

Chapter 541

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Watershed Management and Enhancement

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GENERALLY

541.351 Definitions for ORS 541.351 to 541.415. As used in ORS 541.351 to 541.415:

(1) "Adaptive management" means applying management or practices over time and across the landscape to achieve site specific resource goals using an integrated and science based approach that results in changes over time in response to feedback or monitoring.

(2) "Associated uplands" includes those lands of a watershed that are critical to the functioning and protection of a riparian area.

(3) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.360.

(4) "Capital expenditures" means direct expenses related to:

(a) Personal property of a nonexpendable nature including items that are not consumed in the normal course of operations, can normally be used more than once, have a useful life of more than two years and are for use in the enforcement of fish and wildlife and habitat protection laws and regulations; or

(b) Projects that restore, enhance or protect fish and wildlife habitat, watershed functions, native salmonid populations or water quality, including but not limited to:

(A) Expenses of assessment, research, design or other technical requirements for the implementation of a project;

(B) The acquisition of determinate interests, including fee and less than fee interests, in land or water in order to protect watershed resources, including appraisal costs and other costs directly related to such acquisitions;

(C) Development, construction or implementation of a project to restore, enhance or protect water quality, a watershed, fish or wildlife, or riparian or other habitat;

(D) Technical support directly related to the implementation of a project; and

(E) Monitoring or evaluation activities necessary to determine the actual effectiveness of a project.

(5) "Independent Multidisciplinary Science Team" means the scientific team of recognized experts in fisheries, artificial propagation, stream ecology, forestry, range, watershed and agricultural management created under ORS 541.409.

(6) "Native" means indigenous to Oregon and not introduced.

(7) "Oregon Plan" means the guidance statement and framework described in ORS 541.405.

(8) "Protect" or "protection" means to minimize or mitigate adverse effects on salmonid and habitat to the maximum extent practicable given the anticipated duration, geographic scope and primary purpose of proposed activities.

(9) "Restore" or "restoration" means to take actions likely to achieve sustainable population levels of native fish or wildlife and their habitats.

(10) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream.

(11) "Soil and water conservation district" means a political subdivision of the state as described in ORS 568.550.

(12) "Stewardship" means the careful and responsible management of the environment.

(13) "Tribe" means a federally recognized Indian tribe in Oregon.

(14) "Watershed" means the entire land area drained by a stream or system of connected streams such that all stream flow originating in the area is discharged through a single outlet.

(15) "Watershed council" means a voluntary local organization, designated by a local government group convened by a county governing body, to address the goal of sustaining natural resource and watershed protection, restoration and enhancement within a watershed. [1999 c.1026 §2 (enacted in lieu of 541.350)]

541.353 Legislative findings; principles of Oregon Plan; policy. (1) The Legislative Assembly finds that:

(a) The long-term protection of the water resources of this state, including sustainable watershed functions, is an essential component of Oregon's environmental and economic stability and growth;

(b) Each watershed in Oregon is unique, requiring different management techniques and programs;

(c) Management techniques and programs for the protection and enhancement of watersheds can be most effective and efficient when voluntarily initiated at the local level;

(d) Cooperative partnerships between affected private individuals, interested citizens, tribes and representatives of local, state and federal agencies may improve opportunities

to achieve the protection, enhancement and restoration of the state's watersheds; and

(e) The establishment of such cooperative partnerships should be encouraged by local individuals, local organizations and representatives of state agencies.

(2) The Legislative Assembly declares that the Oregon Plan for integrating regulatory efforts while fostering incentives and voluntary action for environmental stewardship should be founded upon the following principles:

(a) Promoting collaboration and partnerships among local, state, regional, tribal and federal governments and private individuals and organizations;

(b) Establishing clear, technically defensible, practicable and achievable recovery and restoration objectives;

(c) Assessing the conditions in each watershed to determine the quality of the existing environment, to identify the causes for declines in habitat, fish and wildlife populations and water quality, and to assist with the development of locally integrated action plans for watersheds that will achieve agreed-upon protection and restoration objectives;

(d) Coordinating implementation of integrated watershed action plans;

(e) Monitoring and ensuring implementation of the integrated watershed action plans using adaptive management to make appropriate changes in action plans and goals as needed; and

(f) Establishing funding priorities across basins based on the value of programs and projects for watershed and habitat recovery.

(3) It is the policy of the State of Oregon that:

(a) Voluntary programs initiated at the local level to protect and enhance the quality and stability of watersheds are a high priority of the state and should be encouraged;

(b) State agencies are encouraged to respond cooperatively to local watershed protection and enhancement efforts and coordinate their respective activities with other state agencies and affected local, regional, tribal and federal governments and private landowners to the greatest degree practicable; and

(c) State agencies responding to local watershed protection and enhancement efforts are encouraged to foster local watershed planning, protection and enhancement efforts before initiating respective action within a watershed. [1999 c.1026 §4 (enacted in lieu of 541.347)]

541.360 Oregon Watershed Enhancement Board; officers; qualifications. (1) The Oregon Watershed Enhancement Board is created. The board shall consist of 17 members as set forth in subsection (2) of this section. The chairperson shall have such powers and duties as are provided by the rules of the board.

(2)(a) The 11 voting members of the board shall be knowledgeable about natural resource issues, represent all geographic regions of this state and include at least one representative of a tribe. The board shall consist of the following:

(A) Each of the following boards or commissions shall designate one member of their board or commission to serve on the Oregon Watershed Enhancement Board:

(i) The Environmental Quality Commission;

(ii) The State Fish and Wildlife Commission;

(iii) The State Board of Forestry;

(iv) The State Board of Agriculture; and

(v) The Water Resources Commission; and

(B) Six public members appointed by the Governor and confirmed by the Senate in accordance with ORS 171.562 and 171.565. Each public member shall serve for a term of four years. A member shall be eligible for reappointment, but no member shall serve more than two consecutive terms.

(b) In addition to the voting members, the director of the agricultural extension service of Oregon State University, or the director's designee, shall serve as a nonvoting member of the board and shall participate as needed in the activities of the board.

(c) In addition to the voting and nonvoting members designated in paragraphs (a) and (b) of this subsection, representatives of the following federal agencies shall be invited to serve as additional nonvoting members of the board:

(A) A representative of the United States Forest Service.

