

# Senate Bill 598

Sponsored by Senator ATKINSON

## SUMMARY

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

Prohibits public body from discharging drainage or storm water into facilities owned by specified districts without intergovernmental agreement. Requires public body that is unable or unwilling to reach agreement with district to complete and implement alternative plan for discharging drainage or storm water. Imposes liability for discharge without, or in violation of, intergovernmental agreement.

## A BILL FOR AN ACT

1  
2 Relating to discharge of water into district facilities.

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

4 **SECTION 1. Sections 2 to 5 of this 2011 Act are added to and made a part of ORS chapter**  
5 **195.**

6 **SECTION 2. As used in sections 2 to 5 of this 2011 Act:**

7 (1) **"District" means:**

8 (a) **An irrigation district organized under ORS chapter 545.**

9 (b) **A drainage district organized under ORS chapter 547.**

10 (c) **A water improvement district organized under ORS chapter 552.**

11 (d) **A water control district organized under ORS chapter 553.**

12 (2) **"District facility" means a canal, ditch, drain or waterway owned by a district.**

13 (3) **"Public body" has the meaning given that term in ORS 174.109.**

14 **SECTION 3. The Legislative Assembly finds and declares that:**

15 (1) **Some public bodies discharge drainage or storm water into district facilities, in-**  
16 **creasing the costs and potentially the liability of districts, frequently overburdening the ca-**  
17 **capacity of district facilities and potentially containing commercial or industrial pollutants.**

18 (2) **It is in the public interest to encourage agreements among public bodies and districts**  
19 **to address the problems caused by public body discharges of drainage and storm water into**  
20 **district facilities and to control, monitor and test the quality of the drainage and storm wa-**  
21 **ter discharged.**

22 **SECTION 4. (1) A public body may discharge drainage or storm water into a district fa-**  
23 **cility only pursuant to an intergovernmental agreement entered into and maintained between**  
24 **a public body and the district that owns the facilities.**

25 (2) **The agreement must include provisions for:**

26 (a) **The establishment of a program of monitoring and testing the quality of drainage or**  
27 **storm water discharged to ensure compliance with the laws of this state and the United**  
28 **States.**

29 (b) **The allocation of liability for the discharge of drainage or storm water.**

30 (c) **The public body to supply the appropriate emergency response for an improper dis-**

**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 charge.

2 (3) A public body that discharges drainage or storm water into district facilities shall  
3 take reasonable measures to ensure that the discharge of drainage or storm water does not  
4 violate a water quality standard implemented under the Federal Water Pollution Control Act,  
5 P.L. 92-500, as amended.

6 (4) A public body that discharges drainage or storm water into district facilities without,  
7 or in violation of the terms of, an intergovernmental agreement is liable to the district that  
8 receives the discharge in district facilities for all losses, costs, damages and other conse-  
9 quences of the discharge, including reasonable attorney fees and costs in an action related  
10 to the discharge.

11 **SECTION 5.** (1) A public body that discharges drainage or storm water into a district  
12 facility on or after the effective date of this 2011 Act, but that does not or cannot agree to  
13 terms of an intergovernmental agreement under section 4 of this 2011 Act on or before  
14 September 1, 2012:

15 (a) Within one year after the effective date of this 2011 Act, shall establish a program  
16 of monitoring and testing the quality of drainage or storm water discharged to ensure com-  
17 pliance with the laws of this state and the United States, and shall furnish a copy of the test  
18 results to the district that receives the drainage or storm water in district facilities and to  
19 the appropriate legislative committee.

20 (b) Within two years after the effective date of this 2011 Act, shall complete a detailed  
21 plan for infrastructure or improvements that provides an alternative for the discharge of the  
22 drainage or storm water of the public body that does not require the use of district facilities,  
23 and shall furnish a copy of the plan to the district that receives the drainage or storm water  
24 in district facilities and to the appropriate legislative committee.

25 (c) Within five years after the effective date of this 2011 Act, shall implement the plan  
26 fully so that the public body no longer discharges any drainage or storm water into district  
27 facilities, and shall report the status of plan implementation to the appropriate legislative  
28 committee.

29 (d) Upon inquiry, shall provide evidence of the intergovernmental agreement authorizing  
30 the discharge.

31 (e) Is liable to the district that receives the discharge of drainage or storm water in  
32 district facilities for all losses, costs, damages, attorney fees and other consequences of the  
33 discharge occurring on or after the effective date of this 2011 Act.

34 (2) Notwithstanding the requirement in subsection (1) of this section that an intergov-  
35 ernmental agreement be entered into by September 1, 2012, a district, in its discretion, may  
36 with a public body enter into a short-term, written agreement that adopts reasonable alter-  
37 nate timelines for the completion of the public body's duties under this section and for the  
38 public body's assumption of liability under this section or section 4 of this 2011 Act.

39 **SECTION 6.** (1) Section 4 of this 2011 Act becomes operative one year after the effective  
40 date of this 2011 Act.

41 (2) A public body and a district may negotiate and enter into an intergovernmental  
42 agreement on or after the effective date of this 2011 Act for the purpose of implementing  
43 section 4 of this 2011 Act on and after the operative date specified in subsection (1) of this  
44 section.

45 **SECTION 7.** Section 5 of this 2011 Act is repealed January 2, 2021.

