

(To Resolve Conflicts)

C-Engrossed Senate Bill 342

Ordered by the House June 27
Including Senate Amendments dated April 15 and June 21 and House
Amendments dated June 27 to resolve conflicts

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Revises statutory provisions relating to lottery moneys constitutionally directed toward acquisition, management and protection of parks and recreation areas and toward financing restoration and protection of native fish and wildlife, watersheds and water quality. Changes permissible uses of moneys.

Requires State Parks and Recreation Director to submit biennial report to Joint Committee on Ways and Means on results of activities and programs funded by lottery moneys.

Alters content of program conducted by Oregon Watershed Enhancement Board.

Changes name of Restoration and Protection Subaccount of Parks and Natural Resources Fund to Natural Resources Subaccount.

Abolishes Restoration and Protection Research Fund.

Establishes Watershed Conservation Operating Fund and Watershed Conservation Grant Fund and specifies uses of moneys in funds. Abolishes Watershed Improvement Operating Fund on July 1, 2013, and Watershed Improvement Grant Fund on July 1, 2015. Transfers unexpended moneys in abolished funds to newly established funds.

Requires state agencies receiving moneys from Natural Resources Subaccount to biennially report to Legislative Assembly regarding use of moneys.

Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to the use of Parks and Natural Resources Fund moneys; creating new provisions; amend-
3 ing ORS 390.134, 390.180, 541.351, 541.360, 541.370, 541.371, 541.373, 541.375, 541.376, 541.377,
4 541.379, 541.392, 541.397, 541.401 and 805.256; repealing ORS 541.378, 541.379, 541.397 and 541.399
5 and section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242); appropriating money;
6 and declaring an emergency.

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

PARKS AND NATURAL RESOURCES FUND

8
9
10
11 **SECTION 1.** ORS 541.377 is amended to read:

12 541.377. (1) There is established in the State Treasury, separate and distinct from the General
13 Fund, the Parks and Natural Resources Fund to be administered by the Oregon Department of Ad-
14 ministrative Services. All moneys transferred from the State Lottery Fund and all other moneys
15 authorized to be transferred to the Parks and Natural Resources Fund from whatever source are
16 appropriated continuously for the public purposes of restoring and protecting Oregon's parks,

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 beaches, watersheds and [critical] **native** fish and wildlife habitats. Fifteen percent of the net pro-
2 ceeds from the Oregon State Lottery shall be deposited in the Parks and Natural Resources Fund
3 created under this subsection.

4 *[(2) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State*
5 *Lottery, 50 percent shall be deposited into a Parks Subaccount for the public purpose of financing the*
6 *protection, repair, operation, creation and development of state parks, ocean shores, public beach access*
7 *areas, historic sites and recreation areas. The State Treasurer may invest and reinvest the moneys in*
8 *the Parks Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in*
9 *the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the*
10 *subaccount.]*

11 *[(3) All moneys in the Parks Subaccount for financing the protection, repair, operation, creation*
12 *and development of state parks, ocean shores, public beach access areas, historic sites and recreation*
13 *areas shall be allocated to the State Parks and Recreation Department. Such moneys shall be deposited*
14 *into the State Parks and Recreation Department Fund established under ORS 390.134 and shall be*
15 *used for the following purposes:]*

16 *[(a) Maintaining, constructing, improving, developing, managing and operating state park and re-*
17 *creation facilities, programs and areas.]*

18 *[(b) Acquiring real property, or interest therein, deemed necessary for the creation and operation*
19 *of state parks, ocean shores, public beach access areas, recreation areas and historic sites or because*
20 *of natural, scenic, cultural, historic and recreational values.]*

21 *[(c) Operating grant programs for local government entities deemed necessary to accomplish the*
22 *public purposes of the Parks and Natural Resources Fund.]*

23 *[(4) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State*
24 *Lottery, 50 percent shall be deposited into a Restoration and Protection Subaccount for the public*
25 *purpose of financing the restoration and protection of native salmonid populations, watersheds, fish and*
26 *wildlife habitats and water quality in Oregon. The State Treasurer may invest and reinvest the moneys*
27 *in the Restoration and Protection Subaccount as provided in ORS 293.701 to 293.820. Interest from the*
28 *moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall*
29 *be credited to the Restoration and Protection Research Fund created under ORS 541.378.]*

30 *[(5) The moneys in the Restoration and Protection Subaccount for financing the restoration and*
31 *protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality shall*
32 *be administered by the Oregon Watershed Enhancement Board and shall be used for all of the fol-*
33 *lowing purposes:]*

34 *[(a) Restoration and protection of watersheds and fish, wildlife, riparian and native species and for*
35 *habitat conservation activities, including but not limited to planning, coordination, assessment, imple-*
36 *mentation, restoration, inventory, information management and monitoring activities.]*

37 *[(b) Watershed and riparian education efforts.]*

38 *[(c) Development and implementation of watershed and water quality enhancement plans.]*

39 *[(d) Entering into agreements to obtain from willing owners determinate interests in lands and*
40 *waters that protect watershed resources, including but not limited to fee simple interests in land, leases*
41 *of land or water or conservation easements.]*

42 *[(e) Enforcement of fish and wildlife and habitat protection laws and regulations.]*

43 *[(6) Of the moneys deposited into the Restoration and Protection Subaccount from the Oregon State*
44 *Lottery, the Oregon Watershed Enhancement Board shall deposit:]*

45 *[(a) Sixty-five percent of the funds into the Watershed Improvement Grant Fund established under*

1 *ORS 541.397 to be used only for funding capital expenditure projects; and]*

2 *[(b) Thirty-five percent of the funds into the Watershed Improvement Operating Fund established*
3 *under ORS 541.379 to be used for the purposes set forth in ORS 541.379 (1).]*

4 [(7)] (2) The Legislative Assembly [shall] **may** not limit expenditures from the Parks and Natural
5 Resources Fund. The Legislative Assembly may appropriate other moneys or revenues to the Parks
6 and Natural Resources Fund.

7
8 **PARKS SUBACCOUNT**

9
10 **SECTION 2.** Section 3 of this 2011 Act is added to and made a part of ORS chapter 390.

11 **SECTION 3.** (1) Of the moneys deposited into the Parks and Natural Resources Fund
12 created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into
13 a Parks Subaccount. The State Treasurer may invest and reinvest the moneys in the Parks
14 Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the
15 Parks Subaccount and earnings from investment of the moneys in the subaccount shall be
16 credited to the subaccount.

