

B-Engrossed
House Bill 3369

Ordered by the House June 26
Including House Amendments dated May 8 and June 26

Sponsored by Representatives JENSON, J SMITH; Representatives BOONE, BRUUN, CANNON, CLEM, D EDWARDS, GILLIAM, HANNA, SCHAUFLEER, G SMITH, THOMPSON, WINGARD, WITT

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.

Creates process by which Water Resources Department may loan or grant moneys to enable construction of water development projects **located in Columbia River Basin**. Specifies applicants that *[qualify to receive certain loans or grants]* **must apply for loan under new process**. Specifies procedures for applying for loan or grant. Specifies guidelines for evaluating applications.

Authorizes department to issue grant for critical ground water storage project located in Umatilla Basin that meets specified conditions.

Modifies provisions related to financing water development projects.

[Authorizes State Treasurer, for specified biennia, to issue Article XI-I(1) bonds. Directs State Treasurer to credit net proceeds of bonds to Water Development Fund. Authorizes department to use moneys in fund to make loans to water developers that propose projects that qualify to receive Article XI-I(1) funds.]

[Establishes Water Resources Investment Fund and Water Resources Grant Fund. Authorizes State Treasurer, for biennium beginning July 1, 2009, to issue lottery bonds. Directs State Treasurer to deposit specified amount of bond proceeds in each fund. Continuously appropriates moneys in Water Resources Investment Fund to department for purpose of making loans to persons other than water developers or to water developers that propose projects that do not qualify to receive Article XI-I(1) funds and for purpose of funding integrated strategy for implementing state water resources policy. Continuously appropriates moneys in Water Resources Grant Fund to department for purpose of making grants.]

[Requires certain moneys to be deposited in Water Conservation, Reuse and Storage Investment Fund.]

Establishes Water Investment Grant Fund. Continuously appropriates moneys in fund to department for purpose of operating Columbia River Basin grant program.

Declares emergency, effective July 1, 2009.

A BILL FOR AN ACT

1
2 Relating to water supply management; creating new provisions; amending ORS 536.220, 541.700,
3 541.705, 541.710, 541.720, 541.730, 541.740, 541.765, 541.770, 541.785, 541.830, 541.845 and 541.850;
4 repealing ORS 541.755; appropriating money; and declaring an emergency.

5 Whereas the western United States is projected to experience substantial population growth this
6 century, including an additional one million people in Oregon before 2030; and

7 Whereas climate change is expected to alter the timing and form of precipitation in Oregon; and

8 Whereas surface water is almost completely allocated across Oregon during summer months,
9 ground water levels have declined precipitously in several areas and the hydrological connection
10 between surface water and ground water levels is significant; and

11 Whereas Oregon needs to develop an integrated statewide water management plan to address
12 existing and likely future in-stream and out-of-stream demands on Oregon's water supplies; and

13 Whereas having coordinated plans and programs to address in-stream and out-of-stream water
14 needs will make Oregon a more likely recipient of federal investments and give Oregon stronger

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 standing in interstate water disputes; and

2 Whereas water is a valuable economic commodity; and

3 Whereas water development projects can be designed to simultaneously benefit commercial de-
4 velopment, the natural environment and the fiscal responsibilities of the state; and

5 Whereas it is the policy of the Water Resources Department to directly address Oregon's water
6 supply needs and to restore and protect stream flows and watersheds; and

7 Whereas it is desirable that the Water Resources Department and the Water Resources Com-
8 mission have greater authority to issue loans and grants to public and private bodies, Indian tribes
9 and others for the purpose of developing projects that will ensure the availability of a sufficient and
10 sustainable water supply to meet Oregon's current and future water needs; and

11 Whereas loan and grant moneys for developing projects that ensure a sufficient and sustainable
12 water supply must be administered in a prudent and fiscally sound manner and used expeditiously;
13 and

14 Whereas water development projects that deliver mutual benefits for water users, the environ-
15 ment and the fiscal condition of this state should be funded or financed with public dollars; and

16 Whereas all water within Oregon belongs to the public pursuant to law; now, therefore,

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

18
19 **ADDING**

20
21 **SECTION 1. (1) Section 2 of this 2009 Act is added to and made a part of ORS 541.700 to**
22 **541.855.**

23 **(2) Sections 16 and 18 to 27 of this 2009 Act are added to and made a part of ORS chapter**
24 **541.**

25
26 **WATER DEVELOPMENT FUND**

27
28 **SECTION 2. The Water Resources Commission shall adopt rules establishing standards**
29 **for borrowers obtaining loans issued from the Water Development Fund. The commission**
30 **shall design the standards to ensure that all loans have a high probability of repayment and**
31 **that all loans are adequately secured in the event of a default. The commission shall solicit**
32 **comments from the Oregon Department of Administrative Services and the State Treasurer**
33 **when designing the standards. The standards may include, but need not be limited to, stan-**
34 **dards that give preference to entities with ad valorem taxing authority.**

35 **SECTION 3. ORS 541.700 is amended to read:**

36 541.700. As used in ORS 541.700 to 541.855, unless the context requires otherwise:

37 (1) "Commission" means the Water Resources Commission appointed under ORS 536.022.

38 (2) "Construction" means the construction, or improvement or rehabilitation, in whole or in part,
39 of a water development project, including planning and engineering work, purchasing or refinancing
40 directly related to such construction or improvement or rehabilitation, or any combination of such
41 construction or improvement or rehabilitation. As used in this subsection:

42 (a) "Purchasing" means the purchasing of materials, land or existing facilities necessary to
43 complete a water development project.

44 (b) "Refinancing" includes refinancing existing debt of a water developer, as defined in sub-
45 section (7)(f) to (m) and (o) of this section, in order to complete a water development project or to

1 provide adequate security for a water development loan, but does not include refinancing existing
2 debt only to reduce interest rates or costs to the borrower or to pay off existing debt.

3 (3) "Director" means the Water Resources Director appointed pursuant to ORS 536.032.

4 (4) "Federal water development project" means any water development project that receives
5 funding from the federal government, or any agency or instrumentality of the United States.

6 (5)(a) "Secondary use" means:

7 (A) Any water-related recreational use.

8 (B) Any flood control use.

9 (C) Any power generation use.

10 (D) Any water supply system utilized as a domestic water system for the benefit of an individual
11 residence related to the operation of the water development project.

12 (b) "Secondary use" does not include any use that is incompatible with a water development
13 project.

14 (6) "Water development project" means:

15 (a) An undertaking, in whole or in part, in this state for the purpose of irrigation, including
16 structures for the application of water for agricultural harvest activities, dams, storage reservoirs,
17 wells or well systems, pumping plants, pipelines, canals, ditches, revetments, water supply systems
18 used for the purpose of agricultural temperature control and any other structure, facility and prop-
19 erty necessary or convenient for supplying lands with water for irrigation purposes.

20 (b) An undertaking, in whole or in part, in this state for the purpose of drainage, including
21 ditching, tiling, piping, channel improvement, pumping plants or other agronomically approved
22 methods of land drainage that will increase soil versatility and productivity.

23 (c) An undertaking, in whole or in part, in this state for the purpose of providing water for
24 municipal use, which may include safe drinking water for communities with population less than
25 30,000, including dams, storage reservoirs, wells or well systems, pumping plants, treatment facili-
26 ties, pipelines, canals, ditches, revetments and all other structures and facilities necessary or con-
27 venient for supplying water. An undertaking may provide water to two or more communities with
28 a combined population of more than 30,000. An undertaking may be part of a project that provides
29 water to a community with a population of more than 30,000, but loans of moneys from the Water
30 Development Fund, including moneys in ORS 285B.563 (11) may be made only to communities served
31 by the project that have a population of less than 30,000.

32 (d) An undertaking, in whole or in part, in this state for the purpose of fish protection, including
33 fish screening or by-pass devices, fishways and all other structures and facilities necessary or con-
34 venient for providing fish protection.

35 (e) An undertaking, in whole or in part, in this state for the purpose of enhancing watershed
36 health or improving fish habitat, including methods and materials to restore, maintain and enhance
37 **water quality, streamflows and** the biological, chemical and physical integrity of the riparian
38 zones and associated uplands of the state's rivers, lakes and estuaries systems and recommended by
39 the Oregon Watershed Enhancement Board established under ORS 541.360.

40 (f) Secondary uses in conjunction with projects described in paragraphs (a) to (e) of this sub-
41 section.

42 (7) "Water developer" means:

43 (a) Any individual resident of this state;

44 (b) Any partnership for profit subject to the provisions of ORS chapter 67 or 70, whose principal
45 income is from farming in Oregon;

1 (c) Any corporation for profit subject to the provisions of ORS chapter 60, whose principal in-
2 come is from farming in Oregon;

3 (d) Any nonprofit corporation subject to the provisions of ORS chapter 65, whose principal in-
4 come is from farming in Oregon;

5 (e) Any cooperative subject to the provisions of ORS chapter 62, whose principal income is from
6 farming in Oregon;

7 (f) Any irrigation district organized under or subject to ORS chapter 545;

8 (g) Any water improvement district organized under ORS chapter 552;

9 (h) Any water control district organized under ORS chapter 553;

10 (i) Any irrigation or drainage corporation organized under or subject to ORS chapter 554;

11 (j) Any drainage district organized under ORS chapter 547 or subject to all or part of ORS
12 chapter 545;

13 (k) Any corporation, cooperative, company or other association formed prior to 1917 for the
14 purpose of distributing water for irrigation purposes;

15 (L) Any port district organized under ORS 777.005 to 777.725, 777.915 to 777.953 and 777.990;

16 (m) Any city or county;

17 (n) Any organization formed for the purpose of distributing water for community water supply;
18 or

19 (o) Any local soil and water conservation district organized under ORS 568.210 to 568.808 and
20 568.900 to 568.933.

21 **SECTION 4.** ORS 541.705 is amended to read:

22 541.705. (1) **Except as provided in section 20 of this 2009 Act for a water development**
23 **project in the Columbia River Basin**, any water developer may file with the Water Resources
24 Commission an application to enable the construction of a water development project as provided
25 in ORS 541.700 to 541.855. The application shall be filed in the manner, be in the form and contain
26 or be accompanied by any information prescribed by the commission. The commission, in considering
27 applications, shall encourage the largest number of users of the Water Development Fund and shall
28 consider the impact on the family farm units of the state.

29 (2) In addition to other requirements prescribed by the commission, an application filed under
30 subsection (1) of this section shall:

31 (a) Describe the nature and purposes of the proposed water development project, including the
32 need for the project and reason why the project would be in the public interest.

33 (b) State whether any purposes other than improvement of a drinking water system, irrigation,
34 drainage, fish protection, watershed enhancement or municipal use, but consistent therewith, will
35 be served by the proposed water development project, and the nature of the other purposes, if any.

36 (c) Set forth or be accompanied by a feasibility study for the construction, operation and main-
37 tenance of the proposed water development project, an estimate of the costs of construction and if
38 the project includes as a primary purpose irrigation or drainage, an evaluation of the agricultural
39 potential of the land from any competent public agency.

