

# House Bill 2988

Sponsored by Representatives MARSH, OWENS (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 **as introduced**.

Establishes Community Benefiting Water Infrastructure Investment Program. Directs Oregon Business Development Department to award grants under program to certain entities for purpose of planning or developing community benefiting water infrastructure project.

Authorizes Director of Oregon Business Development Department to appoint Advisory Committee on Community Renewable Investment.

Establishes Community Benefiting Water Infrastructure Investment Fund. Continuously appropriates moneys in fund to department for purposes of grants.

Appropriates moneys to department for deposit in fund.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to water infrastructure; and prescribing an effective date.

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

4 **SECTION 1. Sections 2 to 5 of this 2023 Act are added to and made a part of ORS 448.115**  
5 **to 448.285.**

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

7 (1) **“Community benefiting water infrastructure project” means one or more water**  
8 **infrastructure projects that provide a direct benefit to a particular community in the form**  
9 **of improved drinking water quality and confidence, improved access to water, increased local**  
10 **jobs or increased water affordability and efficiency.**

11 (2) **“Nonprofit organization” means a nonprofit organization that:**

12 (a) **Provides housing;**

13 (b) **Provides weatherization or healthy homes services;**

14 (c) **Supports water efficiency or affordability; or**

15 (d) **Supports community engagement relating to water quality.**

16 (3) **“Planning costs” means the costs related to planning paid by an applicant described**  
17 **under section 3 of this 2023 Act.**

18 (4) **“Project cost” means the actual cost of the acquisition, construction and installation**  
19 **of a community benefiting water infrastructure project incurred by an applicant described**  
20 **under section 3 of this 2023 Act.**

21 (5) **“Public body” means a public body as defined in ORS 174.109.**

22 (6) **“Qualifying community” means a community that qualifies as an environmental jus-**  
23 **tice community as defined in ORS 469A.400.**

24 (7) **“Water infrastructure project” means a project to improve or expand:**

25 (a) **An existing drinking or wastewater system including systems for reuse;**

26 (b) **Water infrastructure in a building, including systems for water reuse;**

27 (c) **Efficiency and management of water use or delivery;**

**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.

- 1 (d) Natural infrastructure for healthy ecosystems; or
- 2 (e) A partnership between upstream and downstream communities.
- 3 (8) "Watershed council" has the meaning given that term in ORS 541.890.
- 4 (9) "Water utility" has the meaning given that term in ORS 758.300.

5 **SECTION 3.** (1) The Community Benefiting Water Infrastructure Investment Program is  
6 established for the purpose of:

7 (a) Offsetting the cost of planning and developing community benefiting water  
8 infrastructure projects;

9 (b) Making community benefiting water infrastructure projects economically feasible for  
10 qualifying communities;

11 (c) Promoting small-scale community benefiting water infrastructure projects; and

12 (d) Providing direct benefits to communities across this state in the form of improved  
13 drinking water quality and confidence, improved access to water, increased local jobs and  
14 increased water affordability and efficiency.

15 (2)(a) A federally recognized Oregon Indian tribe, public body, water utility, nonprofit  
16 organization, community development financial institution certified by the Community De-  
17 velopment Financial Institutions Fund at the United States Department of the Treasury or  
18 watershed council may submit to the Oregon Business Development Department an applica-  
19 tion for grant moneys from the Community Benefiting Water Infrastructure Investment  
20 Fund established under section 6 of this 2023 Act for the purpose of planning or developing  
21 a community benefiting water infrastructure project.

22 (b) An applicant may partner with a federally recognized Oregon Indian tribe, public  
23 body, water utility, nonprofit organization, community development financial institution  
24 certified by the Community Development Financial Institutions Fund at the United States  
25 Department of the Treasury or watershed council, but a grant for an approved application  
26 will only be awarded and released to an applicant that is a federally recognized Oregon Indian  
27 tribe, public body or water utility. Any federally recognized Oregon Indian tribe, public body,  
28 nonprofit organization, private business or owner of rental property that partners with the  
29 applicant must be listed in the application.