17 (2) Moneys deposited from the Oregon State Lottery to the Parks Subaccount may be
18 used only for:

19 (a) **Maintaining, constructing, improving, developing, managing and operating state**
20 **parks, ocean shores, public beach access areas, historic sites, natural areas and outdoor and**
21 **recreation areas;**

22 (b) **Acquiring real property, or interests in real property, that has significant natural,**
23 **scenic, cultural, historic or recreational value for the creation or operation of state parks,**
24 **ocean shores, public beach access areas, outdoor recreation areas and historic sites; and**

25 (c) **Providing grants to regional or local government entities to acquire property for**
26 **public parks, natural areas or outdoor recreation areas or to develop or improve public**
27 **parks, natural areas or outdoor recreation areas.**

28 (3) All moneys in the Parks Subaccount shall be transferred to the State Parks and Re-
29 creation Department Fund and used to carry out the purposes described in subsection (2) of
30 this section by achieving each of the following:

31 (a) **Providing additional public parks, natural areas or outdoor recreation areas to meet**
32 **the needs of current and future residents of this state.**

33 (b) **Protecting natural, cultural, historic and outdoor recreational resources of statewide**
34 **or regional significance.**

35 (c) **Managing public parks, natural areas and outdoor recreation areas to ensure the**
36 **long-term ecological health of those parks and areas and to provide for the enjoyment of**
37 **those parks and areas by current and future residents of this state.**

38 (d) **Providing diverse and equitable opportunities for residents of this state to experience**
39 **nature and to participate in outdoor recreational activities in state, regional, local or neigh-**
40 **borhood public parks and recreation areas.**

41
42 **STATE PARKS AND RECREATION DEPARTMENT FUND**

43
44 **SECTION 4.** ORS 390.134 is amended to read:

45 390.134. (1) As used in this section:

1 (a) "Camper" has the meaning given that term in ORS 801.180.

2 (b) "County" includes a metropolitan service district organized under ORS chapter 268, but only
3 to the extent that the district has acquired, through title transfer, and is operating a park or re-
4 creation site of a county pursuant to an intergovernmental agreement.

5 (c) "Motor home" has the meaning given that term in ORS 801.350.

6 (d) "Travel trailer" has the meaning given that term in ORS 801.565.

7 (2) The State Parks and Recreation Department Fund is established separate and distinct from
8 the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recre-
9 ation Department for the purposes provided by law. The fund shall consist of the following:

10 (a) All moneys placed in the fund as provided by law. Any interest or other income derived from
11 the depositing or other investing of the fund must be credited to the fund.

12 (b) All registration fees received by the Department of Transportation for campers, motor homes
13 and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited
14 in a separate subaccount established under subsection (3) of this section.

15 (c) Revenue from fees and charges pursuant to ORS 390.124.

16 (3) Any moneys placed in the fund for a particular purpose may be placed in a separate subac-
17 count within the fund. Each separate subaccount established under this subsection must be sepa-
18 rately accounted for. Moneys placed in a subaccount must be used for the purposes for which they
19 are deposited.

20 (4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or]
21 (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used
22 by the State Parks and Recreation Department for the acquisition, development, maintenance, care
23 and use of park and recreation sites and for the maintenance and operation of the Oregon State
24 Fair. The moneys in the subaccount under this subsection must be accounted for separately and
25 stated separately in the State Parks and Recreation Department's biennial budget.

26 (5)(a) Thirty-five percent of the amount transferred to the State Parks and Recreation Depart-
27 ment under ORS 366.512 from the registration of travel trailers, campers and motor homes and under
28 ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount
29 within the fund to be distributed for the acquisition, development, maintenance, care and use of
30 county park and recreation sites. The moneys in the subaccount under this paragraph must be ac-
31 counted for separately. The following apply to the distribution of moneys under this paragraph:

32 (A) The moneys must be distributed among the several counties for the purposes described in
33 this paragraph. The distribution shall be made at times determined by the State Parks and Recre-
34 ation Department but must be made not less than once a year.

35 (B) The sums designated under this paragraph must be remitted to the county treasurers of the
36 several counties by warrant.

37 (b) The department shall establish an advisory committee to advise the department in the per-
38 formance of its duties under this subsection. The composition of the advisory committee under this
39 subsection is as determined by the department by rule. In determining the composition of the advi-
40 sory committee, the department shall attempt to provide reasonable representation for county offi-
41 cials or employees with responsibilities relating to county parks and recreation sites.

42 (c) The department, by rule, shall establish a program to provide moneys to counties for the
43 acquisition, development, maintenance, care and use of county park and recreation sites. The rules
44 under this paragraph shall provide for distribution of moneys based on use and need and, as the
45 department determines necessary, on the need for the development and maintenance of facilities to

1 provide camping sites for campers, motor homes and travel trailers.

2 (6) The department shall create a separate City and County Subaccount within the fund to be
3 used to reimburse cities and counties as provided in ORS 390.290.

4 (7) The department shall create a separate rural Fire Protection District Subaccount to be used
5 to provide funds for the fire protection districts as provided in ORS 390.290.

6 **(8) Twelve percent of the amount transferred to the State Parks and Recreation De-**
7 **partment Fund from the Parks Subaccount shall be used only to carry out the purposes and**
8 **achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of**
9 **grants to regional or local government entities to acquire property for public parks, natural**
10 **areas or outdoor recreation areas or to develop or improve public parks, natural areas or**
11 **outdoor recreation areas. Moneys described in this subsection may not be used to pay the**
12 **cost of administering grants or the cost of any Secretary of State audit required under sec-**
13 **tion 4c, Article XV of the Oregon Constitution.**

14 **(9) If the amount transferred to the State Parks and Recreation Department Fund from**
15 **the Parks Subaccount during a biennium is more than 150 percent of the amount that was**
16 **transferred during the 2009-2011 biennium, the State Treasurer shall, during the next fol-**
17 **lowing biennium, deposit for use as described in subsection (8) of this section the amount**
18 **required under subsection (8) of this section plus an amount equal to the difference between**
19 **the amount deposited for use as described in subsection (8) of this section during the pre-**
20 **ceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation**
21 **Department Fund from the Parks Subaccount during the preceding biennium.**

22 **(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative**
23 **Assembly does not require a greater percentage of the amount transferred to the State**
24 **Parks and Recreation Department Fund from the Parks Subaccount to be used for the pur-**
25 **poses described in subsection (8) of this section. The Legislative Assembly may not authorize**
26 **the percentage of the amount transferred to the State Parks and Recreation Department**
27 **Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of**
28 **this section in a biennium to be less than the percentage required to be deposited under**
29 **subsections (8) and (9) of this section.**

30 ~~[(8)]~~ **(11) On or before January 15 of each odd-numbered year, the State Parks and Recreation**
31 **Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the**
32 **use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to**
33 **192.250, the director shall make the report in a form and manner as the committee may prescribe.**

34 **(12) On or before January 15 of each odd-numbered year, the director shall submit a re-**
35 **port to the Joint Committee on Ways and Means created by ORS 171.555 that describes the**
36 **measurable biennial and cumulative results of activities and programs financed by moneys**
37 **transferred to the State Parks and Recreation Department Fund from the Parks Subaccount.**
38 **Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and**
39 **manner as the committee may prescribe.**

40 **SECTION 5.** ORS 390.134, as amended by section 2, chapter 792, Oregon Laws 2007, and section
41 47, chapter 11, Oregon Laws 2009, is amended to read:

42 390.134. (1) As used in this section:

43 (a) "Camper" has the meaning given that term in ORS 801.180.

44 (b) "County" includes a metropolitan service district organized under ORS chapter 268, but only
45 to the extent that the district has acquired, through title transfer, and is operating a park or re-

1 creation site of a county pursuant to an intergovernmental agreement.