40 (d) State whether any moneys other than those in the Water Development Fund are proposed
41 to be used for the construction of the proposed water development project, and whether any other
42 moneys are available or have been sought for the construction.

43 (e) Show that the applicant holds or can acquire all lands, other than public lands, and interests
44 therein and water rights necessary for the construction, operation and maintenance of the proposed
45 water development project.

1 (3) If the application is for a safe drinking water project, the applicant also shall demonstrate
2 that:

3 (a) The applicant is a city, county, district, water authority or other political subdivision of the
4 state or an organization operated on a not-for-profit basis that makes drinking water available to
5 members of the general public;

6 (b) The primary use of the loan will be to improve a drinking water system for the purpose of
7 complying with applicable state or federal drinking water quality regulations; and

8 (c) The applicant has:

9 (A) Developed a water system master plan; and

10 (B) Either has a coordination agreement in place as defined in ORS 195.020, 195.025 and 197.712
11 or can demonstrate that options to find a coordinated solution to the system's drinking water prob-
12 lems have been fully explored.

13 **SECTION 5.** ORS 541.710 is amended to read:

14 541.710. (1) Upon receipt of an application filed as provided in ORS 541.705, the Water Resources
15 Commission shall determine whether the feasibility study described in ORS 541.705 for the water
16 development project set forth in or accompanying the application is satisfactory and if the commis-
17 sion determines that it is not satisfactory, the commission may:

18 (a) Reject the application;

19 (b) Require the applicant to submit additional information and revision of the feasibility study
20 as may be necessary; or

21 (c) Make such revisions of the feasibility study as the commission considers necessary to make
22 the plan satisfactory.

23 (2) Except as provided in subsection (3) of this section, **for a loan application filed under ORS**
24 **541.705 or section 20 of this 2009 Act**, the commission shall charge and collect from the applicant
25 at the time the application is filed[*a fee of \$100. In addition, the commission shall charge the ap-*
26 *plicant the amount required to reimburse the commission for costs that exceed the application fee in-*
27 *curring in connection with the application.*] **an application fee equal to the lesser of 0.10 percent**
28 **of the loan applied for or \$2,500. In addition, the commission may require the applicant to**
29 **pay for costs that exceed the application fee if the Water Resources Director determines that**
30 **the costs are incurred solely in connection with processing the application. Before incurring**
31 **the additional costs, the commission shall advise the applicant of the additional costs to be**
32 **paid by the applicant.** Moneys referred to in this subsection shall be paid into the Water Devel-
33 opment Administration and Bond Sinking Fund.

34 (3) The commission may establish **a reduced application fee** by rule [*an application fee of less*
35 *than \$100*] for a water development project that is for fish protection or for watershed enhancement.

36 **SECTION 6.** ORS 541.720 is amended to read:

37 541.720. (1) The Water Resources Commission may approve the financing for the construction
38 of a water development project described in an application filed [*as provided in*] **under ORS**
39 **541.705, or subject to section 25 of this 2009 Act in an application filed under section 20 of this**
40 **2009 Act**, using moneys in the Water Development Fund[,] secured by a first[, *parity or second*] lien
41 **or by other good and sufficient collateral** in the manner provided in ORS 541.740 if, after inves-
42 tigation, the commission finds that:

43 [(1)] (a) The proposed water development project is feasible and a reasonable risk from practical
44 and economic standpoints;

45 [(2)] (b) The plan for the construction, operation and maintenance of the proposed water devel-

1 opment project is satisfactory and, if the primary purposes of the project include irrigation or
2 drainage, the agricultural potential is confirmed;

3 [(3)] (c) The plan for construction and operation will provide multipurpose facilities, to the ex-
4 tent practicable;

5 [(4)] (d) The applicant is a qualified, credit-worthy and responsible water developer **that meets**
6 **the standards established by commission rule** and is willing and able to enter into a contract
7 with the commission for construction and repayment as provided in ORS 541.730;

8 [(5)] (e) Moneys in the Water Development Fund are or will be available for the construction
9 of the proposed water development project;

10 [(6)] (f) There is a need for the proposed water development project, the proposed project is in
11 the public interest and the applicant's financial resources are adequate to provide the working
12 capital needed to operate and maintain the project; and

13 [(7)] (g) The construction cost associated with any secondary use does not exceed the con-
14 struction cost of the primary use of the water development project.

15 **(2) ORS 541.700 to 541.855 do not limit the authority granted the Environmental Quality**
16 **Commission or the Department of Environmental Quality under ORS chapter 468B.**

17 **SECTION 7.** ORS 541.730 is amended to read:

18 541.730. (1) If the Water Resources Commission approves the financing for the construction of
19 a water development project, the commission, on behalf of the state, and the applicant may enter
20 into a loan contract, secured by a first[, *parity or second*] lien **or by other good and sufficient**
21 **collateral** in the manner provided in ORS 541.740[, *which*]. **The loan contract** shall set forth,
22 among other matters:

23 [(1)] (a) That the commission, on behalf of the state, must approve the arrangements made by
24 the applicant for the construction, operation and maintenance of the water development project,
25 using moneys in the Water Development Fund for the construction.

26 [(2)] *A plan for repayment by the applicant to the Water Development Administration and Bond*
27 *Sinking Fund of moneys borrowed from the Water Development Fund used for the construction, oper-*
28 *ation and maintenance of the water development project and interest on such moneys used at such rate*
29 *of interest as the commission determines is necessary to provide adequate funds to recover administra-*
30 *tive expenses incurred under ORS 541.700 to 541.855. The repayment plan, among other matters:]*

31 [(a)] *Shall provide for commencement of repayment by the water developer of moneys used for con-*
32 *struction and interest thereon not later than two years after the date of the loan contract or at such*
33 *other time as the commission may provide;]*

34 [(b)] *May provide for reasonable extension of the time for making any repayment in emergency or*
35 *hardship circumstances, if approved by the commission;]*

36 [(c)] *Shall provide for such evidence of debt assurance of and security for repayment by the appli-*
37 *cant as are considered necessary or proper by the commission; and]*

38 [(d)] *Shall set forth a schedule of payments and the period of loan which shall not exceed the usable*
39 *life of the constructed project, or 30 years from the date of the first payment due under the financial*
40 *plan, whichever is less, and shall also set forth the manner of determining when loan payments are*
41 *delinquent. The payment schedule shall include repayment of interest which accrues during any period*
42 *of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule may*
43 *require payments of varying amounts for collection of such accrued interest.]*

44 **(b) A plan for the repayment of moneys borrowed from the Water Development Fund and**
45 **interest on those moneys as described in subsection (3) of this section.**

1 [(3)] (c) Provisions satisfactory to the commission for field engineering and inspection, the
2 commission to be the final judge of completion of the contract.

3 [(4)] (d) That the liability of the state under the contract is contingent upon the availability of
4 moneys in the Water Development Fund for use in the construction, operation and maintenance of
5 the water development project.

6 [(5)] (e) Such further provisions as the commission considers necessary to [*insure*] **ensure** ex-
7 penditure of the funds for the purposes set forth in the approved application.

8 [(6)] (f) That the commission may institute an appropriate action or suit to prevent use of the
9 facilities of a water development project financed by the Water Development Fund by any person
10 who is delinquent in the repayment of any moneys due the Water Development Administration and
11 Bond Sinking Fund.

12 [(7)] (g) That a loan for a water development project is assignable or transferable to a third
13 party only with the prior approval of the commission.

14 (2) The commission may approve a loan assignment or transfer only if the commission finds that
15 the assignee or transferee qualifies as a water developer as defined in ORS 541.700 (7) and the as-
16 signment or transfer does not have serious adverse effect upon the family farm unit structure in this
17 state.

18 (3) **The commission, in consultation with the State Treasurer, shall set the interest rate**
19 **in an amount the commission determines to be sufficient to cover, to the extent practicable:**

20 (a) **The interest rate to be paid to bondholders on the underlying bonds;**

21 (b) **The administrative expenses incurred by the commission, the Water Resources De-**
22 **partment and the State Treasurer in connection with the loan program;**

23 (c) **All bond-related costs;**

24 (d) **The establishment of Water Development Administration and Bond Sinking Fund re-**
25 **serves; and**

26 (e) **An amount to be deposited to the Water Development Fund for the purpose of in-**
27 **creasing the amount available for loans from that fund.**

28 (4) **In addition to any other fee or charge, the commission may charge a loan processing**
29 **fee, not to exceed one percent of the loan amount.**

30 (5) **The repayment plan:**

31 (a) **Shall provide for commencement of repayment by the water developer of moneys used**
32 **for project construction and interest on those moneys not later than two years after the date**
33 **of the loan contract or at such other time as the commission may provide.**

34 (b) **May provide for reasonable extension of the time for making any repayment in**
35 **emergency or hardship circumstances, if approved by the commission.**

36 (c) **Shall provide for such evidence of debt assurance of and security for repayment by**
37 **the applicant as are considered necessary or proper by the commission.**

38 (d) **Shall set forth a schedule of payments and the period of loan. The period of the loan**
39 **may not exceed the usable life of the constructed project, or 30 years from the date of the**
40 **first payment due under the financial plan, whichever is less.**

41 (e) **Shall set forth the manner of determining when loan payments are delinquent.**

42 (f) **Shall include repayment of interest that accrues during any period of delay in repay-**
43 **ment authorized by paragraph (a) of this subsection, and may require payments of varying**
44 **amounts for collection of that accrued interest.**

45 (g) **May include provisions in addition to the provisions described in paragraphs (a) to (f)**

1 **of this subsection.**

2 **SECTION 8.** ORS 541.740 is amended to read:

3 541.740. (1)(a) **Except as provided in paragraph (b) of this subsection,** when a loan is made
4 to a water developer other than a water developer described in ORS 541.700 (7)(a), (b), (c) or (d) for
5 the construction of a water development project under ORS 541.700 to 541.855, the State of Oregon
6 has a lien for the amount of the unpaid balance of the loan. The lien created by this subsection at-
7 taches to the real property held in fee simple of the water developer or to the user charges, in-
8 cluding interest, owed to or received by the water developer. The lien created by this subsection
9 does not attach to a leasehold. At the discretion of the Water Resources Commission, the lien may
10 attach to all real property, whether owned by the water developer or other persons, which is served
11 by the water development project or which is served by a water source enhanced or restored by the
12 water development project.

13 (b) Except for tax liens, the lien created by this section is prior and superior to all other liens
14 or encumbrances upon the affected real property or user charges, without regard to the date on
15 which the other liens or encumbrances attached to the real property or user charges. [*However, the*
16 *Water Resources Commission may elect to accept a second or parity lien position against the real*
17 *property or user charges encumbered by this section, if the commission determines the lien position*
18 *would provide adequate security for the water development loan, as set forth in rules adopted by the*
19 *commission.*] **The commission, in consultation with the State Treasurer, may accept other**
20 **good and sufficient collateral to secure a loan instead of, or in addition to, a lien.**

21 (c) The existence or foreclosure of the lien created by this subsection shall not cause the ac-
22 celeration of payment of user charges or other payments on affected real property. Such payments
23 shall continue to be made as they become due.

