

# Senate Bill 1069

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## 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**.

Directs Water Resources Department to provide grants and direct services payments for specified studies related to water conservation, reuse and storage. Establishes Water Conservation, Reuse and Storage Investment Fund. Continuously appropriates moneys in fund to department for grants and direct services payments. Authorizes State Treasurer to issue lottery bonds to fund grants and provision of direct services.

Directs Water Resources Department to conduct Umatilla Basin regional aquifer recovery assessment and establish mitigation bank. Directs department to make certain requests to Bureau of Reclamation of United States Department of the Interior. Appropriates moneys from General Fund to department to pay costs of assessment and to establish mitigation bank. Sunsets assessment and mitigation bank on January 2, 2014.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to water supply; appropriating money; and declaring an emergency.

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

### WATER CONSERVATION, REUSE AND STORAGE GRANTS

**SECTION 1. Grant program.** (1) **The Water Resources Department shall establish a grant program to pay the qualifying costs of planning studies performed to evaluate the feasibility of developing a water conservation, reuse or storage project, as described in section 2 of this 2008 Act. A grant under this section may be made to a local government as defined in ORS 174.116, to an Indian tribe as defined in ORS 391.802 or to a person.**

(2) **In lieu of grants, the department may pay the cost of providing direct services, including but not limited to technical planning services, for a planning study that is eligible for a grant under this section.**

(3) **A grant or the cost of direct services provided under this section may not exceed \$500,000 per project. A grant or payment for direct services may be provided only if the amount of the grant or the cost of the direct services is matched by funding from another source that is not less than a dollar-for-dollar match of the amount or cost.**

(4) **Grants and the cost of direct services provided under this section must be paid for from moneys available in the Water Conservation, Reuse and Storage Investment Fund.**

(5)(a) **In evaluating above ground storage projects for awards of grants or payments for direct services under this section, the department shall give priority to projects that include provisions for using stored water to augment in-stream flows to conserve, maintain and enhance aquatic life, fish life or other ecological values.**

(b) **In evaluating all other eligible projects, the department shall give priority to projects**

**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 identified by the department in a statewide water assessment and inventory for the award  
2 of grants or provision of payment for direct services under this section.

3 **SECTION 2. Eligible studies.** (1) A planning study receiving a grant or payment for direct  
4 services under section 1 of this 2008 Act may include, but is not limited to:

5 (a) Analyses of hydrological refill capacity;

6 (b) Water needs analyses;

7 (c) Refined hydrological analyses;

8 (d) Engineering and financial feasibility studies;

9 (e) Geologic analyses;

10 (f) Water exchange studies;

11 (g) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected  
12 stream and the impact of a proposed water conservation, reuse or storage project on those  
13 flows;

14 (h) Comparative analyses of alternative means of supplying water, including but not  
15 limited to the costs and benefits of conservation and efficiency alternatives and the extent  
16 to which long-term water supply needs may be met using those alternatives;

17 (i) Analyses of environmental harm or impacts from a proposed water conservation, re-  
18 use or storage project;

19 (j) Analyses of public benefits accruing from a proposed water conservation, reuse or  
20 storage project;

21 (k) Fiscal analyses of a proposed water conservation, reuse or storage project, including  
22 estimated project costs, financing for the project and projected financial returns from the  
23 project;

24 (L) Hydrological analyses of a proposed water conservation, reuse or storage project, in-  
25 cluding the anticipated effects of climate change on hydrological refill capacity; and

26 (m) Analyses of potential water quality impacts of the project.

27 (2) If a planning study concerns a proposed storage project that would impound surface  
28 water on a perennial stream, divert water from a stream that supports sensitive, threatened  
29 or endangered fish or divert more than 500 acre-feet of surface water annually, a grant or  
30 direct services payment may be provided only if the study contains:

31 (a) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected  
32 stream and the impact of the storage project on those flows;

33 (b) Comparative analyses of alternative means of supplying water, including but not lim-  
34 ited to the costs and benefits of conservation and efficiency alternatives and the extent to  
35 which long-term water supply needs may be met using those alternatives;

36 (c) Analyses of environmental harm or impacts from the proposed storage project;

37 (d) Evaluation of the need for and feasibility of using stored water to augment in-stream  
38 flows to conserve, maintain and enhance aquatic life, fish life and any other ecological val-  
39 ues; and

40 (e) For a proposed storage project that is for municipal use, analysis of local and regional  
41 water demand and the proposed storage project's relationship to existing and planned water  
42 supply projects.

43 **SECTION 3. Water Conservation, Reuse and Storage Investment Fund.** (1) The Water  
44 Conservation, Reuse and Storage Investment Fund is established in the State Treasury,  
45 separate and distinct from the General Fund. Interest earned by the Water Conservation,

1 Reuse and Storage Investment Fund shall be credited to the fund. Moneys in the Water  
2 Conservation, Reuse and Storage Investment Fund are continuously appropriated to the  
3 Water Resources Department to carry out the provisions of sections 1 to 4 of this 2008 Act.

4 (2) The Water Conservation, Reuse and Storage Investment Fund shall consist of:

5 (a) Moneys appropriated to the fund by the Legislative Assembly;

6 (b) Any moneys that may be transferred to the fund by the federal government, a state  
7 agency or a local government; and

8 (c) Interest earnings of the fund and grant repayments, if any.