2 (c) "Motor home" has the meaning given that term in ORS 801.350.

3 (d) "Travel trailer" has the meaning given that term in ORS 801.565.

4 (2) The State Parks and Recreation Department Fund is established separate and distinct from
5 the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recre-
6 ation Department for the purposes provided by law. The fund shall consist of the following:

7 (a) All moneys placed in the fund as provided by law. Any interest or other income derived from
8 the depositing or other investing of the fund must be credited to the fund.

9 (b) All registration fees received by the Department of Transportation for campers, motor homes
10 and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited
11 in a separate subaccount established under subsection (3) of this section.

12 (c) Revenue from fees and charges pursuant to ORS 390.124.

13 (3) Any moneys placed in the fund for a particular purpose may be placed in a separate subac-
14 count within the fund. Each separate subaccount established under this subsection must be sepa-
15 rately accounted for. Moneys placed in a subaccount must be used for the purposes for which they
16 are deposited.

17 (4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or]
18 (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used
19 by the State Parks and Recreation Department for the acquisition, development, maintenance, care
20 and use of park and recreation sites and for the maintenance and operation of the Oregon State
21 Fair. The moneys in the subaccount under this subsection must be accounted for separately and
22 stated separately in the State Parks and Recreation Department's biennial budget.

23 (5)(a) Thirty percent of the amount transferred to the State Parks and Recreation Department
24 under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS
25 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the
26 fund to be distributed for the acquisition, development, maintenance, care and use of county park
27 and recreation sites. The moneys in the subaccount under this paragraph must be accounted for
28 separately. The following apply to the distribution of moneys under this paragraph:

29 (A) The moneys must be distributed among the several counties for the purposes described in
30 this paragraph. The distribution shall be made at times determined by the State Parks and Recre-
31 ation Department but must be made not less than once a year.

32 (B) The sums designated under this paragraph must be remitted to the county treasurers of the
33 several counties by warrant.

34 (b) The department shall establish an advisory committee to advise the department in the per-
35 formance of its duties under this subsection. The composition of the advisory committee under this
36 subsection is as determined by the department by rule. In determining the composition of the advi-
37 sory committee, the department shall attempt to provide reasonable representation for county offi-
38 cials or employees with responsibilities relating to county parks and recreation sites.

39 (c) The department, by rule, shall establish a program to provide moneys to counties for the
40 acquisition, development, maintenance, care and use of county park and recreation sites. The rules
41 under this paragraph shall provide for distribution of moneys based on use and need and, as the
42 department determines necessary, on the need for the development and maintenance of facilities to
43 provide camping sites for campers, motor homes and travel trailers.

44 (6) The department shall create a separate City and County Subaccount within the fund to be
45 used to reimburse cities and counties as provided in ORS 390.290.

1 (7) The department shall create a separate rural Fire Protection District Subaccount to be used
2 to provide funds for the fire protection districts as provided in ORS 390.290.

3 (8) **Twelve percent of the amount transferred to the State Parks and Recreation De-**
4 **partment Fund from the Parks Subaccount shall be used only to carry out the purposes and**
5 **achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of**
6 **grants to regional or local government entities to acquire property for public parks, natural**
7 **areas or outdoor recreation areas or to develop or improve public parks, natural areas or**
8 **outdoor recreation areas. Moneys described in this subsection may not be used to pay the**
9 **cost of administering grants or the cost of any Secretary of State audit required under sec-**
10 **tion 4c, Article XV of the Oregon Constitution.**

11 (9) **If the amount transferred to the State Parks and Recreation Department Fund from**
12 **the Parks Subaccount during a biennium is more than 150 percent of the amount that was**
13 **transferred during the 2009-2011 biennium, the State Treasurer shall, during the next fol-**
14 **lowing biennium, deposit for use as described in subsection (8) of this section the amount**
15 **required under subsection (8) of this section plus an amount equal to the difference between**
16 **the amount deposited for use as described in subsection (8) of this section during the pre-**
17 **ceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation**
18 **Department Fund from the Parks Subaccount during the preceding biennium.**

19 (10) **Subsections (8) and (9) of this section apply only for biennia in which the Legislative**
20 **Assembly does not require a greater percentage of the amount transferred to the State**
21 **Parks and Recreation Department Fund from the Parks Subaccount to be used for the pur-**
22 **poses described in subsection (8) of this section. The Legislative Assembly may not authorize**
23 **the percentage of the amount transferred to the State Parks and Recreation Department**
24 **Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of**
25 **this section in a biennium to be less than the percentage required to be deposited under**
26 **subsections (8) and (9) of this section.**

27 [(8)] (11) **On or before January 15 of each odd-numbered year, the State Parks and Recreation**
28 **Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the**
29 **use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to**
30 **192.250, the director shall make the report in a form and manner as the committee may prescribe.**

31 (12) **On or before January 15 of each odd-numbered year, the director shall submit a re-**
32 **port to the Joint Committee on Ways and Means created by ORS 171.555 that describes the**
33 **measurable biennial and cumulative results of activities and programs financed by moneys**
34 **transferred to the State Parks and Recreation Department Fund from the Parks Subaccount.**
35 **Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and**
36 **manner as the committee may prescribe.**

37 **SECTION 6.** ORS 390.180 is amended to read:

38 390.180. (1) The State Parks and Recreation Director shall adopt rules that:

39 (a) Establish the standards the State Parks and Recreation Department shall use when that de-
40 partment:

41 (A) Performs comprehensive statewide recreational planning; or

42 (B) Disburses any moneys to **regional or** local governments or other state agencies under pro-
43 grams established under state or federal law.

44 (b) Establish a process for the development of a master plan for each state park, including public
45 participation and coordination with affected local governments.

1 (c) Establish a master plan for each state park, including an assessment of resources and a de-
2 termination of the capacity for public use and enjoyment of each park, that the State Parks and
3 Recreation Department shall follow in its development and use of each park.

4 (d) Make state funding assistance available to **regional or local governments that demon-**
5 **strate cooperation with** nonprofit veterans' organizations for the construction and restoration of
6 memorials honoring veterans and war memorials located on public property.

7 (2) The State Parks and Recreation Director shall submit an adopted state park master plan to
8 the local government with land use planning responsibility for the subject park.

9
10 **NATURAL RESOURCES DEFINITIONS**

11
12 **SECTION 7.** ORS 541.351 is amended to read:

13 541.351. As used in ORS 541.351 to 541.415:

14 (1) "Adaptive management" means applying management or practices over time and across the
15 landscape to achieve site specific resource goals using an integrated and science based approach
16 that results in changes over time in response to feedback or monitoring.

17 (2) "Associated uplands" includes those lands of a watershed that are critical to the functioning
18 and protection of a riparian area.

19 (3) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.360.

