

HOUSE AMENDMENTS TO HOUSE BILL 3364

By COMMITTEE ON AGRICULTURE, LAND USE, NATURAL RESOURCES, AND
WATER

April 10

On page 1 of the printed bill, line 2, delete “and” and delete “541.581,”.

In line 3, after “541.669,” delete the rest of the line and insert “541.677 and 541.689; and pre-
scribing an effective date.”.

Delete lines 5 through 28 and delete pages 2 through 10 and insert:

“**SECTION 1.** ORS 541.561 is amended to read:

“541.561. (1) The Water Resources Department shall establish a grant program to pay the qual-
ifying costs of [*planning*] studies performed to evaluate the feasibility of [*developing a*] **projects**
related to:

“(a) Water conservation[,].

“(b) **Water** reuse.

“(c) **Aquifer recharge.**

“(d) **Aquifer storage and recovery.**

“(e) **Streamflow protection or restoration.**

“(f) **Water** [*or*] storage [*project, as described in ORS 541.566*].

“(g) **Other activities identified by rule by the Water Resources Commission.**

“(2) A grant under this section may be made to:

“(a) [*a local government as defined in ORS 174.116, to*] **A person, as defined in ORS 536.007.**

“(b) **A public body, as defined in ORS 174.109.**

“(c) A federally recognized Indian tribe in Oregon that has members residing on a reservation
or tribal trust lands in Oregon [*or to a person*].

“(d) **A nonprofit organization.**

“[(2)] (3) In lieu of grants, the department may pay the cost of providing direct services, in-
cluding but not limited to technical [*planning*] services, for a [*planning*] study that is eligible for a
grant under this section.

“[(3)] A grant or the cost of direct services provided under this section may not exceed \$500,000 per
project. A grant or payment for direct services may be provided only if the amount of the grant or the
cost of the direct services is matched by funding from another source that is not less than a dollar-
for-dollar match of the amount or cost.]

“(4) **A grant may be provided only if the amount of the grant is matched by an in-kind
or cash cost match of not less than 25 percent of the grant amount. The commission may
establish a maximum per project amount of grant funding that a project may receive or may
increase the cost match for upcoming project cycles based on the availability of funds.**

“[(4)] (5) Grants and the cost of direct services provided under this section must be paid [*for*]
from moneys available in the Water [*Conservation, Reuse and Storage*] **Project Feasibility** [*Invest-*
ment] Fund.

1 “(5)(a) (6) In evaluating above ground storage projects for awards of grants or payments for
2 direct services under this section, the department shall give priority to projects that include pro-
3 visions for using stored water to augment in-stream flows to conserve, maintain and enhance aquatic
4 life, fish life or other ecological values.

5 “(b) *In evaluating all other eligible projects, the department shall give priority to projects identi-
6 fied by the department in a statewide water assessment and inventory for the award of grants or pro-
7 vision of payment for direct services under this section.*]

8 “**SECTION 2.** ORS 541.566 is amended to read:

9 “541.566. (1) A [*planning*] study receiving a grant or payment for direct services under ORS
10 541.561 **may include activities necessary to assess the type, location, design, cost or other**
11 **factors affecting the feasibility of a project described in ORS 541.561. Specific activities** may
12 include, but [*is*] **are** not limited to:

13 “(a) Analyses of hydrological refill capacity;

14 “(b) Water needs analyses;

15 “(c) Refined hydrological analyses;

16 “(d) Engineering and financial feasibility studies;

17 “(e) Geologic analyses;

18 “(f) Water exchange studies;

19 “(g) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected
20 stream and the impact of a proposed [*water conservation, reuse or storage*] project on those flows;

21 “(h) Comparative analyses of alternative means of supplying water, including but not limited to
22 the costs and benefits of conservation and efficiency alternatives and the extent to which long-term
23 water supply needs may be met using those alternatives;

24 “(i) Analyses of **potential** environmental, **social, cultural or economic benefits**, harm or im-
25 pacts from a proposed [*water conservation, reuse or storage*] project;

