



Legislative Fiscal Office  
 82<sup>nd</sup> Oregon Legislative Assembly  
 2024 Regular Session

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**Bill Title:** Relating to the administration of moneys received from the Monsanto settlement; declaring an emergency.

**Government Unit(s) Affected:** Office of the Governor, State Treasurer, Oregon Watershed Enhancement Board, Department of Environmental Quality, Department of Fish and Wildlife, Oregon Health Authority, Department of Justice, Legislative Assembly, Department of Administrative Services

**Summary of Fiscal Impact**

2023-25 Biennium	General Fund	Lottery Funds	Other Funds	Federal Funds	Total Funds	Positions	FTE
Oregon Watershed Enhancement Board	\$ -	\$ -	\$ 1,322,956	\$ -	\$ 1,322,956	5	3.13
State Treasurer	\$ -	\$ -	\$ 175,221	\$ -	\$ 175,221	1	0.54
Department of Fish and Wildlife	\$ -	\$ -	\$ 137,568	\$ -	\$ 137,568	1	0.50
Department of Environmental Quality	\$ -	\$ -	\$ 141,727	\$ -	\$ 141,727	1	0.50
<b>Total Fiscal Impact</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,777,472</b>	<b>\$ -</b>	<b>\$ 1,777,472</b>	<b>8</b>	<b>4.67</b>

2025-27 Biennium	General Fund	Lottery Funds	Other Funds	Federal Funds	Total Funds	Positions	FTE
Oregon Watershed Enhancement Board	\$ -	\$ -	\$ 2,159,714	\$ -	\$ 2,159,714	8	7.50
State Treasurer	\$ -	\$ -	\$ 296,097	\$ -	\$ 296,097	1	1.00
Department of Fish and Wildlife	\$ -	\$ -	\$ 260,137	\$ -	\$ 260,137	1	1.00
Department of Environmental Quality	\$ -	\$ -	\$ 283,456	\$ -	\$ 283,456	1	1.00
<b>Total Fiscal Impact</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 2,999,404</b>	<b>\$ -</b>	<b>\$ 2,999,404</b>	<b>11</b>	<b>10.50</b>

- This table only reflects the estimated costs necessary for state agencies to administer and implement the provisions of the measure and does not reflect any assumptions regarding the level of distributions made from the funds established in the measure for the expressed programmatic purposes.
- The estimated administrative costs are subject to change based on decisions made the by the Council.

**Measure Description**

This measure establishes the 11-member Environmental Restoration Council within the Oregon Watershed Enhancement Board (OWEB) to help determine and oversee the distribution of funds available to Oregon from the Monsanto Settlement Agreement. The Council is responsible for determining transfers from the Oregon Environmental Restoration Fund to three other funds established under the measure, by December 1 of each year starting in 2025. The Council must meet at least annually, and voting members of the Council and any advisory committees may be reimbursed for travel and other expenses.

The four funds established under this measure include the following:

- Oregon Environmental Restoration Fund – This fund consists of proceeds from the Monsanto Settlement Agreement or other amounts transferred to or deposited in the fund. Moneys in the fund are continuously appropriated to OWEB to expend consistent with the terms of the Monsanto Settlement Agreement. The Oregon State Treasurer (OST) is to provide accounting services and advice to establish a long-term distribution policy for the fund that seeks to maintain a stable real asset value. Up to 0.25% of the balance at the end of the prior fiscal year may be used for administration, unless the Environmental Restoration Council approves a larger amount. Funds are to be transferred each year to the funds named below, based on procedures and criteria established by rule by the Council, for projects and purposes that have a nexus with the Monsanto Settlement Agreement. If any amounts transferred to one of the funds are not spent, obligated, or subject to any conditions at the end of each biennium, the moneys revert to the Oregon Environmental Restoration Fund.
- State Agency Program Fund – This fund receives 50% of the funding transferred from the Oregon Environmental Restoration Fund, for allocation to state agencies at the direction of the Council.
- Disproportionately Impacted Community Fund – This fund receives 25% of the funding transferred from the Oregon Environmental Restoration Fund, for grants to public or private nonprofit entities for projects that benefit disproportionately impacted communities. The Council may contract with a third-party to implement and serve as the administrator of the grant program.
- Tribal Nation Natural Resource Program Fund – This fund receives 25% of the funding transferred from the Oregon Environmental Restoration Fund; funds are to be transferred in equal amounts to the nine federally recognized Tribes at the beginning of each biennium, unless a different proportion is provided for by the Council by rule, consistent with recommendations from the Commission on Indian Services.

