

# Enrolled House Bill 2345

Sponsored by Representative READ (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to critical infrastructure development; creating new provisions; amending ORS 777.262 and 777.267; and declaring an emergency.

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

**SECTION 1. The Legislative Assembly finds that:**

**(1) Adequate public infrastructure systems are essential to a vibrant economy. Oregon's needs for many kinds of infrastructure development cannot be met using traditional development and financing methods. To close an expected multibillion dollar investment gap for the development of critical public infrastructure and to secure a sound and resilient economy, Oregon must attract innovation in design, financing and asset management.**

**(2) Some public infrastructure projects require expertise in identifying, procuring, negotiating and implementing projects using a performance-based, life-cycle value method. To properly utilize, manage and implement such a method and to ensure that the public interest is protected through effective risk mitigation, Oregon must establish a center of expertise that will allow this state to take advantage of opportunities for innovation, innovative financing and regional infrastructure development while minimizing public risk and maximizing the value obtained for taxpayer dollars. The design and implementation of such a center of expertise should draw from successful models that incorporate the flexibility and agility necessary to succeed while preserving public transparency, accountability and exemplary contracting attributes.**

**(3) To create an attractive marketplace that will draw high bidder quality and competition, the western states need to be established as a marketplace for innovative infrastructure financing. This is best accomplished through regional collaboration to establish best practices, coordinate interstate projects, and increase visibility of regional projects.**

**SECTION 2. (1) The Oregon Innovation in Infrastructure Task Force is established, consisting of 10 members appointed as follows:**

**(a) The President of the Senate shall appoint two members from among members of the Senate.**

**(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives.**

**(c) The Governor shall appoint four members as follows:**

**(A) One member with experience in critical infrastructure development and maintenance;**

**(B) One member with experience in private capital investment opportunities and strategies;**

(C) One member with experience in managing public project development, delivery methods and financing; and

(D) One member who has participated in regional discussions and collaborations regarding west coast infrastructure status and needs.

(d) The Governor's Regional Solutions Director shall appoint one member who represents the team members of the Regional Solutions Centers.

(e) The State Treasurer shall appoint one member who represents the State Treasurer.

(2) The task force shall make recommendations to the Legislative Assembly regarding:

(a) Participation in a west coast infrastructure exchange effort that partners with innovators in other states and regions on the west coast to assess the status of existing infrastructures and to establish a west coast marketplace for innovation in infrastructure development, construction, financing and delivery of overall life-cycle value. The task force shall seek innovative methods to develop and implement critical infrastructure projects, including but not limited to projects involving energy transmission and efficiency, transportation, water storage capacity, municipal water systems and wastewater management. The task force shall consider necessary financial, policy and other expertise from Oregon and other jurisdictions and develop guidelines for parity of participation.

(b) Strategies for the creation, funding, function and governance of an Oregon public corporation or other structure that will be a center of expertise to encourage and implement innovative practices, including:

(A) Performance-based contracting;

(B) Procurement for highest life-cycle value;

(C) Negotiated risk transfer to private participants;

(D) Combination of public and private construction capital; and

(E) Grouping of projects for efficiency in design, construction, financing and maintenance.

(c) Effective utilization of methods and tools that will obtain the best value from public expenditures for public infrastructure by:

(A) Encouraging innovation in design, delivery, construction, and financing;

(B) Providing greater access to sources of capital not currently available for Oregon projects;

(C) Transferring risks associated with the design, construction, financing, and long-term performance of infrastructure to parties or entities that are best able to manage the risk with economic efficiency;

(D) Ensuring competition;

(E) Combining similar projects for ease of financing and economies of scale;

(F) Providing for the long-term performance of infrastructure facilities through the use of well-structured maintenance contracts that have scheduled costs and that reflect exemplary contracting standards;

(G) Accelerating the delivery of projects; and

(H) Preserving the economic, workforce, and community benefits of infrastructure projects through the application of contracting and sustainability standards, and policies, relating to prevailing wages, emerging small businesses, women and minorities.

(d) The responsibilities of the center of expertise, including but not limited to providing services to enhance, improve and maintain critical infrastructure systems in Oregon and on the west coast by:

(A) Bundling similar critical infrastructure projects;

(B) Creating performance-based partnerships to manage projects more efficiently;

(C) Collecting consistent, comprehensive and high quality data regarding existing infrastructure systems and potential infrastructure enhancements and development;

(D) Collaborating with industry experts and innovators;

(E) Providing technical assistance to design and finance critical infrastructure projects; and

(F) Creating and implementing new mechanisms and strategies for financing critical infrastructure projects, including but not limited to attracting private investors that have traditionally not invested in public infrastructure.

(e) A data platform that will help Oregon to identify, inventory and publicize potential infrastructure projects, and to facilitate consultation among project sponsors and funding program managers.