30 (3) An application for a grant for planning a community benefiting water infrastructure  
31 project must demonstrate that the planning:

32 (a) Will be completed within six months of execution of the performance agreement or  
33 a reasonable time frame if good cause to extend the deadline is demonstrated as determined  
34 by rule;

35 (b) Will result in a proposal for developing a community benefiting water infrastructure  
36 project; and

37 (c) Incorporates feedback from:

38 (A) Members of qualifying communities served by the community benefiting water  
39 infrastructure project;

40 (B) Businesses located in the communities served by the community benefiting water  
41 infrastructure project;

42 (C) Water utilities that have customers in the communities served by the community  
43 benefiting water infrastructure project; and

44 (D) Other regional stakeholders.

45 (4)(a) An application for a grant for developing a community benefiting water

1 infrastructure project must be on a form prescribed by the Oregon Business Development  
2 Department and contain:

3 (A) A detailed description of the project's systems and the systems' operation;

4 (B) Information showing that the project's systems will operate as represented in the  
5 application and remain in operation for at least a period of time established by the Director  
6 of the Oregon Business Development Department by rule;

7 (C) The anticipated total project cost;

8 (D) Information on the number and types of jobs directly connected to the awarding of  
9 the grant that will be:

10 (i) Created by the project; and

11 (ii) Sustained throughout construction, installation and operation of the project;

12 (E) Information demonstrating that the project will comply with applicable state and lo-  
13 cal laws and regulations and obtain required licenses and permits; and

14 (F) Any other information the director considers necessary to determine whether the  
15 project is in compliance with sections 2 to 5 of this 2023 Act and any applicable rules or  
16 standards adopted thereunder.

17 (b) An application for developing a community benefiting water infrastructure project  
18 must demonstrate that the project:

19 (A) Will begin construction within 12 months of execution of the performance agreement  
20 and be completed within 36 months of execution of the performance agreement or a reason-  
21 able time frame if good cause to extend the deadline is demonstrated as determined by rule;

22 (B) Results in improved drinking water quality and confidence, improved access to water,  
23 increased local jobs or increased water affordability and efficiency;

24 (C) Complies with applicable state and local laws and regulations and has the required  
25 licenses and permits; and

26 (D) Will operate for at least a period of time established by the director by rule.

27 (5) Upon receipt of an application submitted under this section, the department shall re-  
28 view and determine whether the applicant is eligible to receive a grant from the Community  
29 Benefiting Water Infrastructure Investment Program established under this section. The  
30 department may approve an application if the department finds that:

31 (a) The planning or development proposal meets the requirements listed in subsection (3)  
32 or (4) of this section;

33 (b) The proposal meets the standards described in subsection (7) of this section;

34 (c) The proposal meets any standards adopted by rule under subsection (8) of this section;

35 (d) The proposal is technically feasible; and

36 (e) Any federally recognized Oregon Indian tribe, public body, nonprofit organization,  
37 private business or owner of rental property partnered with the applicant is listed in the  
38 application.

39 (6) If the department approves an application under this section, the department and the  
40 applicant may enter into a performance agreement that meets the requirements set forth in  
41 section 4 of this 2023 Act.

42 (7) In approving applications and awarding grant moneys, the department shall prioritize  
43 planning and development proposals that:

44 (a) Are for projects located in qualifying communities across the state.

45 (b) When applicable, are for projects constructed in part or in whole by disadvantaged

1 business enterprises, emerging small businesses or businesses that are owned by minorities,  
2 women or disabled veterans.

3 (c) Include inclusive hiring and promotion policies for workers working on the projects.

4 (d) Incorporate equity metrics developed in coordination with the Environmental Justice  
5 Council established by ORS 182.538 for evaluating the involvement of and leadership by people  
6 of low income, Black, Indigenous or People of Color, members of tribal communities, people  
7 with disabilities, youth, people from rural communities and people from otherwise disadvan-  
8 taged communities in the siting, planning, designing or evaluating of the proposed commu-  
9 nity benefitting water infrastructure projects.

