the application shall give the nature of the works by means of
28 which the power is to be developed, the head and amount of water to be
29 utilized, and the uses to which the power is to be applied.

30 “(d) If for construction of a reservoir, the application shall give the

1 height of dam, the capacity of the reservoir, and the uses to be made of the
2 impounded waters.

3 “(e) If for municipal water supply, the application shall give the present
4 population to be served, and, as near as may be, the future requirements of
5 the city.

6 “(f) If for mining purposes, the application shall give the nature of the
7 mines to be served, and the methods of supplying and utilizing the water.

8 “(2) Any person who has applied to the Federal Energy Regulatory Com-
9 mission for a preliminary permit or an exemption from licensing shall, at the
10 same time, apply to the Water Resources Department for a permit to appro-
11 priate water for a hydroelectric project. An applicant for a permit to appro-
12 priate water for a new hydroelectric project shall submit to the department
13 a complete copy of any application for the project filed with the Federal
14 Energy Regulatory Commission or other federal agency. If the copy of the
15 federal application is filed with the department at the same time it is filed
16 with the federal agency, at the department’s discretion such copy may fulfill
17 the requirements for an application under subsection (1) of this section.

18 “(3) Each application shall be accompanied by any map or drawing and
19 all other data concerning the proposed project and the applicant’s ability and
20 intention to construct the project, as may be prescribed by the Water Re-
21 sources Commission. The accompanying data shall be considered a part of
22 the application.

23 “(4) The map or drawing required to accompany the application shall be
24 of sufficient quality and scale to establish the location of the proposed point
25 of diversion and the proposed place of use identified by tax lot, township,
26 range, section and nearest quarter-quarter section along with a notation of
27 the acreage of the proposed place of use, if appropriate. In addition, the de-
28 partment shall accept locational coordinate information, including latitude
29 and longitude as established by a global positioning system. If the applica-
30 tion is for a water right for a municipal use, the map need not identify the

1 proposed place of use by tax lot.

2 “(5) Each application for a permit to appropriate water shall be accom-
3 panied by the examination fee set forth in ORS 536.050 (1).

4 “(6) If the proposed use of the water is for operation of a mining operation
5 as defined in ORS 517.952, the applicant shall provide the information re-
6 quired under this section as part of the consolidated application under ORS
7 517.952 to 517.989.

8 “[*(7) Notwithstanding any provision of ORS chapter 183, an application for*
9 *a permit to appropriate water shall be processed in the manner set forth in*
10 *ORS 537.120 to 537.360. Nothing in ORS chapter 183 shall be construed to*
11 *allow additional persons to participate in the process. To the extent that any*
12 *provision in ORS chapter 183 conflicts with a provision set forth in ORS*
13 *537.120 to 537.360, the provisions in ORS 537.120 to 537.360 shall control.*]

14 **“SECTION 5.** ORS 537.153 is amended to read:

15 “537.153. (1) Within 60 days after the Water Resources Department pro-
16 ceeds with the application under ORS 537.150 (5), the department shall com-
17 plete application review and issue a proposed final order approving or
18 denying the application or approving the application with modifications or
19 conditions. The department may request the applicant to provide additional
20 information needed to complete the review. If the department requests addi-
21 tional information, the request shall be specific and shall be sent to the ap-
22 plicant by registered mail. The department shall specify a date by which the
23 information must be returned, which shall be not less than 10 days after the
24 department mails the request to the applicant. If the department does not
25 receive the information or a request for a time extension under ORS 537.175
26 by the date specified in the request, the department may reject the applica-
27 tion and may refund fees in accordance with ORS 536.050 (4)(a). The time
28 period specified by the department in a request for additional information
29 shall allow the department to comply with the 60-day time limit established
30 by this subsection.

1 “(2) In reviewing the application under subsection (1) of this section, the
2 department shall presume that a proposed use will not impair or be detri-
3 mental to the public interest if the proposed use is allowed in the applicable
4 basin program established pursuant to ORS 536.300 and 536.340 or given a
5 preference under ORS 536.310 (12), if water is available, if the proposed use
6 will not injure other water rights and if the proposed use complies with rules
7 of the Water Resources Commission. This shall be a rebuttable presumption
8 and may be overcome by a preponderance of evidence that either:

9 “(a) One or more of the criteria for establishing the presumption are not
10 satisfied; or

11 “(b) The proposed use will impair or be detrimental to the public interest
12 as demonstrated in comments, in a protest under [*subsection (6) of this*] sec-
13 tion **3 of this 2025 Act** or in a finding of the department that shows:

14 “(A) The specific public interest under ORS 537.170 [(8)] **(5)** that would
15 be impaired or detrimentally affected; and

16 “(B) Specifically how the identified public interest would be impaired or
17 detrimentally affected.

18 “(3) The proposed final order shall cite findings of fact and conclusions
19 of law and shall include but need not be limited to:

20 “(a) Confirmation or modification of the preliminary determinations made
21 in the initial review;

22 “(b) A brief statement that explains the criteria considered relevant to the
23 decision, including the applicable basin program and the compatibility of the
24 proposed use with applicable land use plans;

25 “(c) An assessment of water availability and the amount of water neces-
26 sary for the proposed use;

27 “(d) An assessment of whether the proposed use would result in injury to
28 existing water rights;

29 “(e) An assessment of whether the proposed use would impair or be detri-
30 mental to the public interest as provided in ORS 537.170;

1 “(f) A draft permit, including any proposed conditions, or a recommen-
2 dation to deny the application;

3 “(g) Whether the rebuttable presumption that the proposed use will not
4 impair or be detrimental to the public interest has been established; and

5 “(h) The date by which protests to the proposed final order must be re-
6 ceived by the department.

7 “(4) The department shall mail copies of the proposed final order to the
8 applicant and to persons who have requested copies and paid the fee required
9 under ORS 536.050 (1)(p). The department also shall publish notice of the
10 proposed final order by publication in the weekly notice published by the
11 department.

12 “[5] *Any person who supports a proposed final order may request standing*
13 *for purposes of participating in any contested case proceeding on the proposed*
14 *final order or for judicial review of a final order. A request for standing shall*
15 *be in writing and shall be accompanied by the fee established under ORS*
16 *536.050 (1)(n).]*

17 “[6] *Any person may submit a protest against a proposed final order. A*
18 *protest shall be in writing and shall include:]*

19 “[a] *The name, address and telephone number of the protestant;]*

20 “[b] *A description of the protestant’s interest in the proposed final order*
21 *and, if the protestant claims to represent the public interest, a precise statement*
22 *of the public interest represented;]*

23 “[c] *A detailed description of how the action proposed in the proposed final*
24 *order would impair or be detrimental to the protestant’s interest;]*

25 “[d] *A detailed description of how the proposed final order is in error or*
26 *deficient and how to correct the alleged error or deficiency;]*

27 “[e] *Any citation of legal authority supporting the protest, if known; and]*

28 “[f] *The protest fee required under ORS 536.050.]*

29 “[7] *Requests for standing and protests on the proposed final order shall*
30 *be submitted within 45 days after publication of the notice of the proposed final*

1 order in the weekly notice published by the department. Any person who asks
2 to receive a copy of the department's final order shall submit to the department
3 the fee required under ORS 536.050 (1)(p), unless the person has previously
4 requested copies and paid the required fee under ORS 537.150 (7), the person
5 is a protestant and has paid the fee required under ORS 536.050 (1)(j) or the
6 person has standing and has paid the fee under ORS 536.050 (1)(n).]

7 **“(5) A person who asks to receive a copy of the department's final**
8 **order shall submit to the department the fee required under ORS**
9 **536.050 (1)(p), unless the person has previously requested copies and**
10 **has paid the fee required under ORS 537.150 (7), the person is a**
11 **protestant and has paid the fee required under ORS 536.050 (1)(j) or the**
12 **person has party status and has paid the fees required under ORS**
13 **536.050 (1)(n) and (o).**

14 **“(6) The provisions of sections 2 and 3 of this 2025 Act, and rules**
15 **adopted thereunder, apply to a contested case proceeding on a pro-**
16 **posed final order issued under this section.**

17 “[8] (7) Within 60 days after the close of the period for receiving pro-
18 tests, **if a protest was timely submitted**, the Water Resources Director
19 shall:

20 **“(a) Issue a final order as provided under ORS 537.170 [(6); or] (1) or (2),**
21 **if the applicant has not filed a protest and the director finds that there**
22 **are no significant issues related to the proposed use of water;**

23 **“(b) Schedule a contested case hearing if a protest has been submitted;**
24 **or [and if:]**

25 **“(c) Provide any person who timely submitted a protest or request**
26 **for party status with an estimate of the timing of referring the con-**
27 **tested case to the Office of Administrative Hearings for a hearing and**
28 **notice that parties may provide settlement proposals.**

29 “[A] Upon review of the issues, the director finds that there are significant
30 disputes related to the proposed use of water; or]

1 “[B] Within 30 days after the close of the period for submitting protests,
2 the applicant requests a contested case hearing.]

3 **“SECTION 6.** ORS 537.170 is amended to read:

4 “537.170. [(1) Within 45 days after the Water Resources Director schedules
5 a contested case hearing under ORS 537.153 (8), the Water Resources Depart-
6 ment shall hold the contested case hearing. The issues to be considered in the
7 contested case hearing shall be limited to issues identified by the administra-
8 tive law judge.]

9 “[2] Notwithstanding the provisions of ORS chapter 183 pertaining to
10 contested case proceedings, the parties to any contested case hearing initiated
11 under this section shall be limited to:]

12 “[a] The applicant;]

13 “[b] Any person who timely filed a protest; and]

14 “[c] Any person who timely filed a request for standing under ORS 537.153
15 (5) and who requests to intervene in the contested case hearing prior to the
16 start of the proceeding.]

17 “[3] The contested case proceeding shall be conducted in accordance with
18 the applicable provisions of ORS chapter 183 except:]

19 “[a] As provided in subsections (1) and (2) of this section; and]

20 “[b] An interlocutory appeal under ORS 183.480 (3) shall not be allowed.]

21 “[4] If applicable, an application to appropriate water for the generation
22 of electricity submitted under ORS 537.140 shall be included in the consol-
23 idated review and hearings process under ORS 543.255.]

24 “[5] Each person submitting a protest or a request for standing shall raise
25 all reasonably ascertainable issues and submit all reasonably available argu-
26 ments supporting the person’s position by the close of the protest period. Fail-
27 ure to raise a reasonably ascertainable issue in a protest or in a hearing or
28 failure to provide sufficient specificity to afford the Water Resources Depart-
29 ment an opportunity to respond to the issue precludes judicial review based
30 on that issue.]

1 “[(6)] (1) If a **protest of a proposed final order issued under ORS**
2 **537.153 is filed under section 3 of this 2025 Act and**, after the contested
3 case hearing or, if a hearing is not held, after the close of the period allowed
4 to file a protest, the **Water Resources** Director determines that the pro-
5 posed use does not comply with the standards set forth in ORS 543.017 or
6 rules adopted by the Water Resources Commission under ORS 543.017 or
7 would otherwise impair or be detrimental to the public interest, the director
8 shall issue a final order rejecting the application or modifying the proposed
9 final order to conform to the public interest.

