A-Engrossed

House Bill 3016

Ordered by the House March 20
Including House Amendments dated March 20

Sponsored by Representative PHAM K, Senator DEMBROW, Representative GAMBA; Representatives ANDERSEN, DEXTER, EVANS, GRAYBER, HELM, HUDSON, NERON, NGUYEN H, REYNOLDS, Senators GELSER BLOUIN, JAMA (Presession filed.)

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.

Establishes Community Green Infrastructure Grant Program. Authorizes Department of Land Conservation and Development to appoint Advisory Committee on Community Green Infrastructure Investment. Establishes Community Green Infrastructure Fund. Establishes Community Green Infrastructure Task Force. Directs State Department of Agriculture to certify certain nurseries as green communities nurseries. Directs State Forestry Department to acquire and maintain urban tree canopy assessment tool. Directs department to develop [emerald ash borer assistance program] and implement program for technical and financial assistance for planning, response and recovery activities related to loss of tree canopy.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to green infrastructure; and declaring an emergency.

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

SECTION 1. The Legislative Assembly finds and declares that:

(1) The purpose of community green infrastructure projects and green infrastructure economic development projects is to provide direct social, environmental and economic benefits to communities across this state through green infrastructure.

(2) The social, environmental and economic benefits of green infrastructure to communities include, but are not limited to:

(a) Climate change mitigation, adaptation and resilience;
(b) Stormwater management;
(c) Air temperature regulation;
(d) Air quality benefits;
(e) Noise abatement;
(f) Energy savings;
(g) Economic development opportunities;
(h) Public or community health benefits;
(i) Support for community food pathways through regenerative agriculture;
(j) Water quality improvements, including temperature regulation;
(k) Water conservation;
(L) Erosion control;

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.
(m) Park and open space benefits;
(n) Urban forest benefits;
(o) Restoration of floodplain functions;
(p) Restored or expanded wetlands and riparian areas;
(q) Habitat improvements;
(r) Aquifer recharge that does not include an extractive or consumptive use of the aquifer;
(s) Stream flow augmentation;
(t) Carbon sequestration;
(u) Community livability;
(v) Local jobs; and
(w) The use of plants and food in maintaining social and environmental identity and lifeways.

SECTION 2. As used in sections 1 to 5 of this 2023 Act:

(1) “Community green infrastructure project” means a green infrastructure project that provides social, environmental or economic benefits to a particular community and is developed through a collaborative process that helps to define those benefits.

(2) “Environmental justice community” has the meaning given that term in ORS 182.535.

(3) “Green communities nursery” means an Oregon nursery certified by the State Department of Agriculture under section 6 of this 2023 Act.

(4) “Green infrastructure” means:

(a) Green infrastructure as defined in ORS 550.160; or

(b) Infrastructure that:

(A) Mimics natural systems, or enables natural systems to be less stressed through water conservation, water protection or ecosystem restoration, at the neighborhood or site scale as part of an integrated approach in residential, municipal or industrial developments or water infrastructure; and

(B) Implements community-based concepts, principles and practices to conserve and manage resources for future generations, sequester carbon and provide environmental and social benefits.

(5) “Green infrastructure economic development project” means a community green infrastructure project that employs members of a community that benefits from the community green infrastructure project in the development, construction, planting or maintenance of the project.

(6) “Green infrastructure improvement zone” means an area designated by the State Forestry Department under section 7 of this 2023 Act.

(7) “Green infrastructure master plan” means a long-term plan developed by a public body or tribal government that involves the creation, protection or enhancement of green infrastructure, including but not limited to:

(a) An urban forestry plan;

(b) A storm water management plan; and

(c) A plan to establish parks or other public green spaces.

(8) “Indian tribe” means a federally recognized Indian tribe in Oregon.