24 (2) **Except as provided in this subsection,** when a loan is made under ORS 541.700 to 541.855
25 to a water developer described in ORS 541.700 (7)(a), (b), (c) or (d), the loan shall be secured by a
26 mortgage or security agreement in the full amount of the loan. The mortgage or security agreement
27 shall be a first lien[, *or a parity or second lien if the commission determines it would provide adequate*
28 *security,*] upon such real property of the water developer as the commission shall require for ade-
29 quate security. **The commission, in consultation with the State Treasurer, may accept other**
30 **good and sufficient collateral to secure a loan instead of, or in addition to, a lien.**

31 (3) When a lien created by subsection (1) of this section is foreclosed, a person whose real
32 property is subject to the lien solely because that real property is irrigated or drained by reason
33 of a water development project or because the real property is served by a water source improved
34 by a water development project for watershed enhancement, shall only have that portion of real
35 property subjected to foreclosure that represents that person's pro rata share of the indebtedness.

36 (4) When a loan is made to a water developer under ORS 541.700 to 541.855, the commission
37 shall file notice of the loan with the recording officer of each county in which is situated real
38 property of the water developer or real property to which the lien created by subsection (1) or (2)
39 of this section may attach. The notice shall contain a description of the real property of the water
40 developer, a description of any other real property that will be served by the water development
41 project and to which the lien is to attach, the amount of the loan and a statement that the State
42 of Oregon has a lien against such real property as provided in subsection (1) or (2) of this section.

43 (5) Upon payment of all amounts loaned to a water developer pursuant to ORS 541.700 to
44 541.855, the commission shall file with each recording officer referred to in subsection (4) of this
45 section a satisfaction notice that indicates repayment of the loan.

1 (6) The commission may cause to be instituted appropriate proceedings to foreclose liens for
2 delinquent loan payments, and shall pay the proceeds of any such foreclosure, less expenses incurred
3 in foreclosing, into the Water Development Administration and Bond Sinking Fund. In a foreclosure
4 proceeding, the commission may bid on property offered for sale in the proceeding and may acquire
5 title to the property on behalf of the state.

6 (7) The commission may take any action, make any disbursement, hold any funds or institute any
7 action or proceeding necessary to protect the state's interest.

8 (8) Notwithstanding ORS 293.240, the commission may compromise, release, discharge, waive,
9 cancel or settle a claim against a water developer if such action:

10 (a) Is consistent with the purposes of ORS 541.700 to 541.855;

11 (b) Does not impair the ability to pay the administrative expenses of the commission or the ob-
12 ligations of any bonds outstanding; and

13 (c) Is, under the circumstances, the means most likely to preserve the claim or to recover the
14 greatest part of the amount claimed.

15 (9) The commission, by rule, may set out procedures to be used when a water developer is un-
16 able to make required loan payments because of illness, injury, death, involuntary job loss or eco-
17 nomic stress due to factors beyond individual control. The rules shall be effective to the extent
18 permitted by the terms of the contracts associated with affected loans. The rules:

19 (a) May provide for a temporary reduction of loan payment;

20 (b) May provide for any other solution jointly agreed to by the water developer and the com-
21 mission;

22 (c) Shall provide for repayment of the amount of any loan payments reduced under the rules in
23 accordance with terms and conditions agreed upon by the borrower and the commission; and

24 (d) Shall require the commission to consider the effect of any payment reduction or delay on the
25 solvency of the program as a whole, on estimates of the most probable financial position of the
26 program in the future and on other borrowers in the program.

27 (10)(a) Upon application by a water developer, the commission may grant a partial release of
28 security when the commission determines that granting the requested release will not jeopardize the
29 water development loan program's security position.

30 (b) The remaining property must qualify as security for the loan balance under the applicable
31 law.

32 (c) Notwithstanding compliance with paragraph (b) of this subsection, the commission may re-
33 quire that the loan balance be reduced as consideration for granting the requested release.

34 **SECTION 9.** ORS 541.765 is amended to read:

35 541.765. In addition to those uses of moneys in the Water Development Fund otherwise provided
36 in ORS 541.700 to 541.855 **or section 25 of this 2009 Act**, the Water Resources Commission may
37 authorize loans of such moneys to those persons to whom approval has been granted by the federal
38 government or any agency or instrumentality of the United States for the funding and construction
39 of federal water development projects. Any such person shall apply for a loan to the commission, in
40 such form as the commission prescribes, and shall furnish such proof of federal approval for funding
41 and construction as the commission considers appropriate.

42 **SECTION 10.** ORS 541.770 is amended to read:

43 541.770. If the Water Resources Commission approves an application for the loan of moneys
44 authorized by ORS 541.765, the commission shall enter into a loan contract with the borrower that
45 provides, among other matters:

1 (1) That the loan be secured by a first lien[, or *parity or second lien if appropriate,*] **or by other**
2 **good and sufficient collateral** in the same manner as provided in ORS 541.740.

3 (2) That the loan bear interest at the same rate of interest as provided in ORS 541.730.

4 (3) That the loan becomes due and payable to the Water Development Administration and Bond
5 Sinking Fund not later than 60 days after the date that federal funds for the acquisition of ease-
6 ments and rights of way for the project are paid to the borrower or 30 years from the date of the
7 loan, whichever is earlier.

8 (4) Such provisions as the commission considers necessary to [*insure*] **ensure** expenditure of the
9 moneys loaned for the purposes provided in ORS 541.765.

10 (5) That the commission may cause to be instituted appropriate proceedings to foreclose liens
11 for delinquent loan payments, and shall pay the proceeds of any such foreclosure, less expenses in
12 foreclosing, into the Water Development Administration and Bond Sinking Fund.

13 **SECTION 11.** ORS 541.785 is amended to read:

14 541.785. Except for the proceeds of refunding bonds, all moneys obtained from the sale of bonds
15 under ORS 541.780 to 541.815 shall be credited by the State Treasurer to the Water Development
16 Fund. Such moneys shall be used only for the purposes stated in Article XI-I (1), Oregon Constitu-
17 tion, and ORS 541.700, 541.705 to 541.770 and 541.835 **and sections 25 and 26 of this 2009 Act.** If
18 there are insufficient funds in the Water Development Administration and Bond Sinking Fund to
19 make the payments set forth in ORS 541.830, moneys in the Water Development Fund may be
20 transferred to the Water Development Administration and Bond Sinking Fund. Pending the use of
21 moneys in the Water Development Fund for the proper purposes, such moneys may be invested in
22 the manner provided by law.

23 **SECTION 12.** ORS 541.830 is amended to read:

24 541.830. (1) There hereby is created the Water Development Administration and Bond Sinking
25 Fund, separate and distinct from the General Fund, to provide for payment of:

26 (a) Administrative expenses of the Water Resources Commission and the Water Resources De-
27 partment in processing applications, investigating proposed water development projects and federal
28 water development projects under ORS 541.700 to 541.855 and servicing and collecting outstanding
29 loans made under ORS 541.700 to 541.855 **or section 25 of this 2009 Act**, if the expense is not paid
30 directly by the applicant, including principal and interest due on bonds outstanding. These admin-
31 istrative expenses also may include all costs associated with the issuance of bonds and the funding
32 of any credit enhancements or reserves determined to be necessary or advantageous in connection
33 with the bonds.

34 (b) Administrative expenses of the State Treasurer in carrying out the duties, functions and
35 powers imposed upon the State Treasurer by ORS 541.700 to 541.855.

36 (c) Principal and interest of all bonds issued pursuant to the provisions of ORS 541.780 to
37 541.815.

38 (2) The fund created by subsection (1) of this section shall consist of:

39 (a) Application fees [*required by ORS 541.710*] **and additional processing costs paid under**
40 **ORS 541.710 and loan processing fees under ORS 541.730.**

41 (b) Repayments of moneys loaned to water developers from the Water Development Fund, in-
42 cluding interest on such moneys.

43 (c) Repayments of moneys loaned for the acquisition of easements and rights of way for federal
44 water development projects, including interest on such moneys.

45 (d) Such moneys as may be appropriated to the fund by the Legislative Assembly, including ap-

1 appropriations dedicated to the partial payment for or repayment of projects affording public benefits.

2 (e) Moneys obtained from the sale of refunding bonds and any accrued interest on such bonds.

3 (f) Moneys received from ad valorem taxes levied pursuant to Article XI-I(1), Oregon Constitu-
4 tion, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

5 (g) Interest earned on cash balances invested by the State Treasurer.

6 (h) Any revenues received by the commission under the provisions of ORS 541.745.

7 (i) Moneys transferred from the Water Development Fund.

8 (3) The moneys referred to in subsection (2) of this section are continuously appropriated to the
9 commission for the purposes provided in subsection (1) of this section.

10 (4) The commission, with the approval of the Governor, may identify those projects financed
11 under the provisions of ORS 541.700 to 541.855 [*which*] **or section 25 of this 2009 Act that** offer
12 significant public benefit, and recommend to the Legislative Assembly funding of those projects in
13 proportion to the public benefits offered.

14 (5) The commission, with the approval of the State Treasurer, may transfer moneys from the
15 fund created under subsection (1) of this section to the Water Development Fund if:

16 (a) A cash flow projection shows that the transfer will not have any negative impact on the
17 commission's ability to pay bond principal, interest and administration costs;

18 (b) The transfer will not create the need for issuance of any bonds; and

19 (c) The transfer, together with loans outstanding from prior transfers and not refinanced by
20 funds derived directly from a bond sale, [*shall*] **does** not exceed \$1.

21 (6) The transfer amount authorized by subsection (5) of this section may be increased by the
22 Emergency Board.

23 **SECTION 13.** ORS 541.845 is amended to read:

24 541.845. (1) In accordance with the applicable provisions of ORS chapter 183, the Water Re-
25 sources Commission may adopt rules necessary to carry out ORS 541.700 to 541.855.

26 (2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drinking
27 water projects, the commission shall coordinate the Water Resources Department's rulemaking pro-
28 cess with the Economic and Community Development Department and the Department of Human
29 Services in order to ensure that rules adopted under this subsection are consistent with rules
30 adopted under ORS 285B.563 and 431.120. The rules adopted under this subsection shall:

31 (a) Require the installation of meters on all new active service connections from any municipal
32 drinking water distribution lines funded under ORS 285B.560 to 285B.599, 431.120, 541.700, 541.705,
33 [541.755,] 541.765, 541.830 and 541.845; and

34 (b) Require a plan, to be adopted by the municipality, for installation of meters on all service
35 connections throughout the drinking water system.

36 (3) As used in this section, "service connection" does not include fire hydrants, fire sprinkler
37 system connections, line blow-offs and drains, standby emergency interties, valve controlled drinking
38 fountains and other similar intermittently used connections.

