



March 1, 2023

Representative Ken Helm, Chair
Representative Annessa Hartman, Vice-Chair
Representative Mark Owens, Vice-Chair
House Committee on Agriculture, Land Use, Natural Resources, and Water

Re: Trout Unlimited Supports HB 3163 if Adjusted to Align with Work Group Report

Dear Chair Helm, Vice-Chairs Hartman and Owens, and Members of the Committee,

Trout Unlimited (“TU”) is a non-profit organization dedicated to the conservation of cold-water fish (such as trout, salmon, and steelhead) and their habitats. TU has more than 350,000 members and supporters nationwide, including many members in Oregon.

TU participated in the HB 5006 Work Group regarding place-based water planning in 2022, holding one of the three seats in the “Conservation” caucus of the Work Group membership. That Workgroup generated a Work Group Report, which set forth recommendations for water planning and management in Oregon and the next generation of place-based integrated water resources planning.¹

Trout Unlimited supports the place-based planning program and the underlying concepts of HB 3163, but we recommend aligning the bill with the HB 5006 Work Group Report.

The original, introduced version of HB 3163 does not incorporate some of the key recommendations from the Work Group Report. The Work Group required significant resources from agency staff and Work Group participants, and generated valuable recommendations for next steps in the place-based planning tools and processes; the collective efforts of that group should be reflected in this legislation.

The Water Resources Department developed and shared for the record (as part of the February 23rd meeting materials) a markup of LC 544 (which preceded HB 3163) that incorporated many of the recommendations from the Work Group Report. TU strongly supports amending HB 3163 to incorporate most of those revisions, as well as the revisions shown in Attachment 1 (which shows LC 544 plus edits collaborated upon by The Nature Conservancy, WaterWatch of Oregon, Wild Salmon Center and Trout Unlimited, all of whom have participated in the HB 5006 Work Group or place-based planning).

¹ See Report of the Work Group on State-Supported Regional Water Planning & Management, House Bill 5006 (2021) (including specific Recommendations at pp. 7-16) (available at: https://www.oregon.gov/owrd/Documents/HB%205006%20Work%20Group_FINAL%20REPORT.docx%20%282%29%20%282%29.pdf).

The proposed revisions in Attachment 1 are intended to further align the markup with the HB 5006 Work Group Report.

In particular, TU urges the sponsors to introduce an amendment to the bill that addresses the following:

1. Recommendations A and B of the Work Group's Report (regarding agency capacity for place-based planning) should be incorporated into the legislation. It is highly important that relevant agencies have adequate capacity to engage in place-based based planning and develop the high-quality water data necessary to make informed and effective planning decisions. These recommendations received strong support from the Work Group.
2. Recommendation F of the Work Group's Report (describing the need for planning groups to report back to the Water Resources Commission at least bi-annually about their progress with planning and implementation, and in particular how their work is continuing to balance both instream and out of stream needs), should be incorporated into the bill.
3. Recommendation G of the Work Group's Report (regarding the state's use of recognized plans to identify common themes across basins to inform updates to the Integrated Water Resources Strategy) should be aligned with the legislation by replacing "shall" with "may" in Section 2(8) of the bill. That revision would align the legislation with the specific wording and intention of the Work Group, assuring more appropriate alignment between the place-based planning process and future updates to the Integrated Water Resources Strategy.

Thank you for this opportunity to provide comments, and please let me know if you have questions.

Sincerely,

James Fraser
Oregon Policy Advisor
Trout Unlimited
james.fraser@tu.org

Attachment 1

Suggested Edits to HB 3163 from Trout Unlimited, The Nature Conservancy, WaterWatch of Oregon, and Wild Salmon Center (with commentary) based upon LC 544 version

[Attached.]

LC 544
2023 Regular Session
69000-001
10/28/22 (AG/ps)

D

R A F T

SUMMARY

Establishes Place-Based Water Planning Fund in State Treasury, separate and distinct from General Fund. Continuously appropriates moneys in Place-Based Water Planning Fund to Water Resources Department for purposes related to water planning.

Directs Water Resources Director to use moneys in fund for certain purposes related to place-based integrated water resources plans and associated activities.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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Relating to a water planning fund; and declaring an emergency.

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

SECTION 1. The Place-Based Water Planning Fund is established in the State Treasury, separate and distinct from the General Fund.

Interest earned by the Place-Based Water Planning Fund shall be credited to the fund. The fund consists of moneys appropriated to the fund by the Legislative Assembly and public or private moneys designated for deposit in the fund. Moneys in the fund are continuously appropriated to the Water Resources Department for the purpose of carrying out the provisions of section 2 of this 2023 Act.