9 (3) Moneys in the Water Conservation, Reuse and Storage Investment Fund may be used  
10 only:

11 (a) To award grants and to pay the cost of direct services provided under section 1 of this  
12 2008 Act; and

13 (b) To pay the direct and indirect costs of the Water Resources Department and the  
14 Water Resources Commission in administering sections 1 to 4 of this 2008 Act.

15 **SECTION 4. Rules.** The Water Resources Commission shall adopt rules necessary to ad-  
16 minister sections 1 to 4 of this 2008 Act, including rules that:

17 (1) Establish reporting requirements for grants awarded under section 1 of this 2008 Act;

18 (2) Provide for public comment before the award of grants and payment for direct ser-  
19 vices under section 1 of this 2008 Act; and

20 (3) Implement the priorities required by section 1 of this 2008 Act.

21 **SECTION 5. Lottery bonds.** (1) For the biennium beginning July 1, 2007, pursuant to ORS  
22 286A.560 to 286A.585, the State Treasurer may issue lottery bonds to fund the grants and the  
23 provision of direct services under section 1 of this 2008 Act.

24 (2) The use of lottery bond proceeds pursuant to this section is authorized based on the  
25 following findings:

26 (a) There is an urgent need to improve and expand water storage sites, conserve water  
27 and promote the reuse of water in this state while protecting existing watersheds.

28 (b) Local governments, Indian tribes and private sector businesses often lack access to  
29 sufficient capital and the technical capacity to undertake water storage projects.

30 (c) Public investments in water storage, water conservation and water reuse projects  
31 create jobs and further economic growth while ensuring the continued protection of  
32 watersheds.

33 (3) The aggregate principal amount of lottery bonds issued pursuant to this section may  
34 not exceed \$10 million plus an additional amount established by the State Treasurer to pay  
35 bond-related costs.

36 (4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited  
37 in the Water Conservation, Reuse and Storage Investment Fund established in section 3 of  
38 this 2008 Act.

39  
40 **UMATILLA BASIN REGIONAL AQUIFER RECOVERY ASSESSMENT**  
41 **AND MITIGATION BANK**  
42

43 **SECTION 6.** The Water Resources Department shall:

44 (1) Conduct a regional aquifer recovery assessment for the Umatilla Basin; and

45 (2) Establish a mitigation bank to facilitate the creation of mitigation credits that may

1 be used to offset the use of surface water from the Columbia River and the Umatilla River.

2 **SECTION 7.** (1) The Umatilla Basin regional aquifer recovery assessment conducted  
3 pursuant to section 6 of this 2008 Act must:

4 (a) Include an engineering and hydrogeologic study that evaluates the cost and feasibility  
5 of designing, constructing and expanding facilities to extract surface water during times that  
6 would avoid impacts on state or federally listed endangered or threatened fish species and  
7 on existing water rights.

8 (b) Evaluate the feasibility of:

9 (A) Recharging ground water pursuant to ORS 537.135 in the Ordnance and Echo Mead-  
10 ows aquifers; and

11 (B) Injecting water into the Ordnance, Butter Creek and Stage Gulch basalt aquifers  
12 pursuant to ORS 537.531, 537.532 and 537.534.

13 (2) The feasibility study required under this section must identify:

14 (a) Monitoring requirements to aid in the evaluation of potential impacts to stream flows,  
15 ground water quality and surface water quality.

16 (b) Options for the treatment of ground water and surface water that meet requirements  
17 under ORS 537.135, 537.531, 537.532 and 537.534.

18 (c) Potential permitting and other jurisdictional issues under ORS 537.135, 537.531, 537.532  
19 and 537.534.

20 (d) Opportunities to protect fish and fish habitat, and to improve streamflows, in the  
21 Lower Umatilla River based on existing information.

22 **SECTION 8.** In completing the Umatilla Basin regional aquifer recovery assessment re-  
23 quired by sections 6 and 7 of this 2008 Act, the Water Resources Department shall request  
24 that the Bureau of Reclamation of the United States Department of the Interior:

25 (1) Consider the feasibility of using infrastructure from the bureau's Umatilla Basin  
26 Project Phase II to deliver surface water from the Columbia River to the Stage Gulch critical  
27 ground water area; and

28 (2) Coordinate the Bureau of Reclamation study of the water supply in the Umatilla Basin  
29 with the department's Umatilla Basin regional aquifer recovery assessment and determine  
30 whether the bureau may assist with the temporary or permanent replacement of water for  
31 designated critical ground water areas in the Umatilla Basin.

32 **SECTION 9.** There are appropriated to the Water Resources Department, for the  
33 biennium beginning July 1, 2007, out of the General Fund, the following amounts:

34 (1) \$750,000 for the purpose of conducting the Umatilla Basin regional aquifer recovery  
35 assessment pursuant to section 6 of this 2008 Act; and

36 (2) \$500,000 for the purpose of establishing the mitigation bank described in section 6 of  
37 this 2008 Act.

38  
39 **MISCELLANEOUS**

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41 **SECTION 10.** Sections 6, 7 and 8 of this 2008 Act are repealed on January 2, 2014.

42 **SECTION 11.** The unit and section captions used in this 2008 Act are provided only for  
43 the convenience of the reader and do not become part of the statutory law of this state or  
44 express any legislative intent in the enactment of this 2008 Act.

45 **SECTION 12.** This 2008 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect**  
2 **on its passage.**

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