20 [(4) "*Capital expenditures*" means direct expenses related to:]

21 [(a) *Personal property of a nonexpendable nature including items that are not consumed in the*
22 *normal course of operations, can normally be used more than once, have a useful life of more than two*
23 *years and are for use in the enforcement of fish and wildlife and habitat protection laws and regu-*
24 *lations; or]*

25 [(b) *Projects that restore, enhance or protect fish and wildlife habitat, watershed functions, native*
26 *salmonid populations or water quality, including but not limited to:]*

27 [(A) *Expenses of assessment, research, design or other technical requirements for the implementa-*
28 *tion of a project;]*

29 [(B) *The acquisition of determinate interests, including fee and less than fee interests, in land or*
30 *water in order to protect watershed resources, including appraisal costs and other costs directly related*
31 *to such acquisitions;]*

32 [(C) *Development, construction or implementation of a project to restore, enhance or protect water*
33 *quality, a watershed, fish or wildlife, or riparian or other habitat;]*

34 [(D) *Technical support directly related to the implementation of a project; and]*

35 [(E) *Monitoring or evaluation activities necessary to determine the actual effectiveness of a*
36 *project.]*

37 [(5)] (4) "Independent Multidisciplinary Science Team" means the scientific team of recognized
38 experts in fisheries, artificial propagation, stream ecology, forestry, range, watershed and agricul-
39 tural management created under ORS 541.409.

40 [(6)] (5) "Native" means indigenous to Oregon and not introduced.

41 (6) "**Oregon Conservation Strategy**" means the **comprehensive wildlife conservation**
42 **strategy for this state adopted by the State Fish and Wildlife Commission.**

43 (7) "Oregon Plan" means the guidance statement and framework described in ORS 541.405.

44 (8) "Protect" or "protection" means to minimize or mitigate adverse effects on [*salmonid and*]
45 **native fish or wildlife** habitat to the maximum extent practicable given the anticipated duration,

1 geographic scope and primary purpose of proposed activities.

2 (9) "Restore" or "restoration" means to take actions likely to achieve sustainable population
3 levels of native fish or wildlife and their habitats.

4 (10) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial
5 ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or
6 potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area
7 may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or
8 ephemeral, intermittent or perennial stream.

9 (11) "Soil and water conservation district" means a political subdivision of the state as described
10 in ORS 568.550.

11 (12) "Stewardship" means the careful and responsible management of the environment.

12 (13) "Tribe" means a federally recognized Indian tribe in Oregon.

13 (14) "Watershed" means the entire land area drained by a stream or system of connected
14 streams such that all streamflow originating in the area is discharged through a single outlet.

15 (15) "Watershed council" means a voluntary local organization, designated by a local govern-
16 ment group convened by a county governing body, to address the goal of sustaining natural resource
17 and watershed protection, restoration and enhancement within a watershed.

18
19 **NATURAL RESOURCES SUBACCOUNT**

20
21 **SECTION 8. Sections 9 and 10 of this 2011 Act are added to and made a part of ORS**
22 **541.351 to 541.415.**

23 **SECTION 9. (1) Of the moneys deposited into the Parks and Natural Resources Fund**
24 **created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into**
25 **a Natural Resources Subaccount for the public purpose of financing the restoration and**
26 **protection of native fish and wildlife, watersheds and water quality in Oregon. The State**
27 **Treasurer may invest and reinvest the moneys in the Natural Resources Subaccount as**
28 **provided in ORS 293.701 to 293.820.**

29 **(2) Moneys in the Natural Resources Subaccount shall be used to accomplish each of the**
30 **following:**

31 **(a) Protecting and improving water quality in the rivers, lakes and streams of this state**
32 **by restoring natural watershed functions or stream flows;**

33 **(b) Securing long-term protection for lands and waters that provide significant habitats**
34 **for native fish and wildlife;**

35 **(c) Restoring and maintaining habitat needed to sustain healthy and resilient populations**
36 **of native fish and wildlife;**

37 **(d) Maintaining the diversity of plants, animals and ecosystems in this state;**

38 **(e) Involving people in voluntary actions to protect, restore and maintain the ecological**
39 **health of lands and waters in this state; and**

40 **(f) Remedying the conditions that limit the health of fish and wildlife, fish and wildlife**
41 **habitats and watershed functions that are in the greatest need of conservation.**

42 **(3) Except as provided in subsections (4) and (5) of this section, of the moneys deposited**
43 **into the Natural Resources Subaccount from the Oregon State Lottery:**

44 **(a) Sixty-five percent of the moneys shall be deposited into the Watershed Conservation**
45 **Grant Fund established under section 12 of this 2011 Act to be used by the Oregon Watershed**

1 Enhancement Board for the purposes set forth in section 13 of this 2011 Act; and

2 (b) Thirty-five percent of the moneys shall be deposited into the Watershed Conservation
3 Operating Fund established under section 16 of this 2011 Act.

4 (4) If the amount transferred from the Oregon State Lottery to the Parks and Natural
5 Resources Fund during a biennium is more than 150 percent of the amount that was trans-
6 ferred during the 2009-2011 biennium, except as provided in subsection (5) of this section, the
7 State Treasurer shall, during the next following biennium, deposit from the Natural Re-
8 sources Subaccount to the Watershed Conservation Grant Fund the amount described in
9 subsection (3)(a) of this section plus an amount equal to the difference between the amount
10 deposited from the subaccount to the Watershed Conservation Grant Fund during the pre-
11 ceding biennium and 70 percent of the moneys received by the subaccount from the Oregon
12 State Lottery during the preceding biennium.

13 (5) The requirements in subsections (3) and (4) of this section apply only for biennia in
14 which the Legislative Assembly does not require a greater percentage of the Natural Re-
15 sources Subaccount moneys to be deposited into the Watershed Conservation Grant Fund.
16 The Legislative Assembly may not authorize the percentage of Natural Resources Subac-
17 count moneys deposited into the Watershed Conservation Grant Fund in a biennium to be
18 less than the percentage required to be deposited under subsections (3) and (4) of this sec-
19 tion.

20 SECTION 10. Each state agency that receives moneys from the Natural Resources Sub-
21 account created under section 9 of this 2011 Act shall submit a report to the Legislative
22 Assembly each biennium regarding the use of the moneys by the agency. The report shall
23 include, but need not be limited to, a description of the measurable biennial and cumulative
24 results of the activities and programs for which the agency expended the moneys. Reports
25 required by this section are in addition to any audit report supplied by the Secretary of State
26 under ORS chapter 297.

27
28 **WATERSHED CONSERVATION GRANT FUND**
29

30 SECTION 11. Sections 12 and 13 of this 2011 Act are added to and made a part of ORS
31 541.351 to 541.415.

32 SECTION 12. (1) The Watershed Conservation Grant Fund is established separate and
33 distinct from the General Fund. The Watershed Conservation Grant Fund shall consist of
34 all moneys placed in the fund as provided by law. All moneys in the Watershed Conservation
35 Grant Fund are continuously appropriated to the Oregon Watershed Enhancement Board for
36 grants to fund projects described in ORS 541.401 that use grant moneys as provided under
37 section 13 of this 2011 Act. Interest accruing to the Watershed Conservation Grant Fund
38 shall be credited to the fund. Watershed Conservation Grant Fund moneys appropriated and
39 not expended by the completion of a biennium shall remain in the Watershed Conservation
40 Grant Fund.

41 (2) The board also may accept gifts and grants from any public or private source for the
42 purpose of providing the grants described in this section.

