

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3369

By JOINT COMMITTEE ON WAYS AND MEANS

June 26

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the rest of the line and
2 delete lines 3 and 4 and insert “536.220, 541.700, 541.705, 541.710, 541.720, 541.730, 541.740, 541.765,
3 541.770, 541.785, 541.830, 541.845 and 541.850; repealing ORS 541.755; appropriating money; and de-
4 claring an emergency.”.

5 In line 12, after “future” insert “in-stream and out-of-stream”.

6 In line 13, after “address” insert “in-stream and out-of-stream”.

7 On page 2, after line 13, insert:

8 “Whereas water development projects that deliver mutual benefits for water users, the envi-
9 ronment and the fiscal condition of this state should be funded or financed with public dollars;
10 and”.

11 Delete lines 16 through 45 and delete pages 3 through 16 and insert:

“ADDING

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15 “**SECTION 1.** (1) **Section 2 of this 2009 Act is added to and made a part of ORS 541.700**
16 **to 541.855.**

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

“WATER DEVELOPMENT FUND

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

29 “**SECTION 3.** ORS 541.700 is amended to read:

30 “541.700. As used in ORS 541.700 to 541.855, unless the context requires otherwise:

31 “(1) ‘Commission’ means the Water Resources Commission appointed under ORS 536.022.

32 “(2) ‘Construction’ means the construction, or improvement or rehabilitation, in whole or in part,
33 of a water development project, including planning and engineering work, purchasing or refinancing
34 directly related to such construction or improvement or rehabilitation, or any combination of such
35 construction or improvement or rehabilitation. As used in this subsection:

1 “(a) ‘Purchasing’ means the purchasing of materials, land or existing facilities necessary to
2 complete a water development project.

3 “(b) ‘Refinancing’ includes refinancing existing debt of a water developer, as defined in sub-
4 section (7)(f) to (m) and (o) of this section, in order to complete a water development project or to
5 provide adequate security for a water development loan, but does not include refinancing existing
6 debt only to reduce interest rates or costs to the borrower or to pay off existing debt.

7 “(3) ‘Director’ means the Water Resources Director appointed pursuant to ORS 536.032.

8 “(4) ‘Federal water development project’ means any water development project that receives
9 funding from the federal government, or any agency or instrumentality of the United States.

10 “(5)(a) ‘Secondary use’ means:

11 “(A) Any water-related recreational use.

12 “(B) Any flood control use.

13 “(C) Any power generation use.

14 “(D) Any water supply system utilized as a domestic water system for the benefit of an individ-
15 ual residence related to the operation of the water development project.

16 “(b) ‘Secondary use’ does not include any use that is incompatible with a water development
17 project.

18 “(6) ‘Water development project’ means:

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

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

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

36 “(d) An undertaking, in whole or in part, in this state for the purpose of fish protection, in-
37 cluding fish screening or by-pass devices, fishways and all other structures and facilities necessary
38 or convenient for providing fish protection.

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

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

1 “(7) ‘Water developer’ means:
2 “(a) Any individual resident of this state;
3 “(b) Any partnership for profit subject to the provisions of ORS chapter 67 or 70, whose princi-
4 pal income is from farming in Oregon;
5 “(c) Any corporation for profit subject to the provisions of ORS chapter 60, whose principal in-
6 come is from farming in Oregon;
7 “(d) Any nonprofit corporation subject to the provisions of ORS chapter 65, whose principal in-
8 come is from farming in Oregon;
9 “(e) Any cooperative subject to the provisions of ORS chapter 62, whose principal income is
10 from farming in Oregon;
11 “(f) Any irrigation district organized under or subject to ORS chapter 545;
12 “(g) Any water improvement district organized under ORS chapter 552;
13 “(h) Any water control district organized under ORS chapter 553;
14 “(i) Any irrigation or drainage corporation organized under or subject to ORS chapter 554;
15 “(j) Any drainage district organized under ORS chapter 547 or subject to all or part of ORS
16 chapter 545;
17 “(k) Any corporation, cooperative, company or other association formed prior to 1917 for the
18 purpose of distributing water for irrigation purposes;
19 “(L) Any port district organized under ORS 777.005 to 777.725, 777.915 to 777.953 and 777.990;
20 “(m) Any city or county;
21 “(n) Any organization formed for the purpose of distributing water for community water supply;
22 or
23 “(o) Any local soil and water conservation district organized under ORS 568.210 to 568.808 and
24 568.900 to 568.933.
25 “**SECTION 4.** ORS 541.705 is amended to read:
26 “541.705. (1) **Except as provided in section 20 of this 2009 Act for a water development**
27 **project in the Columbia River Basin,** any water developer may file with the Water Resources
28 Commission an application to enable the construction of a water development project as provided
29 in ORS 541.700 to 541.855. The application shall be filed in the manner, be in the form and contain
30 or be accompanied by any information prescribed by the commission. The commission, in considering
31 applications, shall encourage the largest number of users of the Water Development Fund and shall
32 consider the impact on the family farm units of the state.
33 “(2) In addition to other requirements prescribed by the commission, an application filed under
34 subsection (1) of this section shall:
35 “(a) Describe the nature and purposes of the proposed water development project, including the
36 need for the project and reason why the project would be in the public interest.
37 “(b) State whether any purposes other than improvement of a drinking water system, irrigation,
38 drainage, fish protection, watershed enhancement or municipal use, but consistent therewith, will
39 be served by the proposed water development project, and the nature of the other purposes, if any.
40 “(c) Set forth or be accompanied by a feasibility study for the construction, operation and
41 maintenance of the proposed water development project, an estimate of the costs of construction and
42 if the project includes as a primary purpose irrigation or drainage, an evaluation of the agricultural
43 potential of the land from any competent public agency.
44 “(d) State whether any moneys other than those in the Water Development Fund are proposed
45 to be used for the construction of the proposed water development project, and whether any other

1 moneys are available or have been sought for the construction.