(9) “Native plant nursery” means an Oregon nursery that specializes in plants native to Oregon.
(10) “Native seed bank” means a store of seeds from native plants that helps to:
(a) Preserve genetic diversity in those plant species to increase plant yield and health, including disease resistance and drought tolerance;
(b) Hold seeds and plants for the restorative health of a community; or
(c) Support the replanting of post-fire successional plants.

(11) “Oregon nursery” means:
(a) A person that holds a license required by ORS 571.055 issued by the State Department of Agriculture; or
(b) A nursery operated by an Indian tribe, an entity wholly owned by an Indian tribe or an enrolled member of an Indian tribe and operated on the tribe’s reservation or trust land.

(12) “Public body” has the meaning given that term in ORS 174.109.

SECTION 3. (1) The Community Green Infrastructure Grant Program is established as a program administered by the Department of Land Conservation and Development for the purpose of awarding grants for:
(a) Offsetting the cost of planning and developing community green infrastructure projects or green infrastructure economic development projects;
(b) Developing or supporting native seed banks or native plant nurseries; or
(c) Supporting and implementing green infrastructure master plans.

(2) The Department of Land Conservation and Development may enter into intergovernmental agreements under ORS chapter 190 with the Oregon Health Authority, the Oregon Business Development Department, the Bureau of Labor and Industries, the State Department of Agriculture, the Oregon Watershed Enhancement Board, the Department of Environmental Quality, the State Parks and Recreation Department or an Indian tribe for the purposes of assistance with:
(a) The design and implementation of the Community Green Infrastructure Grant Program;
(b) Readiness to acquire and administer federal funding related to green infrastructure projects; or
(c) Technical advice or feedback on the grant review process established under this section.

(3) The Department of Land Conservation and Development shall enter into an intergovernmental agreement under ORS chapter 190 with the State Forestry Department for the purposes of assistance with:
(a) The design and implementation of the Community Green Infrastructure Grant Program;
(b) Readiness to acquire and administer federal funding related to green infrastructure projects; and
(c) Technical advice or feedback on the grant review process established under this section.

(4) The Department of Land Conservation and Development shall enter into an intergovernmental agreement under ORS chapter 190 with the Department of Transportation for the purposes of assistance with:
(a) Technical advice regarding state transportation facilities and rights of way as they relate to the design and implementation of the Community Green Infrastructure Grant Program;
(b) Readiness to acquire and administer federal funding related to green infrastructure projects; and

c) Technical advice or feedback on the grant review process established under this section.

(5) (a) A public body, a local workforce development board as defined in ORS 660.300, a manufactured dwelling park nonprofit cooperative as defined in ORS 62.803, an Indian tribe, a watershed council as defined in ORS 541.890, a nonprofit organization or a faith-based organization may apply for a grant under this section for the purpose of planning or developing a community green infrastructure project or a green infrastructure economic development project.

(b) An applicant for a grant for a community green infrastructure project or a green infrastructure economic development project may partner with a state agency, a private business with a business site in this state or an owner of rental property in this state.

c) A grant for an approved application for a community green infrastructure project or a green infrastructure economic development project will be awarded and released only to an applicant described in paragraph (a) of this subsection.

(d)(A) An application for a community green infrastructure project or a green infrastructure economic development project must be drafted in consultation with the government of the city or county in which the project will be located and with the electric and water utilities in whose service territory the project will be located.

(B) An application must include documentation of the consultations described in this paragraph and demonstrate that feedback received as a result of consultation was incorporated into the application materials. If the application does not incorporate feedback from a consulted party into the application, the applicant must provide an explanation of why the feedback was not incorporated or provide a statement that no feedback was received from that party.

(6)(a) An application for a grant under this section shall be in the form and manner prescribed by the Department of Land Conservation and Development.

