

537.285 Municipal applicant may develop hydroelectric project jointly with private person; restrictions. A municipal applicant may contract with a private person for the purpose of generating hydroelectric power. The municipal applicant shall retain sufficient benefit and interest in, and control of a joint project as necessary for the project to be considered a municipal project. A municipal applicant and a private person developing a joint project under this chapter must comply with the rules adopted by the Water Resources Commission under ORS 537.287. [1985 c.392 §3]

537.287 Rules for joint project of municipal applicant and private person. The Water Resources Commission shall establish rules necessary to carry out the provisions of ORS 537.285. The rules shall include the amount of control over and interest in a joint project a municipal applicant must retain in order to receive the benefit of the municipal preference and proceed under the municipal application process set forth in this chapter. [1985 c.392 §4]

537.289 Conditions to be imposed on permit of municipal corporation or district. (1) Whenever the Water Resources Department issues a permit under ORS 537.211 allowing a municipal corporation or district, as defined in ORS 543.655, to appropriate water for the purpose of generating hydroelectric power, the department shall impose the following conditions on the permit, in addition to any other term, limitation or condition imposed under ORS 537.211:

(a) That the permit may not be assigned to any nonmunicipal entity so as to result in a loss of ownership of the permit by a municipal corporation or district.

(b) That the holder of the permit must remain qualified as a municipal applicant under ORS 537.285 and 537.287. If the municipal corporation or district proposes to generate hydroelectric power jointly with a nonmunicipal entity, that any proposed changes in the agreement between the municipal corporation and the nonmunicipal entity must be reviewed by the department to determine whether the permittee remains qualified as a municipal applicant.

(2) If the department determines that a permittee no longer qualifies as a municipal applicant, the department shall notify the permittee and any nonmunicipal entity developing a project with the permittee that the parties have 90 days to amend their joint relationship to continue qualifying as a municipal corporation or district. [1985 c.392 §5; 1985 c.673 §186; 1995 c.416 §33]

537.290 [Renumbered 537.340]

537.292 Conditions to be imposed on certificate of municipal corporation or district. (1) Whenever the Water Resources Commission issues a certificate under ORS 537.250 granting a municipal corporation or district as defined in ORS 543.655 the right to appropriate water for the purpose of generating hydroelectric power, the commission shall impose the following conditions on the certificate, in addition to any other term, limitation or condition imposed under ORS 537.250:

(a) That the water right may not be assigned to any nonmunicipal entity so as to result in a loss of ownership of the certificate by the municipal corporation or district.

(b) That the holder of the water right certificate must remain qualified as a municipal applicant under ORS 537.285 and 537.287. If the municipal corporation or district is generating the hydroelectric power jointly with a nonmunicipal entity, that any proposed changes in the agreement between the municipal corporation and the nonmunicipal entity must be reviewed by the Water Resources Commission to determine whether or not the owner of the certificate remains qualified as a municipal applicant.

(2) If the commission determines that an owner of a certificate no longer qualifies as a municipal applicant, the commission shall notify the owner of the certificate and any nonmunicipal entity developing or operating the project jointly with the owner that the parties have 90 days to amend their joint agreement in a manner that allows the parties to continue to qualify as a municipal corporation or district. [1985 c.392 §6; 1985 c.673 §187]

537.295 Cancellation of permit when holder fails to continue to qualify as municipal applicant. (1) If the holder of a permit to appropriate water for hydroelectric purposes under this chapter fails, after receiving notice under ORS 537.289 (2), to amend the joint agreement so the holder continues to qualify as a municipal applicant, or if the holder of the permit has assigned ownership of the permit to an entity other than a municipal corporation or district, the Water Resources Commission shall initiate proceedings to cancel the permit.

(2) A proceeding to cancel a permit under subsection (1) of this section shall be conducted according to the provisions under ORS chapter 183 for a contested case hearing. [1985 c.392 §7; 1985 c.673 §188]

537.297 Cancellation of water right certificate when holder fails to continue to qualify as municipal applicant. (1) If the owner of a certificate to appropriate water for hydroelectric purposes under this