10 “(2) If a **protest of a proposed final order issued under ORS 537.153**
11 **is filed under section 3 of this 2025 Act and**, after the contested case
12 hearing or, if a hearing is not held, after the close of the period allowed to
13 file a protest, the director determines that the proposed use would not impair
14 or be detrimental to the public interest, the director shall issue a final order
15 approving the application or otherwise modifying the proposed final order.

16 “(3) A final order may set forth any of the provisions or restrictions to
17 be included in the permit concerning the use, control and management of the
18 water to be appropriated for the project, including, but not limited to, a
19 specification of reservoir operation and minimum releases to protect the
20 public interest.

21 “(4) **An interlocutory appeal under ORS 183.480 (3) is not allowed in**
22 **a contested case proceeding under this section.**

23 “[(7) *If a contested case hearing is not held:*]

24 “[(a) *Where the final order modifies the proposed final order, the applicant*
25 *may request and the department shall schedule a contested case hearing as*
26 *provided under subsection (3) of this section by submitting the information*
27 *required for a protest under ORS 537.153 (6) within 14 days after the director*
28 *issues the final order. However, the issues on which a contested case hearing*
29 *may be requested and conducted under this paragraph shall be limited to is-*
30 *ssues based on the modifications to the proposed final order.]*

1 “[*b*] Only the applicant or a protestant may appeal the provisions of the
2 final order in the manner established in ORS chapter 183 for appeal of order
3 other than contested cases.]

4 **“(5) If a contested case hearing is not held under ORS 537.153 (7)(a)
5 where the final order modifies the proposed final order, the applicant,
6 a person granted party status or a protestant may submit a protest
7 under section 2 or 3 of this 2025 Act within 14 days after the director
8 issues the final order, except that the issues on which a contested case
9 hearing may be requested and conducted under this subsection are
10 limited to issues that would result in a modification to the proposed
11 final order. The department must hold a hearing if the protestant is
12 an applicant.**

13 **“(6) If a protest of a proposed final order issued under ORS 537.153
14 is filed under section 3 of this 2025 Act by a person other than the
15 applicant and, as described in ORS 537.153 (6)(a), the director issues a
16 final order without holding a contested case hearing, a protestant may
17 appeal the provisions of the final order in the manner established in
18 ORS chapter 183 for appeal of orders in other than contested cases.**

19 “[~~(8)~~] (7) If the presumption of public interest under ORS 537.153 (2) is
20 overcome, then before issuing a final order, the director or the commission,
21 if applicable, shall make the final determination of whether the proposed use
22 or the proposed use as modified in the proposed final order would impair or
23 be detrimental to the public interest by considering:

24 “(a) Conserving the highest use of the water for all purposes, including
25 irrigation, domestic use, municipal water supply, power development, public
26 recreation, protection of commercial and game fishing and wildlife, fire pro-
27 tection, mining, industrial purposes, navigation, scenic attraction or any
28 other beneficial use to which the water may be applied for which it may have
29 a special value to the public.

30 “(b) The maximum economic development of the waters involved.

1 “(c) The control of the waters of this state for all beneficial purposes,
2 including drainage, sanitation and flood control.

3 “(d) The amount of waters available for appropriation for beneficial use.

4 “(e) The prevention of wasteful, uneconomic, impracticable or unreason-
5 able use of the waters involved.

6 “(f) All vested and inchoate rights to the waters of this state or to the
7 use of the waters of this state, and the means necessary to protect such
8 rights.

9 “(g) The state water resources policy formulated under ORS 536.295 to
10 536.350 and 537.505 to 537.534.

11 “[9] (8) Upon issuing a final order, the director shall notify the appli-
12 cant and each person who submitted written comments or protests or other-
13 wise requested notice of the final order and send a copy of the final order
14 to any person who requested a copy and paid the fee required under ORS
15 536.050 (1)(p).

16 **SECTION 7.** ORS 537.175 is amended to read:

17 “537.175. (1) Except as provided in subsection (2) of this section, the Wa-
18 ter Resources Department shall issue a final order or schedule a contested
19 case hearing on an application for a water right referred to in ORS 537.140
20 or 537.400 within 180 days after the department proceeds with the application
21 under ORS 537.150 (5).

22 “(2) At the request of the applicant, the department may extend the
23 180-day period set forth in subsection (1) of this section for a reasonable
24 period of time.

25 “[3] *If a contested case hearing is held, the department shall issue a final*
26 *order:]*

27 “[a] *Within 270 days after scheduling the hearing for a contested case*
28 *proceeding that involves three or more parties not including the department;*
29 *and]*

30 “[b] *Within 180 days after scheduling the hearing for all other contested*

1 *case proceedings.]*

2 “[(4)] (3) If the applicant does not request an extension under subsection
3 (2) of this section and the department fails to issue a proposed final order
4 or schedule a contested case hearing on an application for a water right
5 within 180 days after the department proceeds with the application under
6 ORS 537.150 (5), the applicant may apply in the Circuit Court for Marion
7 County for a writ of mandamus to compel the department to issue a final
8 order or schedule a contested case hearing on an application for a water
9 right. If the application is for an out-of-stream use, the writ of mandamus
10 shall compel the department to issue a water right permit, unless the de-
11 partment shows by affidavit that to issue a permit may result in harm to an
12 existing water right holder.

13 **“SECTION 8.** ORS 537.225 is amended to read:

14 “537.225. (1) Notwithstanding ORS 537.220 and 537.635, except as provided
15 in subsection [(6)] (7) of this section, a record landowner holding a water
16 right permit for an irrigation, nursery, temperature control, stock watering
17 or agricultural water use that has a subsequent completion date may apply
18 for assignment of all or part of the water right permit and for the issuance
19 of a replacement water right permit that reflects that assignment. To obtain
20 the assignment and replacement water right permits, the applicant shall
21 submit an application to the Water Resources Department that includes, at
22 a minimum:

23 “(a) A map prepared by a certified water right examiner and meeting de-
24 partment mapping standards that identifies the authorized place of use, rate
25 of use, any applicable acre-feet allowances, tax lots and points of diversion
26 or appropriation;

27 “(b) A copy of the deed showing that the applicant is an owner of the
28 land;

29 “(c) An affidavit certifying that the water right has not been conveyed
30 or withheld;

1 “(d) A statement by the applicant that the most recent water use under
2 the permit, if any, has been exercised within relevant terms and conditions
3 of the permit; and

4 “(e)(A) Agreements to the assignment and to the request for the issuance
5 of replacement water right permits submitted jointly or individually by all
6 owners of the land to which the water right is appurtenant; or

7 “(B) An assignment of interest and request for the issuance of replace-
8 ment water right permits submitted by one or more of the owners of land to
9 which the water right is appurtenant and information identifying the names,
10 addresses and proportionate interests for those owners not submitting the
11 assignment and request.

12 “(2) In addition to the application contents described in subsection (1) of
13 this section, the department may require that the applicant provide any ad-
14 ditional information the department deems appropriate to determining
15 whether to approve the application.

16 “(3) Upon receiving an application under subsection (1) of this section,
17 the department shall determine and notify the applicant of the fees payable
18 under ORS 536.050 for processing the application. Upon receipt of the ap-
19 propriate processing fees, the department shall:

20 “(a) Verify the address of each owner of the lands identified on the map
21 contained in the application;

22 “(b) Verify that the deed supplied with the application matches the prop-
23 erty proposed for assignment;

24 “(c) Prepare a statement that the proposed replacement water right per-
25 mits will not result in the enlargement of the original water right, a pro-
26 posed final order and drafts of replacement water right permits;

27 “(d) No later than one week prior to the date of the weekly notice de-
28 scribed in paragraph (e) of this subsection, mail copies of the application, the
29 map, the existing water right permit, the proposed final order and the draft
30 replacement water right permits to each owner of land to which the existing

1 water right is appurtenant; and

2 “(e) Provide public notice of the application in the weekly notice pub-
3 lished by the department.

4 “(4) The department shall allow comment on the application for 30 days
5 following public notice of the application in the weekly notice published by
6 the department. Any protest against the proposed final order must be sub-
7 mitted no later than 45 days after the date of the weekly notice published
8 by the department. [*A protest must be filed in the manner provided in ORS*
9 *537.227.*]

10 “**(5) The provisions of sections 2 and 3 of this 2025 Act, and rules**
11 **adopted thereunder, apply to a contested case proceeding on a pro-**
12 **posed final order issued under this section, except that the issues**
13 **raised in a protest must directly pertain to whether the proposed re-**
14 **placement water right permits are authorized under and in conform-**
15 **ance with this section.**

16 “[~~(5)~~] **(6)** If the department determines that an application under sub-
17 section (1) of this section to assign all or part of a water right permit has
18 been properly filed, and that the issuance of replacement water right permits
19 will not result in the enlargement of the original water right or otherwise
20 cause injury to other water right holders, the department shall issue one or
21 more replacement water right permits to reflect the assignment. The re-
22 placement water right permits:

23 “(a) Must have the same conditions as the replaced water right permit,
24 including but not limited to priority date, source of water and type of use;

25 “(b) May not add or change a point of diversion or point of appropriation;

26 “(c) May not result in the enlargement of the water use authorized under
27 the replaced water right permit;

28 “(d) Must apportion the rate, and if applicable the duty, in proportion to
29 the amount of land to which the water right is appurtenant; and

30 “(e) Must identify the land to which the replacement water right permit

1 is appurtenant and the owner of that land.

2 “[6] (7) This section does not apply to municipal or quasi-municipal
3 permits or to permits held by a unit of local government, including but not
4 limited to permits held by a port or water authority or a district. As used
5 in this subsection, ‘unit of local government’ has the meaning given that
6 term in ORS 190.003 and ‘district’ has the meaning given that term in ORS
7 540.505.

8 **“SECTION 9.** ORS 537.227 is amended to read:

9 “537.227. *[(1) A record landowner, an assignee, an affected water right*
10 *permit holder or other interested person may protest a Water Resources De-*
11 *partment proposed final order for a water right assignment under ORS*
12 *537.225. The protest must be in writing and received by the department within*
13 *the time provided under ORS 537.225 (4). The protest must be accompanied by*
14 *the protest fee required under ORS 536.050 and include:]*

15 “[*(a) The name, address and telephone number of the person filing the*
16 *protest; and]*

17 “[*(b) A detailed explanation of why the proposed order does not conform*
18 *with the criteria for a water right permit assignment and a description of the*
19 *changes to the order that are necessary to correct the nonconformity.]*

20 “[*(2) A protest must identify all issues the person wishes to raise that are*
21 *reasonably ascertainable at the time the protest is filed. The issues must di-*
22 *rectly pertain to whether the proposed replacement water right permits are*
23 *authorized under and in conformance with ORS 537.225.]*

24 “[*(3) (1) In addition to any other authority the Water Resources*
25 **Department may have,** if a protest is properly filed, the department may
26 work with the applicant for the water right assignment and the person filing
27 the protest to determine whether the issues raised by the protest can be re-
28 solved informally. *[The department may:]*

29 “[*(a) Reissue a proposed final order;*]

30 “[*(b) Issue a final order; or]*

1 “[(c) Refer the matter for a contested case hearing.]