(b) An application for a grant to plan or develop a community green infrastructure project or a green infrastructure economic development project must demonstrate that the project:

(A) Is located in this state;

(B) Provides social, environmental or economic benefits to an environmental justice community;

(C) Except for projects developed by an Indian tribe, has been or will be developed in coordination with an environmental justice community that will benefit from the completion of the project; and

(D) Has a plan for the maintenance of the project for at least three years or has requested technical assistance for maintenance planning.

c) An application for a grant for a native seed bank or native plant nursery must demonstrate that the applicant qualifies as a native seed bank or a native plan nursery.

(d) An application for a grant for a green infrastructure master plan must demonstrate how the long-term plan of the public body or tribal government involves the creation, protection or enhancement of green infrastructure.

(7) Upon receipt of an application submitted under this section, the Department of Land
Conservation and Development shall review the application and determine whether the applicant is eligible to receive a grant from the Community Green Infrastructure Grant Program. The department may award grants based on the prioritizations established under subsection (8) of this section. If the department denies a grant application, the department shall provide the reason for the denial in writing.

(8) In awarding grants under the Community Green Infrastructure Grant Program, the Department of Land Conservation and Development may give priority to projects:
(a) Involving large, low-maintenance, storm- and drought-resistant tree plantings;
(b) Involving plantings that include native plants or pollinator-friendly species;
(c) Involving tree plantings at or near school campuses, affordable housing, senior housing, manufactured dwelling parks, recreational vehicle parks or public rights of way;
(d) That strengthen communities and fight displacement;
(e) That develop innovative solutions for using urban woody biomass;
(f) That are carried out by a city that has adopted a plan to increase urban tree canopy cover and has entered into a long-term agreement with an Oregon nursery to supply trees needed to carry out the plan; or
(g) That utilize a community's cultural practices to educate, and conserve and manage resources for, future generations.

(9) To the maximum extent possible, community green infrastructure projects and green infrastructure economic development projects shall:
(a) Minimize the vehicle miles traveled associated with all plant and tree stocks utilized in the project;
(b) Include partnerships with green communities nurseries or nurseries defined in section 2 (11)(b) of this 2023 Act;
(c) Utilize native plant stock that is grown from native seed banks or native seed recovery and planting efforts; and
(d) Utilize climate-adaptive plant stock that is regionally native, drought and disease tolerant and noninvasive.

(10) To the maximum extent possible, community green infrastructure projects and green infrastructure economic development projects that occur on school campuses shall incorporate a curriculum or demonstration component to connect students to the project and provide education about:
(a) Green infrastructure;
(b) Careers in green infrastructure; and
(c) Cultural practices to educate, and conserve and manage resources for, future generations.

SECTION 4. (1) The Community Green Infrastructure Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Community Green Infrastructure Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Land Conservation and Development for the purpose of carrying out section 3 of this 2023 Act, subject to the allocations described in subsection (2) of this section.

(2) Of the moneys in the fund:
(a) 30 percent shall be allocated for grants to be awarded for planning or developing green infrastructure economic development projects;
(b) 40 percent shall be allocated for grants to be awarded for entities or projects located in green infrastructure improvement zones; and
(c) 30 percent shall be allocated for grants to be awarded to entities or projects in tribal, rural, remote or coastal communities.

SECTION 5.  (1) The Department of Land Conservation and Development may appoint an Advisory Committee on Community Green Infrastructure Investment to provide consultation on the implementation of section 3 of this 2023 Act. A committee appointed under this section shall consist of at least one representative of each of the following interests:
(a) City governments;
(b) County governments;
(c) Special districts, irrigation districts or transportation districts;
(d) School districts;
(e) Environmental justice communities;
(f) The Oregon nursery industry;
(g) Educational institutes that train professionals in horticulture, urban forestry or other green infrastructure professions;
(h) State or local parks and recreation agencies;
(i) Individuals with expertise in designing, constructing and maintaining green infrastructure;
(j) Individuals with expertise in the public or community health benefits of green infrastructure;
(k) Individuals with expertise in green workforce development or social enterprise models; and
(L) Individuals with expertise in green infrastructure projects in tribal, rural, remote or coastal communities.