2 “(e) Show that the applicant holds or can acquire all lands, other than public lands, and inter-
3 ests therein and water rights necessary for the construction, operation and maintenance of the
4 proposed water development project.

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

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

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

12 “(c) The applicant has:

13 “(A) Developed a water system master plan; and

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

17 “**SECTION 5.** ORS 541.710 is amended to read:

18 “541.710. (1) Upon receipt of an application filed as provided in ORS 541.705, the Water Re-
19 sources Commission shall determine whether the feasibility study described in ORS 541.705 for the
20 water development project set forth in or accompanying the application is satisfactory and if the
21 commission determines that it is not satisfactory, the commission may:

22 “(a) Reject the application;

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

25 “(c) Make such revisions of the feasibility study as the commission considers necessary to make
26 the plan satisfactory.

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

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

40 “**SECTION 6.** ORS 541.720 is amended to read:

41 “541.720. (1) The Water Resources Commission may approve the financing for the construction
42 of a water development project described in an application filed [*as provided in*] **under ORS**
43 **541.705, or subject to section 25 of this 2009 Act in an application filed under section 20 of this**
44 **2009 Act**, using moneys in the Water Development Fund[,] secured by a first[, *parity or second*] lien
45 **or by other good and sufficient collateral** in the manner provided in ORS 541.740 if, after inves-

1 tigation, the commission finds that:

2 “[1] (a) The proposed water development project is feasible and a reasonable risk from prac-
3 tical and economic standpoints;

4 “[2] (b) The plan for the construction, operation and maintenance of the proposed water de-
5 velopment project is satisfactory and, if the primary purposes of the project include irrigation or
6 drainage, the agricultural potential is confirmed;

7 “[3] (c) The plan for construction and operation will provide multipurpose facilities, to the
8 extent practicable;

9 “[4] (d) The applicant is a qualified, credit-worthy and responsible water developer **that meets**
10 **the standards established by commission rule** and is willing and able to enter into a contract
11 with the commission for construction and repayment as provided in ORS 541.730;

12 “[5] (e) Moneys in the Water Development Fund are or will be available for the construction
13 of the proposed water development project;

14 “[6] (f) There is a need for the proposed water development project, the proposed project is in
15 the public interest and the applicant’s financial resources are adequate to provide the working
16 capital needed to operate and maintain the project; and

17 “[7] (g) The construction cost associated with any secondary use does not exceed the con-
18 struction cost of the primary use of the water development project.

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

21 **“SECTION 7.** ORS 541.730 is amended to read:

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

27 “[1] (a) That the commission, on behalf of the state, must approve the arrangements made by
28 the applicant for the construction, operation and maintenance of the water development project,
29 using moneys in the Water Development Fund for the construction.

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

35 “[*a*] *Shall provide for commencement of repayment by the water developer of moneys used for*
36 *construction and interest thereon not later than two years after the date of the loan contract or at such*
37 *other time as the commission may provide;]*

38 “[*b*] *May provide for reasonable extension of the time for making any repayment in emergency or*
39 *hardship circumstances, if approved by the commission;]*

40 “[*c*] *Shall provide for such evidence of debt assurance of and security for repayment by the ap-*
41 *plicant as are considered necessary or proper by the commission; and]*

42 “[*d*] *Shall set forth a schedule of payments and the period of loan which shall not exceed the us-*
43 *able life of the constructed project, or 30 years from the date of the first payment due under the fi-*
44 *ancial plan, whichever is less, and shall also set forth the manner of determining when loan payments*
45 *are delinquent. The payment schedule shall include repayment of interest which accrues during any*

1 *period of delay in repayment authorized by paragraph (a) of this subsection, and the payment schedule*
2 *may require payments of varying amounts for collection of such accrued interest.]*

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

5 “[3] (c) Provisions satisfactory to the commission for field engineering and inspection, the
6 commission to be the final judge of completion of the contract.

7 “[4] (d) That the liability of the state under the contract is contingent upon the availability
8 of moneys in the Water Development Fund for use in the construction, operation and maintenance
9 of the water development project.

10 “[5] (e) Such further provisions as the commission considers necessary to *[insure]* **ensure** ex-
11 penditure of the funds for the purposes set forth in the approved application.

12 “[6] (f) That the commission may institute an appropriate action or suit to prevent use of the
13 facilities of a water development project financed by the Water Development Fund by any person
14 who is delinquent in the repayment of any moneys due the Water Development Administration and
15 Bond Sinking Fund.

16 “[7] (g) That a loan for a water development project is assignable or transferable to a third
17 party only with the prior approval of the commission.

18 **“(2) The commission may approve a loan assignment or transfer only if the commission finds**
19 **that the assignee or transferee qualifies as a water developer as defined in ORS 541.700 (7) and the**
20 **assignment or transfer does not have serious adverse effect upon the family farm unit structure in**
21 **this state.**

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

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

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

27 **“(c) All bond-related costs;**

28 **“(d) The establishment of Water Development Administration and Bond Sinking Fund**
29 **reserves; and**

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

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

34 **“(5) The repayment plan:**

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

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

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

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

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

1 “(f) Shall include repayment of interest that accrues during any period of delay in re-
2 payment authorized by paragraph (a) of this subsection, and may require payments of vary-
3 ing amounts for collection of that accrued interest.