2 “[(4) If the department is unable to resolve the issues informally and refers
3 the matter for a contested case hearing, the issues properly before the admin-
4 istrative law judge are limited to whether the proposed replacement water right
5 permits are authorized under and in conformance with ORS 537.225. Any un-
6 raised issue that was reasonably ascertainable at the time the protest was filed
7 and any argument not raised in the protest with sufficient specificity to afford
8 the department an opportunity for response is not subject to review at the
9 contested case hearing.]

10 “[(5)] **(2)** Notwithstanding ORS 183.310, **and sections 2 and 3 of this 2025**
11 **Act**, the parties to a contested case hearing held under this section are
12 limited to:

13 “(a) The applicant for the water right assignment; and

14 “(b) Persons that timely filed a protest against the proposed order under
15 ORS 537.225 (4).

16 “**SECTION 10.** ORS 537.295 is amended to read:

17 “537.295. (1) If the holder of a permit to appropriate water for hydroelec-
18 tric purposes under this chapter fails, after receiving notice under ORS
19 537.289 (2), to amend the joint agreement so the holder continues to qualify
20 as a municipal applicant, or if the holder of the permit has assigned owner-
21 ship of the permit to an entity other than a municipal corporation or district,
22 the Water Resources Commission shall initiate proceedings to cancel the
23 permit.

24 “[(2) A proceeding to cancel a permit under subsection (1) of this section
25 shall be conducted according to the provisions under ORS chapter 183 for a
26 contested case hearing.]

27 “**(2) The provisions of sections 2 and 3 of this 2025 Act, and rules**
28 **adopted thereunder, apply to a contested case proceeding on a pro-**
29 **posed final order issued under this section.**

30 “**SECTION 11.** ORS 537.297 is amended to read:

1 “537.297. (1) If the owner of a certificate to appropriate water for hydro-
2 electric purposes under this chapter fails, after receiving notice under ORS
3 537.289 (2), to amend the joint agreement so the owner continues to qualify
4 as a municipal applicant, or if the holder of the certificate has assigned
5 ownership of the certificate to an entity other than a municipal corporation
6 or district, the Water Resources Commission shall initiate proceedings to
7 cancel the certificate.

8 “[*(2) A proceeding to cancel a certificate under subsection (1) of this section*
9 *shall be conducted according to the provisions under ORS chapter 183 for a*
10 *contested case hearing.*]

11 “**(2) The provisions of sections 2 and 3 of this 2025 Act, and rules**
12 **adopted thereunder, apply to a contested case proceeding on a pro-**
13 **posed final order issued under this section.**

14 “**SECTION 12.** ORS 537.409 is amended to read:

15 “537.409. (1) In lieu of the process set forth in ORS 537.140 to 537.211 for
16 applying for a water right permit, an owner of a reservoir may submit an
17 application to the Water Resources Department to issue a water right permit
18 under ORS 537.211 or a certificate under ORS 537.250 according to the pro-
19 cess set forth in this section if the reservoir:

20 “(a) Has a storage capacity of less than 9.2 acre-feet or a dam or
21 impoundment structure less than 10 feet in height;

22 “(b) Does not injure any existing water right;

23 “(c) Does not pose a significant detrimental impact to existing fishery
24 resources as determined on the basis of information submitted by the State
25 Department of Fish and Wildlife; and

26 “(d) Is not prohibited under ORS 390.835.

27 “(2) An application for a water right permit for a reservoir under sub-
28 section (1) of this section shall provide sufficient information to demonstrate
29 compliance with the criteria set forth in subsection (1) of this section. The
30 application shall:

1 “(a) Include the quantity of water to be stored by the reservoir, a map
2 indicating the location of the reservoir and the source of the water used to
3 fill the reservoir; and

4 “(b) Be accompanied by the fee established in ORS 536.050 (1)(q).

5 “(3) The map required under subsection (2) of this section need not be
6 prepared by a water right examiner certified under ORS 537.798. The map
7 submitted with the application shall comply with standards established by
8 the Water Resources Commission.

9 “(4) Within 60 days after receiving an application under subsection (1) of
10 this section, the Water Resources Department shall provide public notice of
11 the application in the manner the department determines to be the most ap-
12 propriate.

13 “(5) Within 60 days after the department provides public notice under
14 subsection (4) of this section, any person may submit detailed, legally ob-
15 tained information in writing, requesting the department to deny the appli-
16 cation for a permit on the basis that the reservoir:

17 “(a) Would result in injury to an existing water right; or

18 “(b) Would pose a significant detrimental impact to existing fishery re-
19 sources.

20 “(6) In accordance with rules established by the Water Resources Com-
21 mission for an expedited public interest review process for applications sub-
22 mitted under this section or in response to a request under subsection (5)
23 of this section, the department shall conduct a public interest review of the
24 reservoir application. The review shall be limited to issues pertaining to:

25 “(a) Water availability;

26 “(b) Potential detrimental impact to existing fishery resources; and

27 “(c) Potential injury to existing water rights.

28 “(7) Within 180 days after the department receives an application for a
29 permit under subsection (1) of this section, the department shall issue a
30 **proposed** final order granting or denying the permit or granting the permit

1 with conditions.

2 “(8) If the department issues an order under subsection (7) of this section
3 denying the permit, the applicant may request a contested case hearing,
4 which shall be conducted in accordance with applicable provisions of ORS
5 chapter 183, **sections 2 and 3 of this 2025 Act and rules adopted there-**
6 **under.**

7 “(9) If the department does not find injury or impact under subsection (6)
8 of this section and the department issues a final order under subsection (7)
9 of this section allowing the issuance of a permit, the order shall be subject
10 to judicial review of orders in other than contested cases as provided in ORS
11 chapter 183.

12 “(10) Notwithstanding the requirement for a survey under ORS 537.230,
13 a survey of the appropriation is not required for a reservoir that has a
14 storage capacity of less than 9.2 acre-feet of water. For a reservoir qualifying
15 under this subsection, a permittee shall submit to the department a claim
16 of beneficial use within one year after the date of completion of construction.
17 A claim of beneficial use for a reservoir qualifying under this subsection
18 shall require only a written affidavit signed by the permittee that includes
19 the following:

20 “(a) The dimensions of the reservoir.

21 “(b) The maximum capacity of the reservoir in acre-feet.

22 “(c) A map identifying the location of the reservoir. The map shall comply
23 with standards established by the Water Resources Commission. The map
24 required under this subsection need not be prepared by a water right exam-
25 iner certified under ORS 537.798.

26 “(11) Any person applying for a secondary permit for the use of stored
27 water from a reservoir qualifying under subsection (10) of this section shall
28 submit a survey prepared by a water right examiner certified under ORS
29 537.798. The survey required under this subsection shall apply to the storage
30 reservoir and to the secondary use of the water in the reservoir.

1 **“SECTION 13.** ORS 537.420 is amended to read:

2 “537.420. Whenever a permit holder fails to comply with the laws of the
3 state and the requirements of the permit as to the commencement of work
4 with due diligence, completion of the work of construction or the application
5 of the water for a beneficial use, and the permit is subject to cancellation
6 as provided in ORS 537.410 to 537.450, the Water Resources Commission
7 shall, not less than 30 [*nor more than 60*] days prior to the hearing [*provided*
8 *for in ORS 537.445, notify*], **issue a proposed final order canceling the**
9 **permit and serve notice of the proposed final order, in accordance with**
10 **ORS 183.415, on** each person who, according to [*Water Resources*] depart-
11 ment records, is the holder of a water right permit or certificate whose right
12 may be injured by the proposed cancellation. [*The notice shall require the*
13 *holder of the permit to appear before the commission at the time and place*
14 *designated in the notice, and show cause why the permit described in the no-*
15 *tice should not be canceled for the reasons therein specified. The notice shall*
16 *contain a brief statement of the grounds for cancellation and shall be served*
17 *in accordance with ORS 183.415.*]

18 **“SECTION 14.** ORS 537.445 is amended to read:

19 “537.445. [*(1) If the Water Resources Commission proposes to cancel a per-*
20 *mit or appropriation under ORS 537.410 to 537.450, opportunity for hearing*
21 *shall be accorded as provided in ORS chapter 183.*]

22 **“(1) The provisions of sections 2 and 3 of this 2025 Act, and rules**
23 **adopted thereunder, apply to a contested case proceeding on a pro-**
24 **posed final order issued under ORS 537.410 to 537.450.**

25 “(2) If a petition for review of an order canceling a permit or appropri-
26 ation is filed under ORS 536.075, the **Water Resources** Commission [*shall*]
27 **may** not cancel the permit or appropriation under ORS 537.440 until the
28 petitioner’s right of review is exhausted and the order is finally approved.

29 **“SECTION 15.** ORS 537.470 is amended to read:

30 “537.470. (1) Upon receipt of an application for allocation of conserved

1 water under ORS 537.465, the Water Resources Commission shall give notice
2 of receipt of the application in accordance with ORS 540.520 (5).

3 “(2) The commission shall allocate conserved water as provided in sub-
4 section (3) of this section and approve modifications of water rights as pro-
5 vided in subsection [(6)] (7) of this section. The commission may not allocate
6 conserved water pursuant to an application under ORS 537.465 if the appli-
7 cation is filed more than five years after the conservation measure was im-
8 plemented.

9 “(3) After determining the quantity of conserved water, if any, required
10 to mitigate the effects on other water rights, the commission shall allocate
11 25 percent of the remaining conserved water to the state and 75 percent to
12 the applicant, unless the applicant proposes a higher allocation to the state
13 or more than 25 percent of the funds used to finance the conservation
14 measures comes from federal or state public sources. If more than 25 percent
15 of the funds used to finance the conservation measures comes from federal
16 or state public sources and is not subject to repayment, the commission shall
17 allocate to the state a percentage equal to the percentage of public funds
18 used to finance the conservation measures and allocate to the applicant a
19 percentage equal to the percentage of other funds used to finance the con-
20 servation measures. If the commission determines that the water allocated
21 to the state is necessary to support in-stream flow purposes in accordance
22 with ORS 537.332 to 537.360, the water shall be converted to an in-stream
23 water right. If the water allocated to the state is not necessary to support
24 in-stream flow purposes, it shall revert to the public for appropriation by the
25 next user in priority. In no event, however, shall the applicant receive less
26 than 25 percent of the remaining conserved water unless the applicant pro-
27 poses a higher allocation to the state.

28 “[4) *The commission shall notify the applicant and any other person re-*
29 *questing notice, of the action the commission intends to take under subsection*
30 *(3) of this section. Any person objecting to the proposed allocation may file a*

1 *protest requesting a contested case hearing before the commission.]*

2 **“(4) The commission shall:**

3 **“(a) Issue a proposed final order on the application.**

4 **“(b) Serve the proposed final order in accordance with ORS 183.415.**

5 **“(c) Provide notice of the proposed final order to any other person**
6 **requesting notice.**

7 **“(5) The provisions of sections 2 and 3 of this 2025 Act, and rules**
8 **adopted thereunder, apply to a contested case proceeding on a pro-**
9 **posed final order issued under this section.**

10 “[5] (6) The modification of water rights under an allocation of con-
11 served water may not require a separate request for transfer under ORS
12 540.520.

