

HB 4004-7
(LC 242)
2/26 (ASD/gpb/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE, LAND USE, NATURAL RESOURCES, AND WATER (at the request of Representatives Ken Helm, Mark Owens)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4004**

1 On page 1 of the printed bill, line 2, after “308A.707” insert “, 537.230 and
2 537.630”.

3 On page 2, after line 29, insert:

4 **“SECTION 4.** ORS 537.230 is amended to read:

5 “537.230. (1) As used in this section, ‘undeveloped portion’ means the dif-
6 ference between the maximum rate or duty specified in a water right permit
7 and the maximum rate or duty diverted as of the later of:

8 “(a) June 29, 2005;

9 “(b) The time specified in the permit to perfect the water right; or

10 “(c) The time specified in the last-approved extension of time to perfect
11 the water right.

12 “(2)(a) Except for a holder of a permit for municipal, quasi-municipal,
13 group domestic or group domestic expanded uses, the holder of a water right
14 permit shall prosecute the construction of any proposed irrigation or other
15 work with reasonable diligence and complete the construction within a rea-
16 sonable time, as fixed in the permit by the Water Resources Department, not
17 to exceed seven years from the date of approval.

18 “(b) Notwithstanding paragraph (a) of this subsection, the depart-
19 ment may order and allow one extension of time to complete con-
20 struction of proposed works and apply water beneficially if the
21 department determines that:

1 **“(A) Delay by another local or state government or the federal**
2 **government in issuing a permit relating to the project has delayed**
3 **completion of the construction and beneficial application of the right;**
4 **or**

5 **“(B) Appeal of a local, state or federal government decision relating**
6 **to the project has delayed completion of the construction and benefi-**
7 **cial application of the right.**

8 **“(c) An extension of time under paragraph (b) of this subsection**
9 **may not exceed 10 years beyond the time fixed in the permit.**

10 “(3) The holder of a permit for municipal use shall commence and com-
11 plete the construction of any proposed works within 20 years from the date
12 on which a permit for municipal use is issued under ORS 537.211. The con-
13 struction must proceed with reasonable diligence and be completed within
14 the time specified in the permit, not to exceed 20 years. However, the de-
15 partment may order and allow an extension of time to complete construction
16 or to perfect a water right beyond the time specified in the permit under the
17 following conditions:

18 “(a) The holder shows good cause. In determining the extension, the de-
19 partment shall give due weight to the considerations described under ORS
20 539.010 (5) and to whether other governmental requirements relating to the
21 project have significantly delayed completion of construction or perfection
22 of the right;

23 “(b) The extension of time is conditioned to require that the holder sub-
24 mit, and obtain department approval of, a water management and conserva-
25 tion plan;

26 “(c) The extension of time is conditioned to provide that the holder may
27 divert the undeveloped portion of the permit only upon approval by the de-
28 partment of the water management and conservation plan; and

29 “(d) For the first extension issued after June 29, 2005, for a permit for
30 municipal use issued before November 2, 1998, the department finds that the

1 undeveloped portion of the permit is conditioned to maintain, in the portions
2 of waterways affected by water use under the permit, the persistence of fish
3 species listed as sensitive, threatened or endangered under state or federal
4 law. The department shall base its finding on existing data and upon the
5 advice of the State Department of Fish and Wildlife. An existing fish pro-
6 tection agreement between the permit holder and a state or federal agency
7 that includes conditions to maintain the persistence of any listed fish species
8 in the affected portion of the waterway is conclusive for purposes of the
9 finding.

10 “(4)(a) The holder of a right for quasi-municipal, group domestic or group
11 domestic expanded uses shall complete construction of proposed works and
12 apply water beneficially within seven years from the date on which a permit
13 for such uses is issued under ORS 537.211. The construction must proceed
14 with reasonable diligence and be completed within the time specific in the
15 permit, not to exceed seven years.

16 “(b) Notwithstanding paragraph (a) of this subsection, the Water Re-
17 sources Department may, for good cause shown, order and allow one exten-
18 sion of time to complete construction and apply water beneficially, not
19 exceeding:

20 “(A) Twenty years from the date that the extension is approved for
21 quasi-municipal use.

22 “(B) Ten years from the date the extension is approved for group domestic
23 use or group domestic expanded use.

24 “(c) In determining the extension under paragraph (b) of this subsection,
25 the department shall give due weight to considerations in ORS 539.010 (5)
26 and to whether other governmental requirements relating to the project have
27 significantly delayed completion of the construction and beneficial applica-
28 tion of the right.

