

Oregon Parks and Recreation Commission

April 4, 2012

Agenda Item: 11a Action

Topic: Request to Adopt OAR Chapter 736-006; Local Government Grant Program

Presented by: Wayne Rawlins

Background:

On November 2, 2010, Ballot Measure 76 was approved by voters dedicating a portion of the state's lottery proceeds to parks, water quality, and fish and wildlife habitats in order to provide social, economic, and environmental and public health benefits. In particular, the constitutional language required that no less than 12% of the funds attributable to the Oregon Parks & Recreation Department be used to provide grants to regional and local government entities to acquire property for public parks, natural areas, or outdoor recreation areas, or to develop or improve these sites. In addition to Ballot Measure 76, Senate Bill 342 was passed during the 2011 Regular Session providing statutory language for the revenue and programs.

Regarding the Local Government Grant Program, our administrative rules needed to be updated to reflect those changes. In addition, we had conversations with different stakeholders who expressed interest in reviewing the administrative rules. Some expressed concerns about their struggle to come up with cash for their required match portion, some indicated a desire for assistance with backlogged maintenance and repairs and others questioned the equitable distribution of grants.

Staff invited interested parties to assist in reviewing the rules and look for any possible improvements. The proposed administrative rule changes were also taken out for public hearings in the evening in Bend, Medford, and Salem.

The Oregon Parks Association recommended that the proposed rules not be adopted and a regional approach investigated. Director Wood provided a response identified as Attachment E.

Prior Action by Commission: Direction by Commission at its March 2011 meeting to commence rulemaking actions.

Action Requested: Staff request Commission approval to adopt the Oregon Administrative Rules 736-006 regarding the Local Government Grant Program as identified in Attachment C.

Prepared by: Wayne Rawlins

Attachments: A – Senate Bill 342
B – OAR 736-006 Draft Showing Changes
C – OAR 736-006 As If Adopted
D – Oregon Parks Association Letter
E – OPRD Reply Letter
F – Public Hearings
G – Rulemaking Committee Membership

76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

Enrolled

Senate Bill 342

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

CHAPTER

AN ACT

Relating to the use of Parks and Natural Resources Fund moneys; creating new provisions; amending ORS 390.134, 390.180, 541.351, 541.360, 541.370, 541.371, 541.373, 541.375, 541.376, 541.377, 541.379, 541.392, 541.397, 541.401 and 805.256; repealing ORS 541.378, 541.379, 541.397 and 541.399 and section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242); appropriating money; and declaring an emergency.

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

PARKS AND NATURAL RESOURCES FUND

SECTION 1. ORS 541.377 is amended to read:

541.377. (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] native 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)] (2) The Legislative Assembly [shall] may 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.

PARKS SUBACCOUNT

SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS chapter 390.

SECTION 3. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount. 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 Parks Subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.

(2) Moneys deposited from the Oregon State Lottery to the Parks Subaccount may be used only for:

(a) Maintaining, constructing, improving, developing, managing and operating state parks, ocean shores, public beach access areas, historic sites, natural areas and outdoor and recreation areas;

(b) Acquiring real property, or interests in real property, that has significant natural, scenic, cultural, historic or recreational value for the creation or operation of state parks, ocean shores, public beach access areas, outdoor recreation areas and historic sites; and

(c) Providing grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas.

(3) All moneys in the Parks Subaccount shall be transferred to the State Parks and Recreation Department Fund and used to carry out the purposes described in subsection (2) of this section by achieving each of the following:

(a) Providing additional public parks, natural areas or outdoor recreation areas to meet the needs of current and future residents of this state.

(b) Protecting natural, cultural, historic and outdoor recreational resources of statewide or regional significance.

(c) Managing public parks, natural areas and outdoor recreation areas to ensure the long-term ecological health of those parks and areas and to provide for the enjoyment of those parks and areas by current and future residents of this state.

(d) Providing diverse and equitable opportunities for residents of this state to experience nature and to participate in outdoor recreational activities in state, regional, local or neighborhood public parks and recreation areas.

STATE PARKS AND RECREATION DEPARTMENT FUND

SECTION 4. ORS 390.134 is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty-five percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to

acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(8)] (11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

(12) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount.

Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 5. ORS 390.134, as amended by section 2, chapter 792, Oregon Laws 2007, and section 47, chapter 11, Oregon Laws 2009, is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from

recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(8)] (11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. **Notwithstanding ORS 192.230 to 192.250**, the director shall make the report in a form and manner as the committee may prescribe.

(12) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 6. ORS 390.180 is amended to read:

390.180. (1) The State Parks and Recreation Director shall adopt rules that:

(a) Establish the standards the State Parks and Recreation Department shall use when that department:

- (A) Performs comprehensive statewide recreational planning; or
- (B) Disburses any moneys to **regional or** local governments or other state agencies under programs established under state or federal law.
- (b) Establish a process for the development of a master plan for each state park, including public participation and coordination with affected local governments.
- (c) Establish a master plan for each state park, including an assessment of resources and a determination of the capacity for public use and enjoyment of each park, that the State Parks and Recreation Department shall follow in its development and use of each park.
- (d) Make state funding assistance available to **regional or local governments that demonstrate cooperation with** nonprofit veterans' organizations for the construction and restoration of memorials honoring veterans and war memorials located on public property.
- (2) The State Parks and Recreation Director shall submit an adopted state park master plan to the local government with land use planning responsibility for the subject park.

NATURAL RESOURCES DEFINITIONS

SECTION 7. ORS 541.351 is amended to read:

541.351. 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)] (4)* "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)] (5) "Native" means indigenous to Oregon and not introduced.

(6) "Oregon Conservation Strategy" means the comprehensive wildlife conservation strategy for this state adopted by the State Fish and Wildlife Commission.

(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]* **native fish or wildlife** 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 streamflow 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.

NATURAL RESOURCES SUBACCOUNT

SECTION 8. Sections 9 and 10 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

SECTION 9. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Natural Resources Subaccount for the public purpose of financing the restoration and protection of native fish and wildlife, watersheds and water quality in Oregon. The State Treasurer may invest and reinvest the moneys in the Natural Resources Subaccount as provided in ORS 293.701 to 293.820.

(2) Moneys in the Natural Resources Subaccount shall be used to accomplish each of the following:

(a) Protecting and improving water quality in the rivers, lakes and streams of this state by restoring natural watershed functions or stream flows;

(b) Securing long-term protection for lands and waters that provide significant habitats for native fish and wildlife;

(c) Restoring and maintaining habitat needed to sustain healthy and resilient populations of native fish and wildlife;

(d) Maintaining the diversity of plants, animals and ecosystems in this state;

(e) Involving people in voluntary actions to protect, restore and maintain the ecological health of lands and waters in this state; and

(f) Remedying the conditions that limit the health of fish and wildlife, fish and wildlife habitats and watershed functions that are in the greatest need of conservation.

(3) Except as provided in subsections (4) and (5) of this section, of the moneys deposited into the Natural Resources Subaccount from the Oregon State Lottery:

(a) Sixty-five percent of the moneys shall be deposited into the Watershed Conservation Grant Fund established under section 12 of this 2011 Act to be used by the Oregon Watershed Enhancement Board for the purposes set forth in section 13 of this 2011 Act; and

(b) Thirty-five percent of the moneys shall be deposited into the Watershed Conservation Operating Fund established under section 16 of this 2011 Act.

(4) If the amount transferred from the Oregon State Lottery to the Parks and Natural Resources Fund during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, except as provided in subsection (5) of this section, the State Treasurer shall, during the next following biennium, deposit from the Natural Resources Subaccount to the Watershed Conservation Grant Fund the amount described in subsection (3)(a) of this section plus an amount equal to the difference between the amount deposited from the subaccount to the Watershed Conservation Grant Fund during the preceding biennium and 70 percent of the moneys received by the subaccount from the Oregon State Lottery during the preceding biennium.

(5) The requirements in subsections (3) and (4) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the Natural Resources Subaccount moneys to be deposited into the Watershed Conservation Grant Fund. The Legislative Assembly may not authorize the percentage of Natural Resources Subaccount moneys deposited into the Watershed Conservation Grant Fund in a biennium to be less than the percentage required to be deposited under subsections (3) and (4) of this section.