(B) A representative of the United States Bureau of Land Management.

(C) A representative of the Natural Resources Conservation Service of the United States Department of Agriculture.

(D) A representative of the United States Environmental Protection Agency.

(E) A representative of the National Marine Fisheries Service of the United States Department of Commerce.

(3) The voting members of the board shall select a chairperson from among the voting members of the board.

(4) At least eight voting members of the board must be present to take action to award grant funds under ORS 541.370. If three or more voting members object to an award of grant funds, the board shall reject the proposal and direct the applicant to revise the proposal to comply with the requirements of ORS 541.397, 541.399 and 451.401 and resubmit the proposal. [1987 c.734 §3; 1995 c.187 §3; 1999 c.1026 §8]

541.362 Executive director of Oregon Watershed Enhancement Board; appointment. (1) Subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565, the Governor shall appoint an executive director of the Oregon Watershed Enhancement Board. The executive director shall be an individual qualified by training and experience and shall serve for a term of four years, at the pleasure of the Governor.

(2) The executive director shall receive a salary as provided by law or, if not so provided, as prescribed by the Governor.

(3) In addition to salary, but subject to any applicable law regulating travel and other expenses of state officers and employees, the executive director shall be reimbursed for actual and necessary travel and other expenses incurred by the executive director in the performance of official duties.

(4) Subject to any applicable provisions of the State Personnel Relations Law, the executive director shall appoint all subordinate officers and employees of the board, prescribe their duties and fix their compensation. [1999 c.1026 §9]

541.363 Authority of executive director to enter into interagency agreements. In addition to any other authority granted to the executive director of the Oregon Watershed Enhancement Board, the executive director, on behalf of the board, may enter into interagency agreements necessary to carry out the duties and responsibilities of the board. [1999 c.1026 §10]

541.365 Board to conduct watershed enhancement program; integration of geographic information. (1) The Oregon Watershed Enhancement Board shall conduct a watershed enhancement program to benefit all users of the waters of this state. The board shall conduct the program in a manner that:

(a) Provides the greatest possible opportunity for volunteer participation to achieve the goals of the program; and

(b) Coordinates the information, data and data retrieval needs of the natural resource

agencies of the state with the State Service Center for Geographic Information Systems.

(2) In order to effectuate the program described in this section, the board shall establish protocols, policies and procedures necessary to integrate and organize geographic information and make it available to persons and entities involved in implementation of the Oregon Plan.

(3) In working with the State Service Center for Geographic Information Systems, the board shall ensure that:

(a) Information received by the center is formatted in a manner that results in an integrated geographic information system that meets the needs of all local, state, regional, tribal and federal entities involved in implementation of the Oregon Plan; and

(b) The data are available to local, state and federal agencies and to any person implementing activities under the Oregon Plan.

(4) The program developed under this section shall include development and implementation, in coordination with the natural resource agencies of the state, of a statewide monitoring program for activities conducted under the Oregon Plan. [1987 c.734 §5; 2001 c.841 §3a; 2001 c.842 §1]

541.368 Board to facilitate implementation of grant programs. In cooperation with other state, interstate and federal agencies, tribes, local governments, watershed councils, soil and water conservation districts, not-for-profit organizations and volunteer groups, the Oregon Watershed Enhancement Board shall facilitate the implementation of the grant programs established under ORS 541.351 to 541.415. [1999 c.1026 §6]

541.370 Duties of board; grant program; advisory committees. (1) In carrying out the watershed enhancement program, the Oregon Watershed Enhancement Board shall:

(a) Coordinate the board's funding of enhancement projects with the activities of the Natural Resources Division staff and other agencies, especially those agencies working together through a system of coordinated resource management planning.

(b) Use the expertise of the appropriate state agency according to the type of enhancement project.

(c) Provide educational and informational materials to promote public awareness and involvement in the watershed enhancement program.

(d) Coordinate and provide for or arrange for assistance in the activities of persons, agencies or political subdivisions developing local watershed enhancement projects funded by the board.

(e) Grant funds for the support of watershed councils in assessing watershed conditions, developing action plans, implementing projects and monitoring results and for the implementation of watershed enhancement projects from such moneys as may be available to the board therefor.

(f) Develop and maintain a centralized repository for information about the effects of watershed enhancement and education projects.

(g) Give priority to proposed watershed enhancement projects receiving funding or assistance from other sources.

(h) Identify gaps in research or available information about watershed health and enhancement.

(i) Cooperate with appropriate federal entities to identify the needs and interests of the State of Oregon so that federal plans and project schedules relating to watershed enhancement incorporate the state's intent to the fullest extent practicable.

(j) Encourage the use of nonstructural methods to enhance the riparian areas and associated uplands of Oregon's watersheds.

(k) Determine criteria for utilizing the private sector, both not-for-profit and for-profit organizations, to provide landowners with technical assistance to help develop and implement conservation easements and resource improvement projects.

(2) In accordance with ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board shall administer a watershed improvement grant program using funds from the Watershed Improvement Grant Fund established under ORS 541.397, from the Restoration and Protection Subaccount established under ORS 541.377 and from the Flexible Incentives Account established under ORS 541.381.

(3) To aid and advise the board in the performance of the functions of the board, the board may establish such advisory and technical committees as the board considers necessary. These committees may be continuing or temporary. The board shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The chairperson is ex officio a member of each committee. [1987 c.734 §6; 1995 c.187 §4; 1997 c.8 §8; 1999 c.59 §174; 1999 c.1026 §11; 2001 c.708 §15]

541.371 Duties of board related to integrated watershed planning and management; allocation of funds to local soil and water conservation districts and watershed councils. (1) In addition to the duties set forth in ORS 541.370, in carrying out the provisions of ORS 541.351 to 541.415, the Oregon Watershed Enhancement Board:

(a) Shall establish a framework for a locally based integrated watershed planning and management process designed to assist watershed councils and soil and water conservation districts and to support the efforts of watershed councils and soil and water conservation districts to work within the requirements of state and federal laws without duplication of planning effort. The framework shall include all of the following:

(A) Guidance and protocols for watershed assessments to encourage consistent assessment methods across all watersheds and agencies, including assessment of cumulative effects. At a minimum, such guidance shall address the following plan components:

(i) A description of the watershed;

(ii) An assessment of current watershed conditions and the distribution and condition of habitat; and

(iii) Identification of conditions preventing watershed restoration.