26 “(j) Analyses of **potential** public benefits accruing from a proposed [*water conservation, reuse*
27 *or storage*] project;

28 “(k) Fiscal analyses of a proposed [*water conservation, reuse or storage*] project, including esti-
29 mated project costs, financing for the project and projected financial returns from the project;

30 “(L) Hydrological analyses of a proposed [*water conservation, reuse or storage*] project, including
31 the anticipated effects of climate change on hydrological refill capacity; [*and*]

32 “(m) Analyses of potential water quality impacts of the project[.];

33 “(n) **The development of water management and conservation plans and associated ana-
34 lyses that assess alternatives to achieve water conservation;**

35 “(o) **Data collection and analyses related to the preparation of seasonally varying flow
36 as prescribed in rules of the Water Resources Commission;**

37 “(p) **Analyses associated with evaluating the safety of existing dams and evaluating
38 actions to address safety deficiencies related to existing dams; and**

39 “(q) **Analyses of impacts of a project on environmental justice or disproportionately im-
40 pacted communities and ways to minimize impacts on environmental justice or dispropor-
41 tionately impacted communities.**

42 “(2) If a [*planning*] study concerns a proposed storage project that would impound surface water
43 on a perennial stream, divert water from a stream that supports sensitive, threatened or endangered
44 fish or divert more than 500 acre-feet of surface water annually, a grant or direct services payment
45 may be provided only if the study contains:

1 “(a) Analyses of by-pass, optimum peak, flushing and other ecological flows of the affected
2 stream and the impact of the storage project on those flows;

3 “(b) Comparative analyses of alternative means of supplying water, including but not limited to
4 the costs and benefits of conservation and efficiency alternatives and the extent to which long-term
5 water supply needs may be met using those alternatives;

6 “(c) Analyses of environmental harm or impacts from the proposed storage project;

7 “(d) Evaluation of the need for and feasibility of using stored water to augment in-stream flows
8 to conserve, maintain and enhance aquatic life, fish life and any other ecological values; and

9 “(e) For a proposed storage project that is for municipal use, analysis of local and regional
10 water demand and the proposed storage project’s relationship to existing and planned water supply
11 projects.

12 “**SECTION 3.** ORS 541.576 is amended to read:

13 “541.576. (1) The Water [*Conservation, Reuse and Storage Investment*] **Project Feasibility** Fund
14 is established in the State Treasury, separate and distinct from the General Fund. Interest earned
15 by the Water [*Conservation, Reuse and Storage Investment*] **Project Feasibility** Fund shall be cred-
16 ited to the General Fund. Moneys in the Water [*Conservation, Reuse and Storage Investment*]
17 **Project Feasibility** Fund are continuously appropriated to the Water Resources Department to
18 award grants and to pay the cost of direct services provided under ORS 541.561.

19 “(2) The Water [*Conservation, Reuse and Storage Investment*] **Project Feasibility** Fund shall
20 consist of:

21 “(a) Moneys appropriated to the fund by the Legislative Assembly;

22 “(b) Any moneys that may be transferred to the fund by the federal government, a state agency
23 or a local government; and

24 “(c) Grant repayments, if any.

25 “**SECTION 4.** ORS 541.656 is amended to read:

26 “541.656. (1) The Water Supply Development Account is established in the State Treasury, sep-
27 arate and distinct from the General Fund. Interest earned by the Water Supply Development Ac-
28 count shall be credited to the account. Moneys in the account are continuously appropriated to the
29 Water Resources Department for use in carrying out ORS 541.651 to 541.696.