SECTION 10. Each state agency that receives moneys from the Natural Resources Sub-account created under section 9 of this 2011 Act shall submit a report to the Legislative Assembly each biennium regarding the use of the moneys by the agency. The report shall include, but need not be limited to, a description of the measurable biennial and cumulative results of the activities and programs for which the agency expended the moneys. Reports required by this section are in addition to any audit report supplied by the Secretary of State under ORS chapter 297.

WATERSHED CONSERVATION GRANT FUND

SECTION 11. Sections 12 and 13 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

SECTION 12. (1) The Watershed Conservation Grant Fund is established separate and distinct from the General Fund. The Watershed Conservation Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Conservation Grant Fund are continuously appropriated to the Oregon Watershed Enhancement Board for grants to fund projects described in ORS 541.401 that use grant moneys as provided under section 13 of this 2011 Act. Interest accruing to the Watershed Conservation Grant Fund shall be credited to the fund. Watershed Conservation Grant Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Grant Fund.

(2) The board also may accept gifts and grants from any public or private source for the purpose of providing the grants described in this section.

SECTION 13. The purpose of the Watershed Conservation Grant Fund is to provide funding for grants to achieve the purposes and uses described in section 9 of this 2011 Act and to implement the mission of the Oregon Plan, including but not limited to grants to further the Oregon Conservation Strategy and the watershed health and native fish recovery programs of this state. Moneys appropriated to the fund shall be used only for the following activities:

(1) Acquiring from willing owners interests in land or water that will protect or restore native fish or wildlife habitats. The interests may include, but need not be limited to, fee interests, conservation easements or leases.

(2) Projects to protect or restore native fish habitat or wildlife habitat.

(3) Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows.

(4) Resource assessment, planning, design and engineering, technical assistance, monitoring and outreach activities necessary for carrying out subsections (1) to (3) of this section.

SECTION 14. ORS 541.401 is amended to read:

541.401. The Oregon Watershed Enhancement Board may award funds from the Watershed *[Improvement]* Conservation Grant Fund only for *[the purposes listed in ORS 541.399]* activities described in section 13 of this 2011 Act. 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 established in accordance with ORS 541.370 *[(3)]*; and

(3) The project provides a public benefit *[through]* by supporting improved:

(a) Water quality;

(b) Native fish or wildlife habitat; or Enrolled Senate Bill 342 (SB 342-C) Page 9

(c) *[Public information or education on a]* Watershed or ecosystem function.

SECTION 15. ORS 541.399 is repealed.

WATERSHED CONSERVATION OPERATING FUND

SECTION 16. (1) The Watershed Conservation Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Conservation Operating Fund shall consist of all moneys placed in the fund as provided by law. The purpose of the fund is to carry out activities that support all of the purposes described in section 9 of this 2011 Act. Moneys in the Watershed Conservation Operating Fund shall be used for each of the following:

(a) To develop, implement or update state conservation strategies or plans to protect or restore native fish or wildlife habitats or to protect or restore natural watershed or ecosystem functions to improve water quality or stream flows;

(b) To develop, implement or update regional or local strategies or plans that are consistent with state strategies or plans described in paragraph (a) of this subsection;

(c) To develop, implement or update state strategies or plans to prevent, detect, control or eradicate invasive species that threaten native fish or wildlife habitats or that impair water quality;

(d) To support local delivery, including but not limited to delivery by watershed councils, soil and water conservation districts and other community-based organizations, of watershed education activities and other programs or projects that protect or restore native fish or wildlife habitats, watersheds or ecosystems;

(e) To pay the Oregon Watershed Enhancement Board costs of administering the Watershed Conservation Grant Fund;

(f) To enforce fish and wildlife laws and regulations and fish and wildlife habitat protection laws and regulations; and

(g) To reimburse the Secretary of State as described in ORS 297.230 for the costs of audits performed by the Secretary of State under section 4c, Article XV of the Oregon Constitution.

(2) Interest accruing to the Watershed Conservation Operating Fund shall be credited to the fund. Watershed Conservation Operating Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Operating Fund.

(3) Any public or private source may make gifts or grants to the Watershed Conservation Operating Fund.

