

House Bill 2600

Sponsored by Representative DINGFELDER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes percentage of water authorized by permit that municipality may partially perfect without loss of priority or cancellation of permit.

Sets fees for examining municipal partial perfection requests.

A BILL FOR AN ACT

1
2 Relating to municipal water rights; creating new provisions; and amending ORS 536.050 and 537.260.

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

4 **SECTION 1.** ORS 537.260 is amended to read:

5 537.260. (1) Except as provided under subsection (4) of this section for a permit issued to a
6 municipality, whenever the time within which any appropriation under a permit should have been
7 perfected has expired and the owner of the permit fails or refuses within three months thereafter
8 to submit to the Water Resources Department proof of completion of the appropriation as required
9 by ORS 537.230 and 537.250, the department may, after 60 days' notice by registered mail or by
10 certified mail with return receipt, order the cancellation of the permit. The cancellation shall have
11 the same force and effect as cancellation of a permit in the proceedings provided for in ORS 537.410
12 to 537.450.

13 (2) The department may determine the extent to which an appropriation has been perfected un-
14 der any permit at the time of submission of final proof provided for in ORS 537.250, and shall limit
15 the certificate provided for in that section to a description of such appropriation as has been actu-
16 ally perfected to the extent that the water applied for has been actually applied to the beneficial
17 use contemplated in the permit.

18 (3) Any person owning an application, permit or water right certificate subsequent in priority
19 may jointly or severally contest before the department the issuance of the water right certificate
20 at any time before it has issued, and after the time has expired for the completion of the appropri-
21 ation under the permit, or within three months after issuance of the certificate. The contest shall
22 be brought upon application made, and hearing shall be had in the same manner and after notice
23 as provided in ORS 537.420 for proceedings for cancellation of permits. The department, in a final
24 order, may cancel the permit or determine the extent to which the appropriation claimed thereunder
25 has been perfected, and issue a water right certificate accordingly, or if a certificate has been is-
26 sued, in the case of a contest within three months after its issuance, the department may cancel the
27 water right certificate, or affirm its issuance, and if the water right certificate in such case is can-
28 celed, the permit upon which it is based shall also be canceled.

29 (4) A municipality may partially perfect not less than [25] **five** percent of the water authorized
30 by its permit without loss of priority or cancellation of the municipality's permit under this section.
31 If a municipality defers perfection of its water right under this section, the department shall issue

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 a certificate under ORS 537.250 only for the amount perfected. Upon perfection of the deferred
 2 amount, the municipality shall request a water right certificate for the remaining portion of the
 3 water applied for in the original permit application. **A municipality must submit a fee in the**
 4 **amount required by ORS 536.050 for all partial perfection requests under this section.** As used
 5 in this section, "municipality" includes a city, a port formed under ORS 777.005 to 777.725 and
 6 777.915 to 777.953, a domestic water supply district formed under ORS chapter 264 or a water au-
 7 thority formed under ORS chapter 450.

8 **SECTION 2.** ORS 536.050 is amended to read:

9 536.050. (1) The Water Resources Department may collect the following fees in advance:

10 (a) For examining an application for a permit:

11 (A) To appropriate water, except as provided under ORS 543.280 for an application for a hy-
 12 droelectric project:

13 (i) A base fee of \$300;

14 (ii) \$200 for the first second-foot or fraction thereof;

15 (iii) \$100 for each additional second-foot or fraction thereof; and

16 (iv) If appropriating stored water, \$20 for the first acre-foot or fraction thereof up to 10 acre-
 17 feet, plus \$1 for each additional acre-foot or fraction thereof.

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

19 (i) A base fee of \$300; and

20 (ii) \$20 for the first acre-foot or fraction thereof up to 10 acre-feet, plus \$1 for each additional
 21 acre-foot or fraction thereof.

22 (C) To exclusively appropriate stored water:

23 (i) A base fee of \$150; and

24 (ii) \$15 for the first acre-foot or fraction thereof up to 10 acre-feet, plus \$1 for each additional
 25 acre-foot or fraction thereof.

26 (b) For recording a permit to appropriate or store water, \$250.

27 (c) For filing or recording any other water right instrument, \$25 for the first page and \$5 for
 28 each additional page.

29 (d) For copying records in the department, \$2 for the first page and 50 cents for each additional
 30 page.

31 (e) For certifying copies, documents, records or maps, \$10 for each certificate.

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

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

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

35 (A) A base fee of \$350;

36 (B) \$350 for each additional type of change requested; and

37 (C) For a request for a change in place of use or type of use or for a water exchange under ORS
 38 540.533, \$175 for each second-foot or fraction thereof requested beyond the first second-foot.

