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<th>Summary</th>
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<td>LC</td>
<td>Transfers of Storage: Placeholder for solutions coming forward from the HB 3103 workgroup.</td>
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<td>LC/POP</td>
<td>Fees Workgroup: Placeholder for solutions coming forward from the fees workgroup HB 5006 “to develop more sustainable, long-term funding mechanisms to support fee based programs”</td>
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<td>LC</td>
<td>Split Season Leasing: A Split Season Instream Lease, allows the water right holder to use the water during part of the season, and then lease the water right instream during the other part of the season. This can be a good tool in cases where the water right holder does not want to fallow land for the entire season. The Departments authority for split season leasing sunsets January 2, 2024. Propose to make the program permanent. ORS 537.348 Note: WRD would like to amend rule OAR 690-077-0079 to increase the notice timeframe from two weeks to 30 days.</td>
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<td>LC/POP</td>
<td>Planning: The Department’s authority to provide grants for place-based planning sunsets July 1, 2023 (see ORS 536.220) The Department is proposing the creation of a new fund, the Water Planning Fund, through which it would provide multi-purpose water planning grants to eligible entities in order to help equip them to plan and prepare for their water future. The purpose of the fund is to provide financial assistance that helps communities understand water resources and water challenges, and then develop strategies or solutions to sustainably meet instream and out of stream water needs. The grants would be multi-purpose in the sense that different types of planning would be eligible under the program and applicants would identify which type of plan or plan components for which it is requesting funding. Planning may be of several varieties including: pre-planning situational assessments, small communities developing Water System Master Plans or Water Management and Conservation Plans, drought contingency planning, and integrated water resources planning. All planning would need to consider instream and out-of-stream needs.</td>
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<td>Enforcement/Cannabis – Depending on outcomes of 2022 session</td>
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Stakeholder Name: (optional)____________________________________
537.348 Purchase, lease or gift of water right for conversion to in-stream water right; priority dates; split use. (1) Any person may purchase or lease all or a portion of an existing water right or accept a gift of all or a portion of an existing water right for conversion to an in-stream water right. Any water right converted to an in-stream water right under this section shall retain the priority date of the water right purchased, leased or received as a gift. At the request of the person the Water Resources Commission shall issue a new certificate for the in-stream water right showing the original priority date of the purchased, gifted or leased water right. Except as provided in subsections (2) to (6) of this section, a person who transfers a water right by purchase, lease or gift under this subsection shall comply with the requirements for the transfer of a water right under ORS 540.505 to 540.585.

(2) Subject to subsections (3) to (6) of this section, any person who has an existing water right may lease all or a portion of the existing water right for use as an in-stream water right for a specified period without the loss of the original priority date. During the term of the lease, the use of the water right as an in-stream water right shall be considered a beneficial use. The term of the lease may not exceed five years. There is no limitation on the number of times that the lease may be renewed. However, the total period for which a water right may be leased for split use is described in subsection (3) of this section and may not exceed 10 years regardless of the number of leases or renewals of leases issued for the water right.

(3) A lease of all or a portion of an existing water right for use as an in-stream water right under subsection (2) of this section shall allow the split use of the water between the existing water right and the in-stream water right during the same calendar year, provided:

(a) The uses of the existing water right and the in-stream water right are not concurrent; and

(b) The holders of the water rights measure and report to the Water Resources Department the use of the existing water right and the in-stream water right.

(4) A person who has an existing water right and wishes to lease the water right as described in subsection (2) of this section must file a request and obtain department approval of the lease. Upon receipt of the request, the department shall provide notice of the request by inclusion in the weekly notice published by the department. Any allegation of injury must be delivered to the department no later than 21 days after publication of the request in the weekly notice.

(5) After publishing notice of a request made under subsection (2) of this section and allowing time for the delivery of allegations of injury, the department shall issue an order approving the request if the department finds that the leasing of the water right for in-stream use can be effected without injury to other existing water rights or can be conditioned to prevent injury to other existing water rights. If the lease is for the split use of water between the existing water right and the in-stream water right during the same calendar year, the conditions imposed in the order approving the request must include, but need not be limited to, compliance with subsection (3) of this section.

(6) The department at any time may revoke or modify an order issued for a lease under subsection (2) of this section if the department determines that the use of the water right for in-stream use under the lease has resulted in or may result in injury to an existing water right. [1987 c.859 §9; 2001 c.205 §§1.2; 2013 c.165 §1]

Note: The amendments to 537.348 by section 2, chapter 165, Oregon Laws 2013, become operative January 2, 2024. See section 3, chapter 165, Oregon Laws 2013. The text that is operative on and after January 2, 2024, is set forth for the user’s convenience.