39 **SECTION 14.** ORS 541.850 is amended to read:

40 541.850. The Water Resources Commission may accept gifts of money or other property from any
41 source, given for the purposes of ORS 541.700 and 541.705 to 541.770 **or section 25 of this 2009**
42 **Act.** Money so received shall be paid into the Water Development Fund. Money or other property
43 so received shall be used for the purposes for which received.

44 **SECTION 15.** ORS 541.755 is repealed.

45

WATER INVESTMENT GRANT FUND

1
2
3 **SECTION 16.** (1) The Water Investment Grant Fund is established in the State Treasury,
4 separate and distinct from the General Fund. Interest earned by the Water Investment
5 Grant Fund shall be credited to the Water Investment Grant Fund. Moneys in the Water
6 Investment Grant Fund are continuously appropriated to the Water Resources Department
7 to fund grants under section 23 of this 2009 Act and to pay the administrative costs of the
8 department in operating a grant program under sections 18 to 27 of this 2009 Act.

9 (2) The Water Investment Grant Fund consists of the following:

10 (a) Moneys appropriated to the fund by the Legislative Assembly.

11 (b) Any moneys that may be transferred to the fund by the federal government, a state
12 agency or a local government.

13 (c) Any bond proceeds authorized for deposit to the fund.

14 (d) Proceeds from grant application fees described in section 19 of this 2009 Act.

15 (e) Gifts, grants or donations to the fund. Notwithstanding subsection (1) of this section,
16 the department may use moneys received under this paragraph according to any terms and
17 conditions of the gift, grant or donation.

18 (3)(a) Except as provided in paragraph (b) of this subsection, the department may make
19 a grant for a qualifying project from the fund to:

20 (A) An Indian tribe as defined in ORS 391.802;

21 (B) A person as defined in ORS 536.007; or

22 (C) A for-profit or nonprofit cooperative.

23 (b) The department may not issue a grant from the fund to a municipality or a provider
24 of water for municipal purposes.

25
26 UMATILLA BASIN PROJECTS

27
28 **SECTION 17.** (1) As used in this section, “critical ground water storage project” means
29 an underground or below-ground storage of river water in a critical ground water area des-
30 ignated under ORS 537.730 for use in:

31 (a) Aquifer storage and recovery as described in ORS 537.534 and streamflow augmenta-
32 tion and restoration; or

33 (b) Recharging ground water basins and reservoirs as described in ORS 537.135 and
34 streamflow augmentation and restoration.

35 (2) The Water Resources Department may issue a grant under this section only for a
36 critical ground water storage project that is located in the Umatilla Basin and that meets
37 the conditions described in this section.

38 (3) Except as provided in subsection (4) of this section, notwithstanding ORS 537.534, if
39 the project uses artificial recharge to recharge an alluvial aquifer that is not confined, the
40 project must be designed:

41 (a) To provide for no more than 75 percent of new stored water to be withdrawn and for
42 not less than 25 percent of the new water to be dedicated for the purpose of providing net
43 environmental public benefits or in-stream benefits; and

44 (b) To the extent practicable, to return dedicated new stored water for stream augmen-
45 tation at a time of year that the Water Resources Department, in consultation with the

1 State Department of Fish and Wildlife and relevant tribal governments, determines will
2 provide the maximum net environmental public benefit or in-stream benefit.

3 (4) If more than 25 percent of the funding for an aquifer storage and recovery project is
4 from grants of state moneys and is not subject to repayment, the project must be designed
5 to dedicate for the purpose of providing net environmental public benefit or in-stream benefit
6 a percentage of the new stored water created by the project that equals or exceeds the per-
7 centage of funding for the project that is from grants of state moneys. The Water Resources
8 Department shall manage the dedicated increment of new stored water for net environ-
9 mental public benefit and in-stream benefit.

10 (5) On or before the earlier of six years after the issuance of the ground water recharge
11 permit or the date the water right certificate is issued, the department shall quantify and
12 legally protect in-stream the increment of new water returned in stream from a project de-
13 scribed in this section.

14 (6) The department shall require as a contractual condition for issuing the grant, and as
15 a condition of any new groundwater recharge permit or water right certificate issued for the
16 project, that if the project receives grants or loans from state moneys other than a grant
17 issued under this section, the project must be operated in a manner that actually dedicates
18 the percentage of new stored water for net environmental public benefit or in-stream benefit
19 that the project was designed to dedicate for those purposes.

20 (7) This section does not limit the authority granted the Environmental Quality Com-
21 mission or the Department of Environmental Quality under ORS chapter 468B.

22 (8) This section is repealed January 2, 2030.

23
24 **DEFINITIONS**

25
26 **SECTION 18.** As used in sections 18 to 27 of this 2009 Act:

27 (1) "Economic public benefit" means the improvement of economic conditions that relate
28 to one or more of the following:

- 29 (a) Job creation;
- 30 (b) Encouragement of economic investments;
- 31 (c) Increases in state revenues;
- 32 (d) Protection of public resource lands;
- 33 (e) Increases in the efficiency of state spending; and
- 34 (f) Other activities that enhance economic activity within the state.

35 (2) "Net environmental public benefit" means the improvement of ecological conditions,
36 compared with a preproject baseline, that relate to one or more of the following:

37 (a) Water, velocity, temperature, stream flow levels and other stream flow conditions
38 that provide for critical life history needs of state or federally listed sensitive, threatened
39 or endangered fish species and that maintain or enhance population viability of those species.

40 (b) Stream flow conditions that support the life stages of native fish species or that will
41 allow for the reintroduction of native fish species.

42 (c) Return flows to surface water bodies from aquifer recharge projects or from other
43 underground water storage projects, and the in-stream protection for those return flows
44 designed to have in-stream benefits.

45 (d) Protection of peak flows at above-ground and underground storage projects.

1 (e) Protection of ecological flows at above-ground and underground storage projects.

2 (f) Water temperature, dissolved oxygen content and other water quality conditions, and
3 progress towards the attainment of water standards that are not being met in the relevant
4 water body.

5 (g) Ground water quality or quantity.

6 (h) Aquatic or riparian habitat restoration or enhancement.

7 (i) Eliminating nonpoint source pollutant transport.

8 (3) "Secondary use" has the meaning given that term in ORS 541.700.

9 (4) "Social and cultural public benefit" means the improvement of conditions that relate
10 to one or more of the following:

11 (a) Promoting public health and welfare;

12 (b) Recreational use;

13 (c) Outdoor schools; and

14 (d) Hunting and fishing.

15 (5) "Water conservation" means an undertaking that results in:

16 (a) A decrease in the consumptive use of water;

17 (b) An increase in water use efficiency; or

18 (c) An increase in water available to meet in-stream needs.

19 (6) "Water development project" means:

20 (a) A water development project as defined in ORS 541.700.

21 (b) All or part of an undertaking in this state for the purpose of:

22 (A) Water management, measurement, conservation, efficiency, reuse or storage;

23 (B) Streamflow restoration; or

24 (C) Benefitting multiple purposes, such as agricultural, domestic, commercial, recre-
25 ational, municipal or in-stream purposes.

26 (c) Secondary uses in conjunction with projects described in paragraph (b) of this sub-
27 section.

28
29 **APPLICATIONS**

30
31 **SECTION 19.** (1) Any person or entity described in section 16 of this 2009 Act may file
32 an application with the Water Resources Department for a grant from the Water Investment
33 Grant Fund to enable the construction of a water development project located in the
34 Columbia River Basin.

35 (2) An application filed under this section must be in a form prescribed by the Water
36 Resources Commission and include the following:

37 (a) A description of the nature and the primary and secondary purposes of the project.

38 (b) An analysis of the need for the project and for the water that the project is intended
39 to deliver.

40 (c) Identification and description of the project components sufficient to meet the con-
41 ditions for project funding approval under section 23 of this 2009 Act.

42 (d) A description of the economic feasibility of the project, including but not limited to:

43 (A) The costs of the project; and

44 (B) Information about the financial and other aspects of the operation and maintenance
45 plans for the project.

1 (e) Suggestions for interim and long-term project performance benchmarks.

2 (f) An analysis of the project impacts including, but not limited to, the:

3 (A) Expected economic public benefits.

4 (B) Expected social and cultural public benefits.

5 (C) Expected net environmental public benefits.

6 (g) An evaluation of the potential impact on water quality, based upon water quality
7 standards.

8 (h) Proof that the applicant has acquired at least a final order or limited license for
9 necessary water permits from the department.

10 (i) Letters of support for the proposed water resource development project.

11 (j) If the project has not previously received state funding, a statement regarding
12 whether other moneys are available or have been sought or received for the implementation
13 of the project.

14 (k) Information sufficient to demonstrate that the amount of the requested funding will
15 be matched by the funding from another source that is not less than a dollar-for-dollar
16 match.

17 (L) Any other information required by the department.

18 (3) If the project will receive surface water impounded from a perennial stream, water
19 diverted from a stream that supports sensitive, threatened or endangered fish, or more than
20 500 acre-feet of diverted surface water annually, in addition to the other information re-
21 quired under this section the application shall include the following completed studies:

22 (a) An analysis of by-pass, optimum peak, flushing and other ecological flows of the af-
23 fected stream and of the impact of the project on those flows, that conforms to standards
24 set by the department in consultation with the State Department of Fish and Wildlife and
25 other relevant agencies;

26 (b) An independent comparative analysis of alternative means of supplying the water in-
27 tended to be generated by the project, including but not limited to the costs and benefits of
28 conservation, reuse and alternatives and the extent to which long-term water supply needs
29 may be met using those alternatives; and

30 (c) Evaluation of the need for and feasibility of using project-derived water to augment
31 in-stream flows to conserve, maintain and enhance aquatic life, fish life and any other eco-
32 logical values.

33 (4) If the applicant is an agricultural water supplier, the applicant must have an approved
34 agriculture water management and conservation plan, have submitted a completed agricul-
35 tural water management and conservation plan to the Water Resources Department for ap-
36 proval or be in the process of completing or updating a water management and conservation
37 plan.

38 (5) The commission may establish fees for filing applications for a grant under this sec-
39 tion. Moneys from the application fees established by the commission shall be deposited to
40 the Water Investment Grant Fund.

41 (6) An analysis and evaluation conducted as part of a study performed pursuant to
42 chapter 13, Oregon Laws 2008, is deemed to satisfy the requirements of subsection (3) of this
43 section.

44 **SECTION 20.** (1) A water developer, as defined in ORS 541.700, shall file an application for
45 a loan from the Water Development Fund as provided in this section instead of under ORS

1 541.705 if:

2 (a) The applicant is not a municipality or a provider of water for municipal purposes;

3 (b) The loan is for the purpose of enabling the construction of a water development
4 project in the Columbia River Basin; and

5 (c) The moneys from which the loan is to be funded were provided under an appropriation
6 that dedicates the moneys for use under this section or for loans of a type described in this
7 subsection made to applicants of a type described in this subsection.

8 (2) An application filed under this section must be in a form prescribed by the Water
9 Resources Commission and include the following:

10 (a) A description of the nature and the primary and secondary purposes of the project.

