

D R A F T

SUMMARY

Requires Department of Environmental Quality to establish competitive clean technology sector development grant program. Requires department to award grants to qualified lenders to develop and administer loan or grant programs for funding clean technology sector development projects. Requires certain reporting related to grant program.

Establishes Clean Technology Sector Development Fund.

Modifies definition of qualified lender for purposes of lenders' loan loss reserve account award program.

A BILL FOR AN ACT

Relating to clean technology sector development; creating new provisions; and amending ORS 285B.784.

Whereas Oregon is in the process of developing new policies for making businesses and manufacturers in this state leaders in the national and international clean technology sectors; and

Whereas states across the nation are increasingly turning to public-private partnerships that utilize public funds to accelerate private capital investments in the clean technology sector; and

Whereas such public-private partnerships limit public sector risk, increase available capital and spur innovation and economic development; and

Whereas rather than relying strictly on government subsidies that cannot bring markets to scale, deploying public capital through public-private partnerships allows for limited public funds to be used to offer financing that attracts private investment; and

Whereas deploying public capital through public-private partnerships reduces the economic and political risks associated with state agencies making

1 and administering business loans; and

2 Whereas loan programs developed through public-private partnerships
3 preserve taxpayer dollars by allowing for each public dollar to go further and
4 to be recycled; and

5 Whereas public-private partnerships promoting the clean technology sec-
6 tor have the capacity to make clean technology cheaper, thus sparking de-
7 mand and driving job creation; and

8 Whereas there is documented evidence that Oregon's Black, Indigenous,
9 and People of Color business owners lack access to financing necessary to
10 start or grow their businesses; and

11 Whereas the federal Justice40 Initiative directs 40 percent of the overall
12 benefits of certain federal investments, including investments in clean energy
13 and energy efficiency, clean transit, affordable and sustainable housing,
14 training and workforce development, the remediation and reduction of legacy
15 pollution and the development of clean water infrastructure, to flow to dis-
16 advantaged communities; now, therefore,

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

18 **SECTION 1. As used in sections 1 to 4 of this 2023 Act:**

19 **(1) "Clean technology sector development project" means the de-**
20 **velopment, demonstration or deployment of any of the following:**

21 **(a) A community-based renewable energy project;**

22 **(b) An energy storage project;**

23 **(c) A project for the use of, or that uses, construction and design**
24 **standards or construction methods, products, equipment or devices to**
25 **increase resource efficiency in buildings undergoing new construction,**
26 **reconstruction, alteration or repair;**

27 **(d) A project for the use of, or that uses, manufacturing standards,**
28 **methods, products, equipment or devices to increase resource effi-**
29 **ciency in goods or the manufacturing of goods;**

30 **(e) An energy recovery facility, technology, project or product;**

31 **(f) An agricultural technology designed to increase resource effi-**

ciency or to produce a type of energy described in ORS 469A.025;

(g) An alternative fuel vehicle or alternative fuel vehicle infrastructure project;

(h) Other green technology projects; or

(i) Business activities not described in paragraphs (a) to (h) of this subsection that will:

(A) Aid, promote or facilitate the development, demonstration or deployment of one or more of the technologies, projects, products or processes described in paragraphs (a) to (h) of this subsection;

(B) Create business and employment opportunities, in concert with educational institutions, through programs designed to foster less carbon-intensive business practices;

(C) Aid, promote or facilitate the development of green technology businesses located in qualified opportunity zones under section 1400Z of the Internal Revenue Code, designated in Oregon;

(D) Provide a private company with the operating capital necessary to undertake a green technology project;

(E) Support Oregon's efforts to promote the reshoring of manufacturing in the green technology sector; or

(F) Have the potential to bring social, environmental and economic benefits to businesses and communities that are underserved by conventional financing.

(2) "Community-based renewable energy project" means:

(a) A renewable energy project with a generating capacity of 35 megawatts or less that generates electricity utilizing a type of energy described in ORS 469A.025;

(b) A facility that generates electricity using biomass that also generates thermal energy for a secondary purpose; or

(c) A community energy storage project.

(3) "Energy recovery" has the meaning given that term in ORS 459.005.

1 (4) “Green technology” means a product or service that will improve
2 operational performance, productivity or efficiency while reducing
3 costs, inputs, energy consumption, waste or environmental pollution.

4 (5) “Loan or grant program” means a program to provide loans or
5 grants to support clean technology sector development projects funded
6 by a grant awarded under section 3 of this 2023 Act.

7 (6) “Qualified borrower” means any person, conducting business for
8 profit or not for profit, that is authorized to conduct business in
9 Oregon.