43 SECTION 13. The purpose of the Watershed Conservation Grant Fund is to provide
44 funding for grants to achieve the purposes and uses described in section 9 of this 2011 Act
45 and to implement the mission of the Oregon Plan, including but not limited to grants to

1 further the Oregon Conservation Strategy and the watershed health and native fish recovery
2 programs of this state. Moneys appropriated to the fund shall be used only for the following
3 activities:

4 (1) Acquiring from willing owners interests in land or water that will protect or restore
5 native fish or wildlife habitats. The interests may include, but need not be limited to, fee
6 interests, conservation easements or leases.

7 (2) Projects to protect or restore native fish habitat or wildlife habitat.

8 (3) Projects to protect or restore natural watershed or ecosystem functions in order to
9 improve water quality or stream flows.

10 (4) Resource assessment, planning, design and engineering, technical assistance, moni-
11 toring and outreach activities necessary for carrying out subsections (1) to (3) of this sec-
12 tion.

13 **SECTION 14.** ORS 541.401 is amended to read:

14 541.401. The Oregon Watershed Enhancement Board may award funds from the Watershed [*Im-*
15 *provement*] **Conservation** Grant Fund only for [*the purposes listed in ORS 541.399*] **activities de-**
16 **scribed in section 13 of this 2011 Act.** Any project that the board approves for funding shall
17 comply with the following criteria:

18 (1) There is a matching contribution from other program funds, in-kind services or other in-
19 vestment in the project;

20 (2) The project to be funded is reviewed and approved by a technical committee **established** in
21 accordance with ORS 541.370 [(3)]; and

22 (3) The project provides a public benefit [*through*] **by supporting** improved:

23 (a) Water quality;

24 (b) **Native** fish or wildlife habitat; or

25 (c) [*Public information or education on a*] Watershed **or ecosystem** function.

26 **SECTION 15.** ORS 541.399 is repealed.

27
28 **WATERSHED CONSERVATION OPERATING FUND**

29
30 **SECTION 16.** (1) **The Watershed Conservation Operating Fund is established in the State**
31 **Treasury separate and distinct from the General Fund. The Watershed Conservation Oper-**
32 **ating Fund shall consist of all moneys placed in the fund as provided by law. The purpose of**
33 **the fund is to carry out activities that support all of the purposes described in section 9 of**
34 **this 2011 Act. Moneys in the Watershed Conservation Operating Fund shall be used for each**
35 **of the following:**

36 (a) **To develop, implement or update state conservation strategies or plans to protect or**
37 **restore native fish or wildlife habitats or to protect or restore natural watershed or**
38 **ecosystem functions to improve water quality or stream flows;**

39 (b) **To develop, implement or update regional or local strategies or plans that are con-**
40 **sistent with state strategies or plans described in paragraph (a) of this subsection;**

41 (c) **To develop, implement or update state strategies or plans to prevent, detect, control**
42 **or eradicate invasive species that threaten native fish or wildlife habitats or that impair**
43 **water quality;**

44 (d) **To support local delivery, including but not limited to delivery by watershed councils,**
45 **soil and water conservation districts and other community-based organizations, of watershed**

1 **education activities and other programs or projects that protect or restore native fish or**
2 **wildlife habitats, watersheds or ecosystems;**

3 **(e) To pay the Oregon Watershed Enhancement Board costs of administering the**
4 **Watershed Conservation Grant Fund;**

5 **(f) To enforce fish and wildlife laws and regulations and fish and wildlife habitat pro-**
6 **tection laws and regulations; and**

7 **(g) To reimburse the Secretary of State as described in ORS 297.230 for the costs of au-**
8 **ditions performed by the Secretary of State under section 4c, Article XV of the Oregon Consti-**
9 **tution.**

10 **(2) Interest accruing to the Watershed Conservation Operating Fund shall be credited to**
11 **the fund. Watershed Conservation Operating Fund moneys appropriated and not expended**
12 **by the completion of a biennium shall remain in the Watershed Conservation Operating**
13 **Fund.**

14 **(3) Any public or private source may make gifts or grants to the Watershed Conservation**
15 **Operating Fund.**

16 **SECTION 17.** ORS 541.373 is amended to read:

17 541.373. (1) The Governor may receive gifts, grants, bequests, endowments and donations of
18 moneys from public and private sources, including the federal government, for the purpose of im-
19 plementing the Oregon Plan, as described in ORS 541.405, **and the Oregon Conservation**
20 **Strategy.**

21 **(2) If requested by the source, the Governor shall deposit moneys received under this**
22 **section into the Watershed Conservation Grant Fund for use as provided under section 13**
23 **of this 2011 Act.** The Governor shall deposit **all other** moneys received under this section in the
24 State Treasury to the credit of the Watershed [*Improvement*] **Conservation** Operating Fund estab-
25 lished under [*ORS 541.379 to be used for the purposes specified in ORS 541.379 (1)(b)*] **section 16 of**
26 **this 2011 Act.**

27 **SECTION 18.** ORS 541.371 is amended to read:

28 541.371. (1) In addition to the duties set forth in ORS 541.370, in carrying out the provisions of
29 ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board:

30 (a) Shall establish a framework for a locally based integrated watershed planning and manage-
31 ment process designed to assist watershed councils, [*and*] soil and water conservation districts **and**
32 **other partners** and to support the efforts of watershed councils, [*and*] soil and water conservation
33 districts **and other partners** to work within the requirements of state and federal laws without
34 duplication of planning effort. The framework shall include all of the following:

35 (A) Guidance and protocols for watershed assessments to encourage consistent assessment
36 methods across all watersheds and agencies, including assessment of cumulative effects. At a mini-
37 mum, such guidance shall address the following plan components:

38 (i) A description of the watershed;

39 (ii) An assessment of current watershed conditions and the distribution and condition of habitat;
40 and

41 (iii) Identification of conditions preventing watershed restoration.

42 (B) Guidance on how to prepare watershed action plans. At a minimum, such guidance shall
43 address the following plan components:

44 (i) Applicable water quality standards and native salmonid and habitat recovery objectives;

45 (ii) Proposed measures needed to restore watershed health;

1 (iii) Timeline and budget estimates for implementation of action measures in priority order; and

2 (iv) Monitoring and evaluation systems.

3 (b) May review plans, actions and rules of state agencies pertaining to restoration and pro-
4 tection grants for the purpose of coordinating the board's grant program with other ongoing grant
5 programs.

6 (c) Shall establish statewide and regional goals and priorities that shall become the basis for
7 funding decisions by the board. In adopting such goals and priorities, the board shall adopt priorities
8 for grant funding based on the Oregon Plan, **the Oregon Conservation Strategy, the watershed**
9 **health and native fish recovery programs of this state** and [on] measurable goals. In carrying
10 out this function, the board shall consider local economic and social impacts among the criteria.

11 (d) Shall support development and implementation of a system that enables standardized col-
12 lection, management and reporting of natural resources information in Oregon, including water data,
13 geographic information system data and information on native fish and wildlife and habitat.

14 (e) Shall promote the availability of information on the effects of watershed enhancement.

15 (f) May not have regulatory or enforcement authority except for the fiscal responsibilities de-
16 scribed in ORS 541.351 to 541.415.