30 “(2) The department may expend moneys from the account for:

31 “(a) Subject to subsection (4) of this section, making loans and grants to evaluate, plan and de-
32 velop in-stream and out-of-stream water development projects approved by the Water Resources
33 Commission, including but not limited to projects that:

34 “(A) Repair or replace infrastructure to increase the efficiency of water use;

35 “(B) Provide new or expanded water storage;

36 “(C) Improve or alter operations of existing water storage facilities in connection with newly
37 developed water;

38 “(D) Create new, expanded, improved or altered water distribution, conveyance or delivery sys-
39 tems in connection with newly developed water;

40 “(E) Allocate federally stored water;

41 “(F) Promote water reuse;

42 “(G) Promote water conservation;

43 “(H) Provide streamflow protection or restoration;

44 “(I) Provide for water management or measurement in connection with newly developed water;

45 and

1 “(J) Determine seasonally varying flows in connection with newly developed water.

2 “(b) Paying the necessary administrative and technical costs of the department in carrying out
3 ORS 541.651 to 541.696.

4 “(c) **In connection with a water development project funded under paragraph (a) of this**
5 **subsection, providing equipment for long-term monitoring of project outcomes, including but**
6 **not limited to monitoring compliance with established seasonally varying flows in connection**
7 **with newly developed water.**

8 “(3)(a) In addition to any other permissible uses of moneys in the account, the department may
9 expend moneys from the account to support:

10 “(A) Ongoing studies conducted by the United States Army Corps of Engineers to allocate stored
11 water; and

12 “(B) Comprehensive basin studies conducted by the United States Bureau of Reclamation.

13 “(b) Expenditures described in this subsection are not subject to any grant or loan procedures,
14 public benefit scoring or ranking or other requirements or restrictions for grants or loans estab-
15 lished under ORS 541.651 to 541.696.

16 “(4) The department may expend account moneys under subsection (2) of this section for loans
17 and grants to develop in-stream and out-of-stream water development projects only if the department
18 determines under ORS 540.530 that any transfer of water rights for the project will not injure ex-
19 isting water rights.

20 “**SECTION 5.** ORS 541.657 is amended to read:

21 “541.657. (1) **Unless otherwise specified in an Act referencing this section**, an expenditure
22 of moneys from the Water Supply Development Account is not subject to [*any application process*
23 *or public benefit scoring or ranking under*] ORS 541.663, 541.666, 541.669, 541.673 or 541.677 if the
24 expenditure is for a [*purpose*] **project specifically named in an Act as subject to this section**
25 **and the Act:**

26 “[*(1) Specifically identified in an appropriation to the account from the General Fund for carrying*
27 *out the purpose; or*]

28 “[*(2) Specifically identified in legislation that authorizes a transfer of lottery bond proceeds to the*
29 *account for carrying out the purpose.*]

30 “(a) **Appropriates moneys to the account from the General Fund; or**

31 “(b) **Authorizes a transfer of lottery bond proceeds to the account.**

32 “(2) **A recipient of funding for a project described in subsection (1) of this section shall**
33 **provide information requested by the Water Resources Department to comply with the pro-**
34 **visions of ORS 541.651 to 541.696 unless ORS 541.651 to 541.696 are excluded in the Act ref-**
35 **erenced in subsection (1) of this section, and shall enter into a grant or loan agreement prior**
36 **to the department disbursing funds to the recipient.**

37 “**SECTION 6.** ORS 541.659 is amended to read:

38 “541.659. (1) Loans and grants may be made from the Water Supply Development Account to
39 persons as defined in ORS 536.007, to a federally recognized Indian tribe in Oregon that has mem-
40 bers residing on a reservation or tribal trust lands in Oregon and nonprofit organizations.

41 “(2) If an applicant is required to have a water management and conservation plan, the plan
42 must be:

43 “(a) Submitted to the Water Resources Department [*and receive approval*] prior to department
44 acceptance of an application for a loan or grant from the account.

45 “(b) **Approved by the department before the project is awarded a loan or grant.**

1 “**SECTION 7.** ORS 541.666 is amended to read:

2 “541.666. (1) Applications for a loan or grant from the Water Supply Development Account
3 must:

4 “(a) Be in a form prescribed by the Water Resources Department.