10 (7) “Qualified lender” means an entity licensed to do business in
11 Oregon that:

12 (a)(A) Is a federal credit union maintaining an office in this state;

13 (B) Is a nonprofit community development financial institution or
14 nonprofit public benefit corporation operating as a lending institution;

15 (C) Is a local economic development organization; or

16 (D) Is a regional economic development organization;

17 (b) Has experience relevant to providing loans or grants for clean
18 technology sector development projects;

19 (c) Has the organizational capacity to independently underwrite
20 loans, conduct credit determinations and manage loan portfolios; and

21 (d) Has experience managing grant programs.

22 (8) “Resource efficiency” means the use of energy, water or natural
23 resources in a sustainable manner while minimizing impacts on the
24 environment.

25 SECTION 2. (1) The Clean Technology Sector Development Fund is
26 established in the State Treasury, separate and distinct from the
27 General Fund. Moneys in the Clean Technology Sector Development
28 Fund are continuously appropriated to the Department of Environ-
29 mental Quality to be used to award grants pursuant to section 3 of this
30 2023 Act.

31 (2) The Clean Technology Sector Development Fund shall consist

1 of:

2 (a) Moneys appropriated or otherwise transferred to the fund by the
3 Legislative Assembly;

4 (b) Moneys donated to the fund; and

5 (c) Any moneys deposited in the fund from any other public or
6 private source.

7 **SECTION 3.** (1) The Legislative Assembly declares that it is the
8 purpose of sections 1 to 4 of this 2023 Act to leverage public and private
9 partnerships to provide public benefits by creating access to afforda-
10 ble, flexible capital that enables the clean technology sector to prosper
11 throughout this state.

12 (2) In furtherance of the purpose described in subsection (1) of this
13 section, the Department of Environmental Quality, in consultation
14 with the State Department of Energy, shall establish a competitive
15 clean technology sector development grant program. The Department
16 of Environmental Quality shall award grants under the program to
17 qualified lenders to be used for developing and administering loan or
18 grant programs to provide loans or grants to qualified borrowers for
19 clean technology sector development projects.

20 (3) Grants awarded under this section shall be funded by moneys
21 deposited in the Clean Technology Sector Development Fund estab-
22 lished under section 2 of this 2023 Act.

23 (4) The department may not disburse grant funds under this section
24 unless the department and the qualified lender that is an intended
25 grant award recipient first enter into a grant agreement. The grant
26 agreement must:

27 (a) Require the portion of any loan or grant made by a qualified
28 lender that is financed by grant funds disbursed under the grant pro-
29 gram to be used for clean technology sector development projects;

30 (b) Require the qualified lender to provide a mechanism for docu-
31 menting that clean technology sector development projects financed

1 by loans or grants provided under a loan or grant program comply
2 with all relevant local, state and federal laws;

3 (c) Require the qualified lender to use accounting, auditing and
4 fiscal procedures that conform to generally accepted government ac-
5 counting standards;

6 (d) Require the qualified lender to provide at least biannual reports
7 to the department on the clean technology sector development projects
8 financed by loans or grants provided under a loan or grant program
9 that includes, but is not limited to, reporting on the jobs created or
10 maintained and the number of work hours associated with each fi-
11 nanced clean technology sector development project; and

12 (e) Include provisions protecting the state against loss or damage
13 resulting from poor or underperforming loans issued by the qualified
14 lender under a loan or grant program.

15 (5) In selecting qualified lenders to receive grants under this sec-
16 tion, the department shall evaluate qualified lenders based on criteria
17 that must include, but need not be limited to, a qualified lender's:

18 (a) Organizational capacity to attract matching capital;

19 (b) Organizational capacity to conduct business development re-
20 sulting in the receipt of business proposals or investment offers that
21 are revenue- or equity-generating opportunities for the qualified
22 lender;

23 (c) Participation in job growth and economic development in
24 Oregon;

25 (d) Experience with sustained operation of revolving loan funds;

26 (e) Dedication to supporting growth of clean technology sector de-
27 velopment projects that may otherwise be inhibited by a lack of access
28 to capital;

29 (f) Ability to combine funding sources to provide customers with
30 flexible, affordable loan terms;

31 (g) Experience with administering grant programs as part of an

1 overall finance package;

2 (h) Experience working throughout Oregon, including but not lim-
3 ited to established experience providing financing services to busi-
4 nesses owned by individuals who are Black, Indigenous and People of
5 Color;

6 (i) Ability to track and collect information that is:

7 (A) Necessary to demonstrate eligibility for benefits from a covered
8 program under the federal Justice40 Initiative; or

9 (B) Required to be collected and reported to a federal government
10 agency as a condition of receiving benefits from a covered program
11 under the federal Justice40 Initiative;

12 (j) Ability to track and collect information consistent with Evalu-
13 ation, measurement and verification standards of the United States
14 Department of Energy; and

15 (k) Ability to track and collect information on the benefits to the
16 state of individual loans or grants issued to qualified borrowers as part
17 of a loan or grant program, which may include but need not be limited
18 to information on:

19 (A) Jobs in Oregon that were created or maintained due to a loan
20 or grant to a qualified borrower;

21 (B) The regions of Oregon in which the clean technology sector
22 development projects funded through the loans or grants are devel-
23 oped, demonstrated or deployed;

24 (C) Greenhouse gas emissions avoided or sequestered due to clean
25 technology sector development projects funded by the loans or grants;

26 (D) Kilowatt hours of energy saved or renewable energy produced
27 through clean technology sector development projects funded by the
28 loans or grants; and

29 (E) Additional funds from other sources leveraged as a result of
30 public investment in clean technology sector development projects
31 through the loan or grant program.