(B) Guidance on how to prepare watershed action plans. At a minimum, such guidance shall address the following plan components:

(i) Applicable water quality standards and native salmonid and habitat recovery objectives;

(ii) Proposed measures needed to restore watershed health;

(iii) Timeline and budget estimates for implementation of action measures in priority order; and

(iv) Monitoring and evaluation systems.

(b) May review plans, actions and rules of state agencies pertaining to restoration and protection grants for the purpose of coordinating the board's grant program with other ongoing grant programs.

(c) Shall establish statewide and regional goals and priorities that shall become the basis for funding decisions by the board. In adopting such goals and priorities, the board shall adopt priorities for grant funding based on the Oregon Plan and on measurable goals. In carrying out this function, the board shall consider local economic and social impacts among the criteria.

(d) Shall support development and implementation of a system that enables standardized collection, management and reporting of natural resources information in Oregon, including water data, geographic information system data and information on native fish and wildlife and habitat.

(e) Shall promote the availability of information on the effects of watershed enhancement.

(f) May not have regulatory or enforcement authority except for the fiscal responsibilities described in ORS 541.351 to 541.415.

(2) In addition to the uses of grant funds described in ORS 541.399, in allocating grant funds under ORS 541.351 to 541.415 that are derived from the Restoration and Protection Subaccount, the board:

(a) May allocate funds to be used for staff for soil and water conservation districts and watershed councils.

(b) May award funds for a specific project or program application or for implementation of an approved action plan.

(3) To the maximum extent practicable, soil and water conservation districts and watershed councils shall share technical staff. [1999 c.1026 §12]

541.372 Authority of board to accept moneys; disposition. (1) The Oregon Watershed Enhancement Board may accept moneys from any public or private source, including the federal government, made available for the purpose of encouraging, promoting and securing watershed enhancement or to facilitate and assist in carrying out the functions of the board, including administrative expenses, as provided by law.

(2) All moneys received by the board under this section shall be deposited in the State Treasury and kept in separate accounts in the General Fund designated according to the purposes for which moneys were made available.

(3) Notwithstanding the provisions of ORS 291.238, all moneys received under this section are continuously appropriated to the board for the purpose for which they were made available and shall be expended in accordance with the terms and conditions upon which they were made available. [1991 c.657 §2]

541.373 Authority of Governor to accept moneys; disposition. (1) The Governor may receive gifts, grants, bequests, endowments and donations of moneys from public and private sources, including the federal government, for the purpose of implementing the Oregon Plan, as described in ORS 541.405.

(2) The Governor shall deposit moneys received under this section in the State Treasury to the credit of the Watershed Improvement Operating Fund established under ORS 541.379 to be used for the purposes specified in ORS 541.379 (1)(b). [2003 c.452 §3]

541.375 Watershed enhancement projects; grant program; criteria for approval; acquisition of interest in land or water. (1) Any person, tribe, watershed council, soil and water conservation district,

community college, state institution of higher education, independent not-for-profit institution of higher education or political subdivision of this state that is not a state agency may submit a request for funding for or for advice and assistance in developing a project under ORS 541.351 to 541.415. A state agency or federal agency may apply for funding under this section only as a coapplicant with one of the other eligible entities.

(2) The request under subsection (1) of this section shall be filed in the manner, be in the form and contain the information required by the Oregon Watershed Enhancement Board.

(3) The board may establish a grant program through soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 that provides funds for local implementation of watershed enhancement, education and monitoring efforts.

(4) The board may fund implementation of action plans based on a watershed assessment that addresses water quality and aquatic resources of the watershed.

(5) A project may use mechanical, vegetative or structural methods including, but not limited to, management techniques, erosion control, streambank stabilization, forest, range or crop land treatment, site specific in-stream structures, acquisitions or leases of land or water rights from a willing owner, watershed assessments, landowner incentives and action plan development, implementation and monitoring.

(6) The actions of a soil and water conservation district carried out pursuant to a grant program established by the board under subsection (3) of this section shall not be subject to review and approval by the Natural Resources Division under ORS 561.400.

(7) The Oregon Watershed Enhancement Board shall approve for funding only those projects that:

(a) Are based on sound principles of watershed management;

(b) Use methods most adapted to the project locale;

(c) Meet the criteria established by the board under ORS 541.396; and

(d) Contribute to either:

(A) The improved health of a stream, lake or reservoir and toward the achievement of standards that satisfy the requirements of the Federal Water Pollution Control Act (P.L. 92-500), as amended; or

(B) The restoration of wildlife, habitat or native fish.

(8) The Oregon Watershed Enhancement Board may fund a project for the restoration of a riparian area or associated upland that is carried out in conjunction with a storage structure. However, the board shall not approve funding for any proposed project that consists solely of construction of a storage structure for out-of-stream use.

(9) The Oregon Watershed Enhancement Board may fund projects involving the acquisition of lands and waters, or interests therein from willing sellers, for the purpose of maintaining or restoring watersheds, habitat and native salmonids. Interests in these lands and waters may be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and trusts, state institutions of higher education, independent not-for-profit institutions of higher education or political subdivisions of this state, as long as the entity continues to use the land or water for the purposes specified under section 4b, Article XV of the Oregon Constitution.

(10) If the Oregon Watershed Enhancement Board approves funding for a project under this section that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body, the board shall not disburse any funds to the applicant until the applicant presents evidence that the agency has granted the permit or license. [1987 c.734 §7; 1989 c.171 §71; 1995 c.187 §5; 1997 c.7 §8; 1999 c.1026 §13]

541.376 Title restrictions on land purchased through grant agreement. (1) Land purchased through a grant agreement with the Oregon Watershed Enhancement Board shall be subject to title restrictions that give the board the authority to approve, approve with conditions or deny the sale or transfer of the land. Specifically, the board may require conditions on the sale or transfer to:

(a) Ensure consistency with the intent of the original grant;

(b) Ensure the ability of the party receiving the land through the sale or transfer to carry out the obligations under the grant agreement; and

(c) Address the disposition of proceeds from the sale or transfer, including any provisions for repayment, with interest, of any grant funds.

(2) The board may not allow a sale or transfer that results in any profit to any person.