4 “(g) May include provisions in addition to the provisions described in paragraphs (a) to
5 (f) of this subsection.

6 “**SECTION 8.** ORS 541.740 is amended to read:

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

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

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

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

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

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

1 of Oregon has a lien against such real property as provided in subsection (1) or (2) of this section.

2 “(5) Upon payment of all amounts loaned to a water developer pursuant to ORS 541.700 to
3 541.855, the commission shall file with each recording officer referred to in subsection (4) of this
4 section a satisfaction notice that indicates repayment of the loan.

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

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

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

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

15 “(b) Does not impair the ability to pay the administrative expenses of the commission or the
16 obligations of any bonds outstanding; and

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

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

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

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

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

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

31 “(10)(a) Upon application by a water developer, the commission may grant a partial release of
32 security when the commission determines that granting the requested release will not jeopardize the
33 water development loan program’s security position.

34 “(b) The remaining property must qualify as security for the loan balance under the applicable
35 law.

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

38 “**SECTION 9.** ORS 541.765 is amended to read:

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

1 “**SECTION 10.** ORS 541.770 is amended to read:

2 “541.770. If the Water Resources Commission approves an application for the loan of moneys
3 authorized by ORS 541.765, the commission shall enter into a loan contract with the borrower that
4 provides, among other matters:

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

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

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

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

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

17 “**SECTION 11.** ORS 541.785 is amended to read:

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

27 “**SECTION 12.** ORS 541.830 is amended to read:

28 “541.830. (1) There hereby is created the Water Development Administration and Bond Sinking
29 Fund, separate and distinct from the General Fund, to provide for payment of:

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

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

40 “(c) Principal and interest of all bonds issued pursuant to the provisions of ORS 541.780 to
41 541.815.

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

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

45 “(b) Repayments of moneys loaned to water developers from the Water Development Fund, in-

1 cluding interest on such moneys.

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

4 “(d) Such moneys as may be appropriated to the fund by the Legislative Assembly, including
5 appropriations dedicated to the partial payment for or repayment of projects affording public bene-
6 fits.

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

8 “(f) Moneys received from ad valorem taxes levied pursuant to Article XI-I(1), Oregon Consti-
9 tution, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

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

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

12 “(i) Moneys transferred from the Water Development Fund.

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

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

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

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

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

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

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

28 “**SECTION 13.** ORS 541.845 is amended to read:

29 “541.845. (1) In accordance with the applicable provisions of ORS chapter 183, the Water Re-
30 sources Commission may adopt rules necessary to carry out ORS 541.700 to 541.855.

31 “(2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drink-
32 ing water projects, the commission shall coordinate the Water Resources Department’s rulemaking
33 process with the Economic and Community Development Department and the Department of Human
34 Services in order to ensure that rules adopted under this subsection are consistent with rules
35 adopted under ORS 285B.563 and 431.120. The rules adopted under this subsection shall:

36 “(a) Require the installation of meters on all new active service connections from any municipal
37 drinking water distribution lines funded under ORS 285B.560 to 285B.599, 431.120, 541.700, 541.705,
38 [541.755,] 541.765, 541.830 and 541.845; and

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

41 “(3) As used in this section, ‘service connection’ does not include fire hydrants, fire sprinkler
42 system connections, line blow-offs and drains, standby emergency interties, valve controlled drinking
43 fountains and other similar intermittently used connections.

44 “**SECTION 14.** ORS 541.850 is amended to read:

45 “541.850. The Water Resources Commission may accept gifts of money or other property from

1 any source, given for the purposes of ORS 541.700 and 541.705 to 541.770 or section 25 of this 2009
2 Act. Money so received shall be paid into the Water Development Fund. Money or other property
3 so received shall be used for the purposes for which received.

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

5
6 **“WATER INVESTMENT GRANT FUND**

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

14 **“(2) The Water Investment Grant Fund consists of the following:**

15 **“(a) Moneys appropriated to the fund by the Legislative Assembly.**

16 **“(b) Any moneys that may be transferred to the fund by the federal government, a state**
17 **agency or a local government.**

18 **“(c) Any bond proceeds authorized for deposit to the fund.**

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

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

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

25 **“(A) An Indian tribe as defined in ORS 391.802;**

26 **“(B) A person as defined in ORS 536.007; or**

27 **“(C) A for-profit or nonprofit cooperative.**

28 **“(b) The department may not issue a grant from the fund to a municipality or a provider**
29 **of water for municipal purposes.**

30
31 **“UMATILLA BASIN PROJECTS**

32
33 **SECTION 17. (1) As used in this section, ‘critical ground water storage project’ means**
34 **an underground or below-ground storage of river water in a critical ground water area des-**
35 **ignated under ORS 537.730 for use in:**

36 **“(a) Aquifer storage and recovery as described in ORS 537.534 and streamflow augmen-**
37 **tation and restoration; or**

38 **“(b) Recharging ground water basins and reservoirs as described in ORS 537.135 and**
39 **streamflow augmentation and restoration.**

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

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

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

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

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

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

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

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

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

28
29 “DEFINITIONS
30

31 “SECTION 18. As used in sections 18 to 27 of this 2009 Act:

32 “(1) ‘Economic public benefit’ means the improvement of economic conditions that relate
33 to one or more of the following:

34 “(a) Job creation;

35 “(b) Encouragement of economic investments;

36 “(c) Increases in state revenues;

37 “(d) Protection of public resource lands;

38 “(e) Increases in the efficiency of state spending; and

39 “(f) Other activities that enhance economic activity within the state.