5 “(b) **Include any information required by the department.**

6 “(c) **Be filed with the department.**

7 “(2) **The department may require an application to** *[and must]* include the following:

8 “[(1)] (a) A description of the need, purpose and nature of the project, including what the ap-
9 plicant intends to complete and how the applicant intends to proceed.

10 “[(2)] (b) Sufficient information to allow evaluation of the application based upon the public
11 benefit scoring and ranking of the project.

12 “[(3)] (c) Current contact information for the principal contact, fiscal officer and involved land-
13 owners.

14 “[(4)] (d) For applications involving physical changes or monitoring on private land, evidence
15 that landowners are aware of and agree to the proposal and are aware that monitoring information
16 is a public record.

17 “[(5)] (e) The location of the proposed project, using public land survey reference points, latitude
18 and longitude, county, watershed, river and stream mile, if appropriate.

19 “[(6)] (f) An itemized budget for the project, including fiscal and administrative costs.

20 “[(7)] (g) A description of funds, services or materials available to the project.

21 “[(8)] (h) A project schedule, including beginning and completion dates.

22 “[(9)] (i) Any conditions that may affect the completion of the project.

23 “[(10)] (j) A completed feasibility analysis if appropriate.

24 “[(11)] (k) Suggestions for interim and long-term project performance benchmarks.

25 “[(12)] (L) If the application is for a grant, demonstrated in-kind and cash cost match of not less
26 than 25 percent of the amount of the grant sought from the account.

27 “[(13)] (m) If the application is for a loan, evidence demonstrating ability to repay the loan and
28 provide collateral.

29 “[(14)] (n) Letters of support for the proposed project.

30 “[(15)] (o) If required by the department, a description of consultations with affected Indian
31 tribes regarding the project.

32 “[(16)] (p) Any other information required by the department.

33 “**SECTION 8.** ORS 541.669 is amended to read:

34 “541.669. (1) The Water Resources Commission shall adopt rules establishing a system for scor-
35 ing and ranking projects to determine which projects are to be awarded loans and grants from the
36 Water Supply Development Account, including but not limited to the application of minimum criteria
37 designed to achieve the outcomes described in ORS 541.677.

38 “(2) The criteria **for evaluating projects** *[shall]* **must** be based on the public benefit categories
39 described in ORS 541.673 **and preferences described in ORS 541.677.**

40 “(3) The commission shall make the loan and grant funding decisions at least twice each year
41 **so long as funds are available to award.** Applications must be filed with the Water Resources
42 Department. The department shall accept an application for a loan or grant at any time, but shall
43 establish a separate deadline for the filing of applications before each time the commission makes
44 loan and grant funding decisions.

45 “[(2)] (4) The department shall conduct a preliminary review of applications to check for com-

1 pleteness, eligibility and minimum requirements upon receipt of each application.

2 “(5) The department shall return incomplete applications to the applicant.

3 “(6) The department shall provide public notice by posting new funding applications on the
4 department’s website for a [60-day] **30-day** period prior to reviewing the applications.

5 “(7) The department shall provide for the receipt of public comment on the applications during
6 the [60-day] **30-day** period that applications are posted on the department’s website.

7 “[3)] (8) The department shall forward applications that have passed preliminary review, along
8 with any comments received from applicants or the public, to a technical review team consisting of
9 representatives of the Water Resources Department, the Department of Environmental Quality, the
10 State Department of Fish and Wildlife, the State Department of Agriculture, the Oregon Business
11 Development Department, affected Indian tribes, any collaborative body established by the Governor
12 to address challenges, opportunities and priorities for the region affected by the project and addi-
13 tional experts as determined by the Water Resources Department.

14 “(9) The technical review team shall conduct the initial scoring and ranking for the projects
15 described in the applications **using the system described in subsection (1) of this section**, con-
16 sider comments from applicants and the public and make loan and grant funding recommendations
17 to the [commission] **department**.