(3) The board shall, by rule, define "profit" for the purpose of not allowing sales or transfers and shall specify the process and criteria that the board will use in considering whether to approve, approve with conditions or deny a sale or transfer. [2001 c.645 §2]

541.377 Parks and Natural Resources Fund; sources; subaccounts; uses of subaccounts. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Parks and Natural Resources Fund to be administered by the Oregon Department of Administrative Services. All moneys transferred from the State Lottery Fund and all other moneys authorized to be transferred to the Parks and Natural Resources Fund from whatever source are appropriated continuously for the public purposes of restoring and protecting Oregon's parks, beaches, watersheds and critical fish and wildlife habitats. Fifteen percent of the net proceeds from the Oregon State Lottery shall be deposited in the Parks and Natural Resources Fund created under this subsection.

(2) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount for the public purpose of financing the protection, repair, operation, creation and development of state parks, ocean shores, public beach access areas, historic sites and recreation areas. The State Treasurer may invest and reinvest the moneys in the Parks Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.

(3) All moneys in the Parks Subaccount for financing the protection, repair, operation, creation and development of state parks, ocean shores, public beach access areas, historic sites and recreation areas shall be allocated to the State Parks and Recreation Department. Such moneys shall be deposited into the State Parks and Recreation Department Fund established under ORS 390.134 and shall be used for the following purposes:

(a) Maintaining, constructing, improving, developing, managing and operating state park and recreation facilities, programs and areas.

(b) Acquiring real property, or interest therein, deemed necessary for the creation and operation of state parks, ocean shores, public beach access areas, recreation areas and historic sites or because of natural, scenic, cultural, historic and recreational values.

(c) Operating grant programs for local government entities deemed necessary to accomplish the public purposes of the Parks and Natural Resources Fund.

(4) Of the moneys deposited into the Parks and Natural Resources Fund from the Oregon State Lottery, 50 percent shall be

deposited into a Restoration and Protection Subaccount for the public purpose of financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality in Oregon. The State Treasurer may invest and reinvest the moneys in the Restoration and Protection Subaccount as provided in ORS 293.701 to 293.820. Interest from the moneys deposited in the subaccount and earnings from investment of the moneys in the subaccount shall be credited to the Restoration and Protection Research Fund created under ORS 541.378.

(5) The moneys in the Restoration and Protection Subaccount for financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality shall be administered by the Oregon Watershed Enhancement Board and shall be used for all of the following purposes:

(a) Restoration and protection of watersheds and fish, wildlife, riparian and native species and for habitat conservation activities, including but not limited to planning, coordination, assessment, implementation, restoration, inventory, information management and monitoring activities.

(b) Watershed and riparian education efforts.

(c) Development and implementation of watershed and water quality enhancement plans.

(d) Entering into agreements to obtain from willing owners determinate interests in lands and waters that protect watershed resources, including but not limited to fee simple interests in land, leases of land or water or conservation easements.

(e) Enforcement of fish and wildlife and habitat protection laws and regulations.

(6) Of the moneys deposited into the Restoration and Protection Subaccount from the Oregon State Lottery, the Oregon Watershed Enhancement Board shall deposit:

(a) Sixty-five percent of the funds into the Watershed Improvement Grant Fund established under ORS 541.397 to be used only for funding capital expenditure projects; and

(b) Thirty-five percent of the funds into the Watershed Improvement Operating Fund established under ORS 541.379 to be used for the purposes set forth in ORS 541.379 (1).

(7) The Legislative Assembly shall not limit expenditures from the Parks and Natural Resources Fund. The Legislative Assembly may appropriate other moneys or revenues to the Parks and Natural Resources Fund. [1999 c.1026 §7; 2003 c.14 §346]

541.378 Restoration and Protection Research Fund; creation; sources; uses.

(1) There is created in the General Fund of the State Treasury the Restoration and Protection Research Fund. Interest earned by the Restoration and Protection Research Fund shall be credited to the fund. Moneys credited to the fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of funding research and other activities related to the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality, including but not limited to research, monitoring, evaluation and assessment related to the Oregon Plan.

(2) All moneys received by the Oregon Watershed Enhancement Board from interest earned on the Restoration and Protection Subaccount of the Parks and Natural Resources Fund created under ORS 541.377, from the Watershed Improvement Operating Fund created under ORS 541.379 and from the Watershed Improvement Grant Fund created under ORS 541.397 shall be credited to the Restoration and Protection Research Fund. Moneys credited to the fund and not expended by the completion of a biennium shall remain in the fund. [1999 c.1026 §7a]

541.379 Watershed Improvement Operating Fund; creation; sources; uses.

(1) The Watershed Improvement Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Improvement Operating Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improvement Operating Fund are continuously appropriated for the following purposes:

(a) Operational activities of the Oregon Watershed Enhancement Board;

(b) Activities of state and local agencies and other public entities related to the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality, including but not limited to activities under the Oregon Plan;

(c) Watershed improvement grants described in ORS 541.399 and 541.401 that are not capital expenditures; and

(d) Watershed improvement grants described in ORS 541.399 and 541.401 that are capital expenditures.

(2) Interest accruing to the Watershed Improvement Operating Fund shall be credited to the Restoration and Protection Research Fund created under ORS 541.378. Funds appropriated and not expended by the completion of a biennium shall remain in the Watershed Improvement Operating Fund.

(3) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the Watershed Improvement Operating Fund.

(4) In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS 541.399, the board also may accept gifts and grants from any public or private source for the purposes described in subsection (1) of this section. [1999 c.1026 §7b]

541.381 Flexible Incentives Account; creation; sources; uses. (1) There is created a Flexible Incentives Account in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. The moneys in the account are continuously appropriated to the Oregon Watershed Enhancement Board for the purposes specified in this section.

(2) The Oregon Watershed Enhancement Board shall use the account to assist landowners in the implementation of strategies intended to protect and restore native species of fish, wildlife and plants and to maintain long-term ecological health, diversity and productivity in a manner consistent with statewide, regional or local conservation plans. The board shall seek to fund those strategies that offer the greatest public benefit at the lowest cost.