39 (i) For examining an application for a temporary change in place of use under ORS 540.523, for
 40 a temporary transfer under ORS 540.585 or for a temporary change in place of use, a change in the
 41 point of diversion to allow for the appropriation of ground water or a change of a primary right to
 42 a supplemental right under ORS 540.570, a base fee of \$175 and:

43 (A) For nonirrigation uses, \$75 for each second-foot or fraction thereof requested beyond the
 44 first second-foot; or

45 (B) For irrigation uses, \$1 per acre of land irrigated or, if the application and required map are

1 submitted to the department in a department-approved digital format, 25 cents per acre of land ir-
 2 rigated.

3 (j) For submitting a protest to the department, \$250.

4 (k) For filing an application for extension of time within which irrigation or other works shall
 5 be completed or a water right perfected, \$250.

6 (L) For a limited license under ORS 537.143 or 537.534 (2), the fee established by rule by the
 7 Water Resources Commission.

8 (m) For filing, examining and certifying a petition under ORS 541.329, \$250 plus 10 cents per
 9 acre of water involved in the application. For purposes of computing this fee, when any acreage
 10 within a quarter quarter of a section is involved, the 10 cents per acre shall apply to all acres in
 11 that quarter quarter of a section. Notwithstanding the fee amount established in this paragraph, a
 12 district notifying the department under ORS 541.327 (4) shall pay the actual cost of filing, examining
 13 and certifying the petition.

14 (n) For requesting standing under ORS 537.153, 537.621 or 543A.120, \$50.

15 (o) For participating in a contested case proceeding under ORS 537.170, 537.622 or 543A.130,
 16 \$200.

17 (p) Except for an applicant, for obtaining a copy of both a proposed final order and a final order
 18 for a water right application under ORS 537.140 to 537.252, 537.505 to 537.795 or 543A.005 to
 19 543A.300, \$10.

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

21 (A) A base fee of \$40; and

22 (B) \$10 for each acre-foot or fraction thereof, not to exceed a total of \$250.

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

25 (s) For examining an application for a substitution made under ORS 540.524, \$250.

26 (t) For examining an application for an allocation of conserved water under ORS 537.455 to
 27 537.500, \$700.

28 (u) For submitting a water management and conservation plan pursuant to rules of the Water
 29 Resources Commission:

30 (A) \$250, if the plan is submitted by an agricultural water supplier;

31 (B) \$500, if the plan is submitted by a municipal water supplier serving a population of 1,000 or
 32 fewer persons; or

33 (C) \$1,000, if the plan is submitted by a municipal water supplier serving a population of more
 34 than 1,000 persons.

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

36 (A) \$200 for an application for a lease with four or more landowners or four or more water
 37 rights; or

38 (B) \$100 for all other applications.

39 (w) For examining an application for an in-stream water right lease renewal, \$50.

40 **(x) For examining a municipal partial perfection request under ORS 537.260, \$500 for the**
 41 **first request and \$250 for each subsequent request on the same permit.**

42 (2) Notwithstanding the fees established under subsection (1) of this section, the Water Re-
 43 sources Commission may establish lower examination and permit fees by rule for:

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

45 (b) The right to appropriate water for the purpose of allowing the applicant to water livestock

1 outside of a riparian area, as that term is defined in ORS 541.351.

2 (3) The Water Resources Director may refund all or part of a fee paid to the department under
3 this section if the director determines that a refund of the fee is appropriate in the interests of
4 fairness to the public or necessary to correct an error of the department.

5 (4) The director may waive all or part of a fee for a change to a water right permit under ORS
6 537.211 (4), a change to a water right subject to transfer under ORS 540.520 or 540.523 or an allo-
7 cation of conserved water under ORS 537.470, if the change or allocation of conserved water is:

8 (a) Made pursuant to ORS 537.348;

9 (b) Necessary to complete a project funded under ORS 541.375; or

10 (c) Approved by the State Department of Fish and Wildlife as a change or allocation of con-
11 served water that will result in a net benefit to fish and wildlife habitat.

12 (5) All moneys received under this section, less any amounts refunded under subsection (3) of
13 this section, shall be deposited in the Water Resources Department Water Right Operating Fund.

14 (6) Notwithstanding subsection (5) of this section, all fees received by the department for power
15 purposes under ORS 543.280 shall be deposited in the Water Resources Department Hydroelectric
16 Fund established by ORS 536.015.

17 **SECTION 3. The amendments to ORS 536.050 by section 2 of this 2005 Act apply to re-**
18 **quests for partial perfection submitted to the Water Resources Department on or after the**
19 **effective date of this 2005 Act.**

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