40 “(2) ‘Net environmental public benefit’ means the improvement of ecological conditions,
41 compared with a preproject baseline, that relate to one or more of the following:

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

45 “(b) Stream flow conditions that support the life stages of native fish species or that will

1 allow for the reintroduction of native fish species.

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

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

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

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

10 “(g) Ground water quality or quantity.

11 “(h) Aquatic or riparian habitat restoration or enhancement.

12 “(i) Eliminating nonpoint source pollutant transport.

13 “(3) ‘Secondary use’ has the meaning given that term in ORS 541.700.

14 “(4) ‘Social and cultural public benefit’ means the improvement of conditions that relate
15 to one or more of the following:

16 “(a) Promoting public health and welfare;

17 “(b) Recreational use;

18 “(c) Outdoor schools; and

19 “(d) Hunting and fishing.

20 “(5) ‘Water conservation’ means an undertaking that results in:

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

22 “(b) An increase in water use efficiency; or

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

24 “(6) ‘Water development project’ means:

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

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

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

28 “(B) Streamflow restoration; or

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

31 “(c) Secondary uses in conjunction with projects described in paragraph (b) of this sub-
32 section.

33
34 “APPLICATIONS

35
36 “SECTION 19. (1) Any person or entity described in section 16 of this 2009 Act may file
37 an application with the Water Resources Department for a grant from the Water Investment
38 Grant Fund to enable the construction of a water development project located in the
39 Columbia River Basin.

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

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

43 “(b) An analysis of the need for the project and for the water that the project is intended
44 to deliver.

45 “(c) Identification and description of the project components sufficient to meet the con-

1 **ditions for project funding approval under section 23 of this 2009 Act.**

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

3 **“(A) The costs of the project; and**

4 **“(B) Information about the financial and other aspects of the operation and maintenance**
5 **plans for the project.**

6 **“(e) Suggestions for interim and long-term project performance benchmarks.**

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

8 **“(A) Expected economic public benefits.**

9 **“(B) Expected social and cultural public benefits.**

10 **“(C) Expected net environmental public benefits.**

11 **“(g) An evaluation of the potential impact on water quality, based upon water quality**
12 **standards.**

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

15 **“(i) Letters of support for the proposed water resource development project.**

16 **“(j) If the project has not previously received state funding, a statement regarding**
17 **whether other moneys are available or have been sought or received for the implementation**
18 **of the project.**

19 **“(k) Information sufficient to demonstrate that the amount of the requested funding will**
20 **be matched by the funding from another source that is not less than a dollar-for-dollar**
21 **match.**

22 **“(L) Any other information required by the department.**

23 **“(3) If the project will receive surface water impounded from a perennial stream, water**
24 **diverted from a stream that supports sensitive, threatened or endangered fish, or more than**
25 **500 acre-feet of diverted surface water annually, in addition to the other information re-**
26 **quired under this section the application shall include the following completed studies:**

27 **“(a) An analysis of by-pass, optimum peak, flushing and other ecological flows of the af-**
28 **ected stream and of the impact of the project on those flows, that conforms to standards**
29 **set by the department in consultation with the State Department of Fish and Wildlife and**
30 **other relevant agencies;**

31 **“(b) An independent comparative analysis of alternative means of supplying the water**
32 **intended to be generated by the project, including but not limited to the costs and benefits**
33 **of conservation, reuse and alternatives and the extent to which long-term water supply needs**
34 **may be met using those alternatives; and**

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

38 **“(4) If the applicant is an agricultural water supplier, the applicant must have an ap-**
39 **proved agriculture water management and conservation plan, have submitted a completed**
40 **agricultural water management and conservation plan to the Water Resources Department**
41 **for approval or be in the process of completing or updating a water management and con-**
42 **servation plan.**

43 **“(5) The commission may establish fees for filing applications for a grant under this**
44 **section. Moneys from the application fees established by the commission shall be deposited**
45 **to the Water Investment Grant Fund.**

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

4 “SECTION 20. (1) A water developer, as defined in ORS 541.700, shall file an application
5 for a loan from the Water Development Fund as provided in this section instead of under
6 ORS 541.705 if:

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

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

10 “(c) The moneys from which the loan is to be funded were provided under an appropri-
11 ation that dedicates the moneys for use under this section or for loans of a type described
12 in this subsection made to applicants of a type described in this subsection.

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

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

16 “(b) An analysis of the need for the project and for the water that the project is intended
17 to deliver.

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

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

21 “(A) The costs of the project; and

22 “(B) Information about the financial and other aspects of the operation and maintenance
23 plans for the project.

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

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

26 “(A) Expected economic public benefits.

27 “(B) Expected social and cultural public benefits.

28 “(C) Expected net environmental public benefits.

29 “(g) An evaluation of the potential impact on water quality, based upon water quality
30 standards.

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

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

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

37 “(k) A description of a loan repayment plan.

38 “(L) Any other information required by the department.