13 “[6] (7) After the commission completes the allocation of conserved wa-
14 ter under subsection (3) of this section, the commission shall issue orders for
15 proposed new certificates covering the changes in the original water rights.
16 Once the conservation project is completed, separate new certificates pre-
17 serving the previously established priority of rights shall be issued to cover
18 the unaffected portion of the water rights and separate new certificates in-
19 dicating the priority of rights as set forth in ORS 537.485 shall be issued to
20 cover the right to the use of the allocated water.

21 **“SECTION 16. ORS 537.621 is amended to read:**

22 “537.621. (1) Within 60 days after the Water Resources Department pro-
23 ceeds with the application under ORS 537.620 (5), the department shall com-
24 plete application review and issue a proposed final order approving or
25 denying the application or approving the application with modifications or
26 conditions. The department may request the applicant to provide additional
27 information needed to complete the review. If the department requests addi-
28 tional information, the request shall be specific and shall be sent to the ap-
29 plicant by registered mail. The department shall specify a date by which the
30 information must be returned, which shall be not less than 10 days after the

1 department mails the request to the applicant. If the department does not
2 receive the information or a request for a time extension under ORS 537.627
3 by the date specified in the request, the department may reject the applica-
4 tion and may refund fees in accordance with ORS 536.050 (4)(a). The time
5 period specified by the department in a request for additional information
6 shall allow the department to comply with the 60-day time limit established
7 by this subsection.

8 “(2) In reviewing the application under subsection (1) of this section, the
9 department shall determine whether the proposed use will ensure the pres-
10 ervation of the public welfare, safety and health as described in ORS 537.525.
11 The department shall presume that a proposed use will ensure the preserva-
12 tion of the public welfare, safety and health if the proposed use is allowed
13 in the applicable basin program established pursuant to ORS 536.300 and
14 536.340 or given a preference under ORS 536.310 (12), if water is available,
15 if the proposed use will not injure other water rights and if the proposed use
16 complies with rules of the Water Resources Commission. This shall be a
17 rebuttable presumption and may be overcome by a preponderance of evidence
18 that either:

19 “(a) One or more of the criteria for establishing the presumption are not
20 satisfied; or

21 “(b) The proposed use would not ensure the preservation of the public
22 welfare, safety and health as demonstrated in comments, in a protest under
23 [*subsection (7) of this*] **section 3 of this 2025 Act** or in a finding of the de-
24 partment that shows:

25 “(A) The specific aspect of the public welfare, safety and health under
26 ORS 537.525 that would be impaired or detrimentally affected; and

27 “(B) Specifically how the identified aspect of the public welfare, safety
28 and health under ORS 537.525 would be impaired or be adversely affected.

29 “(3) The proposed final order shall cite findings of fact and conclusions
30 of law and shall include but need not be limited to:

1 “(a) Confirmation or modification of the preliminary determinations made
2 in the initial review;

3 “(b) A brief statement that explains the criteria considered relevant to the
4 decision, including the applicable basin program and the compatibility of the
5 proposed use with applicable land use plans;

6 “(c) An assessment of water availability and the amount of water neces-
7 sary for the proposed use;

8 “(d) An assessment of whether the proposed use would result in injury to
9 existing water rights;

10 “(e) An assessment of whether the proposed use would ensure the preser-
11 vation of the public welfare, safety and health as described in ORS 537.525;

12 “(f) A draft permit, including any proposed conditions, or a recommen-
13 dation to deny the application;

14 “(g) Whether the rebuttable presumption under subsection (2) of this sec-
15 tion has been established;

16 “(h) The date by which protests to the proposed final order must be re-
17 ceived by the department; and

18 “(i) The flow rate and duty of water allowed.

19 “(4) In establishing the flow rate and duty of water allowed, the depart-
20 ment may consider a general basin-wide standard, but first shall evaluate
21 information submitted by the applicant to demonstrate the need for a flow
22 rate and duty higher than the general standard. If the applicant provides
23 such information, the department shall authorize the requested rate and duty
24 except upon specific findings related to the application to support a deter-
25 mination that a lesser amount is needed. If the applicant does not provide
26 information to demonstrate the need for a flow rate and duty higher than the
27 general basin-wide standard, the department may apply the general standards
28 without specific findings related to the application.

29 “(5) The department shall mail copies of the proposed final order to the
30 applicant and to persons who have requested copies and paid the fee required

1 under ORS 536.050 (1)(p). The department also shall publish notice of the
2 proposed final order by publication in the weekly notice published by the
3 department.

4 “[(6) Any person who supports a proposed final order may request standing
5 for purposes of participating in any contested case proceeding on the proposed
6 final order or for judicial review of a final order. A request for standing shall
7 be in writing and shall be accompanied by the fee established under ORS
8 536.050 (1)(n).]

9 “[(7) Any person may submit a protest against a proposed final order. A
10 protest shall be in writing and shall include:]

11 “[(a) The name, address and telephone number of the protestant;]

12 “[(b) A description of the protestant’s interest in the proposed final order,
13 and if the protestant claims to represent the public interest, a precise statement
14 of the public interest represented;]

15 “[(c) A detailed description of how the action proposed in the proposed final
16 order would impair or be detrimental to the protestant’s interest;]

17 “[(d) A detailed description of how the proposed final order is in error or
18 deficient and how to correct the alleged error or deficiency;]

19 “[(e) Any citation of legal authority supporting the protest, if known; and]

20 “[(f) The protest fee required under ORS 536.050.]

21 “**(6) The provisions of sections 2 and 3 of this 2025 Act, and rules**
22 **adopted thereunder, apply to a contested case proceeding on a pro-**
23 **posed final order issued under this section.**

24 “[(8)] **(7)** *[Requests for standing and protests on the proposed final order*
25 *shall be submitted within 45 days after publication of the notice of the pro-*
26 *posed final order in the weekly notice published by the department.]* Any per-
27 son who asks to receive a copy of the department’s final order shall submit
28 to the department the fee required under ORS 536.050 (1)(p), unless the per-
29 son has previously requested copies and paid the required fee under ORS
30 537.620 (7), the person is a protestant and has paid the fee required under

1 ORS 536.050 (1)(j) or the person has *[standing]* **requested party status** and
2 has paid the fee under ORS 536.050 (1)(n) **and (o)**.

3 “[9] **(8)** Within 60 days after the close of the period for receiving pro-
4 tests, **if a timely protest was submitted**, the Water Resources Director
5 shall:

6 “(a) Issue a final order as provided under ORS 537.625 (1), **if the appli-**
7 **cant has not filed a protest and the director finds that there are no**
8 **significant issues related to the proposed use of water**; *[or]*

9 “(b) Schedule a contested case hearing if a protest has been submitted;
10 **or** *[and if:]*

11 “(c) **Provide any person who timely submitted a protest or request**
12 **for party status with an estimate of the timing of referring the case**
13 **to the Office of Administrative Hearings for a hearing and notice that**
14 **parties may provide settlement proposals.**

15 “[A] *Upon review of the issues, the director finds that there are significant*
16 *disputes related to the proposed use of water; or]*

17 “[B] *Within 30 days after the close of the period for submitting protests,*
18 *the applicant requests a contested case hearing.]*

19 “**SECTION 17.** ORS 537.622 is amended to read:

20 “537.622. *[(1) Within 45 days after the Water Resources Director schedules*
21 *a contested case hearing under ORS 537.621 (9), the Water Resources Depart-*
22 *ment shall hold the contested case hearing. The issues to be considered in the*
23 *contested case hearing shall be limited to issues identified by the administra-*
24 *tive law judge.]*

25 “[2] *Notwithstanding the provisions of ORS chapter 183 pertaining to*
26 *contested case proceedings, the parties to any contested case hearing initiated*
27 *under this section shall be limited to:]*

28 “[a] *The applicant;*]

29 “[b] *Any person who timely filed a protest; and]*

30 “[c] *Any person who timely filed a request for standing under ORS 537.621*

1 (6) and who requests to intervene in the contested case hearing prior to the
2 start of the proceeding.]

3 [(3) *The*] A contested case **under ORS 537.621 (8)** proceeding shall be
4 conducted in accordance with the applicable provisions of ORS chapter 183
5 **and sections 2 and 3 of this 2025 Act**, except[:]

6 [(a) *As provided in subsections (1) and (2) of this section; and*]

7 [(b)] **that** an interlocutory appeal under ORS 183.480 (3) [*shall not be*] **is**
8 **not** allowed.

9 [(4) *Each person submitting a protest or a request for standing shall raise*
10 *all reasonably ascertainable issues and submit all reasonably available argu-*
11 *ments supporting the person's position by the close of the protest period. Fail-*
12 *ure to raise a reasonably ascertainable issue in a protest or in a hearing or*
13 *failure to provide sufficient specificity to afford the Water Resources Depart-*
14 *ment an opportunity to respond to the issue precludes judicial review based*
15 *on that issue.*]

16 **“SECTION 18.** ORS 537.625 is amended to read:

17 “537.625. (1) If, after the contested case hearing or, if a hearing is not
18 held, after the close of the period allowed to file a protest, the Water Re-
19 sources Director determines that the proposed use **that is the subject of**
20 **an application filed under ORS 537.615** does not ensure the preservation
21 of the public welfare, safety and health as described in ORS 537.525, the di-
22 rector shall issue a final order rejecting the application or modifying the
23 proposed final order as necessary to ensure the preservation of the public
24 welfare, safety and health as described in ORS 537.525. If, after the con-
25 tested case hearing or, if a hearing is not held, after the close of the period
26 allowed to file a protest, the director determines that the proposed use would
27 ensure the preservation of the public welfare, safety and health as described
28 in ORS 537.525, the director shall issue a final order approving the applica-
29 tion or otherwise modifying the proposed final order. A final order may set
30 forth any of the provisions or restrictions to be included in the permit con-

1 cerning the use, control and management of the water to be appropriated for
2 the project.

3 “[2) *If a contested case hearing is not held:*]

4 “[a) *Where the final order modifies the proposed final order, the applicant*
5 *may request and the Water Resources Department shall schedule a contested*
6 *case hearing as provided under ORS 537.622 (3) by submitting the information*
7 *required for a protest under ORS 537.621 (7) within 14 days after the director*
8 *issues the final order. However, the issues on which a contested case hearing*
9 *may be requested and conducted under this paragraph shall be limited to is-*
10 *ssues based on the modifications to the proposed final order.]*

11 “[b) *Only the applicant or a protestant may appeal the provisions of the*
12 *final order in the manner established in ORS chapter 183 for appeal of order*
13 *other than contested cases.]*

14 **“(2) If a contested case hearing is not held under ORS 537.621 (8)(a)**
15 **where the final order modifies the proposed final order, the applicant,**
16 **a person that requested party status or a protestant may submit a**
17 **protest under section 2 or 3 of this 2025 Act within 14 days after the**
18 **director issues the final order, except that the issues on which a con-**
19 **tested case hearing may be requested and conducted under this sub-**
20 **section are limited to issues that would result in a modification to the**
21 **proposed final order. The Water Resources Department must hold a**
22 **hearing if the protestant is an applicant.**

23 **“(3) If a protest is filed by a person other than the applicant and,**
24 **as provided in ORS 537.621 (8)(a), the director issues a final order**
25 **without holding a contested case hearing, a protestant may appeal the**
26 **provisions of the final order in the manner established in ORS chapter**
27 **183 for appeal of orders in other than contested cases.**

28 “[3) (4) *If the presumption of public welfare, safety and health under*
29 *ORS 537.621 (2) is overcome, then before issuing a final order, the director*
30 *or the Water Resources Commission, if applicable, shall make the final de-*

1 termination of whether the proposed use or the proposed use as modified in
2 the proposed final order would preserve the public welfare, safety and health
3 as described in ORS 537.525 by considering:

4 “(a) The conservation of the highest use of the water for all purposes,
5 including irrigation, domestic use, municipal water supply, power develop-
6 ment, public recreation, protection of commercial and game fishing and
7 wildlife, fire protection, mining, industrial purposes, navigation, scenic at-
8 traction or any other beneficial use to which the water may be applied for
9 which it may have a special value to the public.

