

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3364**

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

In line 3, after “541.669,” delete the rest of the line and insert “541.677 and 541.689; and prescribing 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 qualifying 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 re-

1 siding on a reservation or tribal trust lands in Oregon [*or to a person*].

2 **“(d) A nonprofit organization.**

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

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

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

17 “[~~(4)~~] (5) Grants and the cost of direct services provided under this sec-
18 tion must be paid [*for*] from moneys available in the Water [*Conservation,*
19 *Reuse and Storage*] **Project Feasibility** [*Investment*] Fund.

20 “[~~(5)(a)~~] (6) In evaluating above ground storage projects for awards of
21 grants or payments for direct services under this section, the department
22 shall give priority to projects that include provisions for using stored water
23 to augment in-stream flows to conserve, maintain and enhance aquatic life,
24 fish life or other ecological values.

25 “[*(b) In evaluating all other eligible projects, the department shall give*
26 *priority to projects identified by the department in a statewide water assess-*
27 *ment and inventory for the award of grants or provision of payment for direct*
28 *services under this section.*]

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

30 **“541.566. (1) A [*planning*] study receiving a grant or payment for direct**

1 services under ORS 541.561 **may include activities necessary to assess the**
2 **type, location, design, cost or other factors affecting the feasibility of**
3 **a project described in ORS 541.561. Specific activities** may include, but
4 [is] **are** not limited to:

5 “(a) Analyses of hydrological refill capacity;

6 “(b) Water needs analyses;

7 “(c) Refined hydrological analyses;

8 “(d) Engineering and financial feasibility studies;

9 “(e) Geologic analyses;

10 “(f) Water exchange studies;

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

14 “(h) Comparative analyses of alternative means of supplying water, in-
15 cluding but not limited to the costs and benefits of conservation and effi-
16 ciency alternatives and the extent to which long-term water supply needs
17 may be met using those alternatives;

18 “(i) Analyses of **potential** environmental, **social, cultural or economic**
19 **benefits**, harm or impacts from a proposed [*water conservation, reuse or*
20 *storage*] project;

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

23 “(k) Fiscal analyses of a proposed [*water conservation, reuse or storage*]
24 project, including estimated project costs, financing for the project and
25 projected financial returns from the project;

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

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

30 **“(n) The development of water management and conservation plans**

1 and associated analyses that assess alternatives to achieve water con-
2 servation;

3 “(o) Data collection and analyses related to the preparation of sea-
4 sonally varying flow as prescribed in rules of the Water Resources
5 Commission;

6 “(p) Analyses associated with evaluating the safety of existing dams
7 and evaluating actions to address safety deficiencies related to existing
8 dams; and

9 “(q) Analyses of impacts of a project on environmental justice or
10 disproportionately impacted communities and ways to minimize im-
11 pacts on environmental justice or disproportionately impacted com-
12 munities.

13 “(2) If a *[planning]* study concerns a proposed storage project that would
14 impound surface water on a perennial stream, divert water from a stream
15 that supports sensitive, threatened or endangered fish or divert more than
16 500 acre-feet of surface water annually, a grant or direct services payment
17 may be provided only if the study contains:

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

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

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

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

30 “(e) For a proposed storage project that is for municipal use, analysis of

1 local and regional water demand and the proposed storage project's re-
2 lationship to existing and planned water supply projects.

3 **"SECTION 3.** ORS 541.576 is amended to read:

4 "541.576. (1) The Water [*Conservation, Reuse and Storage Investment*]
5 **Project Feasibility** Fund is established in the State Treasury, separate and
6 distinct from the General Fund. Interest earned by the Water [*Conservation,*
7 *Reuse and Storage Investment*] **Project Feasibility** Fund shall be credited
8 to the General Fund. Moneys in the Water [*Conservation, Reuse and Storage*
9 *Investment*] **Project Feasibility** Fund are continuously appropriated to the
10 Water Resources Department to award grants and to pay the cost of direct
11 services provided under ORS 541.561.

12 "(2) The Water [*Conservation, Reuse and Storage Investment*] **Project**
13 **Feasibility** Fund shall consist of:

14 "(a) Moneys appropriated to the fund by the Legislative Assembly;

15 "(b) Any moneys that may be transferred to the fund by the federal gov-
16 ernment, a state agency or a local government; and

17 "(c) Grant repayments, if any.

18 **"SECTION 4.** ORS 541.656 is amended to read:

19 "541.656. (1) The Water Supply Development Account is established in the
20 State Treasury, separate and distinct from the General Fund. Interest earned
21 by the Water Supply Development Account shall be credited to the account.
22 Moneys in the account are continuously appropriated to the Water Resources
23 Department for use in carrying out ORS 541.651 to 541.696.