11 (b) An analysis of the need for the project and for the water that the project is intended
12 to deliver.

13 (c) Identification and description of the project components sufficient to meet the con-
14 ditions for project funding approval under section 25 of this 2009 Act.

15 (d) A description of the economic feasibility of the project, including but not limited to:

16 (A) The costs of the project; and

17 (B) Information about the financial and other aspects of the operation and maintenance
18 plans for the project.

19 (e) Suggestions for interim and long-term project performance benchmarks.

20 (f) An analysis of the project impacts including, but not limited to, the:

21 (A) Expected economic public benefits.

22 (B) Expected social and cultural public benefits.

23 (C) Expected net environmental public benefits.

24 (g) An evaluation of the potential impact on water quality, based upon water quality
25 standards.

26 (h) Proof that the applicant has acquired at least a final order or limited license for
27 necessary water permits from the department.

28 (i) Letters of support for the proposed water resource development project.

29 (j) If the project has not previously received state funding, a statement regarding
30 whether other moneys are available or have been sought or received for the implementation
31 of the water resource development project.

32 (k) A description of a loan repayment plan.

33 (L) Any other information required by the department.

34 (3) Any relevant information described in ORS 541.705 (2)(c) or (e) or (3).

35 (4) If the project will receive surface water impounded from a perennial stream, water
36 diverted from a stream that supports sensitive, threatened or endangered fish, or more than
37 500 acre-feet of diverted surface water annually, in addition to the other information re-
38 quired under this section the application shall include the following completed studies:

39 (a) An analysis of by-pass, optimum peak, flushing and other ecological flows of the af-
40 fected stream and of the impact of the project on those flows, that conforms to standards
41 set by the department in consultation with the State Department of Fish and Wildlife and
42 other relevant agencies;

43 (b) An independent comparative analysis of alternative means of supplying the water in-
44 tended to be generated by the project, including but not limited to the costs and benefits of
45 conservation, reuse and alternatives and the extent to which long-term water supply needs

1 may be met using those alternatives; and

2 (c) Evaluation of the need for and feasibility of using project-derived water to augment
3 in-stream flows to conserve, maintain and enhance aquatic life, fish life and any other eco-
4 logical values.

5 (5) If the applicant is an agricultural water supplier, the applicant must have an approved
6 agriculture water management and conservation plan, have submitted a completed agricul-
7 tural water management and conservation plan to the Water Resources Department for ap-
8 proval or be in the process of completing or updating a water management and conservation
9 plan.

10 (6) An application under this section is subject to application fees and additional pro-
11 cessing costs as described in ORS 541.710 and loan processing fees under ORS 541.730.

12 (7) An analysis and evaluation conducted as part of a study performed pursuant to
13 chapter 13, Oregon Laws 2008, is deemed to satisfy the requirements of subsection (4) of this
14 section.

15 **SECTION 21.** (1) If an application filed under section 19 or 20 of this 2009 Act lacks any
16 required information, the Water Resources Department may reject the application or require
17 the applicant to submit additional information.

18 (2) Upon receipt of a completed application filed under section 19 or 20 of this 2009 Act,
19 the department shall provide public notice by posting the application on the department's
20 website for a 60-day period prior to issuing a loan or grant to the applicant.

21 (3) The department shall provide for the receipt of public comment on the application
22 during the 60-day period that the application is posted on the department website, as speci-
23 fied by the Water Resources Commission by rule.

24 (4) The department shall review the application information filed under section 19 or 20
25 of this 2009 Act. The department shall commence the assessment no later than 60 days after
26 receiving the application.

27 (5) The department shall assess each project in consultation with the State Department
28 of Fish and Wildlife, the State Parks and Recreation Department the Department of Envi-
29 ronmental Quality and affected tribal governments, and with other interested parties as ap-
30 propriate. If a project may affect agricultural use, the Water Resources Department shall
31 also assess the project in consultation with the State Department of Agriculture.

32 (6) In assessing the net environmental public benefit of the project, the Water Resources
33 Department shall weigh the project's various environmental impacts on, and enhancements
34 to, all of the forms of environmental benefit described in section 18 (2) of this 2009 Act.

35 **SECTION 22.** (1) The Water Resources Commission shall adopt rules establishing guide-
36 lines for the Water Resources Department's review of applications for a grant filed under
37 section 19 of this 2009 Act and for the assessment of projects for which grants are sought.
38 The guidelines shall include:

39 (a) Evaluation of the awarding of grants as a financial incentive to accomplish the goals
40 of the grant program;

41 (b) Consideration of the financial needs of applicants and other special circumstances;
42 and

43 (c) Consideration of the economic public benefit, social and cultural public benefit and
44 net environmental public benefit of the project.

45 (2) The guidelines shall give priority to projects that:

- 1 (a) Recharge aquifers in limited and critical ground water areas;
- 2 (b) Are designed to deliver the greatest net environmental public benefit;
- 3 (c) Include in-stream flow restoration components;
- 4 (d) Conserve water; or
- 5 (e) Are water storage projects that provide for stored water to be used for restoring or
- 6 augmenting streamflows in a manner that conserves, maintains and enhances water quality,
- 7 aquatic life, fish life or other ecological values.

8 (3) The guidelines shall require that the department consider the following:

- 9 (a) Local support for the project;
- 10 (b) Oregon's in-stream and out-of-stream water needs as influenced by existing and an-
- 11 ticipated climate change;
- 12 (c) The project's potential to facilitate economic development;
- 13 (d) The projected impact of the project on public health matters relating to water; and
- 14 (e) Statewide water needs.

15 (4) The commission shall adopt rules for use by the Water Resources Department in as-

16 ssuming the net environmental public benefits of a project under section 21 of this 2009 Act.

17 The commission must consult with, and provide a 60-day period for the receipt of comment

18 from, the State Department of Fish and Wildlife, the State Parks and Recreation Depart-

19 ment, the State Department of Agriculture and the Department of Environmental Quality

20 before the commission adopts a rule described in this subsection.

21

22 **LOANS AND GRANTS**

23

24 **SECTION 23.** (1) Subject to any additional qualifications or restrictions under sections

25 21, 22 or 24 of this 2009 Act or Water Resources Commission rules, the Water Resources

26 Department may approve a grant application filed under section 19 of this 2009 Act if the

27 department finds that:

28 (a) The plan for the construction of the proposed project complies with all applicable

29 provisions related to water well constructors under ORS 537.747 to 537.765, reservoirs and

30 diversion dams under ORS 540.340 and dams, dikes and hydraulic structures or works in ORS

31 540.350;

32 (b) Planned diversions of surface water include provision for fish screens and, if applica-

33 ble, volitional fish passage;

34 (c) The use of surface water or ground water from the project will be measured and re-

35 ported;

36 (d) The applicant or beneficiaries of water from the project measure and report, or have

37 scheduled and financed the measurement of, all existing water use at the point of diversion;

38 (e) There is a reasonable certainty that the project, considered in total, will deliver a

39 measurable net environmental public benefit; and

40 (f) To the extent applicable, the project complies with subsection (2) or (3) of this section.

41 (2) A water storage project must be designed:

42 (a) To provide for no more than 75 percent of new stored water in the aquifer or above-

43 ground storage location of the project to be withdrawn for agricultural purposes and for not

44 less than 25 percent of the new water to be dedicated for the purpose of providing net envi-

45 ronmental public benefits or in-stream benefits; and

1 (b) To the extent practicable, to return dedicated new stored water for stream augmen-
2 tation at a time of year that the Water Resources Department, in consultation with the
3 State Department of Fish and Wildlife and relevant tribal governments, determines will
4 provide the maximum net environmental public benefit or in-stream benefit.

5 (3) If more than 25 percent of the funding for a water storage project is from grants of
6 state moneys and is not subject to repayment, the project must be designed to dedicate for
7 the purpose of providing net environmental public benefit or in-stream benefit a percentage
8 of the new stored water created by the project that equals or exceeds the percentage of
9 funding for the project that is from grants of state moneys. The Water Resources Depart-
10 ment shall manage the dedicated increment of new stored water for net environmental public
11 benefit or in-stream benefit.

12 (4) On or before the earlier of six years after the issuance of the ground water recharge
13 permit or the date the water right certificate is issued, the department shall quantify and
14 legally protect the increment of new water returned in stream from a project described in
15 this section.

16 (5) The department shall require as a contractual condition for issuing the grant, and as
17 a condition of any new water permit or water right certificate, that the project be operated
18 in a manner that actually dedicates the percentage of new stored water for net environ-
19 mental public benefit or in-stream benefit that the project was designed to dedicate for those
20 purposes.

21 (6) The department may require that a project protect peak and ecological flows to the
22 extent determined by the State Department of Fish and Wildlife to be necessary.

23 (7) The commission, by rule, may allow the Water Resources Department to waive any
24 requirement of this section for the issuance of a grant, other than the requirement of a
25 measurable net environmental public benefit, if:

26 (a) The grant application requests less than \$20,000; or

27 (b) The project is a conservation, efficiency, restoration or reuse project that can be
28 shown to the satisfaction of the department to cause no harm to the source, any receiving
29 stream, fish or wildlife or existing water rights.

30 (8) This section and sections 19, 21, 22, 24 and 27 of this 2009 Act do not limit the au-
31 thority granted the Environmental Quality Commission or the Department of Environmental
32 Quality under ORS chapter 468B.

33 **SECTION 24.** (1) The Water Resources Department shall ensure that any necessary fed-
34 eral and state environmental impact approval processes have been completed, and that
35 agencies have issued any relevant approvals and permits, before the advancement of any
36 grant moneys for a project described in section 23 of this 2009 Act. The department shall
37 determine the amount of a grant from the Water Investment Grant Fund on a case-by-case
38 basis. The department may not issue a grant under section 23 of this 2009 Act to provide
39 assistance for operational or maintenance expenses of a water development project other
40 than project startup costs.

41 (2) The department may issue a grant from the fund only if the applicant agrees to pe-
42 riodic review of the project, including but not limited to:

43 (a) Review of interim and long-term performance benchmarks set by the department; and

44 (b) Program and fiscal audits to ensure that performance benchmarks are achieved on
45 project development, project benefits and return on investment.

1 (3) The department may issue a grant from the fund only if the applicant agrees to report
2 to the department no later than two years after receiving the grant moneys regarding the
3 progress of the project and the economic public benefit, social and cultural public benefit and
4 net environmental public benefit realized from the project. The department shall provide
5 copies of the applicant reports received by the department during the biennium to an interim
6 committee of the Legislative Assembly dealing with natural resources.

7 (4) The Water Resources Commission may establish reasonable fees for management,
8 oversight or review services that the department provides for a water development project.
9 The fees shall be deposited to the Water Investment Grant Fund.

10 (5) For a project described in section 23 (2) of this 2009 Act, the commission may require
11 compliance with the conditions described in section 23 (2) of this 2009 Act as a condition of
12 any new water permits issued for the project and may monitor operation of the project to
13 ensure compliance.