18 “(10) **The department shall make the technical review team’s project score and ranking**
19 **available for public comment prior to a funding decision by the commission.**

20 “(11) **The department shall make funding recommendations to the commission based on**
21 **the scoring and ranking by the technical review team, consideration of comments from ap-**
22 **plicants and the public, and the availability of funds.**

23 “(12) The commission shall determine the final scoring and ranking of projects and make the
24 final decision regarding which projects are awarded loans or grants from the account. Before the
25 commission makes a final decision on an application, the commission shall offer one additional op-
26 portunity for public comment.

27 “[4)] (13) The commission is not required to obligate all available account moneys during a
28 funding cycle.

29 “(14) Any available account moneys that are not obligated during a funding cycle shall be car-
30 ried forward and be made available for projects in future funding cycles.

31 “[5)] (15) The department shall document the ranking of all applications and make the applica-
32 tion ranking publicly available after the funding decisions by the commission have been published.

33 “**SECTION 9.** ORS 541.677 is amended to read:

34 “541.677. (1) The Water Resources Commission shall design the minimum criteria for the project
35 scoring and ranking system described in ORS 541.669 to achieve the following outcomes:

36 “(a) [The issuance of] **Issuing** grants or loans only to projects that provide benefits in each of
37 the three categories of public benefit described in ORS 541.673.

38 “(b) [Preference for] **Preferring** partnerships and collaborative projects.

39 “(c) [The funding of] **Funding** projects of diverse sizes, types and geographic locations.

40 “(d) If a project proposes to divert water, [preference for] **preferring** projects that provide a
41 measurable improvement in protected streamflows.

42 “(e) If a project proposes to increase efficiency, [preference for] **preferring** projects that provide
43 a measurable increased efficiency of water use.

44 “(2) The [Water Resources Department] **commission** shall **periodically** review the loan and grant
45 program [on a biennial basis] to assess to what extent the [outcomes described in subsection (1) of this

1 *section are being achieved, and shall report the review findings to the Water Resources Commission]*
2 **loan and grant program is achieving desired outcomes and providing public benefits.**

3 “(3) The commission shall modify the project selection process as necessary to better achieve
4 the **desired** outcomes described in subsection (1) of this section.

5 “**SECTION 10.** ORS 541.689 is amended to read:

6 “541.689. (1) The Water Resources Department shall make a determination as provided under
7 subsection (2) of this section if an application for a loan or grant from the Water Supply Develop-
8 ment Account is for a project that requires a **limited license, water [storage] right certificate or**
9 **water right permit that enables the storage of water, either in above-ground storage or in**
10 **aquifer recharge, [or aquifer recharge permit or limited license for the storage of water]** outside of
11 the official irrigation season and:

12 “(a) Impounds surface water on a perennial stream;

13 “(b) Diverts water from a stream that supports state or federally listed sensitive, threatened or
14 endangered fish species; or

15 “(c) Diverts more than 500 acre-feet of surface water annually.

16 “(2) The department shall review a completed application for a project described in subsection
17 (1) of this section to determine whether the applicable seasonally varying flows have been estab-
18 lished under this section for the stream of interest. If the department determines that the applicable
19 seasonally varying flows have not previously been established, the department shall establish the
20 seasonally varying flows before [issuing] **disbursing funds for** a loan or grant from the account.
21 The department may use account moneys to pay the cost of establishing a seasonally varying flow,
22 **to fund long-term monitoring of compliance with established seasonally varying flows** and to
23 pay other costs directly related to project development.

24 “(3) The Water Resources Department shall establish any seasonally varying flows under sub-
25 section (2) of this section in consultation with the State Department of Fish and Wildlife and any
26 affected Indian tribes. The Water Resources Department may rely upon existing scientific data and
27 analysis or may fund new data and analysis. The Water Resources Department shall establish sea-
28 sonally varying flows using a methodology established by Water Resources Commission rules.