10 “(b) The maximum economic development of the waters involved.

11 “(c) The control of the waters of this state for all beneficial purposes,
12 including drainage, sanitation and flood control.

13 “(d) The amount of waters available for appropriation for beneficial use.

14 “(e) The prevention of wasteful, uneconomic, impracticable or unreason-
15 able use of the waters involved.

16 “(f) All vested and inchoate rights to the waters of this state or to the
17 use of the waters of this state, and the means necessary to protect such
18 rights.

19 “(g) The state water resources policy.

20 “[4] (5) Upon issuing a final order, the [*Water Resources*] department
21 shall notify the applicant and each person who submitted written comments
22 or protests or otherwise requested notice of the final order and send a copy
23 of the final order to any person who requested a copy and paid the fee re-
24 quired under ORS 536.050 (1)(p).

25 “[5] (6) A right to appropriate ground water under a permit has a pri-
26 ority from the date when the application was filed with the department.

27 “[6] (7) If the use of water under the permit is for operation of a mining
28 operation as defined in ORS 517.952:

29 “(a) Review of the application and approval or denial of the application
30 shall be coordinated with the consolidated application process under ORS

1 517.952 to 517.989. However, such review and approval or denial shall take
2 into consideration all policy considerations for the appropriation of water
3 as set forth in this chapter and ORS chapter 536.

4 “(b) The permit may be issued for exploration under ORS 517.702 to
5 517.740, but the permit shall be conditioned on the applicant’s compliance
6 with the consolidated application process.

7 “(c) The permit shall include a condition that additional conditions may
8 be added to the use of water when a water right certificate is issued, or when
9 the use of water is changed pursuant to ORS 540.520 and 540.530 to use for
10 a mining operation.

11 **“SECTION 19.** ORS 537.628 is amended to read:

12 “537.628. (1) The Water Resources Department may approve an application
13 for less ground water than applied for or upon terms, conditions and limita-
14 tions necessary for the protection of the public welfare, safety and health.

15 “(2) In any event the department *[shall]* **may** not approve the application
16 for more ground water than is applied for or than can be applied to a bene-
17 ficial use.

18 “(3) *[No application shall be approved when the same will deprive]* **The**
19 **department may not approve an application that deprives** those having
20 prior rights of appropriation for a beneficial use of the amount of water to
21 which they are lawfully entitled.

22 “*[(2) If a contested case hearing is held, the department shall issue a final*
23 *order:]*

24 “*[(a) Within 270 days after scheduling the hearing for a contested case*
25 *proceeding that involves three or more parties not including the department;*
26 *and]*

27 “*[(b) Within 180 days after scheduling the hearing for all other contested*
28 *case proceedings.]*

29 **“SECTION 20.** ORS 540.520 is amended to read:

30 “540.520. (1)(a) Except when the application is made under ORS 541.327

1 or when an application for a temporary transfer is made under ORS 540.523,
2 if the holder of a water use subject to transfer for irrigation, domestic use,
3 manufacturing purposes, or other use, for any reason desires to change the
4 place of use, the point of diversion, or the use made of the water, an appli-
5 cation to make such change, as the case may be, shall be filed with the
6 Water Resources Department.

7 “(b) A holder of a water right certificate that authorizes the storage of
8 water may change the type of use identified in the water right certificate,
9 as described in this section.

10 “(2) The application required under subsection (1) of this section shall
11 include:

12 “(a) The name of the owner;

13 “(b) The previous use of the water;

14 “(c) A description of the premises upon which the water is used;

15 “(d) A description of the premises upon which it is proposed to use the
16 water;

17 “(e) The use that is proposed to be made of the water;

18 “(f) The reasons for making the proposed change; and

19 “(g) Evidence that the water has been used over the past five years ac-
20 cording to the terms and conditions of the owner’s water right certificate
21 or that the water right is not subject to forfeiture under ORS 540.610.

22 “(3) If the application required under subsection (1) of this section is
23 necessary to allow a change in a water right pursuant to ORS 537.348, is
24 necessary to complete a project funded under ORS 541.932, or is approved by
25 the State Department of Fish and Wildlife as a change that will result in a
26 net benefit to fish and wildlife habitat, the department, at the discretion of
27 the Water Resources Director, may waive or assist the applicant in satisfying
28 the requirements of subsection (2)(c) and (d) of this section. The assistance
29 provided by the department may include, but need not be limited to, devel-
30 opment of an application map.

1 “(4) If the application is to change the point of diversion, the transfer
2 shall include a condition that the holder of the water right provide a proper
3 fish screen at the new point of diversion, if requested by the State Depart-
4 ment of Fish and Wildlife.

5 “(5) Upon the filing of the application the department shall give notice
6 by publication in a newspaper having general circulation in the area in
7 which the water rights are located, for a period of at least two weeks and
8 not less than one publication each week. The notice shall include the date
9 on which the last notice by publication will occur. The cost of the publica-
10 tion shall be paid by the applicant in advance to the department. In appli-
11 cations for only a change in place of use or for a change in the point of
12 diversion of less than one-fourth mile, and where there are no intervening
13 diversions between the old diversion of the applicant and the proposed new
14 diversion, no newspaper notice need be published. The department shall in-
15 clude notice of such applications in the weekly notice published by the de-
16 partment.

17 “[*(6) Within 30 days after the last publication of a newspaper notice of the*
18 *proposed transfer or the mailing of the department’s weekly notice, whichever*
19 *is later, any person may file, jointly or severally, with the department, a protest*
20 *against approval of the application.*]

21 “**(6) Within 30 days after the publication in the department’s weekly**
22 **public notice any person may file a protest against the proposed final**
23 **order.**

24 “**(7) The provisions of sections 2 and 3 of this 2025 Act, and rules**
25 **adopted thereunder, apply to a contested case proceeding on a pro-**
26 **posed final order issued under this section.**

27 “[*(7)*] **(8)** If [*a timely protest is filed, or*] in the opinion of the Water Re-
28 sources Director a hearing is necessary to determine whether the proposed
29 changes as described by the application would result in injury to existing
30 water rights, the department shall hold a hearing on the matter. [*Notice and*

1 *conduct of the hearing shall be under the provisions of ORS chapter 183, per-*
2 *taining to contested cases, and shall be held in the area where the rights are*
3 *located unless all parties and persons who filed a protest under this subsection*
4 *stipulate otherwise.]*

5 “[(8)] **(9)** An application for a change of use under this section is not re-
6 quired if the beneficial use authorized by the water use subject to transfer
7 is irrigation and the owner of the water right uses the water for incidental
8 agricultural, stock watering and other uses related to irrigation use, so long
9 as there is no increase in the rate, duty, total acreage benefited or season
10 of use.

11 “[9)] **(10)** A water right transfer under subsection (1) of this section is
12 not required for a general industrial use that was not included in a water
13 right certificate issued for a specific industrial use if:

14 “(a) The quantity of water used for the general industrial use is not
15 greater than the rate allowed in the original water right and not greater
16 than the quantity of water diverted to satisfy the authorized specific use
17 under the original water right;

18 “(b) The location where the water is to be used for general industrial use
19 was owned by the holder of the original water right at the time the water
20 right permit was issued; and

21 “(c) The person who makes the change in water use provides the following
22 information to the Water Resources Department:

23 “(A) The name and mailing address of the person using water under the
24 water right;

25 “(B) The water right certificate number;

26 “(C) A description of the location of the industrial facility owned by the
27 holder of the original water right at the time the water right permit was
28 issued; and

29 “(D) A description of the general industrial use to be made of the water
30 after the change.

1 **“SECTION 21.** ORS 540.524 is amended to read:

2 “540.524. (1) Notwithstanding ORS 540.510 or 540.670, upon approval of an
3 application submitted to the Water Resources Department, the holder of both
4 a primary water right originating from a surface water source and a sup-
5 plemental water right permit or certificate originating from a ground water
6 source may substitute the use of the supplemental water right for the pri-
7 mary water right. A substitution may not be made under this subsection if
8 the use of the supplemental water right results in an enlargement or expan-
9 sion of the primary water right. This subsection does not authorize a change
10 in place of use, type of use, point of diversion or point of appropriation.

11 “(2) An application required under subsection (1) of this section shall be
12 submitted on forms provided by the department. The department may request
13 additional information if necessary to assist with the injury evaluation. Each
14 application shall be submitted with the fee described in ORS 536.050 (1)(s).

15 “[(3) *Upon receiving an application under subsection (1) of this section, the*
16 *department shall provide notice, accept protests and conduct hearings on pro-*
17 *tests in the manner described in ORS 540.520 (5), (6) and (7).]*

18 **“(3) Upon receiving an application under subsection (1) of this sec-**
19 **tion, the department shall provide public notice and accept protests**
20 **as described in ORS 540.520.**

21 **“(4) The provisions of sections 2 and 3 of this 2025 Act, and rules**
22 **adopted thereunder, apply to a contested case proceeding on a pro-**
23 **posed final order issued under this section.**

24 “[(4)] (5) The Water Resources Director shall issue [*an*] **a proposed final**
25 order approving or denying the substitution. If the proposed substitution will
26 result in injury to other water rights, the director shall prohibit or condition
27 the use to avoid or mitigate the injury. The director shall issue [*an*] **a pro-**
28 **posed final** order approving or denying the substitution within 90 days after
29 the department receives an application under subsection (1) of this section.

30 “[(5)] (6) For the purpose of ORS 540.610, a substituted primary surface

1 water right shall be treated as a supplemental water right, and a substituted
2 supplemental ground water right shall be treated as a primary water right.

3 “[~~(6)~~] (7) A completed and approved substitution of a supplemental ground
4 water right for a primary surface water right under this section may be
5 terminated upon a request by the water right holder or by an order of the
6 director if the director determines that the use of the ground water as the
7 primary water right causes injury to other water rights. Upon termination,
8 the substituted primary and supplemental water rights shall revert back to
9 their original status.

10 **“SECTION 22.** ORS 540.560 is amended to read:

11 “540.560. (1) If the Water Resources Commission considers that a certifi-
12 cate of water right does not identify the lands to which the right is
13 appurtenant with sufficient specificity for management, delivery or transfer
14 of that right, the commission may issue [*an*] **a proposed final** order clari-
15 fying and refining the description of the land to which the water right is
16 appurtenant.