29 “(5) Except as provided in subsection (6) of this section and ORS 537.409,
30 upon completion of beneficial use as required under this section, the holder

1 of a permit shall hire a water right examiner certified under ORS 537.798 to
2 survey the appropriation. Within one year after application of water to a
3 beneficial use or the beneficial use date allowed in the permit, the holder
4 shall submit a map of the survey as required by the Water Resources De-
5 partment, that shall accompany the request for a water right certificate
6 submitted to the department under ORS 537.250. If any property described in
7 the permit is not included in the request for a water right certificate, the
8 holder shall state the identity of the record owner of that property.

9 “(6) The Water Resources Director may waive the requirement under
10 subsection (5) of this section that a holder of a permit hire a water right
11 examiner certified under ORS 537.798 if:

12 “(a) The permit is a supplemental water right that shares the same dis-
13 tribution system and same place of use as the primary water right; and

14 “(b) The department determines that there is sufficient information in the
15 records of the department to determine proof of beneficial use.

16 “(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right
17 certificate under ORS 537.250 for a supplemental water right, the holder of
18 a permit shall have a facility capable of handling the full rate and duty of
19 water requested from the supplemental source and be otherwise ready, will-
20 ing and able to use the amount of water requested, up to the amount of water
21 approved in the water right permit. To obtain a certificate for a supple-
22 mental water right, the holder is not required to have actually used water
23 from the supplemental source if:

24 “(a) Water was available from the source of the primary water right and
25 the primary water right was used pursuant to the terms of the primary water
26 right; or

27 “(b) The nonuse of water from the supplemental source occurred during
28 a period of time within which the exercise of the supplemental water right
29 permit was not necessary due to climatic conditions.

30 “**SECTION 5.** ORS 537.630 is amended to read:

1 “537.630. (1) As used in this section, ‘undeveloped portion’ means the dif-
2 ference between the maximum rate or duty specified in a water right permit
3 and the maximum rate or duty appropriated as of the later of:

4 “(a) June 29, 2005;

5 “(b) The time specified in the permit to perfect the water right; or

6 “(c) The time specified in the last-approved extension of time to perfect
7 the water right.

8 “(2)(a) Except for the holder of a permit for municipal, quasi-municipal,
9 group domestic or group domestic expanded uses, the holder of a permit is-
10 sued pursuant to ORS 537.625 shall prosecute the construction of a well or
11 other means of developing and securing the ground water with reasonable
12 diligence and complete the construction within a reasonable time fixed in the
13 permit by the Water Resources Department, not to exceed seven years after
14 the date of approval of the application.

15 **“(b) Notwithstanding paragraph (a) of this subsection, the depart-
16 ment may order and allow one extension of time to complete con-
17 struction of proposed works and apply water beneficially if the
18 department determines that:**

19 **“(A) Delay by another local or state government or the federal
20 government in issuing a permit relating to the project has delayed
21 completion of the construction and beneficial application of the right;
22 or**

23 **“(B) Appeal of a local, state or federal government decision relating
24 to the project has delayed completion of the construction and benefi-
25 cial application of the right.**

26 **“(c) An extension of time under paragraph (b) of this subsection
27 may not exceed 10 years beyond the time fixed in the permit.**

28 “(3)(a) The holder of a right for quasi-municipal, group domestic or group
29 domestic expanded uses shall complete construction of proposed works and
30 apply water beneficially within seven years from the date on which a permit

1 for such uses is issued under ORS 537.211. The construction must proceed
2 with reasonable diligence and be completed within the time specified in the
3 permit, not to exceed seven years.

4 “(b) Notwithstanding paragraph (a) of this subsection, the department
5 may, for good cause shown, order and allow one extension of time to com-
6 plete construction and apply water beneficially, not exceeding:

7 “(A) Twenty years from the date that the extension is approved for
8 quasi-municipal use.

9 “(B) Ten years from the date the extension is approved for group domestic
10 use or group domestic expanded use.

11 “(c) In determining the extension under paragraph (b) of this subsection,
12 the department shall give due weight to considerations in ORS 539.010 (5)
13 and to whether other governmental requirements relating to the project have
14 significantly delayed completion of the construction and beneficial applica-
15 tion of the right.