537.348 (1) Any person may purchase or lease all or a portion of an existing water right or accept a gift of all or a portion of an existing water right for conversion to an in-stream water right. Any water right converted to an in-stream water right under this section shall retain the priority date of the water right purchased, leased or received as a gift. At the request of the person the Water Resources Commission shall issue a new certificate for the in-stream water right showing the original priority date of the purchased, gifted or leased water right. Except as provided in subsections (2) to (5) of this section, a person who transfers a water right by purchase, lease or gift under this subsection shall comply with the requirements for the transfer of a water right under ORS 540.505 to 540.585.

(2) Subject to subsections (3) to (5) of this section, any person who has an existing water right may lease all or a portion of the existing water right for use as an in-stream water right for a specified period without the loss of the original priority date. During the term of the lease, the use of the water right as an in-stream water right shall be considered a beneficial use. The term of the lease may not exceed five years. There is no limitation on the number of times that the lease may be renewed. However, the total period for which a water right may be leased for split use is described in subsection (3) of this section and may not exceed 10 years regardless of the number of leases or renewals of leases issued for the water right.

(3) A lease of all or a portion of an existing water right for use as an in-stream water right under subsection (2) of this section shall allow the split use of the water between the existing water right and the in-stream water right during the same calendar year, provided:

(a) The uses of the existing water right and the in-stream water right are not concurrent; and

(b) The holders of the water rights measure and report to the Water Resources Department the use of the existing water right and the in-stream water right.

(4) A person who has an existing water right and wishes to lease the water right as described in subsection (2) of this section must file a request and obtain department approval of the lease. Upon receipt of the request, the department shall provide notice of the request by inclusion in the weekly notice published by the department. Any allegation of injury must be delivered to the department no later than 21 days after publication of the request in the weekly notice.

(5) After publishing notice of a request made under subsection (2) of this section and allowing time for the delivery of allegations of injury, the department shall issue an order approving the request if the department finds that the leasing of the water right for in-stream use can be effected without injury to other existing water rights or can be conditioned to prevent injury to other existing water rights.

(5) The department at any time may revoke or modify an order issued for a lease under subsection (2) of this section if the department determines that the use of the water right for in-stream use under the lease has resulted in or may result in injury to an existing water right.

Note: Section 5 (2), chapter 165, Oregon Laws 2013, provides:

Sec. 5. (2) Notwithstanding the amendments to ORS 537.348 by section 2 of this 2013 Act, any lease or lease renewal allowing the split use of water between an existing water right and an in-stream water right during the same calendar year and having a term that began before the operative date of the amendments to ORS 537.348 by section 2 of this 2013 Act may continue in effect until the earlier of the expiration of the term or five years after the operative date of the amendments to ORS 537.348 by section 2 of this 2013 Act. This subsection does not allow the total period for which a water right may be leased for the split use of water during the same calendar year to exceed 10 years. [2013 c.165 §5(2)]
HB 3103 Section 3:
SECTION 3. For the purpose of finding agreement among stakeholders on a path forward for transfers of stored water and development of related legislative proposals, the Water Resources Commission shall: (1) Engage professional facilitation services. (2) Seek a facilitator with national renown and subject matter expertise. (3) Retain, if possible, a senior lead facilitator and a junior support facilitator. (4) Hold six to 12 meetings, in person if practicable, with at least 20 diverse stakeholders, including from federal and state agencies, between the effective date of this 2021 Act and June 30, 2023. (5) Design a process for the meetings and conduct stakeholder interviews and research before the meetings.

Place Based Planning ORs 536.220

Note: Sections 2 and 3, chapter 780, Oregon Laws 2015, provide:

Sec. 2. (1) As used in this section, “place-based integrated water resources” means waters that are from sources within a single drainage basin or within an area that is a subset of a single drainage basin.

(2) The Water Resources Department may issue grants from available moneys to facilitate the preparation of place-based integrated water resources strategies that are consistent with state laws concerning the water resources of this state, state water resources policy and department requirements. The department may issue grants under this subsection to:

(a) A person;
(b) A public body as defined in ORS 174.109; or
(c) An Indian tribe.

(3) The department may enter into contracts or agreements with, and provide technical assistance and information to, a person, a public body as defined in ORS 174.109 or an Indian tribe for the development of place-based integrated water resources strategies.

(4) Place-based integrated water resources strategies described in subsections (2) and (3) of this section must:

(a) Be developed in collaboration with a balanced representation of interests;
(b) Balance current and future in-stream and out-of-stream needs;
(c) Include the development of actions that are consistent with the existing state laws concerning the water resources of this state and state water resources policy;
(d) Facilitate implementation of local solutions;
(e) Be developed utilizing an open and transparent process that fosters public participation; and
(f) Be developed in consultation with the department.

(5) The Water Resources Commission may adopt rules for the administration of this section. [2015 c.780 §2]

Sec. 3. (1) Section 2, chapter 780, Oregon Laws 2015, is repealed July 1, 2023.

(2) The repeal of section 2, chapter 780, Oregon Laws 2015, does not affect any rights or responsibilities established in a grant, contract or agreement made under section 2, chapter 780, Oregon Laws 2015, prior to July 1, 2023. [2015 c.780 §3; 2019 c.482 §1]