(3) The account shall consist of moneys appropriated to it by the Legislative Assembly and moneys provided to the board by federal, state, regional or local governments for the purposes specified in this section. The board may accept private moneys in the form of gifts, grants and bequests for deposit into the account. [2001 c.708 §13]

541.384 Watershed management program; project funding; high priority watersheds. (1) The Oregon Watershed Enhancement Board shall initiate a watershed management program that relies on the establishment of voluntary local watershed councils comprised of residents, state and federal agency staff, members of federally recognized Indian tribes and other citizens interested in the management of watersheds and that provides for the development by these partnerships of local plans that may include but are not limited to the assessment of the watershed condition, the creation of a watershed action plan and a strategy for implementing the action plan. The program shall focus state resources on the achievement of sustainable watershed health, including funding major projects that contribute to the overall health of a watershed. In addition, the board shall fund smaller, voluntary projects for watershed en-

hancement and for restoration of riparian areas and associated uplands.

(2) In carrying out the program under subsection (1) of this section, the board may designate high priority watersheds. However, the designation of high priority watersheds is intended only as a management tool for state agencies in allocating resources to support coordinated watershed management activities. Such designation is not intended to establish or confer any right, duty or authority, nor to have any legal significance beyond that described in this section, nor to discourage or prohibit the formation and function of voluntary local watershed councils in other watersheds.

(3) The elected officials representing the appropriate local government groups containing or within a proposed watershed council area shall determine whether to participate in the voluntary formation of a local watershed council. When multiple local government groups are involved within an area that would be served by a watershed council, the affected local government groups shall together determine their respective roles and the appropriate method for appointing members to a local watershed council. [1993 c.601 §2; 1995 c.187 §6]

541.388 Voluntary local watershed councils; protection against liability. (1) Local government groups are encouraged to form voluntary local watershed councils in accordance with the guidelines set forth in subsection (2) of this section. The Oregon Watershed Enhancement Board may work cooperatively with any local watershed council that may be formed. Requests from local watershed councils for state assistance shall be evaluated on the basis of whether the requesting organization reflects the interests of the affected watershed and the potential to protect and enhance the quality of the watershed in question.

(2) Local watershed councils formed under subsection (1) of this section shall consist of a majority of local residents, including local officials. A watershed council may be a new or existing organization as long as the council represents a balance of interested and affected persons within the watershed and assures a high level of citizen involvement in the development and implementation of a watershed action program. A local watershed council may include representatives of local government, representatives of non-government organizations and private citizens, including but not limited to:

(a) Representatives of local and regional boards, commissions, districts and agencies;

(b) Representatives of federally recognized Indian tribes;

- (c) Public interest group representatives;
- (d) Private landowners;
- (e) Industry representatives;
- (f) Members of academic, scientific and professional communities; and
- (g) Representatives of state and federal agencies.

(3) If more than one watershed council exists in a county, each watershed council shall periodically report the activities of the council to the county governing body.

(4) The Oregon Department of Administrative Services may provide to voluntary local watershed councils and their officers, employees and agents acting within the scope of their employment or duties, protection against liability as part of the insurance provided to the Oregon Watershed Enhancement Board pursuant to ORS 278.120 to 278.215. The Oregon Watershed Enhancement Board, after consulting the Oregon Department of Administrative Services and local watershed councils, shall establish guidelines for liability coverage and limits of coverage. The Oregon Department of Administrative Services shall determine any additional contributions to be apportioned to the Oregon Watershed Enhancement Board for extending insurance to voluntary local watershed councils, and the Oregon Watershed Enhancement Board shall pay the assessments from such moneys as may be available for those assessments. [1993 c.601 §3; 1995 c.187 §7; 1999 c.300 §1]

541.390 Duties of Natural Resources Division. In addition to the duties conferred on the Natural Resources Division of the State Department of Agriculture under ORS 561.400 and 568.210 to 568.808 and 568.900 to 568.933, the division shall:

(1) In cooperation with the Oregon Watershed Enhancement Board, provide appropriate personnel who, under the direction of the board, shall:

(a) Serve as community advisors to cooperatively develop watershed enhancement projects with volunteers; and

(b) Cooperatively evaluate watershed enhancement projects with those responsible for project implementation.

(2) Provide technical assistance to individuals responsible for implementation of a watershed enhancement project.

(3) Work with the Oregon Watershed Enhancement Board to coordinate the implementation of enhancement projects with the activities of other agencies, including but not limited to, those state and federal agencies participating in coordinated resource management planning. [1987 c.734 §9; 2001 c.104 §228]

541.392 Report to Legislative Assembly. (1) The Oregon Watershed Enhancement Board shall report biennially to the Legislative Assembly on the implementation of the management program under ORS 541.384 and grants awarded under ORS 541.399. The report shall include but need not be limited to:

(a) An explanation of the effectiveness and workability of the partnership process described in ORS 541.384;

(b) A description of any modifications to the process that have been instituted;

(c) Recommendations concerning the need for future legislative action; and

(d) Information about the use of moneys received by and distributed by the board under section 4b, Article XV of the Oregon Constitution.

(2) The board shall include with each report under subsection (1) of this section a copy of each audit completed pursuant to section 4c, Article XV of the Oregon Constitution. [Formerly 541.400; 1999 c.1026 §15]

541.395 State agency reports to be provided to board. In order to assist the Oregon Watershed Enhancement Board in developing and maintaining a centralized repository under ORS 541.370, the following agencies shall provide the board with a copy of any report produced by the agency that is related to enhancement or restoration of riparian areas or associated uplands:

(1) The Department of Environmental Quality.

(2) The State Department of Fish and Wildlife.

(3) The Water Resources Department.

(4) The State Forestry Department.

(5) The State Department of Agriculture.

(6) The agricultural extension service of Oregon State University. [1987 c.734 §10]

WATERSHED IMPROVEMENT GRANT FUND

541.397 Watershed Improvement Grant Fund; creation; sources; uses. (1) The Watershed Improvement Grant Fund is established separate and distinct from the General Fund. The Watershed Improvement Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Improvement Grant Fund are continuously appropriated to fund watershed improvement grants described in ORS 541.399 and 541.401. Interest accruing to the Watershed Improvement Grant Fund shall be credited to the Restoration and Protection Research Fund created under ORS 541.378. Funds appropriated and not expended by the completion of a biennium shall

remain in the Watershed Improvement Grant Fund.