14 **SECTION 25.** (1) The Water Resources Department, acting as agent for the Water Re-
15 sources Commission, may approve a loan for which an application is filed under section 20
16 of this 2009 Act, if the department finds that:

17 (a) The loan meets any applicable qualifications or restrictions under Article XI-I(1) of
18 the Oregon Constitution, ORS 541.700 to 541.855, section 26 of this 2009 Act, Water Resources
19 Commission rules and bondholder agreements;

20 (b) The plan for the construction of the proposed project complies with all applicable
21 provisions related to water well constructors under ORS 537.747 to 537.765, reservoirs and
22 diversion dams under ORS 540.340 and dams, dikes and hydraulic structures or works in ORS
23 540.350;

24 (c) Planned diversions of surface water include provision for fish screens and, if applica-
25 ble, volitional fish passage;

26 (d) The use of surface water or ground water from the project will be measured and re-
27 ported;

28 (e) The applicant or beneficiaries of water from the project measure and report, or have
29 scheduled and financed the measurement of, all existing water use at the point of diversion;

30 (f) There is a reasonable certainty that the project will deliver a measurable net envi-
31 ronmental public benefit; and

32 (g) The project is designed to deliver in-stream benefits.

33 (2) The department may require that a project protect peak and ecological flows to the
34 extent determined by the State Department of Fish and Wildlife to be necessary.

35 (3) This section and sections 20 and 26 of this 2009 Act do not limit the authority granted
36 the Environmental Quality Commission or the Department of Environmental Quality under
37 ORS chapter 468B.

38 **SECTION 26.** (1) The Water Resources Department shall ensure that any necessary fed-
39 eral and state environmental impact approval processes have been completed, and that
40 agencies have issued any relevant approvals and permits, before the advancement of any loan
41 moneys for a project described in section 25 of this 2009 Act. The department shall determine
42 the amount of a loan for a project described in section 25 of this 2009 Act on a case-by-case
43 basis. The department shall determine the maximum amount of a loan based in part upon
44 a reasonable and prudent expectation of the ability of the borrower to repay the loan. The
45 department may not issue a loan to provide assistance for operational or maintenance ex-

1 **penses of a water development project other than project startup costs.**

2 **(2) Notwithstanding ORS 541.730, if the Water Resources Commission, in consultation**
3 **with the State Treasurer, believes that the project is unlikely to produce a net profit for the**
4 **borrower or for any for-profit entity, the commission may set the loan interest rate at a**
5 **level that reduces or waives the amount of the interest rate set under ORS 541.730 that is**
6 **in excess of the interest to be paid to bondholders on the underlying bonds.**

7 **(3) The department may issue a loan only if the applicant agrees to periodic review of the**
8 **project, including but not limited to:**

9 **(a) Review of interim and long-term performance benchmarks set by the department; and**

10 **(b) Program and fiscal audits to ensure that performance benchmarks are achieved on**
11 **project development, project benefits and return on investment.**

12 **(4) The department may issue a loan only if the applicant agrees to report to the de-**
13 **partment no later than two years after receiving the loan moneys regarding the progress of**
14 **the project and the economic public benefit, social and cultural public benefit and net envi-**
15 **ronmental public benefit realized from the project. The department shall provide copies of**
16 **the applicant reports received by the department during the biennium to an interim com-**
17 **mittee of the Legislative Assembly dealing with natural resources.**

18 **(5) The commission may establish reasonable fees for management, oversight or review**
19 **services that the department provides for a water development project. The fees shall be**
20 **deposited to the Water Development Administration and Bond Sinking Fund.**

21 **SECTION 27. Notwithstanding sections 23 and 25 of this 2009 Act, the Water Resources**
22 **Department may issue a grant under section 23 of this 2009 Act or a loan under section 25**
23 **of this 2009 Act to an agricultural water supplier that fails to adequately demonstrate water**
24 **measurement if:**

25 **(1) The water development project otherwise qualifies for that grant or loan as provided**
26 **under section 23 or 25 of this 2009 Act; and**

27 **(2) The department finds that:**

28 **(a) The applicant is seeking the grant or loan for the purpose of implementing water**
29 **measurement and the department has approved an implementation plan to ensure that the**
30 **water measurement requirement is met; or**

31 **(b) The applicant has secured funding from a source other than the state that will ensure**
32 **implementation of water measurement.**

33 **SECTION 28. The Water Resources Commission may adopt rules the commission con-**
34 **siders reasonable for the administration and enforcement of sections 18 to 27 of this 2009**
35 **Act.**

36 **SECTION 29. The Water Resources Department shall report to the Seventy-sixth Legis-**
37 **lative Assembly in the manner provided by ORS 192.245 no later than October 1, 2012, re-**
38 **garding the operation of the loan and grant programs described in sections 18 to 27 of this**
39 **2009 Act, including but not limited to:**

40 **(1) The number and types of jobs created by water development projects receiving loans**
41 **or grants from the department;**

42 **(2) Any studies conducted by the department or loan or grant recipients during the**
43 **2009-2011 biennium regarding peak and ecological flows in streams;**

44 **(3) Any recommendations by the department for legislative changes to improve the op-**
45 **eration of the loan and grant programs;**

1 (4) Any recommendations for changes to Article XI-I(1) of the Oregon Constitution to
2 be referred to the people;

3 (5) The total economic public benefit, social and cultural public benefit and net environ-
4 mental public benefit created as a result of loans and grants issued under sections 23 and
5 25 of this 2009 Act;

6 (6) An analysis of the effect of the requirement imposed under section 23 (2) of this 2009
7 Act;

8 (7) Estimated increases in state tax revenues generated by projects receiving grants or
9 loans;

10 (8) The gross dollar value of issued loans, the amount of loan reserves and the increase
11 the Water Development Fund attributable to the interest rate amount described in ORS
12 541.730 (3)(e); and

13 (9) Moneys generated from fees under sections 19, 20, 24 and 26 of this 2009 Act.

14
15 **TRANSITIONAL PROVISIONS**

16
17 **SECTION 30.** Section 23 of this 2009 Act is amended to read:

18 **Sec. 23.** (1) Subject to any additional qualifications or restrictions under sections 21, 22 or 24
19 of this 2009 Act or Water Resources Commission rules, the Water Resources Department may ap-
20 prove a grant application filed under section 19 of this 2009 Act if the department finds that:

21 (a) The plan for the construction of the proposed project complies with all applicable provisions
22 related to water well constructors under ORS 537.747 to 537.765, reservoirs and diversion dams un-
23 der ORS 540.340 and dams, dikes and hydraulic structures or works in ORS 540.350;

24 (b) Planned diversions of surface water include provision for fish screens and, if applicable,
25 volitional fish passage;

26 (c) The use of surface water or ground water from the project will be measured and reported;

27 (d) The applicant or beneficiaries of water from the project measure and report, or have sched-
28 uled and financed the measurement of, all existing water use at the point of diversion;

29 (e) There is a reasonable certainty that the project, considered in total, will deliver a measur-
30 able net environmental public benefit; and

31 (f) To the extent applicable, the project complies with subsection (2) or (3) of this section.

32 (2) A water storage project must be designed:

33 (a) To provide for no more than 75 percent of new stored water in the aquifer or above-ground
34 storage location of the project to be withdrawn for agricultural purposes and for not less than 25
35 percent of the new water to be dedicated for the purpose of providing net environmental public
36 benefits or in-stream benefits; and

37 (b) To the extent practicable, to return dedicated new stored water for stream augmentation at
38 a time of year that the Water Resources Department, in consultation with the State Department of
39 Fish and Wildlife and relevant tribal governments, determines will provide the maximum net envi-
40 ronmental public benefit or in-stream benefit.

41 (3) If more than 25 percent of the funding for a water storage project is from grants of state
42 moneys and is not subject to repayment, the project must be designed to dedicate for the purpose
43 of providing net environmental public benefit or in-stream benefit a percentage of the new stored
44 water created by the project that equals or exceeds the percentage of funding for the project that
45 is from grants of state moneys. The Water Resources Department shall manage the dedicated in-

1 increment of new stored water for net environmental public benefit or in-stream benefit.

2 (4) On or before the earlier of six years after the issuance of the ground water recharge permit
3 or the date the water right certificate is issued, the department shall quantify and legally protect
4 the increment of new water returned in stream from a project described in this section.

5 (5) The department shall require as a contractual condition for issuing the grant, and as a con-
6 dition of any new water permit or water right certificate, that if the project receives grants or loans
7 from state moneys other than a grant issued under this section, the project must be operated in a
8 manner that actually dedicates the percentage of new stored water for net environmental public
9 benefit or in-stream benefit that the project was designed to dedicate for those purposes.

10 (6) The department *[may]* **shall** require that a project protect peak and ecological flows to the
11 extent determined by the State Department of Fish and Wildlife to be necessary.

12 (7) The commission, by rule, may allow the Water Resources Department to waive any require-
13 ment of this section for the issuance of a grant, other than the requirement of a measurable net
14 environmental public benefit, if:

15 (a) The grant application requests less than \$20,000; or

16 (b) The project is a conservation, efficiency, restoration or reuse project that can be shown to
17 the satisfaction of the department to cause no harm to the source, any receiving stream, fish or
18 wildlife or existing water rights.

19 (8) This section and sections 19, 21, 22, 24 and 27 of this 2009 Act do not limit the authority
20 granted the Environmental Quality Commission or the Department of Environmental Quality under
21 ORS chapter 468B.

22 **SECTION 31.** Section 25 of this 2009 Act is amended to read:

23 **Sec. 25.** (1) The Water Resources Department, acting as agent for the Water Resources Com-
24 mission, may approve a loan for which an application is filed under section 20 of this 2009 Act, if
25 the department finds that:

26 (a) The loan meets any applicable qualifications or restrictions under Article XI-I(1) of the
27 Oregon Constitution, ORS 541.700 to 541.855, section 26 of this 2009 Act, Water Resources Com-
28 mission rules and bondholder agreements;

29 (b) The plan for the construction of the proposed project complies with all applicable provisions
30 related to water well constructors under ORS 537.747 to 537.765, reservoirs and diversion dams un-
31 der ORS 540.340 and dams, dikes and hydraulic structures or works in ORS 540.350;

32 (c) Planned diversions of surface water include provision for fish screens and, if applicable,
33 volitional fish passage;

34 (d) The use of surface water or ground water from the project will be measured and reported;

35 (e) The applicant or beneficiaries of water from the project measure and report, or have sched-
36 uled and financed the measurement of, all existing water use at the point of diversion;

37 (f) There is a reasonable certainty that the project will deliver a measurable net environmental
38 public benefit; and

39 (g) The project is designed to deliver in-stream benefits.

40 (2) The department *[may]* **shall** require that a project protect peak and ecological flows to the
41 extent determined by the State Department of Fish and Wildlife to be necessary.

42 (3) This section and sections 20 and 26 of this 2009 Act do not limit the authority granted the
43 Environmental Quality Commission or the Department of Environmental Quality under ORS chapter
44 468B.

