

**Enrolled**  
**House Bill 2426**

Sponsored by Representatives NATHANSON, EVANS; Representatives GOMBERG, GRAYBER, HOLVEY, LIVELY, NERON, SCHOUTEN, WILDE, WILLIAMS (Presession filed.)

CHAPTER .....

AN ACT

Relating to emergency preparedness; creating new provisions; amending ORS 401.551 and 401.552; and prescribing an effective date.

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

**SECTION 1. Before January 1, 2022, the Oregon Homeland Security Council shall develop an updated and revised list of emergency preparedness equipment for purposes of the grant program described in ORS 401.551.**

**SECTION 2.** ORS 401.551 is amended to read:

401.551. (1) As used in this section:

- (a) "Emergency" has the meaning given that term in ORS 401.025.
  - (b) "Maintain" means to repair, perform upkeep on and otherwise keep in good working condition.
  - (c) "Preparedness equipment" means equipment, vehicles or other personal property that:
    - (A) May be used to decrease the risk to life and property resulting from an emergency; and
    - (B) Qualifies as a capital asset eligible for financing with tax-exempt bonds.
  - (d) "Qualified applicant" means an entity that has responsibility for or expertise in emergency preparedness and that is a local government, a special government body, a federally recognized Indian tribe in Oregon or a private organization qualified for federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code.
  - (e) "Recipient" means an entity that applies for and receives preparedness equipment, or funds to purchase preparedness equipment, under the grant program described in subsection (3) of this section.
  - (f) "Tax-exempt bond" means a bond, as defined in ORS 286A.001, the receipt of interest on which is excluded from gross income under the Internal Revenue Code or that is eligible for a federal interest subsidy payment or other tax-advantaged status.
- (2)(a) [*Before December 31, 2017,*] The Oregon Homeland Security Council shall develop a list of preparedness equipment that is needed throughout this state to address deficiencies in the ability of the state to respond to local and regional emergencies.
- (b) In developing the list, the council shall consult and coordinate with the Office of Emergency Management and with county officials who are responsible for emergency management.
  - (c) The council shall assign a priority level to each type of preparedness equipment on the list[, *taking*] **as described in this paragraph:**
    - (A) **Preparedness equipment that is necessary, in the determination of the council, to equip urban search and rescue teams must be included in the highest priority level.**

**(B) In assigning priority levels to other types of preparedness equipment, the council shall take** into consideration, without limitation, the types of emergency that are most likely to occur in different regions of this state and the types of preparedness equipment that offer the highest ratio of utility to cost.

**(d)** The council shall periodically update and revise the list, **including the assigned priority levels.**

(3) The Office of Emergency Management shall develop and administer a grant program to distribute preparedness equipment, or funds to purchase preparedness equipment, to recipients throughout this state. Pursuant to the grant program:

(a) Qualified applicants may request preparedness equipment that is identified on the list described in subsection (2) of this section. Applicants must demonstrate a need for the specific preparedness equipment requested, the ability to maintain the preparedness equipment and the ability to use the preparedness equipment to address deficiencies in local or regional emergency preparedness.

(b) The office shall identify which requests from applicants, if fulfilled, will maximize the state's ability to respond to an emergency, taking into account considerations that include but are not limited to:

(A) The level of priority assigned to the requested preparedness equipment type pursuant to subsection (2) of this section;

(B) The level of need for the requested preparedness equipment as demonstrated by the applicant;

(C) The ability to use and maintain the preparedness equipment as demonstrated by the applicant;

(D) The types of emergency most likely to occur in the region where the applicant is located; and

(E) Whether the applicant has an alternative means of acquiring the requested preparedness equipment.

**(c)(A) Subject to subparagraph (B) of this paragraph,** the office shall issue grants to applicants identified under paragraph (b) of this subsection after entering into grant agreements with the applicants as provided in paragraph (e) of this subsection. The office may either purchase the requested preparedness equipment for distribution to a recipient or disburse funds to the recipient for the purchase of the requested preparedness equipment.

**(B) For the purpose of equipping urban search and rescue teams, the office shall prioritize requests made by applicants that are capable, at the time of application, of deploying urban search and rescue teams.**

(d) The Public Contracting Code does not apply to the acquisition of preparedness equipment by the office or by a recipient pursuant to this section. When acquiring preparedness equipment pursuant to this section, the office and recipients shall use procurement methods that are impartial and transparent to the greatest extent feasible and are designed to maximize value to the State of Oregon.

(e) The office may not disburse preparedness equipment or funds under this section unless the office and the intended recipient first enter into a grant agreement. The grant agreement:

(A) Shall require the recipient to maintain the preparedness equipment.

(B) Shall provide that, if a recipient fails to adequately maintain preparedness equipment, the recipient must relinquish possession of the preparedness equipment or reimburse the office for the cost of the preparedness equipment.

(C) Shall specify that the office may conduct periodic inspections of the preparedness equipment as described in paragraph (f) of this subsection.

(D) Shall specify that preparedness equipment distributed to the recipient remains the property of the office until it is fully depreciated under governmental accounting principles, after which the office may offer the preparedness equipment for sale to the recipient at its fair market value at the time of sale.

(E) May permit the recipient to use the preparedness equipment for any purpose, governmental or otherwise, that is permissible for assets financed with tax-exempt bonds, including nonemergency purposes.

(F) Shall require private organizations to obtain approval from the office before making any use of preparedness equipment that is outside the scope of the purpose of the private organization as stated in the formation documents or bylaws of the organization.

(G) Shall require the recipient to take action or refrain from action as necessary to maintain federal tax benefits related to any tax-exempt bonds that are used to fund the grant and to indemnify the State of Oregon for any costs, expenses or liability due to loss of such federal tax benefits caused by action or inaction of the recipient.

(f) The office shall conduct periodic inspections of preparedness equipment distributed or purchased through the grant program to ensure that recipients are adequately maintaining the preparedness equipment. If the office finds that any preparedness equipment is not adequately maintained, the office may take possession of the preparedness equipment or require the recipient to reimburse the office for the cost of the preparedness equipment.

(g) The office may transfer between recipients, dispose of or otherwise manage the preparedness equipment as it determines is in the best interests of meeting the emergency preparedness needs of the State of Oregon. If the office disposes of preparedness equipment for any reason, including sale to a recipient as provided in paragraph (e)(D) of this subsection, the office shall deposit any moneys it receives from the disposal in the Resiliency Grant Fund established under ORS 401.552.

(4) On or before December 31 of each year, the office shall submit a report to the Legislative Assembly and to the Oregon Homeland Security Council that describes the administration and effectiveness of the grant program established under this section and the current prioritized list of preparedness equipment types.

(5) The office shall adopt rules to administer and implement the provisions of this section.

**SECTION 3.** ORS 401.552 is amended to read:

401.552. The Resiliency Grant Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Resiliency Grant Fund must be credited to the fund. The Resiliency Grant Fund consists of moneys deposited in the fund under ORS 401.551 and may include moneys appropriated, allocated, deposited or transferred to the fund by the Legislative Assembly or otherwise and interest earned on moneys in the fund. The moneys in the fund are continuously appropriated to the [*Office of Emergency Management*] **Oregon Military Department** for the purposes specified in ORS 401.551.

**SECTION 4. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.**

**Passed by House June 17, 2021**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 22, 2021**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M,....., 2021

**Approved:**

.....M,....., 2021

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Kate Brown, Governor

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

.....M,....., 2021

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Shemia Fagan, Secretary of State