17 “(2) [*An*] **A proposed final** order issued under this section may not re-
18 duce the rate, duty or number of acres stated in the certificate of water
19 right. The sole purpose of an addendum to a water right certificate is to
20 better define the location of acreage to which the water right is appurtenant,
21 where the certificate states only that the use is limited to a number of acres
22 within a larger tract.

23 “(3) Any **proposed final** order issued under this section shall be served
24 on the legal owner of the land to which the water right is appurtenant and
25 on the occupant of the land, by certified mail, return receipt requested. [*If*
26 *the owner or occupant files a written request for a hearing within 30 days after*
27 *service of the order, the commission shall conduct a hearing of the matter un-*
28 *der ORS 183.413 to 183.484.*] **Notwithstanding sections 2 and 3 of this 2025**
29 **Act, if the owner or occupant files a written protest within 30 days**
30 **after issuance of the proposed final order, the commission shall con-**

1 **duct a hearing.**

2 “(4) **The provisions of sections 2 and 3 of this 2025 Act, and rules**
3 **adopted thereunder, apply to a contested case proceeding on a pro-**
4 **posed final order issued under this section.**

5 “[~~4~~] (5) A final order under this section shall become an addendum to
6 and shall be filed with the certificate of water right that the order clarifies.
7 For all purposes, the final order shall constitute the description of the land
8 to which the water right is appurtenant.

9 **“SECTION 23.** ORS 540.641 is amended to read:

10 “540.641. (1) If the legal owner or the occupant receiving notice as pro-
11 vided in ORS 540.631 fails to protest the proposed cancellation of the water
12 right within the 60-day period prescribed in the notice, the Water Resources
13 Commission may enter an order canceling the water right.

14 “(2) If the legal owner or the occupant receiving notice as provided in
15 ORS 540.631 files a protest against the proposed cancellation of the water
16 right **the provisions of sections 2 and 3 of this 2025 Act and the rules**
17 **adopted thereunder apply** [*with the commission within the 60-day period*
18 *prescribed in the notice, the commission shall fix a time and place for a*
19 *hearing on the protest*]. The commission shall cause written notice of the
20 hearing to be given at least 10 days prior to the hearing to the person pro-
21 testing the cancellation of the water right and to any other person who in
22 the opinion of the commission is an interested party to the proceeding. [*The*
23 *hearing shall be held by the commission and shall be conducted under the*
24 *provisions of ORS chapter 183 pertaining to contested cases.*]

25 “(3) After [*the*] a hearing the commission shall enter an order canceling
26 the water right, canceling in part or modifying the water right, or declaring
27 that the water right shall not be canceled or modified.

28

29 **“APPLICABILITY TO COMPLETED APPLICATIONS**

30

1 **“SECTION 24. (1) Notwithstanding ORS 536.031 (1), rules adopted**
2 **under section 2 or 3 of this 2025 Act apply to aspects of a contested**
3 **case proceeding that occur on or after the effective date of this 2025**
4 **Act, for a protest:**

5 **“(a) That was submitted before, on or after the effective date of this**
6 **2025 Act; and**

7 **“(b) That was not referred to the Office of Administrative Hearings**
8 **before the effective date of this 2025 Act.**

9 **“(2) For protests that were pending on or before the effective date**
10 **of this 2025 Act, the Water Resources Department shall provide to**
11 **applicants, protestants, persons that submitted a request for standing**
12 **and persons that have requested or been granted party status notice**
13 **of the provisions and requirements of sections 2 and 3 of this 2025 Act.**
14 **Notwithstanding section 3 of this 2025 Act, the department shall pro-**
15 **vide not less than 90 days after issuance of the notice for:**

16 **“(a) A person that submitted a request for standing to request party**
17 **status in an existing contested case proceeding.**

18 **“(b) A protestant in an existing contested case proceeding to amend**
19 **the protest as necessary to comply with the provisions of section 3 of**
20 **this 2025 Act. The amended protest may not add issues not raised in**
21 **the original protest.**

22 **(3) A person that submitted a request for party status before the**
23 **effective date of this 2025 Act need not amend the request.**

24
25 **“CONFORMING AMENDMENTS**

26
27 **“SECTION 25. ORS 536.050 is amended to read:**

28 **“536.050. (1) The Water Resources Department may collect the following**
29 **fees in advance:**

30 **“(a) For examining an application for a permit:**

1 “(A) To appropriate water, except as provided under ORS 543.280 for an
2 application for a hydroelectric project:

3 “(i) A base fee of \$1,090 for an appropriation of water through a single
4 use, point of diversion or point of appropriation;

5 “(ii) \$410 for the first second-foot or fraction thereof appropriated under
6 the permit;

7 “(iii) \$410 for each additional second-foot or fraction thereof appropriated
8 under the permit;

9 “(iv) \$410 for each additional use, point of diversion or point of appro-
10 priation included in the application;

11 “(v) If appropriating stored water, \$41 for the first acre-foot or fraction
12 thereof up to 20 acre-feet, plus \$1.40 for each additional acre-foot or fraction
13 thereof; and

14 “(vi) If appropriating ground water, in addition to any other fees, \$480 for
15 each application filed.

16 “(B) To store water under ORS 537.400 or 537.534 (4):

17 “(i) A base fee of \$1,090;

18 “(ii) \$41 for the first acre-foot or fraction thereof up to 20 acre-feet, plus
19 \$1.40 for each additional acre-foot or fraction thereof; and

20 “(iii) \$160 for each additional storage location.

21 “(C) To exclusively appropriate stored water:

22 “(i) A base fee of \$610; and

23 “(ii) \$41 for the first acre-foot or fraction thereof up to 20 acre-feet, plus
24 \$1.40 for each additional acre-foot or fraction thereof.

25 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to
26 appropriate or store water:

27 “(A) A base fee of \$610 for recording the permit; and

28 “(B) An additional fee of \$790 if the permit is issued pursuant to a final
29 order that contains provisions requested by the applicant for mitigating im-
30 pacts to the proposed water source.

1 “(c) For filing and recording the assignment or partial assignment of a
2 water right application, permit or license under ORS 537.220 or 537.635, \$120.

3 “(d) For copying records in the department, \$2.70 for the first page and
4 70 cents for each additional page.

5 “(e) For certifying copies, documents, records or maps, \$14 for each cer-
6 tificate.

7 “(f) For a blueprint copy of any map or drawing, the actual cost of the
8 work.

9 “(g) For a computer-generated map, the actual cost of the work.

10 “(h) For examining an application for approval of a change to an existing
11 water right or permit:

12 “(A) A base fee of \$1,360 for a change to a single water right or permit;

13 “(B) \$1,090 for each additional type of change requested;

14 “(C) For a request for a change in place of use or type of use or for a
15 water exchange under ORS 540.533, \$410 for each second-foot or fraction
16 thereof requested beyond the first second-foot;

17 “(D) \$610 for each additional water right or permit included in the ap-
18 plication;

19 “(E) An additional fee of \$480 per application, if the application is for an
20 additional point of appropriation, a change in a point of appropriation or a
21 change from surface water to ground water or for substitution as described
22 in ORS 540.524; and

23 “(F) \$410 for each additional point of appropriation included in the ap-
24 plication.

25 “(i) For examining an application for a temporary change in place of use
26 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
27 temporary change in place of use, a change in the point of diversion to allow
28 for the appropriation of ground water or a change of a primary right to a
29 supplemental right under ORS 540.570, a base fee of \$950 for the first water
30 right or permit, plus \$310 for each additional water right or permit included

1 in the application and:

2 “(A) For nonirrigation uses, \$230 for each second-foot or fraction thereof
3 requested beyond the first second-foot; or

4 “(B) For irrigation uses, \$2.70 per acre of land irrigated or, if the appli-
5 cation and required map are submitted to the department in a department-
6 approved digital format, 70 cents per acre of land irrigated.

7 “(j) For submitting a protest to the department:

8 “(A) \$950 if the protest is by a nonapplicant; and

9 “(B) \$480 if the protest is by an applicant.

10 “(k) For filing an application for extension of time within which irri-
11 gation or other works shall be completed or a water right perfected, \$780.

12 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-
13 tablished by rule by the Water Resources Commission.

14 “(m) For filing, examining and certifying a petition under ORS 541.329,
15 \$480 plus 10 cents per acre of water involved in the application. For purposes
16 of computing this fee, when any acreage within a quarter quarter of a section
17 is involved, the 10 cents per acre shall apply to all acres in that quarter
18 quarter of a section. Notwithstanding the fee amount established in this
19 paragraph, a district notifying the department under ORS 541.327 (4) shall
20 pay the actual cost of filing, examining and certifying the petition.

21 “(n) For requesting standing under ORS [537.153, 537.621 or] 543A.120 **or**
22 **section 3 of this 2025 Act**, \$270.

23 “(o) For participating in a contested case proceeding under ORS [537.170,
24 537.622 or] 543A.130 **or section 3 of this 2025 Act**, \$680.

25 “(p) Except for an applicant, for obtaining a copy of both a proposed final
26 order and a final order for a water right application under ORS 537.140 to
27 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
28 under ORS 537.230, 537.248 or 537.630, \$35.

29 “(q) For examining an application to store water under ORS 537.409:

30 “(A) A base fee of \$480; and

1 “(B) \$41 for each acre-foot or fraction thereof.

2 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
3 the amount established by the Water Resources Director under ORS
4 543A.410.

5 “(s) For examining an application for a substitution made under ORS
6 540.524:

7 “(A) A base fee of \$990 for the first well substitution; and
8 “(B) A fee of \$480 for each additional well substitution.

9 “(t) For examining an application for an allocation of conserved water
10 under ORS 537.455 to 537.500:

11 “(A) A base fee of \$1,360 for the first water right that is part of the al-
12 location; and
13 “(B) An additional fee of \$480 for each water right that is part of the
14 allocation beyond the first water right.

15 “(u) For submitting a water management and conservation plan pursuant
16 to rules of the commission:

17 “(A) \$680, if the plan is submitted by an agricultural water supplier;
18 “(B) \$1,220, if the plan is submitted by a municipal water supplier serving
19 a population of 1,000 or fewer persons; or
20 “(C) \$2,450, if the plan is submitted by a municipal water supplier serving
21 a population of more than 1,000 persons.

22 “(v) For examining a new application for an in-stream water right lease
23 under ORS 537.348:

24 “(A) \$610 for an application for a lease with four or more landowners or
25 four or more water rights; or
26 “(B) \$410 for all other applications.

27 “(w) For examining an application for an in-stream water right lease re-
28 newal, \$150.

29 “(x) For submitting a claim of beneficial use under a permit or transfer
30 having a priority date of July 9, 1987, or later, \$230.

1 “(y) For submitting a request no later than 60 days after cancellation of
2 a permit under ORS 537.260 to reinstate the permit, \$610.

3 “(z) For submitting a request for a basin program exception under ORS
4 536.295, \$780.

5 “(aa) For processing an application under ORS 537.225 for an assignment
6 of water right to one or more landowners and issuance of replacement water
7 right permits, the actual cost of the work.

8 “(2)(a) The department may charge a dam owner an annual fee based upon
9 the dam’s hazard rating as determined by the department. The fees the de-
10 partment may charge the dam owner are:

11 “(A) \$120 for a dam with a low hazard rating.

12 “(B) \$230 for a dam with a significant hazard rating.

13 “(C) \$790 for a dam with a high hazard rating.