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

40 “(4) If the project will receive surface water impounded from a perennial stream, water
41 diverted from a stream that supports sensitive, threatened or endangered fish, or more than
42 500 acre-feet of diverted surface water annually, in addition to the other information re-
43 quired under this section the application shall include the following completed studies:

44 “(a) An analysis of by-pass, optimum peak, flushing and other ecological flows of the af-
45 fected stream and of the impact of the project on those flows, that conforms to standards

1 set by the department in consultation with the State Department of Fish and Wildlife and
2 other relevant agencies;

3 “(b) An independent comparative analysis of alternative means of supplying the water
4 intended to be generated by the project, including but not limited to the costs and benefits
5 of conservation, reuse and alternatives and the extent to which long-term water supply needs
6 may be met using those alternatives; and

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

10 “(5) If the applicant is an agricultural water supplier, the applicant must have an ap-
11 proved agriculture water management and conservation plan, have submitted a completed
12 agricultural water management and conservation plan to the Water Resources Department
13 for approval or be in the process of completing or updating a water management and con-
14 servation plan.

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

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

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

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

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

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

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

37 “(6) In assessing the net environmental public benefit of the project, the Water Re-
38 sources Department shall weigh the project’s various environmental impacts on, and en-
39 hancements to, all of the forms of environmental benefit described in section 18 (2) of this
40 2009 Act.

41 “SECTION 22. (1) The Water Resources Commission shall adopt rules establishing
42 guidelines for the Water Resources Department’s review of applications for a grant filed
43 under section 19 of this 2009 Act and for the assessment of projects for which grants are
44 sought. The guidelines shall include:

45 “(a) Evaluation of the awarding of grants as a financial incentive to accomplish the goals

1 of the grant program;

2 “(b) Consideration of the financial needs of applicants and other special circumstances;
3 and

4 “(c) Consideration of the economic public benefit, social and cultural public benefit and
5 net environmental public benefit of the project.

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

7 “(a) Recharge aquifers in limited and critical ground water areas;

8 “(b) Are designed to deliver the greatest net environmental public benefit;

9 “(c) Include in-stream flow restoration components;

10 “(d) Conserve water; or

11 “(e) Are water storage projects that provide for stored water to be used for restoring or
12 augmenting streamflows in a manner that conserves, maintains and enhances water quality,
13 aquatic life, fish life or other ecological values.

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

15 “(a) Local support for the project;

16 “(b) Oregon’s in-stream and out-of-stream water needs as influenced by existing and an-
17 ticipated climate change;

18 “(c) The project’s potential to facilitate economic development;

19 “(d) The projected impact of the project on public health matters relating to water; and

20 “(e) Statewide water needs.

21 “(4) The commission shall adopt rules for use by the Water Resources Department in
22 assessing the net environmental public benefits of a project under section 21 of this 2009 Act.
23 The commission must consult with, and provide a 60-day period for the receipt of comment
24 from, the State Department of Fish and Wildlife, the State Parks and Recreation Depart-
25 ment, the State Department of Agriculture and the Department of Environmental Quality
26 before the commission adopts a rule described in this subsection.

27
28 “LOANS AND GRANTS
29

30 “SECTION 23. (1) Subject to any additional qualifications or restrictions under sections
31 21, 22 or 24 of this 2009 Act or Water Resources Commission rules, the Water Resources
32 Department may approve a grant application filed under section 19 of this 2009 Act if the
33 department finds that:

34 “(a) The plan for the construction of the proposed project complies with all applicable
35 provisions related to water well constructors under ORS 537.747 to 537.765, reservoirs and
36 diversion dams under ORS 540.340 and dams, dikes and hydraulic structures or works in ORS
37 540.350;

38 “(b) Planned diversions of surface water include provision for fish screens and, if appli-
39 cable, volitional fish passage;

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

42 “(d) The applicant or beneficiaries of water from the project measure and report, or have
43 scheduled and financed the measurement of, all existing water use at the point of diversion;

44 “(e) There is a reasonable certainty that the project, considered in total, will deliver a
45 measurable net environmental public benefit; and

1 “(f) To the extent applicable, the project complies with subsection (2) or (3) of this sec-
2 tion.

3 “(2) A water storage project must be designed:

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

8 “(b) To the extent practicable, to return dedicated new stored water for stream aug-
9 mentation at a time of year that the Water Resources Department, in consultation with the
10 State Department of Fish and Wildlife and relevant tribal governments, determines will
11 provide the maximum net environmental public benefit or in-stream benefit.

12 “(3) If more than 25 percent of the funding for a water storage project is from grants
13 of state moneys and is not subject to repayment, the project must be designed to dedicate
14 for the purpose of providing net environmental public benefit or in-stream benefit a per-
15 centage of the new stored water created by the project that equals or exceeds the percentage
16 of funding for the project that is from grants of state moneys. The Water Resources De-
17 partment shall manage the dedicated increment of new stored water for net environmental
18 public benefit or in-stream benefit.

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

23 “(5) The department shall require as a contractual condition for issuing the grant, and
24 as a condition of any new water permit or water right certificate, that the project be oper-
25 ated in a manner that actually dedicates the percentage of new stored water for net envi-
26 ronmental public benefit or in-stream benefit that the project was designed to dedicate for
27 those purposes.

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

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

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

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

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

40 “SECTION 24. (1) The Water Resources Department shall ensure that any necessary
41 federal and state environmental impact approval processes have been completed, and that
42 agencies have issued any relevant approvals and permits, before the advancement of any
43 grant moneys for a project described in section 23 of this 2009 Act. The department shall
44 determine the amount of a grant from the Water Investment Grant Fund on a case-by-case
45 basis. The department may not issue a grant under section 23 of this 2009 Act to provide

1 assistance for operational or maintenance expenses of a water development project other
2 than project startup costs.