17 (2) In addition to [the uses of grant funds described in ORS 541.399, in allocating grant funds
18 under ORS 541.351 to 541.415 that are derived from the Restoration and Protection Subaccount, the
19 board:] **any other expenditures consistent with section 16 of this 2011 Act, moneys in the**
20 **Watershed Conservation Operating Fund may be expended in the form of grants or allo-**
21 **cations:**

22 (a) [May allocate funds to be used for staff for] **To soil and water conservation districts and**
23 **watershed councils.] for costs of employing staff to further the development and implemen-**
24 **tation of activities, projects and programs for the purposes described in section 16 of this**
25 **2011 Act; or**

26 (b) [May award funds] For a specific project or program application or for implementation of
27 an approved action plan.

28 (3) To the maximum extent practicable, soil and water conservation districts and watershed
29 councils shall share technical staff.

30 **SECTION 19.** ORS 805.256 is amended to read:

31 805.256. (1) After deduction of the cost of administration of the salmon registration plate pro-
32 gram, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as
33 follows:

34 (a) Half of the moneys shall be transferred to the [Oregon Watershed Enhancement Board estab-
35 lished under ORS 541.360 and are continuously appropriated to the board] **Watershed Conservation**
36 **Operating Fund** for activities under [ORS 541.379] **section 16 of this 2011 Act** related to the res-
37 toration and protection of [native salmonid populations, watersheds, fish and wildlife habitats and
38 water quality, including but not limited to activities under the Oregon Plan] **watersheds, native fish**
39 **and wildlife and water quality;** and

40 (b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund
41 established under ORS 390.134 and continuously appropriated for the purposes described in ORS
42 390.134 (4).

43 (2) As used in this section, "the cost of administration of the salmon registration plate
44 program" is the sum of all Department of Transportation expenses for the issuance or transfer of
45 salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing

1 and transferring registration plates in the normal course of the business of the department. These
2 expenses include, but are not limited to, the costs of collecting the salmon registration plate sur-
3 charge and transferring salmon registration plates.

4
5 **OREGON WATERSHED ENHANCEMENT BOARD**

6
7 **SECTION 20.** ORS 541.360 is amended to read:

8 541.360. (1) The Oregon Watershed Enhancement Board is created. The board shall consist of
9 17 members as set forth in subsection (2) of this section. The chairperson shall have such powers
10 and duties as are provided by the rules of the board.

11 (2)(a) The 11 voting members of the board shall be knowledgeable about natural resource issues,
12 represent all geographic regions of this state and include at least one representative of a tribe. The
13 board shall consist of the following:

14 (A) Each of the following boards or commissions shall designate one member of their board or
15 commission to serve on the Oregon Watershed Enhancement Board:

- 16 (i) The Environmental Quality Commission;
17 (ii) The State Fish and Wildlife Commission;
18 (iii) The State Board of Forestry;
19 (iv) The State Board of Agriculture; and
20 (v) The Water Resources Commission; and

21 (B) Six public members appointed by the Governor and confirmed by the Senate in accordance
22 with ORS 171.562 and 171.565. Each public member shall serve for a term of four years. A member
23 shall be eligible for reappointment, but no member shall serve more than two consecutive terms.

24 (b) In addition to the voting members, the director of the [*agricultural extension service of*]
25 Oregon State University **Extension Service**, or the director's designee, shall serve as a nonvoting
26 member of the board and shall participate as needed in the activities of the board.

27 (c) In addition to the voting and nonvoting members designated in paragraphs (a) and (b) of this
28 subsection, representatives of the following federal agencies shall be invited to serve as additional
29 nonvoting members of the board:

- 30 (A) A representative of the United States Forest Service.
31 (B) A representative of the United States Bureau of Land Management.
32 (C) A representative of the Natural Resources Conservation Service of the United States De-
33 partment of Agriculture.
34 (D) A representative of the United States Environmental Protection Agency.
35 (E) A representative of the National Marine Fisheries Service of the United States Department
36 of Commerce.

37 (3) The voting members of the board shall select a chairperson from among the voting members
38 of the board.

39 (4) At least eight voting members of the board must be present to take action to award grant
40 funds under ORS 541.370. If three or more voting members object to an award of grant funds, the
41 board shall reject the proposal and direct the applicant to revise the proposal to comply with the
42 requirements of ORS [*541.397, 541.399 and 451.401*] **541.401 and sections 12 and 13 of this 2011**
43 **Act** and resubmit the proposal.

44 **SECTION 21.** ORS 541.370 is amended to read:

45 541.370. (1) In carrying out the watershed enhancement program **described in ORS 541.365**, the

1 Oregon Watershed Enhancement Board shall:

2 (a) Coordinate the board's funding of enhancement projects with the activities of the Natural
3 Resources Division staff and other agencies, especially those agencies working together through a
4 system of coordinated resource management planning.

5 (b) Use the expertise of the appropriate state agency according to the type of enhancement
6 project.

7 (c) Provide educational and informational materials to promote public awareness and involve-
8 ment in the watershed enhancement program.

9 (d) Coordinate and provide for or arrange for assistance in the activities of persons, agencies
10 or political subdivisions developing local watershed enhancement projects funded by the board.

11 (e) Grant funds for the support of watershed councils in assessing watershed conditions, devel-
12 oping action plans, implementing projects and monitoring results and for the implementation of
13 watershed enhancement projects from such moneys as may be available to the board therefor.

14 (f) Develop and maintain a centralized repository for information about the effects of watershed
15 enhancement and education projects.

16 (g) Give priority to proposed watershed enhancement projects receiving funding or assistance
17 from other sources.

18 (h) Identify gaps in research or available information about watershed health and enhancement.

19 (i) Cooperate with appropriate federal entities to identify the needs and interests of the State
20 of Oregon so that federal plans and project schedules relating to watershed enhancement incorpo-
21 rate the state's intent to the fullest extent practicable.

22 (j) Encourage the use of nonstructural methods to enhance the riparian areas and associated
23 uplands of Oregon's watersheds.

24 (k) Determine criteria for utilizing the private sector, both not-for-profit and for-profit organ-
25 izations, to provide landowners with technical assistance to help develop and implement conserva-
26 tion easements and resource improvement projects.

27 (2) In accordance with ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board shall
28 administer a watershed *[improvement]* **conservation** grant program using funds from the Watershed
29 *[Improvement]* **Conservation** Grant Fund established under *[ORS 541.397]* **section 12 of this 2011**
30 **Act**, from the *[Restoration and Protection]* **Natural Resources** Subaccount established under *[ORS*
31 *541.377]* **section 9 of this 2011 Act** and from the Flexible Incentives Account established under ORS
32 541.381.

33 (3) To aid and advise the board in the performance of the functions of the board, the board may
34 establish such advisory and technical committees as the board considers necessary. These commit-
35 tees may be continuing or temporary. The board shall determine the representation, membership,
36 terms and organization of the committees and shall appoint their members. The chairperson is ex
37 officio a member of each committee.