The Council is to establish strategic priorities for amounts expended from the State Agency Program Fund and the Disproportionately Impacted Community Fund. The measure also requires the Council to consult with certain state agencies and the Environmental Justice Council, and compile and review data or other scientific information. These priorities are not subject to the Administrative Procedures Act and may only be established or amended after allowing for a public hearing and opportunity for public comment. Moneys in these funds may be committed for projects or programs across multiple biennia.

The measure allocates \$5 million from the Polychlorinated Biphenyls Remediation and Restitution Account to OWEB in the 2023-25 biennium for the general purposes described above. The Department of Administrative Services is to transfer all remaining moneys in the Polychlorinated Biphenyls Remediation and Restitution Account to the Oregon Environmental Restoration Fund; the Polychlorinated Biphenyls Remediation and Restitution Account is abolished.

### **Fiscal Analysis**

The fiscal impact of this measure is anticipated to be \$1.6 million Other Funds in the 2023-25 biennium, and \$2.7 million Other Funds in the 2025-27 biennium.

### Oregon Watershed Enhancement Board

The total fiscal impact for OWEB is anticipated to be \$1.3 million Other Funds in the 2023-25 biennium, and \$2.2 million Other Funds in the 2025-27 biennium.

The \$5 million allocation from the Polychlorinated Biphenyls Remediation and Restitution Account will initially be used for OWEB's administrative costs and required revenue transfers. After expenditure of these funds, OWEB also may spend up to 0.25 percent of the Oregon Environmental Restoration Fund balance as of the prior fiscal year for administration and Council costs. According to OST, the Monsanto Settlement balance currently

stands at approximately \$570 million, which means OWEB would be able to expend an estimated \$2.8 million from the fund for administrative costs each biennium. This amount can be modified by the Council and the performance of the invested fund balance could also increase or decrease the amounts available for administration.

OWEB's support of the Council will include rulemaking, assistance with development of strategic priorities, administrative support, and fulfilling reporting requirements directed under the measure. After initial Council start-up tasks such as rulemaking are complete, OWEB will transition to a primarily administrative and financial support role.

This fiscal impact statement assumes that OWEB would not conduct oversight of expenditures from the fund by agencies and federally recognized Tribes, and instead would report on information provided to the agency by Tribes and state agencies. OWEB would, however, provide oversight of the use of funds from the Disproportionately Impacted Community Fund. OWEB would administer a program to make grants from this fund, though the measure also permits OWEB to contract with a third-party for grant administration. The currently assumed level of grants administered from this fund ranges from \$14 million to \$16 million per biennium. The administrative costs could change if the Council determines that more or less funding should be distributed, or if the Council decides to contract for grant management instead of having OWEB manage this program.

OWEB anticipates hiring a total of eight full-time limited duration and permanent positions over the current biennium and the next to support this work. This includes the following five positions (3.13 FTE) in the 2023-25 biennium and eight positions (7.50 FTE) in the 2025-27 biennium:

- One permanent Natural Resource and Sustainability Manager 3 to manage the new programs and lead staff support for the Council (0.63 FTE in 2023-25, 1.00 FTE in 2025-27).
- One permanent Executive Assistant to provide administrative support to the Council (0.63 FTE in 2023-25 and 1.00 FTE in 2025-27).
- One permanent Accountant 2 to set up and support the accounts and develop tracking systems, as well as process transactions (0.63 FTE in 2023-25, 1.00 FTE in 2025-27).
- One permanent Accounting Technician to support grantee payments and program transactions (1.00 FTE in 2025-27).
- One limited duration Operations and Policy Analyst 4 to coordinate rulemaking and development of strategic priorities (0.63 FTE in 2023-25, 0.50 FTE in 2025-27).
- One limited duration Natural Resource Specialist 4 to provide technical expertise in development of strategic priorities and rulemaking, later transitioning to administration of Disproportionately Impacted Community Fund grants; this position, and the other Natural Resource Specialist 4, may become permanent positions after the agency assesses ongoing staffing needs for the grant program (0.63 FTE in 2023-25, 1.00 FTE in 2025-27).
- One limited duration Natural Resource Specialist 4 to administer Disproportionately Impacted Community Fund grants (1.00 FTE in 2025-27).
- One limited duration Information Systems Specialist 4 to support the grant management database and analyze system needs (1.00 FTE in 2025-27).