10 (e) Help the applicants achieve goals included in the applicants' natural hazard mitigation  
11 plans as approved by the Federal Emergency Management Agency.

12 (f) Ensure resilience and reliability for water systems in the event of a natural disaster  
13 or other potential disruption in access.

14 (g) Are unlikely to adversely affect water quality and water supply and do not interfere  
15 with access or availability of existing water rights, including in-stream water rights.

16 (h) Combine multiple water infrastructure projects or approaches through a systems  
17 approach that helps to achieve multiple benefits.

18 (i) Are for projects that are not receiving or cannot receive other state funding.

19 (8) The department shall adopt rules to carry out sections 2 to 5 of this 2023 Act. The  
20 rules must:

21 (a) Define the planning and project costs eligible to be covered by a grant provided under  
22 this section.

23 (b) Adopt a methodology to identify qualifying communities and assess the geographic  
24 diversity of the approved planning and development projects compared with the other plan-  
25 ning and development project applications for which grants have been requested in each op-  
26 portunity announcement.

27 (c) Establish guidelines for significant, unforeseeable or uncontrollable delays that will  
28 constitute good cause for extending the time lines agreed upon in performance agreements.

29 (9) The department may adopt rules capping the amount of grant funds that may be paid  
30 to individual consultants and contractors if the department finds such limitations necessary  
31 to ensure broad distribution of funds and opportunity for emerging small businesses as de-  
32 fined in ORS 200.005.

33 **SECTION 4.** (1)(a) A performance agreement for planning a community benefitting water  
34 infrastructure project entered into between the Oregon Business Development Department  
35 and an applicant under section 3 (6) of this 2023 Act must provide, at a minimum:

36 (A) A grant in an amount described in paragraph (b) of this subsection that covers up  
37 to 100 percent of the reasonable planning costs including, but not limited to, costs associated  
38 with:

39 (i) Consulting fees.

40 (ii) Water balance models, groundwater testing, streamflow analysis or information  
41 gathering about water quality or availability.

42 (iii) Siting, excluding property acquisition.

43 (iv) Ensuring code compliance.

44 (v) Infrastructure associated with connecting to existing water systems.

45 (vi) Other reasonable expenditures made in the community benefitting water

1 infrastructure project planning process as determined by the department by rule.

2 (B) A grant may not be used to cover any fixed costs the applicant would incur in the  
3 applicant's normal course of business such as existing staff salaries or overhead costs.

4 (C) The department may recover grant moneys if a project fails to abide by the per-  
5 formance agreement or if planning is not completed within six months of execution of the  
6 performance agreement or a reasonable time frame if good cause to extend the deadline is  
7 demonstrated as determined by rule.

8 (b) The department may establish differing limits on the maximum amount of grants for  
9 planning community benefiting water infrastructure projects based on the scope and attri-  
10 butes of the planning applications not to exceed an amount of \$100,000 per grant.

11 (2) A performance agreement for developing a community benefiting water infrastructure  
12 project entered into between the Oregon Business Development Department and an applicant  
13 under section 3 (6) of this 2023 Act must provide, at a minimum:

14 (a) For a community benefiting water infrastructure project that qualifies as a project  
15 that ensures resilience and reliability for water systems in the event of a natural disaster  
16 or other potential disruption in access, a grant that covers up to 100 percent of the project  
17 cost not to exceed \$2 million. The department shall reduce the grant amount, if the grant  
18 combined with other incentives and grants received by the applicant exceeds 100 percent of  
19 the total costs associated with the project.

20 (b) For a community benefiting water infrastructure project that does not qualify as a  
21 project that ensures resilience and reliability for water systems in the event of a natural  
22 disaster or other potential disruption in access, a grant that covers up to 50 percent of the  
23 project cost not to exceed \$1 million. The department shall reduce the grant amount, if the  
24 grant combined with other incentives and grants received by the applicant exceeds 100 per-  
25 cent of the total costs associated with the project.

26 (3) The department shall gather information from grantees necessary to evaluate indi-  
27 cators of success as determined by rule.