SECTION 4. (1) The Department of Environmental Quality shall:

(a) Review, in consultation with the State Department of Energy, the equity advisory committee appointed under subsection (3) of this section and other relevant state agencies, the reports received from qualified lenders under section 3 of this 2023 Act; and

(b) Report at least annually to the Environmental Quality Commission, the equity advisory committee convened under subsection (3) of this section and the Governor on the performance of existing loan or grant programs and other matters related to ensuring that loan or grant programs are administered in a manner that furthers the purposes of sections 1 to 4 of this 2023 Act.

(2) The Environmental Quality Commission shall:

(a) Offer at least one opportunity annually for public comment on the report by the Department of Environmental Quality under subsection (1) of this section;

(b) Utilize the information and public comments gathered and developed pursuant to this section to provide oversight and direction to the Department of Environmental Quality in carrying out the provisions of sections 1 to 4 of this 2023 Act; and

(c) Report on the implementation of the competitive clean technology sector development grant program required under section 3 of this 2023 Act to the Governor and the Legislative Assembly in the manner provided for in ORS 192.245 no later than September 15 of each even-numbered year.

(3)(a) The department shall appoint an equity advisory committee to advise the department as provided in this section. In appointing members, the department shall give priority to members that have expertise, interest or lived in experience in:

(A) Environmental justice;

(B) The impacts of climate change on communities; or

(C) Clean technology sector development projects or green technol-

ogy projects.

(b) The members of the equity advisory committee shall, as far as is practicable, represent the cultural and geographic diversity of this state.

(c) A member of the advisory committee shall serve for a term of no more than three years.

(4) The Environmental Quality Commission, in consultation with the State Department of Energy, may adopt rules necessary to implement the provisions of sections 1 to 4 of this 2023 Act.

SECTION 5. ORS 285B.784 is amended to read:

285B.784. As used in ORS 285B.780 to 285B.799, unless the context requires otherwise:

(1) “Loan loss reserve account” or “account” means an account created by a lender for the deposit of moneys awarded to the lender under ORS 285B.787 out of which the lender may reimburse itself for losses incurred due to defaults on qualified loans.

(2) “Prime rate” means the primary credit rate of the discount window program of the United States Federal Reserve System.

(3) “Qualified business” or “qualified borrower” means a person that:

(a) Operates a business in Oregon; or

(b) Attests to a qualified lender that the person will use proceeds from a qualified loan to establish a business in Oregon.

(4) “Qualified lender” means a lender that:

(a)(A) Is certified as a community development financial institution by the Community Development Financial Institutions Fund at the United States Department of the Treasury;

[(b)] (B) Is a nonprofit corporation as defined in ORS 307.130;

[(c)] (C) Is an economic development district in Oregon designated by the Economic Development Administration of the United States Department of Commerce;

[(d)] (D) Is affiliated with a local government as defined in ORS 174.116;

1 and

2 [(e)] (E) Has a physical presence in Oregon and at least five years of
3 lending experience[.]; or

4 (b) Is a qualified lender, as defined in section 1 of this 2023 Act, that
5 has been awarded a grant under section 3 of this 2023 Act.

6 (5)(a) “Qualified loan” means a loan made, or an operating line of credit
7 extended, by a lender to a qualified business for which the principal losses
8 are reimbursable from moneys in the lender’s loan loss reserve account.

9 (b) “Qualified loan” does not mean a loan:

10 (A) With a variable interest rate.

11 (B) With an origination fee that exceeds 1.5 percent, and with an annual
12 interest rate that exceeds the lesser of 18 percent or the prime rate plus 7
13 percent.

14 (C) For working capital for a term exceeding seven years.

15 (D) For capital assets for a term exceeding the useful life of the assets.

16 (E) That includes, in whole or in part, the refinancing of an existing loan
17 made by the lender to the borrower.

18 (F) That includes, in whole or in part, the refinancing of an existing
19 personal loan not used for business purposes.

20 (G) For the purchase of real property that is not used for the business
21 operations of the borrower.

22 (H) For the purchase of owner-occupied residential housing or for the
23 construction, improvement or purchase of residential housing owned or to
24 be owned by the borrower.

25 (6) “RFP” means a request for proposal.