38 **SECTION 22.** ORS 541.375 is amended to read:

39 541.375. (1)(a) *[Any person, tribe, watershed council, soil and water conservation district, commu-*
40 *nity college, state institution of higher education, independent not-for-profit institution of higher educa-*
41 *tion or political subdivision of this state that is not a state agency]* **The following entities** may submit
42 a request for funding for, or for advice and assistance in developing, a project under ORS 541.351
43 to 541.415[.]:

44 **(A) A person;**

45 **(B) An Indian tribe;**

1 (C) A watershed council;

2 (D) A soil and water conservation district;

3 (E) A community college;

4 (F) A state institution of higher education;

5 (G) An independent not-for-profit institution of higher education; or

6 (H) A political subdivision of this state that is not a state agency.

7 (b) A state agency or federal agency may apply for funding under this section only as a
8 coapplicant with *[one of the other eligible entities]* **an entity described in paragraph (a) of this**
9 **subsection.**

10 (2) The request under subsection (1) of this section shall be filed in the manner, be in the form
11 and contain the information required by the Oregon Watershed Enhancement Board, **regardless of**
12 **the anticipated funding source for the project.**

13 (3) The board may establish a grant program through soil and water conservation districts or-
14 ganized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local imple-
15 mentation of watershed enhancement, education and monitoring efforts.

16 (4) The board may fund implementation of action plans based on a watershed assessment that
17 addresses water quality and aquatic resources of the watershed.

18 (5) A project may use mechanical, vegetative or structural methods including, but not limited
19 to, management techniques, erosion control, streambank stabilization, forest, range or crop land
20 treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a
21 willing owner, watershed assessments, landowner incentives and action plan development, imple-
22 mentation and monitoring.

23 (6) The actions of a soil and water conservation district carried out pursuant to a grant program
24 established by the board under subsection (3) of this section shall not be subject to review and ap-
25 proval by the Natural Resources Division under ORS 561.400.

26 (7) *[The Oregon Watershed Enhancement Board shall approve for funding only those projects*
27 *that:]* **If a project or a portion of a project is not subject to the funding criteria described in**
28 **ORS 541.401 and applies to receive funding from the board, the board may approve the project**
29 **or portion of a project for funding only if the project or portion of a project:**

30 (a) *[Are]* **Is** based on sound principles of **native fish or wildlife habitat conservation or**
31 **watershed management;**

32 (b) *[Use]* **Uses** methods most adapted to the project locale;

33 (c) *[Meet]* **Meets** the criteria established by the board under ORS 541.396; and

34 (d) *[Contribute]* **Contributes** to either:

35 (A) The improved health of a stream, lake or reservoir and toward the achievement of standards
36 that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended;
37 or

38 (B) The *[restoration of wildlife, habitat or native fish]* **conservation or restoration of habitat**
39 **for, or of watershed or ecosystem function for, native fish or wildlife.**

40 (8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a
41 riparian area or associated upland that is carried out in conjunction with a storage structure.
42 However, the board shall not approve funding for any proposed project that consists solely of con-
43 struction of a storage structure for out-of-stream use.

44 (9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of
45 lands and waters, or interests therein from willing sellers, for the purpose of maintaining or re-

1 storing watersheds[, *habitat and native salmonids*] **and habitat for native fish or wildlife**. Interests
 2 in these lands and waters may be held by local, state and federal agencies, tribes, not-for-profit land
 3 conservation organizations and trusts, state institutions of higher education, independent not-for-
 4 profit institutions of higher education or political subdivisions of this state, as long as the entity
 5 continues to use the land or water for the purposes specified under section 4b, Article XV of the
 6 Oregon Constitution.

7 (10) If the Oregon Watershed Enhancement Board approves funding for a project under this
 8 section[*that requires the applicant to obtain a permit or license from a local, state or federal agency*
 9 *or governing body*], the board [shall] **may** not disburse [any] funds to the applicant **for any part**
 10 **of the project that requires the applicant to obtain a permit or license from a local, state**
 11 **or federal agency or governing body** until the applicant presents evidence that the agency has
 12 granted the permit or license.

13 **SECTION 23.** ORS 541.376 is amended to read:

14 541.376. (1) Land purchased through a grant agreement with the Oregon Watershed Enhance-
 15 ment Board shall be subject to title restrictions that **are consistent with the conservation pur-**
 16 **poses of the grant and** give the board the authority to approve, approve with conditions or deny
 17 the sale or transfer of the land. [*Specifically,*] The board may require conditions on the sale or
 18 transfer to:

19 (a) Ensure consistency with the intent of the original grant;

20 (b) Ensure the ability of the party receiving the land through the sale or transfer to carry out
 21 the obligations under the grant agreement; and

22 (c) Address the disposition of proceeds from the sale or transfer, including any provisions for
 23 repayment, with interest, of any grant funds.

24 (2) The board may not allow a sale or transfer that results in any profit to any person.

25 (3) The board shall, by rule, define “profit” for the purpose of not allowing sales or transfers
 26 and shall specify the process and criteria that the board will use in considering whether to approve,
 27 approve with conditions or deny a sale or transfer.

28 **SECTION 24.** ORS 541.392 is amended to read:

29 541.392. [(1)] The Oregon Watershed Enhancement Board shall report biennially to the Legisla-
 30 tive Assembly on the implementation of the management program under ORS 541.384 and grants
 31 awarded under [ORS 541.399] **section 13 of this 2011 Act**. The report shall include but need not
 32 be limited to:

33 [(a)] (1) An explanation of the effectiveness and workability of the partnership process described
 34 in ORS 541.384;

35 [(b)] (2) A description of any modifications to the process that have been instituted; **and**

36 [(c)] (3) Recommendations concerning the need for future legislative action.[: and]

37 [(d)] *Information about the use of moneys received by and distributed by the board under section*
 38 *4b, Article XV of the Oregon Constitution.*]

39 [(2)] *The board shall include with each report under subsection (1) of this section a copy of each*
 40 *audit completed pursuant to section 4c, Article XV of the Oregon Constitution.*]

41 **RESTORATION AND PROTECTION RESEARCH FUND**

42
 43
 44 **SECTION 25.** ORS 541.378 is repealed. The State Treasurer shall transfer any balance of
 45 the Restoration and Protection Research Fund remaining available and unexpended on the

1 **effective date of this 2011 Act that was derived from interest on Watershed Improvement**
2 **Operating Fund moneys to the credit of the Watershed Improvement Operating Fund. The**
3 **State Treasurer shall transfer any balance of the Restoration and Protection Research Fund**
4 **remaining available and unexpended on the effective date of this 2011 Act that was derived**
5 **from interest on Watershed Improvement Grant Fund moneys to the credit of the**
6 **Watershed Improvement Grant Fund.**

7
8 **WATERSHED IMPROVEMENT OPERATING FUND**
9

10 **SECTION 26.** ORS 541.379 is amended to read:

11 541.379. (1) The Watershed Improvement Operating Fund is established in the State Treasury
12 separate and distinct from the General Fund. The Watershed Improvement Operating Fund shall
13 consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improve-
14 ment Operating Fund are continuously appropriated for the following purposes:

15 (a) Operational activities of the Oregon Watershed Enhancement Board **for carrying out this**
16 **section;**

17 (b) Activities of state and local agencies and other public entities **for which funding was ap-**
18 **proved by the board prior to the effective date of this 2011 Act and that are** related to the
19 restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and
20 water quality, including but not limited to activities under the Oregon Plan;

21 (c) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the**
22 **2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011**
23 **Act** that are not capital expenditures; and

24 (d) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the**
25 **2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011**
26 **Act** that are capital expenditures.