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

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

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

9 “(3) The department may issue a grant from the fund only if the applicant agrees to re-
10 port to the department no later than two years after receiving the grant moneys regarding
11 the progress of the project and the economic public benefit, social and cultural public benefit
12 and net environmental public benefit realized from the project. The department shall provide
13 copies of the applicant reports received by the department during the biennium to an interim
14 committee of the Legislative Assembly dealing with natural resources.

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

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

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

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

28 “(b) 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 “(c) Planned diversions of surface water include provision for fish screens and, if appli-
33 cable, volitional fish passage;

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

36 “(e) 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 “(f) There is a reasonable certainty that the project will deliver a measurable net envi-
39 ronmental public benefit; and

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

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

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

1 **“SECTION 26.** (1) The Water Resources Department shall ensure that any necessary
2 federal and state environmental impact approval processes have been completed, and that
3 agencies have issued any relevant approvals and permits, before the advancement of any loan
4 moneys for a project described in section 25 of this 2009 Act. The department shall determine
5 the amount of a loan for a project described in section 25 of this 2009 Act on a case-by-case
6 basis. The department shall determine the maximum amount of a loan based in part upon
7 a reasonable and prudent expectation of the ability of the borrower to repay the loan. The
8 department may not issue a loan to provide assistance for operational or maintenance ex-
9 penses of a water development project other than project startup costs.

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

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

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

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

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

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

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

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

36 **“(2)** The department finds that:

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

40 **“(b)** The applicant has secured funding from a source other than the state that will en-
41 sure implementation of water measurement.

42 **“SECTION 28.** The Water Resources Commission may adopt rules the commission con-
43 sidered reasonable for the administration and enforcement of sections 18 to 27 of this 2009
44 Act.

45 **“SECTION 29.** The Water Resources Department shall report to the Seventy-sixth Leg-

1 legislative Assembly in the manner provided by ORS 192.245 no later than October 1, 2012, re-
2 garding the operation of the loan and grant programs described in sections 18 to 27 of this
3 2009 Act, including but not limited to:

4 “(1) The number and types of jobs created by water development projects receiving loans
5 or grants from the department;

6 “(2) Any studies conducted by the department or loan or grant recipients during the
7 2009-2011 biennium regarding peak and ecological flows in streams;

8 “(3) Any recommendations by the department for legislative changes to improve the op-
9 eration of the loan and grant programs;

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

12 “(5) The total economic public benefit, social and cultural public benefit and net envi-
13 ronmental public benefit created as a result of loans and grants issued under sections 23 and
14 25 of this 2009 Act;

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

17 “(7) Estimated increases in state tax revenues generated by projects receiving grants or
18 loans;

19 “(8) The gross dollar value of issued loans, the amount of loan reserves and the increase
20 the Water Development Fund attributable to the interest rate amount described in ORS
21 541.730 (3)(e); and

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

23
24 **“TRANSITIONAL PROVISIONS**

25
26 **“SECTION 30.** Section 23 of this 2009 Act is amended to read:

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

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

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

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

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 measur-
39 able 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-ground
43 storage location of the project to be withdrawn for agricultural purposes and for not less than 25
44 percent of the new water to be dedicated for the purpose of providing net environmental public
45 benefits or in-stream benefits; and

1 “(b) To the extent practicable, to return dedicated new stored water for stream augmentation
2 at a time of year that the Water Resources Department, in consultation with the State Department
3 of Fish and Wildlife and relevant tribal governments, determines will provide the maximum net en-
4 vironmental 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 state
6 moneys and is not subject to repayment, the project must be designed to dedicate for the purpose
7 of providing net environmental public benefit or in-stream benefit a percentage of the new stored
8 water created by the project that equals or exceeds the percentage of funding for the project that
9 is from grants of state moneys. The Water Resources Department shall manage the dedicated in-
10 crement of new stored water for net environmental public benefit or in-stream benefit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(3) This section and sections 20 and 26 of this 2009 Act do not limit the authority granted the
7 Environmental Quality Commission or the Department of Environmental Quality under ORS chapter
8 468B.

9 “**SECTION 32. The amendments to sections 23 and 25 of this 2009 Act by sections 30 and
10 31 of this 2009 Act become operative January 2, 2012.**

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

15 “(a) **Are located in an area of the Umatilla Basin for which an assessment has been
16 performed under chapter 13, Oregon Laws 2008; and**

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

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

21 “(B) **To the extent practicable, to return dedicated new stored water for stream aug-
22 mentation at a time of year that the Water Resources Department, in consultation with the
23 State Department of Fish and Wildlife and relevant tribal governments, determines will
24 provide the maximum net environmental public benefit or in-stream benefit.**

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

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

34 “(4) **This section is repealed January 2, 2030.**

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

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

41 “541.705. (1) [*Except as provided in section 20 of this 2009 Act for a water development project in*
42 *the Columbia River Basin,*] Any water developer may file with the Water Resources Commission an
43 application to enable the construction of a water development project as provided in ORS 541.700
44 to 541.855. The application shall be filed in the manner, be in the form and contain or be accompa-
45 nied by any information prescribed by the commission. The commission, in considering applications,

1 shall encourage the largest number of users of the Water Development Fund and shall consider the
2 impact on the family farm units of the state.

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

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

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

10 “(c) Set forth or be accompanied by a feasibility study for the construction, operation and
11 maintenance of the proposed water development project, an estimate of the costs of construction and
12 if the project includes as a primary purpose irrigation or drainage, an evaluation of the agricultural
13 potential of the land from any competent public agency.