(2) The Oregon Watershed Enhancement Board created under ORS 541.360 shall administer the Watershed Improvement Grant Fund and provide grants from the fund for the purposes described in ORS 541.399 and 541.401 in the manner described under ORS 541.399 and 541.401.

(3) In addition to the funds made available for the purposes of ORS 541.351 to 541.415 under ORS 541.399, the board also may accept gifts and grants from any public or private source for the purpose of providing the grants described in subsection (2) of this section. [1997 c.8 §4; 1999 c.1026 §15b]

541.399 Purpose of grants from Watershed Improvement Grant Fund. The purpose of the Watershed Improvement Grant Fund is to provide funding for grants for:

(1) Expenses of the Independent Multidisciplinary Science Team established under ORS 541.409; and

(2) The following:

(a) Watershed and riparian habitat conservation activities, including but not limited to planning, coordination, assessment, implementation and monitoring activities.

(b) Watershed and riparian education efforts, including peer education about stream processes for landowners.

(c) The implementation of watershed enhancement plans developed by watershed councils.

(d) Water quality improvement plans approved by the State Department of Agriculture or the Department of Environmental Quality.

(e) Entering into an agreement to obtain from a willing owner a determinate interest in lands and waters that protect watershed resources, including but not limited to fee simple interests in land, leases of land and conservation easements.

(f) Activities to implement the provisions of section 4b, Article XV of the Oregon Constitution. [1997 c.8 §5; 1999 c.1026 §16]

541.401 Criteria for project receiving moneys from Watershed Improvement Grant Fund. The Oregon Watershed Enhancement Board may award funds from the Watershed Improvement Grant Fund only for the purposes listed in ORS 541.399. Any project that the board approves for funding shall comply with the following criteria:

(1) There is a matching contribution from other program funds, in-kind services or other investment in the project;

(2) The project to be funded is reviewed and approved by a technical committee in accordance with ORS 541.370 (3); and

(3) The project provides a public benefit through improved:

(a) Water quality;

(b) Fish or wildlife habitat; or

(c) Public information or education on a watershed function. [1997 c.8 §6]

THE OREGON PLAN

541.405 Oregon Plan described; goals; elements; Governor to negotiate with federal government. (1) As used in this section when referring to salmonid recovery:

(a) "Listed unit" means one population or a group of populations of a species, such as an evolutionarily significant unit, that has been listed as threatened or endangered under the federal Endangered Species Act of 1973 (P.L. 93-205), as amended, or under ORS 496.171 to 496.192.

(b) "Native fish" means a fish indigenous to Oregon and not introduced. Naturally produced fish and hatchery produced fish are both native fish if the fish are indigenous to Oregon and not introduced.

(c) "Naturally produced" means a fish that reproduces and completes its full life cycle in its natural habitat. Naturally produced progeny of hatchery fish are naturally produced.

(d) "Population" means a group of fish that:

(A) Originates and reproduces in a particular area at a particular time;

(B) Does not interbreed to any substantial degree with any other group reproducing in a different area or in the same area at a different time; and

(C) Is composed of naturally produced fish, hatchery produced fish or a combination of both.

(e) "Recovery" means that a proportion of the constituent populations of naturally produced native fish belonging to a listed unit are sufficiently abundant, productive and diverse in life histories and distribution such that the listed unit as a whole is likely to be self-sustaining into the foreseeable future.

(f) "Self-sustaining" means having a sufficient proportion and distribution of constituent populations:

(A) Likely to survive prolonged periods of habitat, oceanic, climatic and environmental conditions that are detrimental to a population; and

(B) Having habitat of sufficient quality and quantity likely to provide survival rates adequate to maintain associated ecological, cultural and economic benefits.

(2) The Legislative Assembly finds that the efforts of many Oregonians have resulted in the creation of the Oregon Plan, and recognizes that the Oregon Plan is guided by the following mission and goals:

(a) The mission of the Oregon Plan is to restore the watersheds of Oregon and to recover the fish and wildlife populations of those watersheds to productive and sustainable levels in a manner that provides substantial ecological, cultural and economic benefits.

(b) The goals of the Oregon Plan that guide the citizens of Oregon in achieving the mission of the Oregon Plan are the:

(A) Establishment and maintenance of an infrastructure that provides long-term continuity in leadership, direction and oversight of watershed restoration and species recovery.

(B) Continued opportunity for a wide range of natural resource uses that are consistent with watershed restoration and species recovery.

(C) Implementation of existing laws and environmental regulations to achieve the mission before enacting new laws and environmental regulations.

(D) Development and maintenance of funding for programs to protect and restore watersheds.

(E) Development of expectations for the sustainability of interrelated natural resources that accurately reflect a scientific understanding of the physical and biological constraints of the ecosystem.

(F) Enhancement of habitat available to support healthy populations of fish and wildlife throughout the state.

(G) Production of populations of threatened or endangered species to achieve levels of natural production consistent with overall restoration goals.

(H) Establishment of a science-based system that supports evaluation of the Oregon Plan and provides a basis for making appropriate future changes to management programs.

(I) Coordination of activities and programs among federal, state and local governments and other entities.

(J) Use of voluntary and collaborative processes to achieve the mission of the Oregon Plan whenever possible.

(3) The Oregon Plan is a comprehensive program for the protection and recovery of

species and for the restoration of watersheds throughout this state. The Oregon Plan combines the regulatory and other actions of state and federal agencies and local governments with voluntary watershed restoration by private landowners and others. The Oregon Plan includes, but is not limited to:

(a) Programs and policies found in the following statutes:

(A) ORS 196.600 to 196.905;

(B) ORS chapter 197;

(C) ORS chapter 274;

(D) ORS chapter 366;

(E) ORS chapter 390;

(F) ORS chapters 465, 466, 468 and 468B;

(G) ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992;

(H) ORS chapter 477;

(I) ORS chapters 496, 497, 498, 501, 506, 507, 508, 509 and 511;

(J) ORS 517.702 to 517.989;

(K) ORS 527.310 to 527.370, 527.610 to 527.770, 527.990 (1) and 527.992;

(L) ORS chapter 530;

(M) ORS chapters 536 to 543A;

(N) ORS 543A.005 to 543A.415; and

(O) ORS 568.210 to 568.808 and 568.900 to 568.933;

(b) Commitments of state agencies in the form of measures;

(c) Actions of local governments and federal agencies taken in coordination with the state and consistent with the purposes of the Oregon Plan;

(d) Voluntary activities undertaken by watershed councils, soil and water conservation districts, landowners and other entities and consistent with the purposes of the Oregon Plan;

(e) Scientific review by the Independent Multidisciplinary Science Team, and others, of the activities performed under the Oregon Plan;

(f) Programs and activities identified to address a coordinated approach for the recovery of native salmonid populations within Oregon;

(g) The guidance statement and framework provided by the healthy streams partnership developed to provide cooperative solutions and voluntary approaches to improving the water quality of streams and to achieve healthy streams throughout Oregon; and

(h) Programs for the restoration and enhancement of multiple species and of the habitat of those species.