(3) A majority of the members of the task force constitutes a quorum for the transaction of business.

(4) Official action by the task force requires the approval of a majority of the members of the task force.

(5) The task force shall elect one of its members to serve as chairperson.

(6) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(7) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(8) The task force may adopt rules necessary for the operation of the task force.

(9) The task force shall submit a report in the manner provided by ORS 192.245, and shall include in the report the task force's recommendations required under subsection (2) of this section, to the interim committees of the Legislative Assembly related to infrastructure and business development, as appropriate, no later than December 31, 2013.

(10)(a) The State Treasurer and the Oregon Department of Administrative Services shall provide staff support to the task force.

(b) The department shall facilitate, manage and direct consultation among state agencies with respect to infrastructure needs and funding.

(11) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the Oregon Department of Administrative Services for purposes of the task force.

(12) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

**SECTION 3.** ORS 777.262 is amended to read:

777.262. (1) The Legislative Assembly finds:

(a) That recent changes in federal law authorize the United States Army Corps of Engineers to require ports and other local communities to provide a portion of the costs of dredging harbors and channels near those communities;

(b) That port districts and communities in this state cannot afford to pay the costs necessary to continue the dredging activities that are essential to keep the major harbors and waterways navigable for larger vessels in maritime trade; and

(c) That the State of Oregon must therefore pay for *[such]* **the** dredging activities when ports cannot, or this state must tolerate the loss of maritime trade and commerce that will inevitably result from the halt of dredging activities.

(2) Therefore, it is the purpose of this section and **one purpose of** ORS 777.267 to provide a method of financing *[required]* **all or part of the nonfederal portion of the costs of** dredging activities **that constitute new federally authorized navigation improvements** in the ports of this state when those ports are unable to finance *[such]* **the** activities.

**SECTION 4.** ORS 777.267 is amended to read:

777.267. (1) *[There is established in the State Treasury]* The Marine Navigation Improvement Fund **is established in the State Treasury, separate and distinct from the General Fund.** Interest earned by the Marine Navigation Improvement Fund shall be credited to the fund. The moneys in the fund and interest earnings on the moneys in the fund are continuously appropriated to the Oregon Business Development Department for the Oregon Infrastructure Finance Authority for the purposes of:

(a) Paying a portion of the **construction** costs of dredging activities that **constitute new federally authorized navigation improvement projects and** are carried out in the harbors and channels on the Oregon coast and along the Columbia River when federal law or regulation requires a portion of the costs *[of such dredging]* to be paid by nonfederal interests; *[and]*

(b) Paying the study and construction costs of other new navigation improvement projects that directly support, **or provide access to,** a federally authorized navigation improvement project[.]; **and**

(c) **Paying the study and construction costs of maintenance projects related to existing federally authorized navigation improvement projects.**

(2) The Marine Navigation Improvement Fund established by this section consists of moneys appropriated to the fund by the Legislative Assembly, repayment of loans made with moneys in the fund and bond proceeds deposited in the fund.

(3) Moneys in the fund shall be used primarily to make loans to ports for eligible projects. The authority may award a grant or provide other assistance from moneys in the fund to a port for an eligible project only if a loan is not feasible due to the financial hardship of the port or other special circumstances, as set forth in rules adopted by the department.

(4) Eligibility for assistance from the Marine Navigation Improvement Fund shall be limited to and funded, subject to the availability of funds, in the following order of priority:

*[(a) Federally authorized studies and construction of new navigation improvement projects.]*

**(a) Maintenance projects related to existing federally authorized navigation improvement projects.**

(b) Other new navigation improvement projects *[if the projects]* **that** directly support, or provide access to, a federally authorized navigation improvement project or a federally authorized navigation channel.

**(c) New federally authorized navigation improvement projects.**

(5) **The authority shall limit** financial assistance for construction costs under subsection *[(4)(a)] (1)(a)* of this section *[shall be limited]* to those projects that have completed all federally required studies *[and have confirmed positive cost-benefit ratios as required by the National Economic Development Plan].*

(6) **The authority shall limit** financial assistance for construction costs under subsection *[(4)(b)] (1)(b)* of this section *[is limited]* to projects sponsored by a port, as defined in ORS 777.005 or 778.005, that meet criteria developed by the authority.

(7) **The authority shall limit** financial assistance for *[studies of other new construction projects]* **study costs** under subsection (1)(b) of this section *[is limited]* to projects that meet criteria developed by the authority.

(8) **The authority shall limit financial assistance for study and construction costs under subsection (1)(c) of this section to projects that meet criteria developed by the authority.**

**SECTION 5. Section 2 of this 2013 Act is repealed on June 30, 2014.**

**SECTION 6. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.**

**Passed by House April 3, 2013**

**Repassed by House June 27, 2013**

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 26, 2013**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2013

**Approved:**

.....M,....., 2013

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2013

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Kate Brown, Secretary of State