16 “(4) The holder of a permit for municipal use shall commence and com-
17 plete the construction of any proposed works within 20 years from the date
18 on which the permit for municipal use is issued under ORS 537.625. The
19 construction must proceed with reasonable diligence and be completed within
20 the time specified in the permit, not to exceed 20 years. However, the de-
21 partment may order and allow an extension of time to complete construction
22 or to perfect a water right beyond the time specified in the permit under the
23 following conditions:

24 “(a) The holder shows good cause. In determining the extension, the de-
25 partment shall give due weight to the considerations described under ORS
26 539.010 (5) and to whether other governmental requirements relating to the
27 project have significantly delayed completion of construction or perfection
28 of the right;

29 “(b) The extension of time is conditioned to require that the holder submit
30 and obtain department approval of a water management and conservation

1 plan;

2 “(c) The extension of time is conditioned to provide that the holder may
3 appropriate the undeveloped portion of the permit only upon approval by the
4 department of a water management and conservation plan; and

5 “(d) For the first extension issued after June 29, 2005, for a permit for
6 municipal use issued before November 2, 1998, the department finds that the
7 undeveloped portion of the permit is conditioned to maintain, in the portions
8 of waterways affected by water use under the permit, the persistence of fish
9 species listed as sensitive, threatened or endangered under state or federal
10 law. The department shall base its finding on existing data and upon the
11 advice of the State Department of Fish and Wildlife. An existing fish pro-
12 tection agreement between the permit holder and a state or federal agency
13 that includes conditions to maintain the persistence of any listed fish species
14 in the affected portion of the waterway is conclusive for purposes of the
15 finding.

16 “(5) If the construction of any well or other means of developing and se-
17 curing the ground water is completed after the date of approval of the ap-
18 plication for a permit under ORS 537.625, within 30 days after the
19 completion, or if the construction is completed before the date of approval,
20 within 30 days after the date of approval, the permit holder shall file a cer-
21 tificate of completion with the Water Resources Department, disclosing:

22 “(a) The depth to the water table;

23 “(b) The depth, diameter and type of each well, and the kind and amount
24 of the casing;

25 “(c) The capacity of the well pump in gallons per minute and the
26 drawdown thereof;

27 “(d) The identity of the record owner of any property that was described
28 in the application for a permit under ORS 537.625 but is not included in the
29 certificate of completion; and

30 “(e) Any other information the department considers necessary.

1 “(6) Upon completion of beneficial use necessary to secure the ground
2 water as required under this section, the permit holder shall hire a water
3 right examiner certified under ORS 537.798 to survey the appropriation.
4 Within one year after applying the water to beneficial use or the beneficial
5 use date allowed in the permit, the permit holder shall submit the survey as
6 required by the Water Resources Department to the department along with
7 the certificate of completion required under subsection (5) of this section. If
8 any property described in the permit is not included in the request for a
9 water right certificate, the holder of the permit shall state the identity of
10 the record owner of that property.

11 “(7) After the department has received a certificate of completion and a
12 copy of the survey as required by subsections (5) and (6) of this section that
13 show, to the satisfaction of the department, that an appropriation has been
14 perfected in accordance with the provisions of ORS 537.505 to 537.795 and
15 537.992, except as provided in subsection (8) of this section, the department
16 shall issue a ground water right certificate of the same character as that
17 described in ORS 537.700. The certificate shall be recorded and transmitted
18 to the applicant as provided in ORS 537.700.

19 “(8) The department may not issue a water right certificate for municipal
20 use under this section if:

21 “(a) An extension of time is required; and

22 “(b) The order approving the extension of time has not become final by
23 operation of law or on appeal.

24 “(9) The procedure for cancellation of a permit shall be as provided in
25 ORS 537.260.

26 “(10) Notwithstanding ORS 537.410, for purposes of obtaining a water
27 right certificate under subsection (7) of this section for a supplemental water
28 right, the holder of a permit shall have a facility capable of handling the full
29 rate and duty of water requested from the supplemental source and be oth-
30 erwise ready, willing and able to use the amount of water requested, up to

1 the amount of water approved in the water right permit. To obtain a certi-
2 ficate for a supplemental water right, the holder is not required to have ac-
3 tually used water from the supplemental source if:

4 “(a) Water was available from the source of the primary water right and
5 the primary water right was used pursuant to the terms of the primary water
6 right; or

7 “(b) The nonuse of water from the supplemental source occurred during
8 a period of time within which the exercise of the supplemental water right
9 permit was not necessary due to climatic conditions.

10 **“SECTION 6. (1) The amendments to ORS 537.230 and 537.630 by
11 sections 4 and 5 of this 2026 Act apply to:**

12 **“(a) Extension applications submitted on or after the effective date
13 of this 2026 Act for permits for other than municipal, quasi-municipal,
14 group domestic or group domestic expanded uses.**

15 **“(b) Extension applications pending under ORS 537.230 or 537.630, for
16 permits for other than municipal, quasi-municipal, group domestic or
17 group domestic expanded uses, for which a proposed final order on the
18 extension has not been issued before the effective date of this 2026
19 Act.”.**

20 In line 30, delete “4” and insert “7”.
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