(2)(a) The department shall invite each of the federally recognized Indian tribes in Oregon to participate in the advisory committee.
(b) Invitation to participate in the advisory committee is not in lieu of other forms of tribal consultation, outreach or engagement that the department may engage in as necessary to fulfill the purposes of sections 1 to 5 of this 2023 Act.

(3) No later than September 15 of each even-numbered year, the advisory committee shall submit a report on the implementation of the Community Green Infrastructure Grant Program to the appropriate interim committees of the Legislative Assembly, in the manner provided by ORS 192.245.

SECTION 6.  (1) As used in this section, “Oregon nursery” has the meaning given that term in section 2 of this 2023 Act.

(2) The State Department of Agriculture shall certify an Oregon nursery as a green communities nursery if the nursery:
(a) Has practices in pest and disease management that satisfy standards established by the department;
(b) Materially demonstrates a history of compliance with the rules and other requirements of state and local agencies with oversight regarding workers’ compensation, building codes and occupational safety and health over a period of seven years or the life of the nursery, whichever is shorter;
(c) Materially demonstrates a history of compliance with federal and state wage and hour
laws over a period of seven years or the life of the nursery, whichever is shorter; and
(d) Grows and maintains noninvasive nursery stock for the purposes of partnering with
communities or public bodies on green infrastructure projects.
(3) An Oregon nursery may apply for certification under this section in the form and
manner prescribed by the department.

SECTION 7. (1) The State Forestry Department shall acquire and maintain a statewide
urban tree canopy assessment tool.
(2) The assessment tool must provide geospatial mapping that includes:
(a) A visualization of urban tree canopies, viewable at the census tract level;
(b) Community demographic, economic, social and health data;
(c) A comprehensive inventory of tree canopies on public lands;
(d) Rights of way and their associated jurisdictions;
(e) An urban green space assessment that includes an evaluation of vegetation health and
a comparison of pervious surfaces to impervious surfaces within the green space; and
(f) An assessment of tree canopy and green space in the urban-rural gradient.
(3) The department may integrate the urban tree canopy assessment tool with data from
other agency mapping tools, including the environmental justice mapping tool developed
pursuant to section 12, chapter 58, Oregon Laws 2022.
(4) The department shall make the urban tree canopy assessment tool available on a
website maintained by the department, along with guidance for using the tool to promote
environmental, social and economic well-being.
(5) Using the urban tree canopy assessment tool, the department shall designate as green
infrastructure improvement zones areas of this state that have a high level of poverty den-
sity and any of the following:
(a) Low levels of tree canopy cover;
(b) Poor vegetation health;
(c) High risk of pests, disease or other threats to plant life; or
(d) Other needs for revegetation or holistic native plant restoration.

SECTION 8. (1) The State Forestry Department shall develop and implement a program
to provide technical and financial assistance to public bodies as defined in ORS 174.109, tribal
governments, watershed councils as defined in ORS 541.890 and community-based organiza-
tions for planning for, responding to and recovering from damage to habitats and urban tree
canopies due to pests, diseases or other natural or human-created conditions that lead to
loss of tree canopy, including but not limited to:
(a) Emerald ash borer infestation;
(b) Japanese beetle infestation;
(c) Sudden Oak Death;
(d) Pine bark beetle infestation;
(e) Climate change;
(f) Drought; or
(g) Wildfire.
(2) The program may include, but need not be limited to, assistance for:
(a) Vulnerability assessments;
(b) Tree inventories;
(c) Response and recovery plan development;
(d) Community engagement and community-led strategies; and
(e) Tree removal and replanting with species that are resistant to disease, pest and
drought.

(3) The department shall coordinate with the State Department of Agriculture to support
program activities related to any pests or diseases subject to quarantine under the laws of
this state or of the United States.

SECTION 9. This 2023 Act being necessary for the immediate preservation of the public
peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
on its passage.