45 **SECTION 32.** The amendments to sections 23 and 25 of this 2009 Act by sections 30 and

1 31 of this 2009 Act become operative January 2, 2012.

2 **SECTION 33.** (1) Notwithstanding sections 19 and 21 to 23 of this 2009 Act, but subject
3 to section 24 of this 2009 Act, the Water Resources Department shall waive the grant appli-
4 cation process described in sections 19 and 21 to 23 of this 2009 Act when issuing a grant for
5 water development projects that:

6 (a) Are located in an area of the Umatilla Basin for which an assessment has been per-
7 formed under chapter 13, Oregon Laws 2008; and

8 (b) Except as provided in subsection (2) of this section, are designed:

9 (A) To provide for no more than 75 percent of new stored water to be withdrawn and for
10 not less than 25 percent of the new water to be dedicated for the purpose of providing net
11 environmental public benefits or in-stream benefits; and

12 (B) To the extent practicable, to return dedicated new stored water for stream augmen-
13 tation at a time of year that the Water Resources Department, in consultation with the
14 State Department of Fish and Wildlife and relevant tribal governments, determines will
15 provide the maximum net environmental public benefit or in-stream benefit.

16 (2) If more than 25 percent of the funding for an aquifer storage and recovery project is
17 from grants of state moneys and is not subject to repayment, the project must be designed
18 to dedicate for the purpose of providing net environmental public benefit or in-stream benefit
19 a percentage of the new stored water created by the project that equals or exceeds the per-
20 centage of funding for the project that is from grants of state moneys. The Water Resources
21 Department shall manage the dedicated increment of new stored water for net environ-
22 mental public benefit and in-stream benefit.

23 (3) This section does not limit the authority granted the Environmental Quality Com-
24 mission or the Department of Environmental Quality under ORS chapter 468B.

25 (4) This section is repealed January 2, 2030.

26 **SECTION 34.** Sections 20, 25 and 26 of this 2009 Act are repealed January 2, 2024. The
27 repeal of sections 20, 25 and 26 of this 2009 Act by this section does not alter the terms of
28 any loan, contract or other agreement issued under section 20, 25 or 26 of this 2009 Act or
29 alter the conditions of any water permit or water right certificate that contains conditions
30 that are based upon sections 20, 25 or 26 of this 2009 Act.

31 **SECTION 35.** ORS 541.705, as amended by section 4 of this 2009 Act, is amended to read:

32 541.705. (1) *[Except as provided in section 20 of this 2009 Act for a water development project in*
33 *the Columbia River Basin,]* Any water developer may file with the Water Resources Commission an
34 application to enable the construction of a water development project as provided in ORS 541.700
35 to 541.855. The application shall be filed in the manner, be in the form and contain or be accompa-
36 nied by any information prescribed by the commission. The commission, in considering applications,
37 shall encourage the largest number of users of the Water Development Fund and shall consider the
38 impact on the family farm units of the state.

39 (2) In addition to other requirements prescribed by the commission, an application filed under
40 subsection (1) of this section shall:

41 (a) Describe the nature and purposes of the proposed water development project, including the
42 need for the project and reason why the project would be in the public interest.

43 (b) State whether any purposes other than improvement of a drinking water system, irrigation,
44 drainage, fish protection, watershed enhancement or municipal use, but consistent therewith, will
45 be served by the proposed water development project, and the nature of the other purposes, if any.

1 (c) Set forth or be accompanied by a feasibility study for the construction, operation and main-
2 tenance of the proposed water development project, an estimate of the costs of construction and if
3 the project includes as a primary purpose irrigation or drainage, an evaluation of the agricultural
4 potential of the land from any competent public agency.

5 (d) State whether any moneys other than those in the Water Development Fund are proposed
6 to be used for the construction of the proposed water development project, and whether any other
7 moneys are available or have been sought for the construction.

8 (e) Show that the applicant holds or can acquire all lands, other than public lands, and interests
9 therein and water rights necessary for the construction, operation and maintenance of the proposed
10 water development project.

11 (3) If the application is for a safe drinking water project, the applicant also shall demonstrate
12 that:

13 (a) The applicant is a city, county, district, water authority or other political subdivision of the
14 state or an organization operated on a not-for-profit basis that makes drinking water available to
15 members of the general public;

16 (b) The primary use of the loan will be to improve a drinking water system for the purpose of
17 complying with applicable state or federal drinking water quality regulations; and

18 (c) The applicant has:

19 (A) Developed a water system master plan; and

20 (B) Either has a coordination agreement in place as defined in ORS 195.020, 195.025 and 197.712
21 or can demonstrate that options to find a coordinated solution to the system's drinking water prob-
22 lems have been fully explored.

23 **SECTION 36.** ORS 541.710, as amended by section 5 of this 2009 Act, is amended to read:

24 541.710. (1) Upon receipt of an application filed as provided in ORS 541.705, the Water Resources
25 Commission shall determine whether the feasibility study described in ORS 541.705 for the water
26 development project set forth in or accompanying the application is satisfactory and if the commis-
27 sion determines that it is not satisfactory, the commission may:

28 (a) Reject the application;

29 (b) Require the applicant to submit additional information and revision of the feasibility study
30 as may be necessary; or

31 (c) Make such revisions of the feasibility study as the commission considers necessary to make
32 the plan satisfactory.

33 (2) Except as provided in subsection (3) of this section, [*for a loan application filed under ORS*
34 *541.705 or section 20 of this 2009 Act,*] the commission shall charge and collect from the applicant
35 at the time the application is filed an application fee equal to the lesser of 0.10 percent of the loan
36 applied for or \$2,500. In addition, the commission may require the applicant to pay for costs that
37 exceed the application fee if the Water Resources Director determines that the costs are incurred
38 solely in connection with processing the application. Before incurring the additional costs, the
39 commission shall advise the applicant of the additional costs to be paid by the applicant. Moneys
40 referred to in this subsection shall be paid into the Water Development Administration and Bond
41 Sinking Fund.

42 (3) The commission may establish a reduced application fee by rule for a water development
43 project that is for fish protection or for watershed enhancement.

44 **SECTION 37.** ORS 541.720, as amended by section 6 of this 2009 Act, is amended to read:

45 541.720. (1) The Water Resources Commission may approve the financing for the construction

1 of a water development project described in an application filed under ORS 541.705, [*or subject to*
2 *section 25 of this 2009 Act in an application filed under section 20 of this 2009 Act,*] using moneys in
3 the Water Development Fund secured by a first lien or by other good and sufficient collateral in the
4 manner provided in ORS 541.740 if, after investigation, the commission finds that:

5 (a) The proposed water development project is feasible and a reasonable risk from practical and
6 economic standpoints;

7 (b) The plan for the construction, operation and maintenance of the proposed water development
8 project is satisfactory and, if the primary purposes of the project include irrigation or drainage, the
9 agricultural potential is confirmed;

10 (c) The plan for construction and operation will provide multipurpose facilities, to the extent
11 practicable;

12 (d) The applicant is a qualified, credit-worthy and responsible water developer that meets the
13 standards established by commission rule and is willing and able to enter into a contract with the
14 commission for construction and repayment as provided in ORS 541.730;

15 (e) Moneys in the Water Development Fund are or will be available for the construction of the
16 proposed water development project;

17 (f) There is a need for the proposed water development project, the proposed project is in the
18 public interest and the applicant's financial resources are adequate to provide the working capital
19 needed to operate and maintain the project; and

20 (g) The construction cost associated with any secondary use does not exceed the construction
21 cost of the primary use of the water development project.

22 (2) ORS 541.700 to 541.855 do not limit the authority granted the Environmental Quality Com-
23 mission or the Department of Environmental Quality under ORS chapter 468B.

24 **SECTION 38.** ORS 541.765, as amended by section 9 of this 2009 Act, is amended to read:

25 541.765. In addition to those uses of moneys in the Water Development Fund otherwise provided
26 in ORS 541.700 to 541.855 [*or section 25 of this 2009 Act*], the Water Resources Commission may
27 authorize loans of such moneys to those persons to whom approval has been granted by the federal
28 government or any agency or instrumentality of the United States for the funding and construction
29 of federal water development projects. Any such person shall apply for a loan to the commission, in
30 such form as the commission prescribes, and shall furnish such proof of federal approval for funding
31 and construction as the commission considers appropriate.

32 **SECTION 39.** ORS 541.785, as amended by section 11 of this 2009 Act, is amended to read:

33 541.785. Except for the proceeds of refunding bonds, all moneys obtained from the sale of bonds
34 under ORS 541.780 to 541.815 shall be credited by the State Treasurer to the Water Development
35 Fund. Such moneys shall be used only for the purposes stated in Article XI-I (1), Oregon Constitu-
36 tion, and ORS 541.700, 541.705 to 541.770 and 541.835 [*and sections 25 and 26 of this 2009 Act*]. If
37 there are insufficient funds in the Water Development Administration and Bond Sinking Fund to
38 make the payments set forth in ORS 541.830, moneys in the Water Development Fund may be
39 transferred to the Water Development Administration and Bond Sinking Fund. Pending the use of
40 moneys in the Water Development Fund for the proper purposes, such moneys may be invested in
41 the manner provided by law.

42 **SECTION 40.** ORS 541.830, as amended by section 12 of this 2009 Act, is amended to read:

43 541.830. (1) There hereby is created the Water Development Administration and Bond Sinking
44 Fund, separate and distinct from the General Fund, to provide for payment of:

45 (a) Administrative expenses of the Water Resources Commission and the Water Resources De-

1 partment in processing applications, investigating proposed water development projects and federal
2 water development projects under ORS 541.700 to 541.855 and servicing and collecting outstanding
3 loans made under ORS 541.700 to 541.855 [*or section 25 of this 2009 Act*], if the expense is not paid
4 directly by the applicant, including principal and interest due on bonds outstanding. These admin-
5 istrative expenses also may include all costs associated with the issuance of bonds and the funding
6 of any credit enhancements or reserves determined to be necessary or advantageous in connection
7 with the bonds.

8 (b) Administrative expenses of the State Treasurer in carrying out the duties, functions and
9 powers imposed upon the State Treasurer by ORS 541.700 to 541.855.

10 (c) Principal and interest of all bonds issued pursuant to the provisions of ORS 541.780 to
11 541.815.

12 (2) The fund created by subsection (1) of this section shall consist of:

13 (a) Application fees and additional processing costs paid under ORS 541.710 and loan processing
14 fees under ORS 541.730.

15 (b) Repayments of moneys loaned to water developers from the Water Development Fund, in-
16 cluding interest on such moneys.

17 (c) Repayments of moneys loaned for the acquisition of easements and rights of way for federal
18 water development projects, including interest on such moneys.

19 (d) Such moneys as may be appropriated to the fund by the Legislative Assembly, including ap-
20 propriations dedicated to the partial payment for or repayment of projects affording public benefits.

21 (e) Moneys obtained from the sale of refunding bonds and any accrued interest on such bonds.

