

House Bill 2867

Sponsored by Representative WHISNANT; Representatives BENTZ, BOONE, HUFFMAN, JENSON, SCHAUFLEER, Senators FERRIOLI, TELFER, VERGER (at the request of former Representative STIEGLER) (Presession filed.)

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**.

Eliminates requirement that Water Resources Commission repeal certain rules regarding ground water mitigation in Deschutes Basin ground water study area.

Allocates lottery moneys to Water Resources Department for purpose of issuing grants to organizations that create, operate or build capacity of ground water mitigation banks in Deschutes Basin ground water study area.

Requires Water Resources Department to conduct review at least once every five years to determine whether to impose, remove or adjust limitations on ground water appropriation in Deschutes Basin ground water study area.

Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to the Deschutes Basin; creating new provisions; repealing section 5, chapter 669, Oregon
3 Laws 2005; limiting expenditures; and declaring an emergency.

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

5 **SECTION 1. Section 5, chapter 669, Oregon Laws 2005, is repealed.**

6 **SECTION 2. (1) There is allocated to the Water Resources Department from the Admin-**
7 **istrative Services Economic Development Fund the amount identified in subsection (2) of this**
8 **section.**

9 **(2) Notwithstanding any other law limiting expenditures, the amount of \$2,500,000 is es-**
10 **tablished for the biennium beginning July 1, 2011, as the maximum limit for payment of ex-**
11 **penses by the Water Resources Department from the Administrative Services Economic**
12 **Development Fund for the purpose of issuing grants to organizations that create, operate**
13 **or build the capacity of ground water mitigation banks in the Deschutes Basin ground water**
14 **study area.**

15 **(3) The allocation of moneys from the Administrative Services Economic Development**
16 **Fund under this section is subject to the requirements in section 4, Article XV of the Oregon**
17 **Constitution, for deposit of specified amounts of the net proceeds from the Oregon State**
18 **Lottery into the Education Stability Fund and into the Parks and Natural Resources Fund**
19 **and shall be made only after satisfaction or payment of:**

20 **(a) Amounts allocated to Westside lottery bonds issued under ORS 391.140 or to the re-**
21 **serves or any refunding related to the Westside lottery bonds in accordance with the priority**
22 **for allocation and disbursement established by ORS 391.130;**

23 **(b) All liens, pledges or other obligations relating to lottery bonds or refunding lottery**
24 **bonds that are due or payable during the biennium beginning July 1, 2011; and**

25 **(c) Amounts required by any other pledges of, or liens on, net proceeds from the Oregon**
26 **State Lottery.**

27 **SECTION 3. (1) As used in this section:**

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) “Deschutes Basin ground water study area” has the meaning given that term in ORS
2 540.531.

3 (b) “Ground water mitigation bank” means an entity that acquires, holds and assigns
4 credits that are used to help offset the impact of a ground water appropriation through the
5 protection of a ground water amount for in-stream use.

6 (2) The Water Resources Department shall establish a request for proposal process to
7 provide for the issuing of grants to organizations that create, operate or build the capacity
8 of ground water mitigation banks in the Deschutes Basin ground water study area.

9 (3) Moneys allocated under section 2 of this 2011 Act from the Administrative Services
10 Economic Development Fund shall be deposited to the credit of the Water Resources De-
11 partment Water Right Operating Fund. Notwithstanding ORS 536.009, the department may
12 expend moneys deposited to the Water Resources Department Water Right Operating Fund
13 under this section only for the purpose of issuing grants to organizations that create, oper-
14 ate or build the capacity of ground water mitigation banks in the Deschutes Basin ground
15 water study area.

16 (4) Notwithstanding ORS 541.600 to 541.641, the department may not require an applicant
17 for a grant under this section to study, demonstrate or commit to any project benefit other
18 than the project benefit of creating, operating or building the capacity of ground water mit-
19 igation banks in the Deschutes Basin ground water study area. When issuing grants de-
20 scribed in this section, the department shall give preference to applicants that:

21 (a) Represent a diversity of interests that include, but need not be limited to, munici-
22 palities and irrigators;

23 (b) Commit to continuing efforts to restore flows in the Deschutes River Basin;

24 (c) Commit to using grant funds to engage in the purchase, holding and assigning of ex-
25 isting water rights; and

26 (d) Coordinate with larger regional efforts to comply with federal regulations, including
27 but not limited to regulations adopted under the Endangered Species Act of 1973 (P.L. 93-205,
28 16 U.S.C. 1531 et seq.), as amended, and under the Federal Water Pollution Control Act of
29 1972, P.L. 92-500, as amended.

30 SECTION 4. Section 3 of this 2011 Act is repealed January 2, 2014.

31 SECTION 5. (1) As used in this section, “Deschutes Basin ground water study area” has
32 the meaning given that term in ORS 540.531.

33 (2) The Water Resources Department shall, at least once every five years, evaluate the
34 effect of mitigation projects and mitigation credits on waterway flows and zone of impact
35 areas to determine whether to impose, remove or adjust any limitation imposed by the de-
36 partment on ground water appropriations within the Deschutes Basin ground water study
37 area. In making a determination under this section, the department shall give consideration
38 to the possible impact on local government need to adjust comprehensive plans and regional
39 plans to accommodate estimated 20-year changes in housing needs and population growth.
40 The department may not establish a limitation on ground water appropriation at a level
41 lower than the level necessary to prevent adverse effects on existing water rights, protect
42 minimum streamflows and prevent adverse effects on local government need for making ad-
43 justments to comprehensive plans and regional plans.

44 SECTION 6. The Water Resources Department shall complete the first evaluation re-
45 quired by section 5 of this 2011 Act and impose, remove or adjust limitations on ground water

1 appropriations as determined by the department based on that evaluation no later than De-
2 cember 31, 2012.

3 **SECTION 7.** Section 6 of this 2011 Act is repealed January 2, 2014.

4 **SECTION 8.** This 2011 Act being necessary for the immediate preservation of the public
5 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
6 July 1, 2011.

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