

D R A F T

SUMMARY

Authorizes qualified institutions to receive loans from Water Pollution Control Revolving Fund to finance projects to repair or replace failing on-site septic systems or to replace failing on-site septic systems with connections to available sewer.

A BILL FOR AN ACT

Relating to the Water Pollution Control Revolving Fund; amending ORS 468.423, 468.425, 468.429, 468.433, 468.437 and 468.440.

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

SECTION 1. ORS 468.423 is amended to read:

468.423. As used in ORS 468.423 to 468.440:

(1) “Available sewer” has the meaning given that term in ORS 454.779.

[(1)] **(2) “Fund” means the Water Pollution Control Revolving Fund established under ORS 468.427.**

(3) “On-site septic system” has the meaning given that term in ORS 454.779.

[(2)] **(4) “Public agency” means:**

(a) A state agency, incorporated city, county, sanitary authority, federally recognized Indian tribal government, school district, county service district, sanitary district, metropolitan service district or other special district authorized or required to construct water pollution control facilities; or

(b) An intergovernmental entity created by units of local government under ORS 190.003 to 190.130.

(5) “Qualified institution” means a nonprofit organization registered

1 **to operate in the State of Oregon that is certified as a community**
2 **development financial institution by the Community Development Fi-**
3 **nancial Institution Fund at the United States Department of the**
4 **Treasury.**

5 [(3)] (6) “Treatment works” means:

6 (a) The devices and systems used in the storage, treatment, recycling and
7 reclamation of municipal sewage or industrial wastes of a liquid nature,
8 necessary to recycle or reuse water at the most economical cost over the
9 estimated life of the works. “Treatment works” includes:

10 (A) Intercepting sewers, outfall sewers, sewage collection systems, pump-
11 ing power and other equipment, and any appurtenance, extension, improve-
12 ment, remodeling, addition or alteration to the equipment;

13 (B) Elements essential to provide a reliable recycled water supply in-
14 cluding standby treatment units and clear well facilities; and

15 (C) Any other acquisitions that will be an integral part of the treatment
16 process or used for ultimate disposal of residues resulting from such treat-
17 ment, including but not limited to land used to store treated waste water in
18 land treatment systems prior to land application.

19 (b) Any other method or system for preventing, abating, reducing, storing,
20 treating, separating or disposing of municipal waste, storm water runoff, in-
21 dustrial waste or waste in combined storm water and sanitary sewer systems.

22 (c) Any other facility that the Environmental Quality Commission deter-
23 mines a public agency must construct or replace in order to abate or prevent
24 surface or ground water pollution.

25 **SECTION 2.** ORS 468.425 is amended to read:

26 468.425. It is declared to be the policy of this state:

27 (1) To aid and encourage public agencies required to provide treatment
28 works for the control of water pollution in the transition from reliance on
29 federal grants to local self-sufficiency by the use of fees paid by users of the
30 treatment works;

31 **(2) To aid and encourage qualified institutions to assist in the pro-**

1 **tection or maintenance of water quality in the waters of this state by**
2 **financing projects to repair or replace failing on-site septic systems**
3 **or to replace failing on-site septic systems with connections to an**
4 **available sewer.**

5 [(2)] (3) To accept and use any federal grant funds available to capitalize
6 a perpetual revolving loan fund; and

7 [(3)] (4) To assist public agencies in meeting treatment works' con-
8 struction obligations in order to prevent or eliminate pollution of surface
9 and ground water by making loans from a revolving loan fund at interest
10 rates that are less than or equal to market interest rates.

11 **SECTION 3.** ORS 468.429 is amended to read:

12 468.429. (1) The Department of Environmental Quality shall use the mon-
13 eys in the Water Pollution Control Revolving Fund to provide financial as-
14 sistance:

15 (a) To public agencies for the construction or replacement of treatment
16 works.

17 (b) **To qualified institutions to finance projects to repair or replace**
18 **failing on-site septic systems or to replace failing on-site septic sys-**
19 **tems with connections to an available sewer.**

20 [(b)] (c) For the implementation of a management program established
21 under section 319 of the federal Water Quality Act of 1986 relating to the
22 management of nonpoint sources of pollution.

23 [(c)] (d) For development and implementation of a conservation and
24 management plan under section 320 of the federal Water Quality Act of 1986
25 relating to the national estuary program.

26 (2) The department may also use the moneys in the Water Pollution
27 Control Revolving Fund for the following purposes:

28 (a) To buy or refinance the debt obligations of public agencies for eligible
29 projects as listed under subsection (1) of this section, if the debt obligation
30 was incurred after March 7, 1985.

31 (b) To guarantee, or purchase insurance for, public agency obligations for

1 treatment works' construction or replacement if the guarantee or insurance
2 would improve credit market access or reduce interest rates, or to provide
3 loans to a public agency for this purpose.

4 (c) To pay the expenses of the department in administering the Water
5 Pollution Control Revolving Fund, to make transfers to the Water Pollution
6 Control Administration Fund, or to pay other departmental costs including
7 expenses of the program described in ORS 468.433 (2).

8 (3) If amounts are advanced to the Water Pollution Control Revolving
9 Fund from the Pollution Control Fund under ORS 468.220 (1), the department
10 shall transfer from the Water Pollution Control Revolving Fund to the Pol-
11 lution Control Sinking Fund amounts sufficient to pay the bonds that funded
12 the advance.