SECTION 2. (1) As used in this section:

(a) “Eligible implementation coordination costs”:

(A) Means costs associated with actions taken to coordinate implementation of a state-recognized place-based integrated water resources plan, including:

Commented [1]: Recommendation V

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 (i) Costs of facilitation services related to meetings. Refine plan
2 actions and strategies
- 3 (ii) The provision of stipends to encourage ongoing participation in
4 meetings. Identify, prepare and apply to funding opportunities to
5 implement plan actions and strategies
- 6 (iii) Costs of coordination-related actions that occur after state re-
7 cognition of a place-based integrated water resources plan. Coordinate
8 interagency support team as needed
- 9 (iv) Ensure that the pursuit of strategies and actions continue to
10 represent a balanced representation fo instream and-of-stream water
11 interests; and
- 12 (v) Complete biennial reports to the Water Resources Commission on
13 the status of implementation.
- 14 (B) Does not include the costs of implementing a project.
- 15 (b) “Environmental justice community” has the meaning given that
16 term in ORS 182.535.
- 17 (c) “Indian tribe” means a federally recognized Indian tribe in
18 Oregon that has members residing on a reservation or tribal trust
19 lands in Oregon.
- 20 (d) “Person” has the meaning given that term in ORS 536.007.
- 21 (e) “Place-based integrated water resources plan” means a plan
22 that:
- 23 (A) Is developed in collaboration with a balanced representation of
24 interests;
- 25 (B) Balancees Addresses current and future in-stream and out-of-
26 stream needs;
- 27 (C) Includes the development of actions that are consistent with
28 existing state laws
29 state water resources policy, as defined in ORS 536.007, and other state
30 laws concerning the water resources of this state and state water
31 resources policy;
- 32 (D) Facilitates local water resources solutions;
- 33 (E) Is developed using an open, equitable and transparent process
34 that fosters public participation;

Commented [2]: Revisions to align with 5006 report Rec P(5) & subbullets

Commented [3]: aligning with current ORS 536.220

2422 (F) Is developed in consultation with the Water Resources Department and other relevant state agencies;

2624 (G) Strives to integrate solutions to cost-effectively achieve multiple benefits;

2826 (H) Is consistent with the guiding principles of the integrated state water resources strategy;

3028 (I) Complies with any rules of the Water Resources Commission regarding development of place-based integrated water resources plans;

Commented [4]: where did this come from?

Commented [5]: Preserving the fact that rules don't currently exist

1 ~~(J) Is reviewed by, and recognized by a resolution of, the Water
21 Resources Commission; and~~

Commented [6]: striking because only applicable to subset of "state-recognized place-based integrated water resources plans"

32 (K) Is for an area associated with waters from sources within a
43 hydrologic boundary.

54 (f) "Situational assessment" includes evaluation of:

65 (A) An area's readiness, needs and capacity for developing a place-
76 based integrated water resources plan within a hydrologic boundary.

87 (B) Potential gaps in state and local capacity and data related to
98 development of a place-based integrated water resources plan.

109 (C) Actions that may ensure timely completion of a place-based in-
110tegrated water resources plan.

1211 (D) Potential critical water issues that may be the focus when de-
1312veloping a place-based integrated water resources plan.

1413 (g) "State-recognized place-based integrated water resources plan"

Commented [7]: Recommendation F

1514 means a place-based integrated water resources plan that has been
1615 reviewed by the Water Resources Commission and recognized by a
1716 commission resolution stating that the completed place-based inte-
1817grated water resources plan adheres to applicable requirements.

1918 (2) The Water Resources Director shall disburse moneys in the
2019 Place-Based Water Planning Fund established in section 1 of this 2023

2120 Act as grants. ~~Applications must demonstrate in-kind and cash cost
match of not less than 25 percent of the amount of the to fund up to 75
percent of the grant funds requested for of actions sup-~~

2221 ~~porting the development of a place-based integrated water resources
22 planning, including costs of:~~

Commented [8]: Recommendations M, O, P

23 (a) Support for meaningful community engagement, at the outset and
ongoing, including resources for broad outreach, education, multiple
channels for engagement, and capacity building throughout the
process.

24 (b) Capacity support specifically for tribal and other under-represented
or marginalized communities for meaningful engagement in place based
planning

25 (c) Support for capacity and/or funding for professionals to help prepare
for and execute planning according to the Place Based Planning

Guidelines, including but not limited to project management, creation of governance agreements, DEIJ trainings, technical plan writing, and foundational expertise in water science, ecology and biology, climate science and water law

26 (d) Support for professional third-party facilitation with subject matter expertise

2327 (e) Support for planning groups to update plans when significant changes in local conditions, data availability, or climate change information indicated the need for plan update.

24 (a) Filling gaps in state, tribal and local capacity, knowledge and skill sets.

25 (b) Developing data and associated analyses tailored to the area of
26 a place-based integrated water resources plan.

27 (c) Building relationships among state agencies and people who live
28 in, or are interested in, the area of a place-based integrated water re-
29 sources plan.

30 (d) Assisting with building the capacity of a community to develop
31 a place-based integrated water resources plan.

