

(6) The department may revoke a prior approval of a temporary transfer at any time if:

(a) The department finds that the transfer is causing injury to any existing water right; or

(b) The person fails to comply with the requirements prescribed by the department pursuant to subsection (3) of this section.

(7) The department shall provide notice, in the manner provided in ORS 540.520 (5), that the department received an application for a temporary transfer under this section.

(8) The department may:

(a) Prescribe the duration of the temporary transfer period allowed under this section, up to 25 years;

(b) Impose conditions in the terms of the temporary transfer, including revocation of the transfer for noncompliance with applicable state, local or federal laws; and

(c) Determine the parties that may participate in the review of applications submitted under this section. [2003 c.705 §6]

**540.587 Report on implementation of temporary transfer provisions.** The Water Resources Department shall submit a report, in the manner provided in ORS 192.245, that shall include a summary of the features of the process employed by the Water Resources Commission to implement ORS 540.585. The report shall be submitted no later than January 31 of each year to the Legislative Assembly or to an interim committee related to natural resources, as appropriate. [2003 c.705 §10]

**Note:** 540.587 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 540 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**540.589 Ratification of prior transfer of water rights to irrigation district.** All attempted transfers or sales, prior to March 6, 1931, to an irrigation district, of water rights which theretofore had been appurtenant to lands located in the district and which lands at the time of the attempted transfer or sale were owned by the county, shall be considered to be legal and binding, and the water rights which were appurtenant to such lands shall be considered to have become the property of the district to which attempted to be conveyed, but appurtenant only to lands within the boundaries of the district as they existed on March 6, 1931, if the irrigation district applied to the Water Resources Director, within five years after March 6, 1931, under the provisions of section 47-712, Oregon Code 1930, as amended by chapter 102, Oregon Laws 1931, to have the water rights made appurtenant to other

lands within the irrigation district. In that event, the county shall sell the lands without any water rights being appurtenant thereto. If the irrigation district failed within five years after March 6, 1931, to make such application, then title to the water rights shall be considered to have been forfeited. [Formerly 540.550]

## FORFEITURE OF WATER RIGHTS

**540.610 Use as measure of water right; forfeiture for nonuse; confirmation of rights of municipalities.** (1) Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state. Whenever the owner of a perfected and developed water right ceases or fails to use all or part of the water appropriated for a period of five successive years, the failure to use shall establish a rebuttable presumption of forfeiture of all or part of the water right.

(2) Upon a showing of failure to use beneficially for five successive years, the appropriator has the burden of rebutting the presumption of forfeiture by showing one or more of the following:

(a) The water right is for use of water, or rights of use, acquired by cities and towns in this state, by appropriation or by purchase, for all reasonable and usual municipal purposes.

(b) A finding of forfeiture would impair the rights of such cities and towns to the use of water, whether acquired by appropriation or purchase, or heretofore recognized by act of the legislature, or which may hereafter be acquired.

(c) The use of water, or rights of use, are appurtenant to property obtained by the Department of Veterans' Affairs under ORS 407.135 or 407.145 for three years after the expiration of the period of redemption provided for in ORS 18.964 while the land is held by the Department of Veterans' Affairs, even if during such time the water is not used for a period of more than five successive years.

(d) The use of water, or rights of use, under a water right, if the owner of the property to which the right is appurtenant is unable to use the water due to economic hardship as defined by rule by the Water Resources Commission.

(e) The period of nonuse occurred during a period of time within which land was withdrawn from use in accordance with the Act of Congress of May 28, 1956, chapter 327 (7 U.S.C. 1801-1814; 1821-1824; 1831-1837), or the Federal Conservation Reserve Program, Act of Congress of December 23, 1985, chapter 198 (16 U.S.C. 3831-3836, 3841-3845). If necessary, in a cancellation proceeding under