22 (f) Moneys received from ad valorem taxes levied pursuant to Article XI-I(1), Oregon Constitu-
23 tion, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

24 (g) Interest earned on cash balances invested by the State Treasurer.

25 (h) Any revenues received by the commission under the provisions of ORS 541.745.

26 (i) Moneys transferred from the Water Development Fund.

27 (3) The moneys referred to in subsection (2) of this section are continuously appropriated to the
28 commission for the purposes provided in subsection (1) of this section.

29 (4) The commission, with the approval of the Governor, may identify those projects financed
30 under the provisions of ORS 541.700 to 541.855 [*or section 25 of this 2009 Act*] that offer significant
31 public benefit, and recommend to the Legislative Assembly funding of those projects in proportion
32 to the public benefits offered.

33 (5) The commission, with the approval of the State Treasurer, may transfer moneys from the
34 fund created under subsection (1) of this section to the Water Development Fund if:

35 (a) A cash flow projection shows that the transfer will not have any negative impact on the
36 commission's ability to pay bond principal, interest and administration costs;

37 (b) The transfer will not create the need for issuance of any bonds; and

38 (c) The transfer, together with loans outstanding from prior transfers and not refinanced by
39 funds derived directly from a bond sale, does not exceed \$1.

40 (6) The transfer amount authorized by subsection (5) of this section may be increased by the
41 Emergency Board.

42 **SECTION 41.** ORS 541.850, as amended by section 14 of this 2009 Act, is amended to read:

43 541.850. The Water Resources Commission may accept gifts of money or other property from any
44 source, given for the purposes of ORS 541.700 and 541.705 to 541.770 [*or section 25 of this 2009*
45 *Act*]. Money so received shall be paid into the Water Development Fund. Money or other property

1 so received shall be used for the purposes for which received.

2 **SECTION 42.** Section 21 of this 2009 Act is amended to read:

3 **Sec. 21.** (1) If an application filed under section 19 [or 20] of this 2009 Act lacks any required
4 information, the Water Resources Department may reject the application or require the applicant
5 to submit additional information.

6 (2) Upon receipt of a completed application filed under section 19 [or 20] of this 2009 Act, the
7 department shall provide public notice by posting the application on the department's website for a
8 60-day period prior to issuing a [loan or] grant to the applicant.

9 (3) The department shall provide for the receipt of public comment on the application during the
10 60-day period that the application is posted on the department website, as specified by the Water
11 Resources Commission by rule.

12 (4) The department shall review the application information filed under section 19 [or 20] of this
13 2009 Act. The department shall commence the assessment no later than 60 days after receiving the
14 application.

15 (5) The department shall assess each project in consultation with the State Department of Fish
16 and Wildlife, the State Parks and Recreation Department the Department of Environmental Quality
17 and affected tribal governments, and with other interested parties as appropriate. If a project may
18 affect agricultural use, the Water Resources Department shall also assess the project in consultation
19 with the State Department of Agriculture.

20 (6) In assessing the net environmental public benefit of the project, the Water Resources De-
21 partment shall weigh the project's various environmental impacts on, and enhancements to, all of
22 the forms of environmental benefit described in section 18 (2) of this 2009 Act.

23 **SECTION 43.** Section 27 of this 2009 Act is amended to read:

24 **Sec. 27.** Notwithstanding [sections 23 and 25] **section 23** of this 2009 Act, the Water Resources
25 Department may issue a grant under section 23 of this 2009 Act [or a loan under section 25 of this
26 2009 Act] to an agricultural water supplier that fails to adequately demonstrate water measurement
27 if:

28 (1) The water development project otherwise qualifies for that grant [or loan] as provided under
29 section 23 [or 25] of this 2009 Act; and

30 (2) The department finds that:

31 (a) The applicant is seeking the grant [or loan] for the purpose of implementing water meas-
32 urement and the department has approved an implementation plan to ensure that the water meas-
33 urement requirement is met; or

34 (b) The applicant has secured funding from a source other than the state that will ensure im-
35 plementation of water measurement.

36
37 **INTEGRATED WATER RESOURCES STRATEGY**

38
39 **SECTION 44.** ORS 536.220 is amended to read:

40 536.220. (1) The Legislative Assembly recognizes and declares that:

41 (a) The maintenance of the present level of the economic and general welfare of the people of
42 this state and the future growth and development of this state for the increased economic and gen-
43 eral welfare of the people thereof are in large part dependent upon a proper utilization and control
44 of the water resources of this state, and such use and control is therefore a matter of greatest
45 concern and highest priority.

1 (b) A proper utilization and control of the water resources of this state can be achieved only
2 through a coordinated, integrated state water resources policy, through plans and programs for the
3 development of such water resources and through other activities designed to encourage, promote
4 and secure the maximum beneficial use and control of such water resources, all carried out by a
5 single state agency.

6 (c) The economic and general welfare of the people of this state have been seriously impaired
7 and are in danger of further impairment by the exercise of some single-purpose power or influence
8 over the water resources of this state or portions thereof by each of a large number of public au-
9 thorities, and by an equally large number of legislative declarations by statute of single-purpose
10 policies with regard to such water resources, resulting in friction and duplication of activity among
11 such public authorities, in confusion as to what is primary and what is secondary beneficial use or
12 control of such water resources and in a consequent failure to utilize and control such water re-
13 sources for multiple purposes for the maximum beneficial use and control possible and necessary.

14 (2) The Legislative Assembly, therefore, finds that:

15 (a) It is in the interest of the public welfare that a coordinated, integrated state water resources
16 policy be formulated and means provided for its enforcement, that plans and programs for the de-
17 velopment and enlargement of the water resources of this state be devised and promoted and that
18 other activities designed to encourage, promote and secure the maximum beneficial use and control
19 of such water resources and the development of additional water supplies be carried out by a single
20 state agency which, in carrying out its functions, shall give proper and adequate consideration to
21 the multiple aspects of the beneficial use and control of such water resources with an impartiality
22 of interest except that designed to best protect and promote the public welfare generally.

23 (b) The state water resources policy shall be consistent with the goal set forth in ORS 468B.155.

24 **(3)(a) The Water Resources Department shall develop an integrated state water re-**
25 **sources strategy to implement the state water resources policy specified in subsection (2)**
26 **of this section. The department shall design the strategy to meet Oregon's in-stream and**
27 **out-of-stream water needs.**

28 **(b) The Water Resources Department shall work in close cooperation with the Depart-**
29 **ment of Environmental Quality and the State Department of Fish and Wildlife to develop the**
30 **integrated state water resources strategy in consultation with other state, local and federal**
31 **agencies, with other states, with Indian tribes, with stakeholders and with the public.**

32 **(c) The Water Resources Department, in close cooperation with the Department of En-**
33 **vironmental Quality and the State Department of Fish and Wildlife, shall develop data on an**
34 **ongoing basis to forecast Oregon's in-stream and out-of-stream water needs, including but**
35 **not limited to in-stream, underground water, human consumption and water supply needs,**
36 **for the purpose of developing and updating the integrated state water resources strategy.**

37 **(d) The integrated water resources strategy shall describe the following:**

38 **(A) Oregon's in-stream and out-of-stream water needs, including but not limited to**
39 **ecosystem services, water quality and water supply needs.**

40 **(B) Objectives of the strategy.**

41 **(C) Actions that are designed to achieve the objectives of the strategy.**

42 **(D) Plans related to the challenges presented by climate change.**

43 **(E) Provisions to ensure communication and partnership with key stakeholders.**

44 **(F) Specific functions and roles to be played by state agencies, including but not limited**
45 **to the State Department of Agriculture, the State Forestry Department, the Department of**

1 Human Services, the Economic and Community Development Department, the Department
2 of Land Conservation and Development, the Oregon Watershed Enhancement Board, the
3 State Parks and Recreation Department, the Department of State Lands and other relevant
4 state agencies.

5 (G) Public policy options and recommendations.

6 (H) Relevant strategy factors, including but not limited to population growth and land
7 use change.

8 (I) Recommendations of the Water Resources Department regarding the continuous
9 monitoring of climate change effects on Oregon's water supply and regarding water user
10 actions that are necessary to address climate change.

11 (e)(A) The Water Resources Commission shall give the Environmental Quality Commis-
12 sion, the State Department of Agriculture and the State Department of Fish and Wildlife
13 notice of the integrated state water resources strategy prior to adoption of the strategy. The
14 strategy shall take effect upon adoption by the Water Resources Commission.

15 (B) The Water Resources Commission shall review and update the integrated state water
16 resources strategy every five years. The Water Resources Commission shall give notice to
17 the Environmental Quality Commission, the State Department of Agriculture and the State
18 Department of Fish and Wildlife prior to adopting any revisions of the strategy. Revisions
19 of the strategy shall take effect upon the Water Resources Commission's adoption of the
20 revised strategy by reference in rule.

21 (4) This section does not limit the authority granted the Environmental Quality Com-
22 mission or the Department of Environmental Quality under ORS chapter 468B.

23 **SECTION 45.** (1) The Water Resources Department shall, working in close cooperation
24 with the Department of Environmental Quality, the State Department of Agriculture and the
25 State Department of Fish and Wildlife, submit a report by February 1, 2011, to the Seventy-
26 sixth Legislative Assembly, in the manner provided in ORS 192.245, detailing benchmarks and
27 progress toward the development of the integrated state water resources strategy. The re-
28 port must include a discussion of whether the Water Resources Department expects to
29 complete development of the strategy by December 31, 2012.

30 (2) As part of the report specified in subsection (1) of this section, the Water Resources
31 Department, working in close cooperation with the Department of Environmental Quality,
32 the State Department of Fish and Wildlife and other state agencies, may identify legislative
33 amendments and submit budget recommendations, including but not limited to requests for
34 a long-term, dedicated funding source to implement the integrated state water resources
35 strategy.

36
37 **APPLICABILITY**

38
39 **SECTION 46.** (1) Sections 18 to 27 of this 2009 Act and the amendments to ORS 541.700,
40 541.705, 541.710, 541.720, 541.730, 541.740, 541.765, 541.770, 541.785, 541.830, 541.845 and 541.850
41 by sections 3 to 14 of this 2009 Act apply to loans from the Water Development Fund for
42 which an application is filed on or after April 1, 2010.

43 (2) The repeal of ORS 541.755 by section 15 of this 2009 Act becomes operative April 1,
44 2010.

45 (3) The amendments to ORS 541.705, 541.710, 541.720, 541.765, 541.785, 541.830 and 541.850

1 **and sections 21 and 27 of this 2009 Act by sections 35 to 43 of this 2009 Act become operative**
2 **January 2, 2024.**

3
4 **CAPTIONS**

5
6 **SECTION 47. The unit captions used in this 2009 Act are provided only for the conven-**
7 **ience of the reader and do not become part of the statutory law of this state or express any**
8 **legislative intent in the enactment of this 2009 Act.**

9
10 **EMERGENCY**

11
12 **SECTION 48. This 2009 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
14 **July 1, 2009.**

15 _____