29 “(4) **Notwithstanding ORS 537.270,** if the department establishes applicable seasonally varying
30 flows for the stream of interest, the department shall make the seasonally varying flows a condition
31 of:

32 “(a) The new or existing **limited license, water [storage] right certificate or water right**
33 **permit that enables the storage of water, either in above-ground storage or in [or] aquifer**
34 **recharge, [permit or limited license for the storage of water] outside of the official irrigation season**
35 **and that is** issued for any project described in subsection (1) of this section that receives a loan
36 or grant from the account; and

37 “(b) The new or existing **limited license, water [storage] right certificate or water right**
38 **permit [or aquifer recharge permit or limited license for the storage of water]** issued for any subse-
39 quent project that:

40 “(A) Receives a loan or grant from the account;

41 “(B) Is for [the storage of water] **either above-ground storage or aquifer recharge** outside of
42 the official irrigation season; and

43 “(C) Has a diversion point that is subject to seasonally varying flows.

44 “(5) The applicant for or holder of a **certificate, permit or license** described in subsection (4)(b)
45 of this section may request that the applicable seasonally varying flows established under subsection

1 (2) of this section for the stream of interest be altered based upon new information. There is, how-
2 ever, a rebuttable presumption that existing applicable seasonally varying flows protect and main-
3 tain the biological, ecological and physical functions of the stream to the extent required by
4 commission rules.

5 “(6) The department shall condition a water [*storage*] permit and resulting certificate, aquifer
6 recharge permit and resulting certificate or limited license for a project that receives a grant or
7 loan from the account and meets the other conditions described in subsection (4) of this section to
8 protect the seasonally varying flow in effect at the time, **before disbursing funds for** the loan or
9 grant [*is issued*] for the project.

10 “(7) For purposes of any project that receives a loan or grant from the account and meets the
11 other conditions described in subsection (4) of this section, the department shall use a seasonally
12 varying flow methodology provided by commission rules in lieu of any other methodologies for de-
13 termining seasonally varying flows or any methodologies for determining peak and ecological flows
14 outside of the official irrigation season.

15 “(8) Subsections (1) to (7) of this section do not eliminate or alter any applicable standard for
16 department review of an application to determine whether water is available for purposes of re-
17 viewing an application for a new [*water storage or aquifer recharge permit or a limited license for the*
18 *storage of water*] **limited license, water right certificate or water right permit that enables the**
19 **storage of water, either in above-ground storage or in aquifer recharge, outside of the official**
20 **irrigation season.**

21 “(9) **When conditioning an existing limited license, water right certificate or water right**
22 **permit for aquifer recharge, the department shall only condition the use of water associated**
23 **with a funded project.**

24 “**SECTION 11.** (1) At least every eight years, the Water Resources Department shall re-
25 port, in the manner provided by ORS 192.245, to a committee or interim committee of the
26 Legislative Assembly related to water, and to the Water Resources Commission, on the
27 funding programs described in ORS 537.766, 537.767, 537.872, 537.873, 541.561 to 541.581 and
28 541.651 to 541.696.

29 “(2) The report must:

30 “(a) Evaluate the funding programs.

31 “(b) Identify any improvements to statute and rule that are needed to better implement
32 the purposes of the funding programs.

33 “**SECTION 12.** The Water Resources Department shall submit the first report required
34 by section 11 of this 2025 Act no later than eight years after the effective date of this 2025
35 Act.

36 “**SECTION 13.** (1) The amendments to ORS 541.576 by section 3 of this 2025 Act are in-
37 tended to change the name of the ‘Water Conservation, Reuse and Storage Investment
38 Fund’ to the ‘Water Project Feasibility Fund.’

39 “(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel
40 may substitute for words designating the ‘Water Conservation, Reuse and Storage Invest-
41 ment Fund,’ wherever they occur in statutory law, other words designating the ‘Water
42 Project Feasibility Fund.’

43 “**SECTION 14.** This 2025 Act takes effect on the 91st day after the date on which the 2025
44 regular session of the Eighty-third Legislative Assembly adjourns sine die.”.