24 "(2) The department may expend moneys from the account for:

25 "(a) Subject to subsection (4) of this section, making loans and grants to
26 evaluate, plan and develop in-stream and out-of-stream water development
27 projects approved by the Water Resources Commission, including but not
28 limited to projects that:

29 "(A) Repair or replace infrastructure to increase the efficiency of water
30 use;

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

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

4 “(D) Create new, expanded, improved or altered water distribution,
5 conveyance or delivery systems in connection with newly developed water;

6 “(E) Allocate federally stored water;

7 “(F) Promote water reuse;

8 “(G) Promote water conservation;

9 “(H) Provide streamflow protection or restoration;

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

12 “(J) Determine seasonally varying flows in connection with newly devel-
13 oped water.

14 “(b) Paying the necessary administrative and technical costs of the de-
15 partment in carrying out ORS 541.651 to 541.696.

16 **“(c) In connection with a water development project funded under**
17 **paragraph (a) of this subsection, providing equipment for long-term**
18 **monitoring of project outcomes, including but not limited to moni-**
19 **toring compliance with established seasonally varying flows in con-**
20 **nection with newly developed water.**

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

23 “(A) Ongoing studies conducted by the United States Army Corps of En-
24 gineers to allocate stored water; and

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

27 “(b) Expenditures described in this subsection are not subject to any
28 grant or loan procedures, public benefit scoring or ranking or other re-
29 quirements or restrictions for grants or loans established under ORS 541.651
30 to 541.696.

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

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

7 “541.657. (1) **Unless otherwise specified in an Act referencing this**
8 **section,** an expenditure of moneys from the Water Supply Development Ac-
9 count is not subject to [*any application process or public benefit scoring or*
10 *ranking under*] ORS 541.663, 541.666, 541.669, 541.673 or 541.677 if the ex-
11 penditure is for a [*purpose*] **project specifically named in an Act as sub-**
12 **ject to this section and the Act:**

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

15 “[*(2) Specifically identified in legislation that authorizes a transfer of lot-*
16 *tery bond proceeds to the account for carrying out the purpose.*]

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

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

20 **“(2) A recipient of funding for a project described in subsection (1)**
21 **of this section shall provide information requested by the Water Re-**
22 **sources Department to comply with the provisions of ORS 541.651 to**
23 **541.696 unless ORS 541.651 to 541.696 are excluded in the Act referenced**
24 **in subsection (1) of this section, and shall enter into a grant or loan**
25 **agreement prior to the department disbursing funds to the recipient.**

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

27 “541.659. (1) Loans and grants may be made from the Water Supply De-
28 velopment Account to persons as defined in ORS 536.007, to a federally re-
29 cognized Indian tribe in Oregon that has members residing on a reservation
30 or tribal trust lands in Oregon and nonprofit organizations.

1 “(2) If an applicant is required to have a water management and conser-
2 vation plan, the plan must be:

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

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

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

9 “541.666. (1) Applications for a loan or grant from the Water Supply De-
10 velopment Account must:

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

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

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

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

16 “[(1)] (a) A description of the need, purpose and nature of the project,
17 including what the applicant intends to complete and how the applicant in-
18 tends to proceed.

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

21 “[(3)] (c) Current contact information for the principal contact, fiscal of-
22 ficer and involved landowners.

23 “[(4)] (d) For applications involving physical changes or monitoring on
24 private land, evidence that landowners are aware of and agree to the pro-
25 posal and are aware that monitoring information is a public record.

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

29 “[(6)] (f) An itemized budget for the project, including fiscal and admin-
30 istrative costs.

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

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

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

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

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

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

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

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

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

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

17 “SECTION 8. ORS 541.669 is amended to read:

18 “541.669. (1) The Water Resources Commission shall adopt rules estab-
19 lishing a system for scoring and ranking projects to determine which projects
20 are to be awarded loans and grants from the Water Supply Development
21 Account, including but not limited to the application of minimum criteria
22 designed to achieve the outcomes described in ORS 541.677.

23 “(2) The criteria **for evaluating projects** *[shall]* **must** be based on the
24 public benefit categories described in ORS 541.673 **and preferences de-**
25 **scribed in ORS 541.677.**

26 “(3) The commission shall make the loan and grant funding decisions at
27 least twice each year **so long as funds are available to award.** Applica-
28 tions must be filed with the Water Resources Department. The department
29 shall accept an application for a loan or grant at any time, but shall estab-
30 lish a separate deadline for the filing of applications before each time the

1 commission makes loan and grant funding decisions.