(4) The Oregon Plan is subject to modification and alteration to enhance program efforts consistent with appropriate guidance principles developed by the Legislative Assembly and oversight as set forth in ORS 171.551 and 171.553.

(5) The purpose of the Oregon Plan is to enhance, restore and protect Oregon's native salmonid populations, watersheds, fish and wildlife habitat and water quality, while sustaining a healthy economy.

(6) The Oregon Plan shall:

(a) Provide for coordination of local, state, federal and tribal agency responsibilities and authorities for native salmonid, watershed and habitat restoration throughout Oregon.

(b) Rely on watershed councils and soil and water conservation districts, which are directed to cooperate in the development of local watershed plans that assess watershed conditions and create watershed action plans and strategies for the implementation of the local watershed action plans.

(c) Focus state policies and resources on achieving native salmonid recovery and watershed restoration while sustaining a healthy economy and environment.

(7) The Oregon Plan shall focus on aiding the recovery of species listed as threatened or endangered under the federal Endangered Species Act or under ORS 496.171 to 496.192 until such time as recovery is achieved. Once recovery has been achieved for any species listed as threatened or endangered under ORS 496.171 to 496.192, the Governor shall direct the State Fish and Wildlife Commission to begin rulemaking, as provided in ORS 496.176, to remove the species from the list created pursuant to ORS 496.172. Upon recovery, adequate measures pursuant to the Oregon Plan shall remain in place, as necessary, to help a species avoid a return to threatened or endangered status.

(8)(a) The Governor, or the Governor's designee, shall negotiate with federal officials to obtain assurances to the effect that compliance with the Oregon Plan and the programs and policies found in the statutes listed in subsection (3) of this section and implementation of related state programs and policies will satisfy federal requirements imposed by the federal Endangered Species Act. Specifically, the Governor, or the Governor's designee, shall seek an exemption to the requirements of 16 U.S.C. 1533(d), shall seek to enter into a cooperative agreement pursuant to 16 U.S.C. 1535(c) or shall seek to obtain a permit that allows the incidental taking of species under 16 U.S.C. 1539(a).

(b) State agencies responsible for implementing the programs and policies found in

the statutes listed in subsection (3) of this section shall work with the Governor, or the Governor's designee, and with federal officials to provide the information necessary to obtain the exemptions, agreement or permit specified in paragraph (a) of this subsection. [1997 c.7 §1; 1999 c.270 §3; 1999 c.1026 §5; 2001 c.841 §4; 2003 c.452 §1]

541.407 Healthy Streams Partnership; members; duties. (1) The Governor, the President of the Senate and the Speaker of the House of Representatives shall appoint a statewide Healthy Streams Partnership. The Healthy Streams Partnership shall consist of 21 persons. Membership shall include:

(a) Seven members who represent watershed groups or soil and water conservation districts;

(b) One member who represents tribal governments and who resides east of the summit of the Cascade Mountain Range;

(c) One member who represents tribal governments and who resides west of the summit of the Cascade Mountain Range;

(d) Two members who represent environmental advocacy or wildlife conservation groups; and

(e) Ten members who represent different in-stream and out-of-stream beneficial uses of water, including but not limited to agricultural, recreational, industrial, municipal and silvicultural uses.

(2) The members of the Healthy Streams Partnership shall serve for four years and may be reappointed for no more than two consecutive terms, but any person may be appointed again to the partnership after an interval of four years.

(3) The Healthy Streams Partnership shall elect a chairperson and vice chairperson for a term of one year and shall determine the duties of the officers.

(4) A majority of the members of the Healthy Streams Partnership constitutes a quorum for the transaction of business. The Healthy Streams Partnership shall operate in accordance with procedures adopted by the members.

(5) The office of the Governor shall provide administrative support and services to the Healthy Streams Partnership.

(6) The duties of the Healthy Streams Partnership shall include but need not be limited to:

(a) Providing information to the joint legislative committee created pursuant to ORS 171.551 about the implementation of the programs from a local and regional perspective; and

(b) Recommending changes necessary to facilitate more efficient implementation of

the initiative and other stream improvement programs at the local level.

(7) Members of the Healthy Streams Partnership shall not be compensated for their services but are eligible for reimbursement of travel and other reasonable expenses in accordance with ORS 292.495. [1997 c.7 §4; 1999 c.244 §1; 1999 c.270 §6; 1999 c.1026 §21]

541.409 Independent Multidisciplinary Science Team; duties; agency response to science team recommendations. (1) There is created an Independent Multidisciplinary Science Team consisting of up to seven scientists with recognized expertise in fisheries, artificial propagation, stream ecology, forestry, range, watershed and agricultural management. The Governor, the President of the Senate and the Speaker of the House of Representatives shall jointly appoint the Independent Multidisciplinary Science Team. The decision to appoint a member of the team shall be a unanimous decision by the appointing authorities. The members of the Independent Multidisciplinary Science Team shall serve for four years and may be reappointed for a subsequent term. The team shall be governed by generally accepted guidelines and practices governing the activities of independent science boards such as the National Academy of Sciences.

(2) The Independent Multidisciplinary Science Team shall:

(a) Review implementation of the Oregon Plan and other programs for achieving healthy streams as described in ORS 541.405.

(b) Prepare and submit to the Governor, the Legislative Assembly and the public an annual report on the implementation of the Oregon Plan, including any recommendations for changes or adjustments to the initiative.

(c) Serve as an independent scientific peer review panel to the state agencies responsible for developing and implementing the Oregon Plan and other salmon or stream enhancement programs throughout this state.