14 “(D) If the dam owner fails to pay an annual fee on or before six months
15 after the billing date, a late fee of \$140.

16 “(b) If a dam owner fails to pay an annual fee or a late fee charged by
17 the department, the department may, after giving the dam owner notice by
18 certified mail, place a lien on the real property where the dam is located for
19 the fees owed by the dam owner.

20 “(3) Notwithstanding the fees established under subsection (1) of this
21 section, the commission may establish lower examination and permit fees by
22 rule for:

23 “(a) The right to appropriate water for a storage project of five acre-feet
24 or less; or

25 “(b) The right to appropriate water for the purpose of allowing the ap-
26 plicant to water livestock outside of a riparian area, as that term is defined
27 in ORS 541.890.

28 “(4)(a) The director may refund all or part of a fee paid to the department
29 under this section if the director determines that a refund of the fee is ap-
30 propriate in the interests of fairness to the public or necessary to correct

1 an error of the department.

2 “(b) The director may refund all or part of the protest fee described in
3 subsection (1)(j) of this section to the legal owner or occupant who filed a
4 protest under ORS 540.641 if an order of the Water Resources Commission
5 establishes that all or part of a water right has not been canceled or modi-
6 fied under ORS 540.610 to 540.650.

7 “(5) The director may waive all or part of a fee for a change to a water
8 right permit under ORS 537.211 (4), a change to a water right subject to
9 transfer under ORS 540.520 or 540.523 or an allocation of conserved water
10 under ORS 537.470, if the change or allocation of conserved water is:

11 “(a) Made pursuant to ORS 537.348;

12 “(b) Necessary to complete a project funded under ORS 541.932; or

13 “(c) Approved by the State Department of Fish and Wildlife as a change
14 or allocation of conserved water that will result in a net benefit to fish and
15 wildlife habitat.

16 “(6) Notwithstanding the fees established pursuant to this section, the
17 commission may adopt by rule reduced fees for persons submitting materials
18 to the department in a digital format approved by the department.

19 “(7) All moneys received under this section, less any amounts refunded
20 under subsection (4) of this section, shall be deposited in the Water Re-
21 sources Department Water Right Operating Fund.

22 “(8) Notwithstanding subsection (7) of this section, all fees received by
23 the department for power purposes under ORS 543.280 shall be deposited in
24 the Water Resources Department Hydroelectric Fund established by ORS
25 536.015.

26 “**SECTION 26.** ORS 536.750 is amended to read:

27 “536.750. (1) Notwithstanding any provision of ORS chapters 536 to 543A,
28 after a declaration that a severe, continuing drought exists, the Water Re-
29 sources Commission may:

30 “(a) Issue without first conducting a hearing under [ORS 537.170,] **sec-**

1 **tion 3 of this 2025 Act** a temporary permit for an emergency use of water;

2 “(b) Allow a temporary change in use, place of use or point of diversion
3 of water without complying with the notice and waiting requirements under
4 ORS 540.520;

5 “(c) Notwithstanding the priority of water rights, grant preference of use
6 to rights for human consumption or stock watering use;

7 “(d) Waive the notice requirements under ORS 537.753 and the start card
8 required under ORS 537.762;

9 “(e) Allow a temporary exchange of water without giving notice as re-
10 quired under ORS 540.535; and

11 “(f) Utilize an expedited notice and waiting requirement established by
12 rule for the substitution of a supplemental ground water right for a primary
13 water right under drought conditions [*in place of the notice and waiting re-*
14 *quirement provided in ORS 540.524*].

15 “(2) The commission by rule may establish procedures for carrying out the
16 provisions of this section and a schedule of fees that must accompany a re-
17 quest under subsection (1) of this section.

18 “**SECTION 27.** ORS 537.147 is amended to read:

19 “537.147. (1) Notwithstanding the process for applying for a water right
20 permit established in ORS 537.150 to 537.230, a person may, pursuant to this
21 section, apply to the Water Resources Department for a water right permit
22 to use stored water. A person applying under this section for a water right
23 permit to use stored water shall submit:

24 “(a) A fee, in the amount required by ORS 536.050 for applications to ap-
25 propriate stored water.

26 “(b) A completed application for a secondary permit, in a form determined
27 by the department, that contains the information required of applications
28 under ORS 537.140 and 537.400 (1).

29 “(c) Evidence that the proposed use of the stored water is one of the au-
30 thorized uses under the water right permit, certificate or decree that allows

1 the storage of water.

2 “(2) If an applicant provides, to the satisfaction of the department, the fee
3 and the information required by subsection (1) of this section, the department
4 may, after public notice and a 30-day opportunity to submit comments on the
5 application, issue a water right permit upon determining that no public in-
6 terest issues as identified in ORS 537.170 [(8)] (5) have been raised through
7 the comments submitted.

8 “(3) If the department determines that public interest issues have been
9 identified, then the department shall treat the application under this section
10 as an application under ORS 537.150 and perform the public interest review
11 required by ORS 537.153 (2).

12 “(4) At a minimum, a water right permit issued by the department for use
13 of stored water under this section shall be conditioned to require:

14 “(a) Fish screens and by-pass devices and fish passage as may be required
15 by the State Department of Fish and Wildlife; and

16 “(b) A measuring device at each point of diversion authorized under the
17 water right permit.

18 “(5) Within 10 days of issuing a water right permit under this section, the
19 department shall provide notice of the permit issuance in the weekly notice
20 published by the department and to persons who have submitted comments
21 pursuant to subsection (2) of this section.

22 **“SECTION 28.** ORS 537.343 is amended to read:

23 “537.343. (1) A proposed final order issued under ORS 537.170 [(6)] (3) or
24 (5) for an in-stream water right certificate may include any condition the
25 Water Resources Director considers necessary, but which is consistent with
26 the intent of ORS 537.332 to 537.360. The proposed final order may:

27 “(a) Approve the in-stream water right for the quantity of water re-
28 quested;

29 “(b) Approve the requested in-stream water right for a lesser quantity of
30 water; or

1 “(c) Reject the requested in-stream water right.

2 “(2) If the director reduces or rejects the in-stream water right as re-
3 quested, or conditions the in-stream water right, the director shall include
4 a statement of findings that sets forth the basis for the reduction, rejection
5 or conditions. The director shall be the final authority in determining the
6 level of in-stream flow necessary to protect the public use.

7 “(3) After the director issues a final order approving an in-stream water
8 right, the Water Resources Department shall issue a certificate for an in-
9 stream water right according to the provisions of ORS 537.341.

10 **“SECTION 29.** ORS 537.629 is amended to read:

11 “537.629. (1) When an application discloses the probability of wasteful use
12 or undue interference with existing wells or that any proposed use or well
13 will impair or substantially interfere with existing rights to appropriate
14 surface water by others, or that any proposed use or well will impair or
15 substantially interfere with existing rights to appropriate ground water for
16 the beneficial use of the water for its thermal characteristics, the Water
17 Resources Department may impose conditions or limitations in the permit to
18 prevent the same or reject the same after hearing, or, in the department’s
19 discretion, request the Water Resources Commission to initiate a rulemaking
20 proceeding to declare the affected area a critical ground water area under
21 ORS 537.730 to 537.740.

22 “(2)(a) When an application discloses the probability that a proposed use
23 or well will impair or interfere with the ability to extract heat from a well
24 with a bottom hole temperature of at least 250 degrees Fahrenheit, the de-
25 partment may:

26 “(A) Approve the permit;

27 “(B) Impose conditions or limitations in the permit to prevent the proba-
28 ble interference or impairment;

29 “(C) After a hearing under [ORS 537.622] **sections 2 and 3 of this 2025**
30 **Act**, reject the application; or

1 “(D) Request the commission to initiate a rulemaking proceeding to de-
2 clare the affected area a critical ground water area under ORS 537.730 to
3 537.740.

4 “(b) In deciding whether to issue, deny or condition a permit under this
5 subsection, the department shall consider any orders or permits applicable
6 to the ground water reservoir issued by the State Geologist or the governing
7 board of the State Department of Geology and Mineral Industries under ORS
8 chapter 522.

9 **“SECTION 30.** ORS 540.537 is amended to read:

10 “540.537. (1) The Water Resources Commission shall issue an order al-
11 lowing an exchange unless the commission finds any of the following:

12 “(a) The proposed exchange would adversely affect other appropriators.

13 “(b) The proposed exchanges would be too difficult to administer.

14 “(c) The proposed exchange would adversely affect the public interest as
15 determined under ORS 537.170 [(8)] (5).

16 “(d) A sufficient quantity of water would not be available to replace the
17 water to be used under the exchange. In determining whether replacement
18 water will be equal to the water exchanged, the commission may consider
19 relative consumptive uses and transmission losses.

20 “(2) The commission may include any condition the commission considers
21 necessary in an order allowing an exchange.

22 “(3) The commission shall issue an order terminating the exchange:

23 “(a) If water is not applied under the exchange within the time fixed by
24 the commission in the order approving the exchange;

25 “(b) Upon written request signed by all parties to the exchange;

26 “(c) Upon finding that any other termination condition specified in the
27 original order has occurred; or

28 “(d) Upon attainment of a termination date specified in the original ex-
29 change order.

30 “(4) For purposes of subsection (3) of this section, the time fixed for im-

1 plementing the exchange shall include any extension granted by the com-
2 mission for good cause shown.

3 **“SECTION 31.** ORS 543.255 is amended to read:

4 “543.255. (1) Whenever the Water Resources Department receives an ap-
5 plication to appropriate water for a new hydroelectric project under ORS
6 537.140 to 537.320 or for a hydroelectric permit or license under ORS 543.010
7 to 543.610, the department shall determine whether the impacts of the project
8 would be cumulative with:

9 “(a) Impacts of other proposed hydroelectric projects for which an appli-
10 cation is pending before the department; or

11 “(b) Existing hydroelectric projects in the same river basin.

12 “(2) If the department determines that there is no possibility that the
13 hydroelectric projects proposed in pending applications or existing projects
14 may have cumulative effects, the Water Resources Director shall issue an
15 order setting forth the department’s determination that there are no cumu-
16 lative effects and the department’s decision that consolidated review is not
17 required.

18 “(3) If the department determines that pending applications or existing
19 projects may have cumulative effects, the Water Resources Commission shall
20 conduct a consolidated review before approving any application in the af-
21 fected river basin. A consolidated review process shall be conducted as a
22 contested case hearing under the applicable provisions of ORS chapter 183
23 and shall include a study of the individual and cumulative effects of proposed
24 hydroelectric projects for which applications are pending before the depart-
25 ment and existing hydroelectric projects. In its final order on an application,
26 the commission or the department shall include its findings on cumulative
27 impacts. The findings of the commission or department under this section
28 must be sufficient to support the department’s decision to approve or deny
29 an application.

30 “(4) Any application for a project in the same river basin filed after the

1 commission begins a consolidated review contested case hearing shall not be
2 reviewed until the commission has issued final findings on cumulative effects
3 for all projects included in the consolidated review proceeding.

4 “(5) At the request of an applicant for a permit to appropriate water for
5 a new hydroelectric project under ORS 537.140 to 537.320 or for a permit or
6 license under ORS 543.010 to 543.610, the commission may immediately upon
7 receiving such application begin the consolidated review proceeding under
8 subsection (3) of this section.