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

17 “(e) Show that the applicant holds or can acquire all lands, other than public lands, and inter-
18 ests therein and water rights necessary for the construction, operation and maintenance of the
19 proposed water development project.

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

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

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

27 “(c) The applicant has:

28 “(A) Developed a water system master plan; and

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

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

33 “541.710. (1) Upon receipt of an application filed as provided in ORS 541.705, the Water Re-
34 sources Commission shall determine whether the feasibility study described in ORS 541.705 for the
35 water development project set forth in or accompanying the application is satisfactory and if the
36 commission determines that it is not satisfactory, the commission may:

37 “(a) Reject the application;

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

40 “(c) Make such revisions of the feasibility study as the commission considers necessary to make
41 the plan satisfactory.

42 “(2) Except as provided in subsection (3) of this section, [*for a loan application filed under ORS*
43 *541.705 or section 20 of this 2009 Act,*] the commission shall charge and collect from the applicant
44 at the time the application is filed an application fee equal to the lesser of 0.10 percent of the loan
45 applied for or \$2,500. In addition, the commission may require the applicant to pay for costs that

1 exceed the application fee if the Water Resources Director determines that the costs are incurred
2 solely in connection with processing the application. Before incurring the additional costs, the
3 commission shall advise the applicant of the additional costs to be paid by the applicant. Moneys
4 referred to in this subsection shall be paid into the Water Development Administration and Bond
5 Sinking Fund.

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

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

9 “541.720. (1) The Water Resources Commission may approve the financing for the construction
10 of a water development project described in an application filed under ORS 541.705, [*or subject to*
11 *section 25 of this 2009 Act in an application filed under section 20 of this 2009 Act,*] using moneys in
12 the Water Development Fund secured by a first lien or by other good and sufficient collateral in the
13 manner provided in ORS 541.740 if, after investigation, the commission finds that:

14 “(a) The proposed water development project is feasible and a reasonable risk from practical and
15 economic standpoints;

16 “(b) The plan for the construction, operation and maintenance of the proposed water develop-
17 ment project is satisfactory and, if the primary purposes of the project include irrigation or drain-
18 age, the agricultural potential is confirmed;

19 “(c) The plan for construction and operation will provide multipurpose facilities, to the extent
20 practicable;

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

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

26 “(f) There is a need for the proposed water development project, the proposed project is in the
27 public interest and the applicant’s financial resources are adequate to provide the working capital
28 needed to operate and maintain the project; and

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

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

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

34 “541.765. In addition to those uses of moneys in the Water Development Fund otherwise pro-
35 vided in ORS 541.700 to 541.855 [*or section 25 of this 2009 Act*], the Water Resources Commission
36 may authorize loans of such moneys to those persons to whom approval has been granted by the
37 federal government or any agency or instrumentality of the United States for the funding and con-
38 struction of federal water development projects. Any such person shall apply for a loan to the
39 commission, in such form as the commission prescribes, and shall furnish such proof of federal ap-
40 proval for funding and construction as the commission considers appropriate.

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

42 “541.785. Except for the proceeds of refunding bonds, all moneys obtained from the sale of bonds
43 under ORS 541.780 to 541.815 shall be credited by the State Treasurer to the Water Development
44 Fund. Such moneys shall be used only for the purposes stated in Article XI-I (1), Oregon Constitu-
45 tion, and ORS 541.700, 541.705 to 541.770 and 541.835 [*and sections 25 and 26 of this 2009 Act*]. If

1 there are insufficient funds in the Water Development Administration and Bond Sinking Fund to
2 make the payments set forth in ORS 541.830, moneys in the Water Development Fund may be
3 transferred to the Water Development Administration and Bond Sinking Fund. Pending the use of
4 moneys in the Water Development Fund for the proper purposes, such moneys may be invested in
5 the manner provided by law.

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

7 “541.830. (1) There hereby is created the Water Development Administration and Bond Sinking
8 Fund, separate and distinct from the General Fund, to provide for payment of:

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

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

19 “(c) Principal and interest of all bonds issued pursuant to the provisions of ORS 541.780 to
20 541.815.

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

22 “(a) Application fees and additional processing costs paid under ORS 541.710 and loan process-
23 ing fees under ORS 541.730.

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

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

28 “(d) Such moneys as may be appropriated to the fund by the Legislative Assembly, including
29 appropriations dedicated to the partial payment for or repayment of projects affording public bene-
30 fits.

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

32 “(f) Moneys received from ad valorem taxes levied pursuant to Article XI-I(1), Oregon Consti-
33 tution, and all moneys that the Legislative Assembly may provide in lieu of such taxes.

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

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

36 “(i) Moneys transferred from the Water Development Fund.

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

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

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

45 “(a) A cash flow projection shows that the transfer will not have any negative impact on the

1 commission's ability to pay bond principal, interest and administration costs;

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

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

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

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

8 "541.850. The Water Resources Commission may accept gifts of money or other property from
9 any source, given for the purposes of ORS 541.700 and 541.705 to 541.770 [*or section 25 of this 2009*
10 *Act*]. Money so received shall be paid into the Water Development Fund. Money or other property
11 so received shall be used for the purposes for which received.

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

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

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

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

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

25 "(5) The department shall assess each project in consultation with the State Department of Fish
26 and Wildlife, the State Parks and Recreation Department the Department of Environmental Quality
27 and affected tribal governments, and with other interested parties as appropriate. If a project may
28 affect agricultural use, the Water Resources Department shall also assess the project in consultation
29 with the State Department of Agriculture.