1 (e) Facilitating associated public participation, including meaningful
2 engagement partic-

3 ipation by members of environmental justice, tribal and other under-
4 represented or marginalized communities, through
5 education, outreach, financial support and other activities.

6 (f) Assessing critical issues related to a place-based integrated wa-
7 ter resources plan.

8 (g) Designing and managing the development of a place-based inte-
9 grated water resources plan.

10 (h) That are Eligible implementation coordination costs of a state-
11 recognized place-based integrated water resources plan.

12 (i) Supporting development of a place-based integrated water re-
13 sources plan.

14 (j) Assisting groups to prepare and assess readiness to engage in
15 development of a place-based integrated plan.

16 (k) Updating a state recognized place-based integrated water
17 resources plan.

121 (3) The grants may be awarded to persons, Indian tribes and

Commented [9]: Recommendation P 1-4 and 6

Commented [10]: This is in alignment with Workgroup Recommendation P(1) and P(2)

Commented [11]: Recommendation D

Commented [12]: Insert P (1) -(4). Do not include (5) as that is covered up front. Add (6). Insert U

Commented [13]: Recommendation M

Commented [14]: Recommendation P

132 nonprofit organizations.

143 (4) The grants may be awarded as cost sharing with other programs
4 that support water resources planning.

155 (5) Planning groups that receive funding are required to (1) be
facilitated by a neutral professional facilitator with subject matter
expertise (with the choice of which option being the planning groups)
and (2) document the plan utilizing the services of a professional
technical writer with subject matter expertise.

Commented [15]: Recommendation U

166 (5) In addition to disbursing moneys in the fund as grants described
177 in subsection (2) of this section, the Water Resources Director may
188 use moneys in the fund to contract for situational assessments, data
inventories, data
199 development, technical assistance, including assistance from other
agencies, and other actions in support of a
2010 place-based integrated water resources plan.

2111 (6) Before issuing funding under subsections (2) or (5) of this sec-
2212 tion, the Water Resources Director shall consult with the Department
2313 of Environmental Quality, Oregon Health Authority, State Depart-
2414 ment of Agriculture and State Department of Fish and Wildlife to
2515 understand if agency capacity is sufficient to participate in developing
a place-based

2616 integrated water resources plan.

Commented [16]: Do we bring in Rec H?

Commented [17]: Recommendation D

2717 (7) The Department of Environmental Quality, Oregon Health Au-
2818 thority, State Department of Agriculture, State Department of Fish
2919 and Wildlife and Water Resources Department may provide technical
3020 information and assistance to, and enter into contracts or agreements
3121 with, a person, Indian tribe or nonprofit organization to facilitate im-
plementation of this section.

Commented [18]: Recommendation D

2 (8) The Water Resources Commission may use shall
consider state-
3 recognized place-based integrated water resources plans to identify
common themes across basins to help inform updates to when updating
4 the integrated state water resources strategy.

Commented [19]: Recommendation G

Commented [20R19]: Redlines align (8) with actual text of Recommendation G

5 (9) The commission may adopt rules to implement this section, in-
6 cluding rules that:

7 (a) Further clarify the expenditures that may be funded by the
8 grants.

9 (b) In consultation with other state agencies, Pprioritize the issuance
of funding for purposes described in this

10 section.

1011 (c) Develop grant selection criteria based on established criteria that
consider planning groups readiness and align with strategic priorities
determined by the state

11 (e) Establish requirements for engaging environmental justice
12 communities pursuant to this section.

13 (d) In consultation with other state agencies, Eestablish criteria and
a process for state recognition of a

14 place-based integrated water resources plan.

15 (e) Describe how the commission will consider state-recognized

16 place-based integrated water resources plans when updating the inte-

12 grated state water resources strategy.

13 (ef) Establish reporting and other requirements necessary to
maintain the status of a state-recognized place-based integrated water
resources plan including:

14 i) progress on plan implementation,

15 ii) how plan strategies and actions continue to represent a balance of
instream and out of stream water interests, and

16 iii) the planning groups plans related to collaboration and place-based
planning principles.”

17 (10) To maintain state recognition and access to associated resources,
planning groups must complete biennial reports to the Water Resources
Commission that demonstrate their progress on implementation, and
that their pursuit of plan strategies and actions continue to represent a
balance of instream and out-of-stream water interests and a
commitment to collaboration and place based planning principles.

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1819 SECTION 3. This 2023 Act being necessary for the immediate pres-

1920 ervation of the public peace, health and safety, an emergency is de-

2021 clared to exist, and this 2023 Act takes effect on its passage.21

Commented [21]: Recommendation H: Other agencies called out in HB 5006 report should be consulted

Commented [22R21]: Align with K: PBP grant selection should be based on established criteria that consider planning groups readiness and align with strategic priorities determined by the state.

Commented [23]: Recommendation K

Commented [24]: Recommendation H: Other agencies called out in HB 5006 report should be consulted

Commented [25]: Recommendation G

Commented [26]: Recommendation F

Commented [27]: Recommendation F