

Senate Bill 455

Sponsored by Senator HANSELL (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**.

Directs Oregon Business Development Department to establish and administer grant program for aquifer recharge due diligence and forgivable loan program for aquifer recharge testing.

Sunsets January 2, 2032.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the recharging of aquifers; and declaring an emergency.

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

4 **SECTION 1. (1) The Oregon Business Development Department shall establish and ad-**
5 **minister the Aquifer Recharge Due Diligence Grant Program under which the department**
6 **may award due diligence grants, in accordance with this section and section 2 of this 2023**
7 **Act, to public bodies listed in subsection (2) of this section in order to fund activities set**
8 **forth in subsection (3) of this section.**

9 (2) Any of the following public bodies may apply for a due diligence grant under the pro-
10 gram in the manner prescribed under section 2 of this 2023 Act:

11 (a) A municipal subdivision of this state.

12 (b) A port organized under ORS chapter 777 or 778.

13 (c) A district as defined in ORS 198.010.

14 (d) An Oregon Indian tribe as defined in ORS 294.805.

15 (e) A county.

16 (3) The department may award grants to fund any of the following due diligence activities
17 related to aquifer recharge and aquifer storage and recovery:

18 (a) Test pit construction.

19 (b) Borings and soil sampling necessary to design recharge basin or aquifer storage and
20 recovery well size and location.

21 (c) Aquifer modeling necessary to meet the standards for a request from the Water Re-
22 sources Department for a limited license under ORS 537.143 and 537.144.

23 (d) Design and engineering necessary to reach the final 50 percent of design and engi-
24 neering necessary to result in a biddable project for aquifer recharge basins, aquifer storage
25 and recovery wells and works, aquifer storage and recovery treatment systems and
26 conveyance works from water source to recharge site.

27 (e) Sampling required by the Department of Environmental Quality to establish parame-
28 ters for monitoring and sampling source water quality and aquifer water quality.

29 (f) Monitoring and sampling plan development associated with limited license require-
30 ments of the Water Resources Department and the Department of Environmental Quality.

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 (g) Applying for a limited license and public coordination.

2 (4) All or a portion of the basin or aquifer to which a grant application relates must have
3 been:

4 (a) Classified under ORS 536.340;

5 (b) Withdrawn by the Water Resources Department from further groundwater appropri-
6 ation under ORS 536.410; or

7 (c) Designated as critical under ORS 537.730 to 537.740.

8 (5) The Oregon Business Development Department may adopt any rules the department
9 considers necessary or convenient for the administration of this section and section 2 of this
10 2023 Act.

11 **SECTION 2.** (1) The governing body of a public body listed in section 1 of this 2023 Act
12 seeking a due diligence grant under this section and section 1 of this 2023 Act must submit
13 to the Oregon Business Development Department an application in the form and manner
14 prescribed by the department.

15 (2) To qualify for a due diligence grant, an application must be accompanied by doc-
16 umentation satisfactory to the department that the following items have been completed or
17 are available for inspection:

18 (a)(A) A United States Geological Survey ground water characterization model for the
19 targeted aquifer establishing a baseline of aquifer properties;

20 (B) A peer-reviewed academic model for the targeted aquifer establishing a baseline of
21 aquifer properties; or

22 (C) Documentation of agency-developed or publicly-developed reports determining that
23 the targeted aquifer is a potential candidate for recharge testing in order to prove that
24 baseline data exists to warrant additional due diligence for recharging the aquifer;

25 (b) Documentation establishing that source water is available to conduct aquifer recharge
26 testing at the targeted volume and rate of the test;

27 (c) Documentation establishing that ground water use in the targeted aquifer has been
28 monitored and metered for at least five years immediately prior to the date on which the
29 application is submitted; and

30 (d) Documentation showing that the basin or aquifer to which the application relates is
31 eligible under section 1 (4) of this 2023 Act.

32 (3)(a) Once the department has determined that an application is complete, the depart-
33 ment shall approve or reject the application.

34 (b) Rejection of an application does not preclude the governing body from reapplying at
35 any time with respect to the same or another basin or aquifer.

36 (c) If the department approves an application, the department shall determine the
37 amount of the grant award in accordance with subsection (4) of this section and disburse the
38 moneys to the applicant.

39 (d) Rejection of an application and the amount of a grant award may not be appealed.

40 (4) The department may award grants in an amount not less than 80 percent and not
41 more than 100 percent of the eligible due diligence costs substantiated in the application.