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

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

34 "**Sec. 27.** Notwithstanding [*sections 23 and 25*] **section 23** of this 2009 Act, the Water Resources
35 Department may issue a grant under section 23 of this 2009 Act [*or a loan under section 25 of this*
36 *2009 Act*] to an agricultural water supplier that fails to adequately demonstrate water measurement
37 if:

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

40 "(2) The department finds that:

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

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

1 "INTEGRATED WATER RESOURCES STRATEGY

2
3 "SECTION 44. ORS 536.220 is amended to read:

4 "536.220. (1) The Legislative Assembly recognizes and declares that:

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

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

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

23 "(2) The Legislative Assembly, therefore, finds that:

24 "(a) It is in the interest of the public welfare that a coordinated, integrated state water re-
25 sources policy be formulated and means provided for its enforcement, that plans and programs for
26 the development and enlargement of the water resources of this state be devised and promoted and
27 that other activities designed to encourage, promote and secure the maximum beneficial use and
28 control of such water resources and the development of additional water supplies be carried out by
29 a single state agency which, in carrying out its functions, shall give proper and adequate consider-
30 ation to the multiple aspects of the beneficial use and control of such water resources with an im-
31 partiality of interest except that designed to best protect and promote the public welfare generally.

32 "(b) The state water resources policy shall be consistent with the goal set forth in ORS
33 468B.155.

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

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

42 "**(c) The Water Resources Department, in close cooperation with the Department of En-**
43 **vironmental Quality and the State Department of Fish and Wildlife, shall develop data on an**
44 **ongoing basis to forecast Oregon's in-stream and out-of-stream water needs, including but**
45 **not limited to in-stream, underground water, human consumption and water supply needs,**

1 for the purpose of developing and updating the integrated state water resources strategy.

2 “(d) The integrated water resources strategy shall describe the following:

3 “(A) Oregon’s in-stream and out-of-stream water needs, including but not limited to
4 ecosystem services, water quality and water supply needs.

5 “(B) Objectives of the strategy.

6 “(C) Actions that are designed to achieve the objectives of the strategy.

7 “(D) Plans related to the challenges presented by climate change.

8 “(E) Provisions to ensure communication and partnership with key stakeholders.

9 “(F) Specific functions and roles to be played by state agencies, including but not limited
10 to the State Department of Agriculture, the State Forestry Department, the Department of
11 Human Services, the Economic and Community Development Department, the Department
12 of Land Conservation and Development, the Oregon Watershed Enhancement Board, the
13 State Parks and Recreation Department, the Department of State Lands and other relevant
14 state agencies.

15 “(G) Public policy options and recommendations.

16 “(H) Relevant strategy factors, including but not limited to population growth and land
17 use change.

18 “(I) Recommendations of the Water Resources Department regarding the continuous
19 monitoring of climate change effects on Oregon’s water supply and regarding water user
20 actions that are necessary to address climate change.

21 “(e)(A) The Water Resources Commission shall give the Environmental Quality Com-
22 mission, the State Department of Agriculture and the State Department of Fish and Wildlife
23 notice of the integrated state water resources strategy prior to adoption of the strategy. The
24 strategy shall take effect upon adoption by the Water Resources Commission.

25 “(B) The Water Resources Commission shall review and update the integrated state wa-
26 ter resources strategy every five years. The Water Resources Commission shall give notice
27 to the Environmental Quality Commission, the State Department of Agriculture and the
28 State Department of Fish and Wildlife prior to adopting any revisions of the strategy. Re-
29 visions of the strategy shall take effect upon the Water Resources Commission’s adoption
30 of the revised strategy by reference in rule.

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

33 “SECTION 45. (1) The Water Resources Department shall, working in close cooperation
34 with the Department of Environmental Quality, the State Department of Agriculture and the
35 State Department of Fish and Wildlife, submit a report by February 1, 2011, to the Seventy-
36 sixth Legislative Assembly, in the manner provided in ORS 192.245, detailing benchmarks and
37 progress toward the development of the integrated state water resources strategy. The re-
38 port must include a discussion of whether the Water Resources Department expects to
39 complete development of the strategy by December 31, 2012.

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

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2
3 **“APPLICABILITY**

4 **“SECTION 46. (1) Sections 18 to 27 of this 2009 Act and the amendments to ORS 541.700,**
5 **541.705, 541.710, 541.720, 541.730, 541.740, 541.765, 541.770, 541.785, 541.830, 541.845 and 541.850**
6 **by sections 3 to 14 of this 2009 Act apply to loans from the Water Development Fund for**
7 **which an application is filed on or after April 1, 2010.**

8 **“(2) The repeal of ORS 541.755 by section 15 of this 2009 Act becomes operative April 1,**
9 **2010.**

10 **“(3) The amendments to ORS 541.705, 541.710, 541.720, 541.765, 541.785, 541.830 and 541.850**
11 **and sections 21 and 27 of this 2009 Act by sections 35 to 43 of this 2009 Act become operative**
12 **January 2, 2024.**

13 **“CAPTIONS**

14
15 **“SECTION 47. The unit captions used in this 2009 Act are provided only for the conven-**
16 **ience of the reader and do not become part of the statutory law of this state or express any**
17 **legislative intent in the enactment of this 2009 Act.**

18
19 **“EMERGENCY**

20
21 **“SECTION 48. This 2009 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
23 **July 1, 2009.”.**
24