(d) Report regularly to the joint legislative committee created pursuant to ORS 171.551 concerning the duties described under this subsection and other requests by that joint legislative committee.

(3) If the Independent Multidisciplinary Science Team submits suggestions to an agency responsible for implementing a portion of the Oregon Plan, the agency shall respond in writing to the team, explaining how the agency intends to implement the suggestion or why the agency does not implement the suggestion. The team shall include any agency responses in its report to the joint legislative committee created pursuant to ORS 171.551.

(4) Members of the Independent Multidisciplinary Science Team shall be compensated for their services and are eligible for reimbursement of travel and other reasonable expenses in accordance with ORS 292.495.

(5) Compensation for members of the Independent Multidisciplinary Science Team shall be cooperatively determined by the appointing authorities and the joint legislative committee created pursuant to ORS 171.551.

(6) The office of the Governor shall provide administrative support and services to the Independent Multidisciplinary Science Team. [1997 c.7 §5; 1999 c.270 §7; 1999 c.1026 §22]

541.411 Responsibilities of state agency participating in Oregon Plan. Any state agency participating in the programs and activities described in ORS 541.405 shall:

(1) Upon request of any person who believes the person's private property rights may be adversely affected by the Oregon Plan, provide the person with written information about the agency's dispute resolution services available pursuant to ORS 183.502.

(2) Report to the joint legislative committee created pursuant to ORS 171.551 any dispute resolution services requested under this section, and the outcome of such dispute resolution. [1997 c.7 §10; 1999 c.270 §8]

541.413 Agency report to legislative committee prior to adjustment of expenditure limitation or additional funding related to Oregon Plan. Notwithstanding any other provision of law, if during the interim between legislative sessions any agency responsible for implementing a portion of the Oregon Plan or a program for the enhancement or restoration of streams throughout the state requires additional funding or an adjustment to the agency's expenditure limitations as approved by the Legislative Assembly to complete implementation of the Oregon Plan, the agency shall first submit a report to the joint legislative committee created pursuant to ORS 171.551. The committee shall review the request and present a recommendation to the Emergency Board at the time the agency submits its request to the Emergency Board. [1997 c.7 §13; 1999 c.270 §9; 1999 c.1026 §23]

541.415 Oregon Plan for Salmon and Watersheds Legal Fund; creation; sources; uses. There is hereby established in the State Treasury the Oregon Plan for Salmon and Watersheds Legal Fund for the purpose of funding the activities of the Department of Justice in providing legal advice to or appearing on behalf of a state agency that takes, funds or authorizes actions when those actions are challenged under the federal Endangered Species Act (16 U.S.C. 1531

et seq.), as amended, or the Federal Water Pollution Control Act (P.L. 92-500), as amended, to the limits of the fund. The fund created by this section shall consist of all moneys received on behalf of the fund by gift, grant or appropriation, from whatever source. Moneys in the fund are continuously appropriated to the Department of Justice for the uses described in this section. Such uses may include, but need not be limited to, participation in a legal proceeding involving an action taken by a citizen or political subdivision of this state, where that action is authorized or funded by this state, and where:

(1) The state agency that authorizes or funds the action:

(a) Determines that the action is consistent with the Oregon Plan and is in compliance with applicable state laws; and

(b) Recommends to the Attorney General that the state participate in such legal challenge; and

(2) The Attorney General, after consulting with the Governor, the President of the Senate and the Speaker of the House of Representatives, determines that such participation is in the best strategic interest of the state. [1999 c.1026 §17]

STEWARDSHIP AGREEMENTS

541.423 Stewardship agreements; contents; procedures for adoption; rules. (1) As used in this section, "stewardship agreement" means an agreement voluntarily entered into and signed by a landowner, or representative of the landowner, and the State Department of Agriculture or the State Board of Forestry that sets forth the terms under which the landowner will self-regulate to meet and exceed applicable regulatory requirements and achieve conservation, restoration and improvement of fish and wildlife habitat or water quality.

(2) The State Department of Agriculture and the State Board of Forestry may, individually or jointly, enter into stewardship agreements with landowners.

(3) The purposes of a stewardship agreement are to provide:

(a) An incentive for landowners to provide for conservation, restoration and improvement of fish and wildlife habitat or water quality;

(b) A mechanism to coordinate, facilitate and memorialize a landowner's compliance with the requirements of state and federal regulatory schemes; and

(c) A mechanism to combine or coordinate multiple incentive programs among agencies and levels of government to:

(A) Improve the delivery of financial and technical assistance to landowners engaged in conservation activities;

(B) Reduce redundancy among programs;

(C) Simplify application procedures;

(D) Leverage the investment of federal funds;

(E) Make more efficient use of technical assistance funds;

(F) Provide greater incentives for landowners;

(G) Foster partnerships and improve cooperation with nongovernmental organizations;

(H) Provide greater environmental benefits;

(I) Tailor and more effectively target conservation programs administered by federal, state and local governments to the unique conservation needs of, and opportunities presented by, individual parcels of eligible land; and

(J) Give landowners an increased level of regulatory certainty.

(4) The State Board of Forestry and the State Department of Agriculture, in consultation with the State Department of Fish and Wildlife, shall adopt by rule procedures and criteria for stewardship agreements. The procedures and criteria shall include, but need not be limited to:

(a) The certification of a land management plan which shall, at a minimum, include:

(A) A comprehensive description and inventory of the subject property, its features and uses; and

(B) A prescription for the protection of resources that exceeds land management practices, standards and activities otherwise required by law and that is designed to achieve conservation, restoration and improvement of fish and wildlife habitat or water quality.

(b) A requirement that each landowner subject to a stewardship agreement demonstrate a clear capability to carry out the provisions of the land management plan and have a past record of good compliance with applicable laws and regulations regarding land use and management.

(5) Each government agency that is a party to a stewardship agreement shall conduct periodic audits on lands subject to the stewardship agreement to determine whether the land management plan is being implemented and whether the agreement should be continued, revised or discontinued.

(6) Stewardship agreements may provide benefits to landowners that include, but are not limited to:

- (a) Expedited permit processing;
- (b) Regulatory certainty;
- (c) Priority consideration for cost-share assistance or other financial incentives and technical assistance; and

(d) Government certification that certain land management practices have been implemented. [2003 c.539 §31]

Note: 541.423 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 541 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.