9 **“(6) If applicable, an application to appropriate water for the gen-
10 eration of electricity submitted under ORS 537.140 shall be included in
11 the consolidated review and hearings process under this section.**

12 **“SECTION 32.** ORS 543.765 is amended to read:

13 “543.765. (1) Notwithstanding ORS 537.145 and ORS chapter 543:

14 “(a) The holder of a water right may apply to the Water Resources De-
15 partment for a certificate to use water for hydroelectric purposes within an
16 artificial delivery system under the applicant’s existing water right.

17 “(b) A municipal corporation or people’s utility district, as defined in ORS
18 261.010, may apply to the department for a certificate to use water for hy-
19 droelectric purposes within a piped conduit in an artificial delivery system
20 that is delivering water for municipal uses even if the municipal corporation
21 or people’s utility district is not the holder of the underlying municipal wa-
22 ter right, if the municipal corporation or people’s utility district obtains from
23 the holder of the underlying municipal water right, and provides to the de-
24 partment with the application, a written statement authorizing the municipal
25 corporation or people’s utility district to use the water for hydroelectric
26 purposes.

27 “(2) If the proposed hydroelectric project meets the applicable capacity
28 limitation under this subsection and meets either the qualifications for a
29 Federal Energy Regulatory Commission exemption from licensing or similar
30 qualifications of another federal agency responsible for authorizing the

1 project, the applicant may use the expedited application process under this
2 section regardless of which federal agency issues the authorization. To
3 qualify under this subsection:

4 “(a) For a project that is to be built as part of an existing dam, the ca-
5 pacity may not exceed five megawatts. Subsection (6)(b) of this section does
6 not apply to a project described in this paragraph.

7 “(b) For in-conduit projects, the capacity may not exceed 15 megawatts
8 for a nonmunicipal facility or 40 megawatts for a municipal facility. Projects
9 described in this paragraph must comply with subsection (6)(b) of this sec-
10 tion.

11 “(3) An application, which shall be on a form provided by the Water Re-
12 sources Department, for a hydroelectric certificate under this section must
13 include:

14 “(a) The certificate number, or decree reference if no confirming certifi-
15 cate has been issued, of the applicant’s existing water right, or the under-
16 lying water right, associated with the proposed hydroelectric project.

17 “(b) A copy of either a Federal Energy Regulatory Commission exemption
18 application or a similar application submitted to the federal agency respon-
19 sible for authorizing the project, if applicable.

20 “(c) A proposed schedule of annual water use and an estimate of the
21 maximum power generation of the proposed hydroelectric project.

22 “(d) A statement by the applicant that the amount of water used by the
23 proposed hydroelectric project will not exceed the amount authorized and
24 used under the applicant’s existing water right, or the underlying water
25 right, for beneficial use without waste.

26 “(e) A statement that the applicant owns or otherwise controls the water
27 conveyance system.

28 “(f) An application processing fee of \$500. The department shall deposit
29 fees collected under this section into the Water Resources Department Hy-
30 droelectric Fund established pursuant to ORS 536.015.

1 “(g) A map or drawing and all other data concerning the proposed hy-
2 droelectric project, as may be prescribed by the department. The map or
3 drawing must be of sufficient quality and scale to establish the location of
4 the existing point of diversion and the proposed location of the hydroelectric
5 project.

6 “(h) If the water to be used for the proposed hydroelectric project is de-
7 livered by a public entity other than the applicant for a certificate under this
8 section, a statement from that entity that the entity will be able to deliver
9 water as described in the application.

10 “(i) Evidence that the water has been used over the past five years ac-
11 cording to the terms and conditions of the applicant’s existing water right,
12 or the underlying water right, described in paragraph (a) of this subsection.

13 “(4) If an applicant provides the information required by subsection (3)
14 of this section:

15 “(a) The Water Resources Department shall provide notice to both the
16 State Department of Fish and Wildlife and the public, and provide a 30-day
17 period for public comment.

18 “(b) The Water Resources Department may issue a final order and certifi-
19 cate to use water for hydroelectric purposes upon making a final determi-
20 nation that the proposed hydroelectric use does not impair, or is not
21 detrimental to, the public interest in the manner provided in ORS 537.170
22 [(8)] (5).

23 “(5) If the Water Resources Department determines that public interest
24 issues have been identified, the department shall issue a final order denying
25 the application. The department shall also issue a final order denying the
26 application if the department identifies issues related to the public interest.
27 If the applicant does not appeal the final order as provided in ORS chapter
28 183 and, within one year of the department’s final order denying the
29 applicant’s application, files an application with the department for a pre-
30 liminary permit to operate a hydroelectric project as provided in ORS 537.130

1 and 543.210, the applicant shall receive a credit toward the applicant's ap-
2 plication fees in the amount of \$500.

3 “(6) At a minimum, a certificate issued under this section must contain
4 the following conditions:

5 “(a) Except as provided in paragraph (b) of this subsection, fish screens,
6 by-pass devices and fish passages as required by the State Department of Fish
7 and Wildlife.

8 “(b) If the application is for a hydroelectric project that is to be installed
9 in or on a conduit delivery system, the certificate does not need to include
10 a requirement for fish passage at the diversion point for the conduit delivery
11 system if:

12 “(A) The hydroelectric generating equipment for the project is not located
13 on a dam;

14 “(B) The hydroelectric generating equipment for the project is installed
15 within or at the end of a conduit delivery system;

16 “(C) The conduit delivery system is operated for the distribution of water
17 for agricultural, municipal or industrial consumption; and

18 “(D) Except as provided in subsection (16) of this section, the certificate
19 includes a condition for the making of annual payments under subsection (15)
20 of this section.

21 “(c) That use of water be limited to periods when the applicant's existing
22 water right, or the underlying water right, is put to beneficial use without
23 waste and that the amount used is not greater than the quantity of water
24 diverted to satisfy the authorized specific use under the existing water right,
25 or the underlying water right, described in subsection (3)(a) of this section.

26 “(d) That use of water be limited by rate, duty, season and any other
27 limitations of the applicant's existing water right, or the underlying water
28 right, described in subsection (3)(a) of this section.

29 “(e) That the applicant measure and report the quantity of water diverted.

30 “(f) That the restrictions established in ORS 543.660 shall apply as con-

1 ditions of use to a certificate issued under this section to a district as de-
2 fined in ORS 543.655.

3 “(g) That a certificate issued under this section shall be invalidated upon
4 a change in the point of diversion of the existing water right, or the under-
5 lying water right, described in subsection (3)(a) of this section.

6 “(h) That the right to use water under a certificate issued under this
7 section is invalidated if the federal exemption or authorization related to the
8 certificate is canceled or invalidated.

9 “(i) Any other conditions the Water Resources Department deems neces-
10 sary to protect the public interest.

11 “(7) The Water Resources Department shall conduct a review of certif-
12 icates issued under this section and shall issue a final order and a super-
13 seding certificate that corresponds to any changes or adjustments made to
14 the applicant’s existing water right, or the underlying water right, described
15 in subsection (3)(a) of this section.

16 “(8) Subsection (6)(b) of this section does not affect any requirement for
17 fish passage applicable to a project that is otherwise required by law.

18 “(9) Upon request, the State Department of Fish and Wildlife and the
19 Water Resources Department shall arrange a preapplication meeting with a
20 person to discuss the requirements associated with the installation of a hy-
21 droelectric project in an artificial delivery system.

22 “(10) A certificate issued under this section may not have its own priority
23 date. The Water Resources Department may not regulate for or against any
24 certificate issued under this section based on the priority date of the certif-
25 icate.

26 “(11) A certificate issued under this section does not grant a right to di-
27 vert water for hydroelectric purposes.

28 “(12) A certificate issued under this section may not be included in the
29 determination of injury to other water rights pursuant to ORS chapter 540.

30 “(13) A certificate issued under this section is subject to review 50 years

1 after the date of issuance and pursuant to the terms described in this section.

2 “(14) Failure to fully develop and put to use a certificate issued under this
3 section within five years of issuance invalidates the hydroelectric certificate.

4 “(15)(a) If a certificate contains a condition described in subsection (6)(b)
5 of this section for annual payments, the payment shall be collected as pro-
6 vided in paragraph (c) of this subsection. Except as provided in paragraph
7 (b) of this subsection, the annual payment amount must be:

8 “(A) Except as provided in subparagraph (D) of this paragraph, for the
9 first five years, four times the base hydropower fee amount assessed for the
10 project under ORS 543.078 for the year.

11 “(B) Except as provided in subparagraph (D) of this paragraph, for the
12 6th through 10th years, eight times the base hydropower fee amount assessed
13 for the project under ORS 543.078 for the year.

14 “(C) Except as provided in subparagraph (D) of this paragraph, after the
15 10th year, 15 times the base hydropower fee amount assessed for the project
16 under ORS 543.078 for the year.

17 “(D) \$100 for any year in which the base hydropower fee amount assessed
18 for the project under ORS 543.078 is less than \$100.

19 “(b) If the certificate is for a hydroelectric project that will operate on
20 a partial-year basis, the fee shall be three-fifths of the amount established
21 in paragraph (a) of this subsection.

22 “(c) The Water Resources Department shall collect the fee on behalf of
23 the State Department of Fish and Wildlife and forward the fee moneys for
24 crediting to the Fish Passage Restoration Subaccount created under ORS
25 497.141.

26 “(16)(a) Notwithstanding subsection (15) of this section, a certificate for
27 a project to install hydroelectric generating equipment as described in sub-
28 section (6)(b) of this section may provide for the termination of annual pay-
29 ments being made under subsection (15) of this section if, after the date the
30 project commences operation:

1 “(A) The project provides for fish passages;

2 “(B) There is an agreement between the applicant and the State Depart-
3 ment of Fish and Wildlife providing for fish passages associated with the
4 project; or

5 “(C) A waiver or exemption has been issued under ORS 509.585 for the
6 project.

7 “(b) A certificate for a project to install hydroelectric generating equip-
8 ment as described in subsection (6)(b) of this section does not need to include
9 a condition for the making of annual payments under subsection (15) of this
10 section if:

11 “(A) There is an agreement between the applicant and the State Depart-
12 ment of Fish and Wildlife providing for the conduit delivery system to have
13 fish passages associated with the project; or

14 “(B) A waiver or exemption has been issued under ORS 509.585 for the
15 project.

16 “(17) If a certificate under this section is issued, the certificate holder
17 must pay fees consistent with the fees described in ORS 543.078. Failure to
18 pay a required fee invalidates a certificate issued under this section.

19 “(18) The Water Resources Department shall issue invoices for fees re-
20 quired under this section, and the state shall have a preference lien for de-
21 linquent fees, as provided in ORS 543.082.

22 “(19) An applicant for a certificate issued under this section must provide
23 evidence of a Federal Energy Regulatory Commission exemption or approval
24 under a similar process by the federal agency responsible for authorizing the
25 project before a certificate can be issued, if applicable.

26 “(20) Nothing in this section shall alter the preference of municipalities
27 in ORS 543.260 (3) and 543.270.

28

29

“CAPTIONS

30

1 **“SECTION 33. The unit captions used in this 2025 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2025 Act.”.**

5