In addition to the costs of these positions and position-related services and supplies in the 2023-25 biennium, OWEB's anticipated costs include \$300,000 in legal expenses for development of administrative rules and programs, and \$170,000 for administrative services such as human resources (HR), payroll, and information technology (IT) support. In the 2025-27 biennium, non-position related costs are anticipated to include \$150,000 for legal costs related to continued rulemaking and program development, \$130,000 for IT support, and \$50,000

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for additional HR and payroll support. Given OWEB's size, the agency does not have existing administrative or IT capacity to support this work.

#### State Treasurer

The estimated fiscal impact for OST is \$175,221 Other Funds in the 2023-25 biennium and \$296,097 Other Funds in the 2025-27 biennium. OST assumes that Other Funds will be sourced from the investment fee authorized under ORS 293.718, which permits OST to deduct monthly investment fund management fees based on the value of assets under management. OST would hire one Investment Analyst 3 position (0.54 FTE in the 2023-25 biennium, 1.00 FTE in the 2025-27 biennium) to provide accounting services specific to the Oregon Environmental Restoration Fund. This position would prepare financial statements, monitor cash flow and transactions, and communicate about investments, among other duties.

#### Department of Fish and Wildlife

The estimated fiscal impact for ODFW is \$137,568 Other Funds in the 2023-25 biennium, and \$260,137 Other Funds in the 2025-27 biennium. ODFW would hire one permanent full-time Operations and Policy Analyst 3 (0.50 FTE in 2023-25, 1.00 FTE in 2025-27) to provide subject matter expertise related to fish, wildlife, and habitat for development and analysis of strategic priorities, eligibility criteria, and project outcomes.

#### Department of Environmental Quality

The estimated fiscal impact for DEQ is \$141,727 Other Funds in the 2023-25 biennium, and \$283,456 Other Funds in the 2025-27 biennium. DEQ would hire one permanent full-time Operations and Policy Analyst 3 (0.50 FTE in 2023-25, 1.00 FTE in 2025-27) in DEQ's Environmental Cleanup Program to provide technical assistance for drafting rules and criteria for funding, supporting the development of strategic priorities, and later supporting determinations on the environmental outcomes of funds expended under this measure.

#### Legislative Assembly

The bill is also expected to have a minimal impact on the Legislative Assembly. Two members of the Council will be legislative members who are entitled to per diem and travel reimbursement. Meetings are set by the chairperson and it is unknown how often the Council would meet; however, assuming that the Council meets quarterly, the estimated per diem and travel reimbursement costs will total \$3,000 in the 2023-25 biennium and \$4,800 in the 2025-27 biennium. This amount includes the Federal Insurance Contribution Act (FICA) tax, assumes the per diem remains at \$166 per day, and estimates an average mileage of 180 miles at the current rate of \$0.67 per mile. This estimate could change based on the number of meetings held.

Although the 2023-25 Legislative Assembly budget contains funds allocated for interim committees and task forces, if the work required by this Council, or if the cumulative enactment of other legislation with interim committees and task forces exceeds expenditure levels beyond those assumed in the 2023-25 budget, additional General Fund resources may be required.

#### Other entities

There is no or minimal fiscal impact for the Office of the Governor, Commission on Indian Services, Oregon Health Authority, Department of Fish and Wildlife, Department of Justice, and Department of Administrative Services.

#### **Relevant Dates**

The measure declares an emergency and takes effect on passage.

The Council is to report to the Governor and Legislative Assembly each biennium on the purposes for which money was expended, and the outcomes achieved by funding recipients.

The Polychlorinated Biphenyls Remediation and Restitution Account is abolished January 2, 2026.

The Environmental Restoration Council is to report to the interim committees of the Legislative Assembly related to the environment by September 15, 2073, with recommendations as to whether the long-term distribution strategy developed by the council should continue to seek to maintain a stable real asset value over time, or whether the distribution strategy should seek to distribute amounts from the Oregon Environmental Restoration Fund so that no balance remains in the fund after a period of 50 years.

Changes to the distribution strategy are operative January 1, 2075.