27 (2) Interest accruing to the Watershed Improvement Operating Fund shall be credited to [*the*
28 *Restoration and Protection Research Fund created under ORS 541.378*] **the fund.** Funds appropriated
29 and not expended by the completion of a biennium shall remain in the Watershed Improvement Op-
30 erating Fund.

31 (3) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the
32 Watershed Improvement Operating Fund.

33 (4) [*In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS*
34 *541.399,*] The board [*also*] may accept gifts and grants from any public or private source for the
35 purposes described in subsection (1) of this section.

36 **SECTION 27. ORS 541.379 is repealed on July 1, 2013. The State Treasurer shall transfer**
37 **any balance of the Watershed Improvement Operating Fund remaining available and unex-**
38 **pended on July 1, 2013, to the credit of the Watershed Conservation Operating Fund.**

39
40 **WATERSHED IMPROVEMENT GRANT FUND**
41

42 **SECTION 28.** ORS 541.397 is amended to read:

43 541.397. (1) The Watershed Improvement Grant Fund is established separate and distinct from
44 the General Fund. The Watershed Improvement Grant Fund shall consist of all moneys placed in the
45 fund as provided by law. All moneys in the Watershed Improvement Grant Fund are continuously

1 appropriated to fund watershed improvement grants described in ORS 541.399 and 541.401 **as set**
2 **forth in the 2009 Edition of Oregon Revised Statutes that were issued prior to the effective**
3 **date of this 2011 Act.** Interest accruing to the Watershed Improvement Grant Fund shall be cred-
4 ited to [*the Restoration and Protection Research Fund created under ORS 541.378*] **the fund.** Funds
5 appropriated and not expended by the completion of a biennium shall remain in the Watershed Im-
6 provement Grant Fund.

7 (2) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the
8 Watershed Improvement Grant Fund and provide grants from the fund [*for the purposes described in*
9 *ORS 541.399 and 541.401 in the manner described under ORS 541.399 and 541.401*] **as described in**
10 **subsection (1) of this section.**

11 (3) [*In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS*
12 *541.399,*] The board [*also*] may accept gifts and grants from any public or private source for the
13 purpose of [*providing*] **funding** the grants described in subsection [(2)] (1) of this section.

14 **SECTION 29. ORS 541.397 is repealed on July 1, 2015. The State Treasurer shall transfer**
15 **any balance of the Watershed Improvement Grant Fund remaining available and unexpended**
16 **on July 1, 2015, to the credit of the Watershed Conservation Grant Fund.**

17
18 **MISCELLANEOUS**
19

20 **SECTION 30. (1) Section 9 of this 2011 Act and the amendments to ORS 541.377 by section**
21 **1 of this 2011 Act are intended to change the name of the “Restoration and Protection Sub-**
22 **account” to the “Natural Resources Subaccount.”**

23 (2) **For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel**
24 **may substitute for words designating the “Restoration and Protection Subaccount,” wher-**
25 **ever they occur in statutory law, other words designating the “Natural Resources Subac-**
26 **count.”**

27 **SECTION 30a. If Senate Bill 242 becomes law, section 276, chapter __, Oregon Laws 2011**
28 **(Enrolled Senate Bill 242) (amending ORS 541.375), is repealed and ORS 541.375, as amended**
29 **by section 22 of this 2011 Act, is amended to read:**

30 541.375. (1)(a) The following entities may submit a request for funding for, or for advice and
31 assistance in developing, a project under ORS 541.351 to 541.415:

- 32 (A) A person;
- 33 (B) An Indian tribe;
- 34 (C) A watershed council;
- 35 (D) A soil and water conservation district;
- 36 (E) A community college;
- 37 (F) A [*state institution of higher education*] **public university listed in ORS 352.002;**
- 38 (G) An independent not-for-profit institution of higher education; or
- 39 (H) A political subdivision of this state that is not a state agency.

40 (b) A state agency or federal agency may apply for funding under this section only as a
41 coapplicant with an entity described in paragraph (a) of this subsection.

42 (2) The request under subsection (1) of this section shall be filed in the manner, be in the form
43 and contain the information required by the Oregon Watershed Enhancement Board, regardless of
44 the anticipated funding source for the project.

45 (3) The board may establish a grant program through soil and water conservation districts or-

1 ganized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local imple-
2 mentation of watershed enhancement, education and monitoring efforts.

3 (4) The board may fund implementation of action plans based on a watershed assessment that
4 addresses water quality and aquatic resources of the watershed.

5 (5) A project may use mechanical, vegetative or structural methods including, but not limited
6 to, management techniques, erosion control, streambank stabilization, forest, range or crop land
7 treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a
8 willing owner, watershed assessments, landowner incentives and action plan development, imple-
9 mentation and monitoring.

10 (6) The actions of a soil and water conservation district carried out pursuant to a grant program
11 established by the board under subsection (3) of this section shall not be subject to review and ap-
12 proval by the Natural Resources Division under ORS 561.400.

13 (7) If a project or a portion of a project is not subject to the funding criteria described in ORS
14 541.401 and applies to receive funding from the board, the board may approve the project or portion
15 of a project for funding only if the project or portion of a project:

16 (a) Is based on sound principles of native fish or wildlife habitat conservation or watershed
17 management;

18 (b) Uses methods most adapted to the project locale;

19 (c) Meets the criteria established by the board under ORS 541.396; and

20 (d) Contributes to either:

21 (A) The improved health of a stream, lake or reservoir and toward the achievement of standards
22 that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended;
23 or

24 (B) The conservation or restoration of habitat for, or of watershed or ecosystem function for,
25 native fish or wildlife.

26 (8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a
27 riparian area or associated upland that is carried out in conjunction with a storage structure.
28 However, the board shall not approve funding for any proposed project that consists solely of con-
29 struction of a storage structure for out-of-stream use.

30 (9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of
31 lands and waters, or interests therein from willing sellers, for the purpose of maintaining or re-
32 storing watersheds and habitat for native fish or wildlife. Interests in these lands and waters may
33 be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and
34 trusts, [*state institutions of higher education*] **public universities listed in ORS 352.002**, independent
35 not-for-profit institutions of higher education or political subdivisions of this state, as long as the
36 entity continues to use the land or water for the purposes specified under section 4b, Article XV
37 of the Oregon Constitution.

38 (10) If the Oregon Watershed Enhancement Board approves funding for a project under this
39 section, the board may not disburse funds to the applicant for any part of the project that requires
40 the applicant to obtain a permit or license from a local, state or federal agency or governing body
41 until the applicant presents evidence that the agency has granted the permit or license.

42 **SECTION 30b. The amendments to ORS 541.375 by section 30a of this 2011 Act become**
43 **operative on January 1, 2012.**

44
45

CAPTIONS