2 “[2)] (4) The department shall conduct a preliminary review of applica-
3 tions to check for completeness, eligibility and minimum requirements upon
4 receipt of each application.

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

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

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

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

21 “(9) The technical review team shall conduct the initial scoring and
22 ranking for the projects described in the applications **using the system**
23 **described in subsection (1) of this section**, consider comments from ap-
24 plicants and the public and make loan and grant funding recommendations
25 to the [commission] **department**.

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

29 “(11) **The department shall make funding recommendations to the**
30 **commission based on the scoring and ranking by the technical review**

1 **team, consideration of comments from applicants and the public, and**
2 **the availability of funds.**

3 “(12) The commission shall determine the final scoring and ranking of
4 projects and make the final decision regarding which projects are awarded
5 loans or grants from the account. Before the commission makes a final de-
6 cision on an application, the commission shall offer one additional opportu-
7 nity for public comment.

8 “[4] (13) The commission is not required to obligate all available ac-
9 count moneys during a funding cycle.

10 “(14) Any available account moneys that are not obligated during a
11 funding cycle shall be carried forward and be made available for projects in
12 future funding cycles.

13 “[5] (15) The department shall document the ranking of all applications
14 and make the application ranking publicly available after the funding deci-
15 sions by the commission have been published.

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

17 “541.677. (1) The Water Resources Commission shall design the minimum
18 criteria for the project scoring and ranking system described in ORS 541.669
19 to achieve the following outcomes:

20 “(a) [*The issuance of*] **Issuing** grants or loans only to projects that pro-
21 vide benefits in each of the three categories of public benefit described in
22 ORS 541.673.

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

24 “(c) [*The funding of*] **Funding** projects of diverse sizes, types and ge-
25 ographic locations.

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

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

30 “(2) The [*Water Resources Department*] **commission** shall **periodically**

1 review the loan and grant program [*on a biennial basis*] to assess to what
2 extent the [*outcomes described in subsection (1) of this section are being*
3 *achieved, and shall report the review findings to the Water Resources Com-*
4 *mission*] **loan and grant program is achieving desired outcomes and**
5 **providing public benefits.**

6 “(3) The commission shall modify the project selection process as neces-
7 sary to better achieve the **desired** outcomes described in subsection (1) of
8 this section.

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

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

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

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

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

21 “(2) The department shall review a completed application for a project
22 described in subsection (1) of this section to determine whether the applica-
23 ble seasonally varying flows have been established under this section for the
24 stream of interest. If the department determines that the applicable sea-
25 sonally varying flows have not previously been established, the department
26 shall establish the seasonally varying flows before [*issuing*] **disbursing**
27 **funds for** a loan or grant from the account. The department may use account
28 moneys to pay the cost of establishing a seasonally varying flow, **to fund**
29 **long-term monitoring of compliance with established seasonally vary-**
30 **ing flows** and to pay other costs directly related to project development.

1 “(3) The Water Resources Department shall establish any seasonally
2 varying flows under subsection (2) of this section in consultation with the
3 State Department of Fish and Wildlife and any affected Indian tribes. The
4 Water Resources Department may rely upon existing scientific data and
5 analysis or may fund new data and analysis. The Water Resources Depart-
6 ment shall establish seasonally varying flows using a methodology estab-
7 lished by Water Resources Commission rules.

8 “(4) **Notwithstanding ORS 537.270**, if the department establishes appli-
9 cable seasonally varying flows for the stream of interest, the department
10 shall make the seasonally varying flows a condition of:

11 “(a) The new or existing **limited license**, water [*storage*] **right certif-**
12 **icate or water right permit that enables the storage of water, either**
13 **in above-ground storage or in** [*or*] **aquifer recharge, [*permit or limited li-***
14 **cense for the storage of water]** **outside of the official irrigation season and**
15 **that is** issued for any project described in subsection (1) of this section that
16 receives a loan or grant from the account; and

17 “(b) The new or existing **limited license**, water [*storage*] **right certif-**
18 **icate or water right permit** [*or aquifer recharge permit or limited license*
19 *for the storage of water*] issued for any subsequent project that:

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

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

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

24 “(5) The applicant for or holder of a **certificate**, permit or license de-
25 scribed in subsection (4)(b) of this section may request that the applicable
26 seasonally varying flows established under subsection (2) of this section for
27 the stream of interest be altered based upon new information. There is,
28 however, a rebuttable presumption that existing applicable seasonally vary-
29 ing flows protect and maintain the biological, ecological and physical func-
30 tions of the stream to the extent required by commission rules.

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

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

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

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

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

29 **“(2) The report must:**

30 **“(a) Evaluate the funding programs.**

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

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

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

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

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