13 **SECTION 4.** ORS 468.433 is amended to read:

14 468.433. (1) In administering the Water Pollution Control Revolving Fund,
15 the Department of Environmental Quality shall:

16 (a) Allocate funds for loans in accordance with procedures adopted by
17 rule by the Environmental Quality Commission.

18 (b) Use accounting, audit and fiscal procedures that conform to generally
19 accepted government accounting standards.

20 (c) Prepare any reports required by the federal government as a condition
21 to awarding federal capitalization grants.

22 (d) Seek to maximize the ability of the Water Pollution Control Revolving
23 Fund to operate on a self-sustaining basis and maintain a perpetual source
24 of treatment works financing.

25 (2) If amounts are advanced to the Water Pollution Control Revolving
26 Fund from the Pollution Control Fund under ORS 468.220 (1), the department
27 shall develop and administer a program designed to loan amounts in the
28 Water Pollution Control Revolving Fund to public agencies **and qualified**
29 **institutions**, so the loan repayments are sufficient to pay the bonds that
30 funded the advance, and to further the policies established in ORS 468.425.
31 In connection with the program, the department may:

1 (a) Establish one or more accounts in the Water Pollution Control Re-
2 volving Fund, make covenants for the benefit of bondowners regarding the
3 deposit of amounts into those accounts and the use of amounts in those ac-
4 counts and pledge or reserve all or a portion of the amounts in the Water
5 Pollution Control Revolving Fund to pay bonds issued to fund advances to
6 the Water Pollution Control Revolving Fund under ORS 468.220 (1).

7 (b) Establish requirements for loans made from the Water Pollution
8 Control Revolving Fund to assure that:

9 (A) Adequate funds are available in the Water Pollution Control Revolv-
10 ing Fund to permit payment of bonds that funded advances to the Water
11 Pollution Control Revolving Fund; and

12 (B) Adequate funds will be available in the Water Pollution Control Ad-
13 ministration Fund to pay for costs of the program and costs of operating the
14 Water Pollution Control Revolving Fund.

15 (c) Exercise any remedies available to the department in connection with
16 defaults on loans of advanced funds to public agencies **or qualified insti-**
17 **tutions.**

18 (d) Take any other action reasonably necessary to develop the program
19 and provide for the payment of bonds issued to fund advances to the Water
20 Pollution Control Revolving Fund.

21 (3) The department may make loans to finance treatment works that are
22 funded in part from advances or grants to the Water Pollution Control Re-
23 volving Fund, and in part from funds available under ORS 468.220 (1). These
24 loans may have a blended interest rate that reflects their different sources
25 of funding, and repayments of these loans may be allocated proportionally
26 between the Water Pollution Control Revolving Fund and the Pollution
27 Control Sinking Fund.

28 **SECTION 5.** ORS 468.437 is amended to read:

29 468.437. (1) Any public agency **or qualified institution** desiring a loan
30 from the Water Pollution Control Revolving Fund shall submit an applica-
31 tion to the Department of Environmental Quality on the form provided by

1 the department. The department may require an opinion from the
2 department's bond counsel or other counsel that the applicant has the legal
3 authority to borrow from the Water Pollution Control Revolving Fund. If a
4 public agency relies on borrowing authority granted by charter or law other
5 than ORS 468.439, then with the consent of the department and notwith-
6 standing any limitation or requirement of the charter or law, the public
7 agency may borrow directly from the Water Pollution Control Revolving
8 Fund by issuing revenue bonds to the department. The requirements of ORS
9 287A.150 do not apply to revenue bonds that are sold to the department
10 pursuant to this section.

11 (2) Any public agency **or qualified institution** receiving a loan from the
12 Water Pollution Control Revolving Fund shall establish and maintain a
13 dedicated source of revenue or other acceptable source of revenue for the
14 repayment of the loan.

15 (3) If a public agency **or qualified institution** defaults on payments due
16 to the Water Pollution Control Revolving Fund, the state may withhold any
17 amounts otherwise due to the public agency **or qualified institution** and
18 direct that such funds be applied to the payments and deposited into the
19 fund. If the department finds that the loan to the public agency **or qualified**
20 **institution** is otherwise adequately secured, the department may waive this
21 right in the loan agreement or other loan documentation.

22 **SECTION 6.** ORS 468.440 is amended to read:

23 468.440. (1) The Environmental Quality Commission shall establish by rule
24 policies for establishing loan terms and interest rates for loans made from
25 the Water Pollution Control Revolving Fund that ensure that the objectives
26 of ORS 468.423 to 468.440 are met and that adequate funds are maintained
27 in the Water Pollution Control Revolving Fund to meet future needs. In es-
28 tablishing the policy, the commission shall take into consideration at least
29 the following factors:

30 (a) The capability of the project to enhance or protect water quality.

31 (b) The ability of a public agency **or qualified institution** to repay a

1 loan.

2 (c) Current market rates of interest.

3 (d) The size of the community or district to be served by the treatment
4 works.

5 (e) The type of project financed.

6 (f) The ability of the applicant to borrow elsewhere.

7 (g) Whether advances have been made to the Water Pollution Control
8 Revolving Fund from the Pollution Control Fund that must be repaid to the
9 Pollution Control Sinking Fund.

10 (2) The commission may establish an interest rate ranging from zero to
11 the market rate. The commission may establish the loan term, provided that
12 the loans must be fully amortized not later than 30 years after project com-
13 pletion.

14 (3) The commission shall adopt by rule any procedures or standards nec-
15 essary to carry out the provisions of ORS 468.423 to 468.440.

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