

House Bill 3494

Sponsored by Representatives BURLEY, WHISNANT, Senator WESTLUND; Representative JENSON

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**.

Specifies type of mitigation that satisfies mitigation requirements within Deschutes River Basin.
Specifies types of mitigation projects that may be implemented to satisfy mitigation requirements.

Directs Water Resources Department to report to Seventy-fifth Legislative Assembly on ground water mitigation and mitigation bank programs.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the Deschutes River Basin; and declaring an emergency.

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

SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS 537.505 to 537.795.

SECTION 2. (1) Ground water mitigation within the Deschutes basin ground water study area, as defined by rule by the Water Resources Commission, satisfies the requirements relating, directly or indirectly, to mitigation under ORS 390.805 to 390.925, 537.332 to 537.360 and 537.505 to 537.795 if:

(a) The mitigation provides a volume of water in acre-feet that is equal to or greater than the consumptive portion of the ground water use;

(b) The mitigation is provided within the general zone of impact identified by the Water Resources Department; and

(c) The mitigation is provided on an annual basis by obtaining mitigation credits or by providing for implementation of a mitigation project.

(2) Mitigation projects that satisfy ground water mitigation requirements include, but are not limited to:

(a) The transfer of an existing water right to an in-stream use, if the water right to be transferred is lawfully eligible for transfer to another out-of-stream use.

(b) For mitigation banks, a time-limited transfer of an existing water right or a lease of an existing water right to in-stream use under ORS 537.348.

(c) A permit to appropriate water for the purpose of artificial recharge of a ground water basin or reservoir under ORS 537.135.

(d) A secondary permit to use stored water from an existing reservoir obtained pursuant to ORS 537.130, 537.140, 537.142 and 537.145 to 537.240, provided that the secondary permit is for in-stream use.

(e) The allocation of conserved water as provided in ORS 537.455 to 537.500.

(f) Any other project approved by the department that results in the mitigation of ground water consumption.

SECTION 3. The Water Resources Department shall report to the Seventy-fifth Legisla-

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 tive Assembly, no later than January 31, 2009, on the implementation and operation of the
2 Deschutes River Basin ground water mitigation and mitigation bank programs. In formulat-
3 ing the report, the department shall consult with Deschutes River Basin water users and
4 organizations with an interest in water use in the basin.

5 **SECTION 4.** Section 2 of this 2005 Act applies to all ground water permits containing a
6 ground water mitigation requirement, all final orders approving water right applications
7 containing a ground water mitigation requirement, all mitigation credits, all ground water
8 mitigation projects and all mitigation banks issued or approved in the Deschutes River Basin
9 by the Water Resources Department or the Water Resources Commission before, on or after
10 the effective date of this 2005 Act.

11 **SECTION 5.** This 2005 Act being necessary for the immediate preservation of the public
12 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
13 on its passage.

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