42 **SECTION 3.** (1) The Oregon Business Development Department shall establish and ad-
43 minister the Aquifer Recharge Testing Forgivable Loan Program under which the depart-
44 ment may make forgivable loans, in accordance with this section and section 4 of this 2023
45 Act, to public bodies listed in subsection (2) of this section in order to fund the costs set

1 forth in subsection (3) of this section.

2 (2) Any of the following public bodies may apply for a forgivable loan under the program
3 in the manner prescribed under section 4 of this 2023 Act:

- 4 (a) A municipal subdivision of this state.
- 5 (b) A port organized under ORS chapter 777 or 778.
- 6 (c) A district as defined in ORS 198.010.
- 7 (d) An Oregon Indian tribe as defined in ORS 294.805.
- 8 (e) A county.

9 (3) The department may make forgivable loans for any of the following costs related to
10 aquifer recharge and aquifer storage and recovery testing:

- 11 (a) Energy costs.
- 12 (b) Operation and maintenance costs associated with the treatment and delivery of
13 source water for the purposes of testing aquifer recharge or aquifer storage and recovery.
- 14 (c) Monitoring and reporting costs required by the monitoring plan of a limited license.
- 15 (d) Annual debt service payments on any debt for capital costs serviced by the applicant
16 to construct an aquifer recharge or aquifer storage and recovery project.

17 (4) All or a portion of the basin or aquifer to which a loan application relates must have
18 been:

- 19 (a) Classified under ORS 536.340;
- 20 (b) Withdrawn by the Water Resources Department from further groundwater appropri-
21 ation under ORS 536.410; or
- 22 (c) Designated as critical under ORS 537.730 to 537.740.

23 (5) Forgivable loans shall be made under this section and section 4 of this 2023 Act in a
24 principal amount equal to 100 percent of the costs set forth in the application over the pe-
25 riod, not to exceed five years, of the limited license issued by the Water Resources Depart-
26 ment under ORS 537.143 and 537.144 that is associated with the application submitted under
27 section 4 of this 2023 Act.

28 (6) The Oregon Business Development Department may adopt any rules the department
29 considers necessary or convenient for the administration of this section and section 4 of this
30 2023 Act.

31 **SECTION 4.** (1)(a) The governing body of a public body listed in section 3 of this 2023 Act
32 seeking a forgivable loan under this section and section 3 of this 2023 Act must submit to
33 the Oregon Business Development Department an application in the form and manner pre-
34 scribed by the department.

35 (b) To qualify for a forgivable loan, an application must be accompanied by documenta-
36 tion:

- 37 (A) Of a valid limited license to conduct aquifer recharge testing or aquifer storage and
38 recovery testing at the site to which the application relates; and
- 39 (B) That shows the basin or aquifer to which the application relates is eligible under
40 section 3 (4) of this 2023 Act.

41 (2)(a) Once the department has determined that an application is complete, the depart-
42 ment shall approve or reject the application.

43 (b) Rejection of an application does not preclude the governing body from reapplying at
44 any time with respect to the same or another basin or aquifer.

45 (c) If the department approves an application, the department shall determine the

1 amount of the forgivable loan in accordance with section 3 (5) of this 2023 Act and negotiate
2 a loan agreement with the applicant.

3 (d) Rejection of an application and the amount of a forgivable loan may not be appealed.

4 (3)(a) Upon completion of the activities for which the forgivable loan was made, the
5 governing body that received the loan must submit documentation satisfactory to the de-
6 partment that 100 percent of the water placed into the recharge went into the waters of this
7 state and was not recovered under a secondary use limited license or secondary use permit
8 obtained under ORS 537.534.

9 (b) If the department is satisfied with the documentation, 100 percent of the amount of
10 the loan shall be forgiven.

11 (c) If the department determines that water was used impermissibly within the terms
12 of paragraph (a) of this subsection, the department may bring a civil action for repayment
13 of the loan in an amount proportional to the percentage of the water that was used
14 impermissibly, with interest at a rate not to exceed _____ percent.

15 (d) Loan amounts and interest repaid under paragraph (c) of this subsection shall be
16 credited to the _____ Fund.

17 **SECTION 5.** Not later than September 15 of each year, the Oregon Business Development
18 Department and recipients of funding under sections 1 to 4 of this 2023 Act shall prepare and
19 submit a report, in the manner required under ORS 192.245, to the interim committees of the
20 Legislative Assembly related to water, detailing the use of the funding, the results of the
21 recharge testing so funded and the possible beneficial uses of long-term aquifer recharge
22 activities.

23 **SECTION 6.** Sections 1 to 5 of this 2023 Act are repealed on January 2, 2032.

24 **SECTION 7.** This 2023 Act being necessary for the immediate preservation of the public
25 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
26 on its passage.
27 _____