28 **SECTION 5.** The Director of the Oregon Business Development Department may appoint  
29 an Advisory Committee on Community Renewable Investment to provide consultation on the  
30 implementation of sections 2 to 5 of this 2023 Act. A committee appointed under this section  
31 shall consist of:

- 32 (1) A member of the Environmental Justice Council;
- 33 (2) A representative of the Oregon Health Authority;
- 34 (3) A representative of the Department of Environmental Quality;
- 35 (4) A representative of the Water Resources Department;
- 36 (5) A representative of the Watershed Enhancement Board;
- 37 (6) A representative of water utilities;
- 38 (7) A representative of small community water systems;
- 39 (8) A representative of watershed councils;
- 40 (9) A representative of irrigation districts;
- 41 (10) A representative of an organization that represents water users;
- 42 (11) A representative of an organization that represents water conservation;
- 43 (12) A representative of an organization that engages in water efficiency or reuse;
- 44 (13) A representative of a federally recognized Oregon Indian tribe;
- 45 (14) Representatives of local government to represent the interests of counties, cities and

1 special districts;

2 (15) Representatives of nongovernmental organizations that represent communities of  
3 low income or disadvantaged households; and

4 (16) Representatives from relevant state and federal emergency management or response  
5 agencies.

6 **SECTION 6.** (1) The Community Benefiting Water Infrastructure Investment Fund is  
7 established in the State Treasury, separate and distinct from the General Fund. Interest  
8 earned by the Community Benefiting Water Infrastructure Investment Fund shall be cred-  
9 ited to the fund. The fund consists of:

10 (a) Moneys appropriated or otherwise transferred to the fund by the Legislative Assem-  
11 bly;

12 (b) Moneys received from federal, state or local sources;

13 (c) Gifts, grants or other moneys contributed to the fund; and

14 (d) Other amounts deposited in the fund from any source.

15 (2) Moneys in the fund are continuously appropriated to the Oregon Business Develop-  
16 ment Department for the purpose of providing grants to applicants approved under section  
17 3 of this 2023 Act.

18 (3) The department may use reasonable amounts from the fund necessary, but no more  
19 than 10 percent of the fund, to administer the Community Benefiting Water Infrastructure  
20 Investment Program described in section 3 of this 2023 Act.

21 (4) The Director of the Oregon Business Development Department shall submit a biennial  
22 report to the Legislative Assembly in the manner provided by ORS 293.640 regarding the  
23 expenditures of moneys deposited in the Community Benefiting Water Infrastructure In-  
24 vestment Fund and status of ongoing projects funded by the moneys, including but not lim-  
25 ited indicators of program success.

26 (5) Upon the expenditure of all grant moneys in the Community Benefiting Water  
27 Infrastructure Investment Fund or four years from the effective date of this 2023 Act,  
28 whichever occurs earlier, the director shall submit a report to the Legislative Assembly re-  
29 garding the expenditures of moneys deposited in the Community Benefiting Water  
30 Infrastructure Investment Fund and status of ongoing projects that have received moneys  
31 from the fund, including but not limited to indicators of program success.

32 **SECTION 7.** In addition to and not in lieu of any other appropriation, there is appropri-  
33 ated to the Oregon Business Development Department, for the biennium beginning July 1,  
34 2023, out of the General Fund, the amount of \$\_\_\_\_\_, for deposit into the Community Ben-  
35 efitting Water Infrastructure Investment Fund established in section 6 of this 2023 Act.

36 **SECTION 8.** (1) Sections 2 to 5 of this 2023 Act become operative on January 1, 2024.

37 (2) The Oregon Business Development Department may take any action before the oper-  
38 ative date specified in subsection (1) of this section that is necessary to enable the depart-  
39 ment to exercise, on or after the operative date specified in subsection (1) of this section,  
40 all of the duties, functions and powers conferred on the department by sections 2 to 5 of this  
41 2023 Act.

42 **SECTION 9.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
43 regular session of the Eighty-second Legislative Assembly adjourns sine die.

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