SECTION 17. ORS 541.373 is amended to read:

541.373. (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, **and the Oregon Conservation Strategy.**

(2) **If requested by the source, the Governor shall deposit moneys received under this section into the Watershed Conservation Grant Fund for use as provided under section 13 of this 2011 Act.** The Governor shall deposit **all other** moneys received under this section in the State Treasury to the credit of the Watershed [Improvement] Conservation Operating Fund established under *[ORS 541.379 to be used for the purposes specified in ORS 541.379 (1)(b)]* **section 16 of this 2011 Act.**

SECTION 18. ORS 541.371 is amended to read:

541.371. (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 other partners** and to support the efforts of watershed councils, *[and]* soil and water conservation districts **and other partners** 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, **the Oregon Conservation Strategy, the watershed health and native fish recovery programs of this state** 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:]* **any other expenditures consistent with section 16 of this 2011 Act, moneys in the Watershed Conservation Operating Fund may be expended in the form of grants or allocations:**

(a) *[May allocate funds to be used for staff for]* To soil and water conservation districts and watershed councils^[.] **for costs of employing staff to further the development and implementation of activities, projects and programs for the purposes described in section 16 of this 2011 Act; or**

(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.

SECTION 19. ORS 805.256 is amended to read:

805.256. (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:

(a) Half of the moneys shall be transferred to the *[Oregon Watershed Enhancement Board established under ORS 541.360 and are continuously appropriated to the board]* **Watershed Conservation Operating Fund** for activities under *[ORS 541.379]* **section 16 of this 2011 Act** 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]* **watersheds, native fish and wildlife and water quality; and**

(b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).

(2) As used in this section, “the cost of administration of the salmon registration plate program” is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates.

OREGON WATERSHED ENHANCEMENT BOARD

SECTION 20. ORS 541.360 is amended to read:

541.360. (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 **Extension Service**, 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] **541.401 and sections 12 and 13 of this 2011 Act** and resubmit the proposal.

SECTION 21. ORS 541.370 is amended to read:

541.370. (1) In carrying out the watershed enhancement program **described in ORS 541.365**, 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]* **conservation** grant program using funds from the Watershed *[Improvement]* **Conservation** Grant Fund established under *[ORS 541.397]* **section 12 of this 2011 Act**, from the *[Restoration and Protection]* **Natural Resources** Subaccount established under *[ORS 541.377]* **section 9 of this 2011 Act** 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.

SECTION 22. ORS 541.375 is amended to read:

541.375. (1)(a) *[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]* **The following entities** may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415[.]:

(A) A person;

(B) An Indian tribe;

(C) A watershed council;

(D) A soil and water conservation district;

(E) A community college;

(F) A state institution of higher education;

(G) An independent not-for-profit institution of higher education; or

(H) A political subdivision of this state that is not a state agency.

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with *[one of the other eligible entities]* **an entity described in paragraph (a) of this subsection.**

(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, **regardless of the anticipated funding source for the project.**

(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:]* **If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:**

(a) *[Are]* **Is** based on sound principles of native fish or wildlife habitat conservation or watershed management;

(b) *[Use]* **Uses** methods most adapted to the project locale;

(c) *[Meet]* **Meets** the criteria established by the board under ORS 541.396; and

(d) *[Contribute]* **Contributes** 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]* **conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.**

(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]* **and habitat for native fish or wildlife.** 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]* **may not disburse [any] funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body** until the applicant presents evidence that the agency has granted the permit or license.

SECTION 23. ORS 541.376 is amended to read:

541.376. (1) Land purchased through a grant agreement with the Oregon Watershed Enhancement Board shall be subject to title restrictions **that are consistent with the conservation purposes of the grant and** 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.

SECTION 24. ORS 541.392 is amended to read:

541.392. *[(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] **section 13 of this 2011 Act**. The report shall include but need not be limited to:

[(a)] (1) An explanation of the effectiveness and workability of the partnership process described in ORS 541.384;

[(b)] (2) A description of any modifications to the process that have been instituted; and

[(c)] (3) 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.*]

RESTORATION AND PROTECTION RESEARCH FUND

SECTION 25. ORS 541.378 is repealed. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Operating Fund moneys to the credit of the Watershed Improvement Operating Fund. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Grant Fund moneys to the credit of the Watershed Improvement Grant Fund.

WATERSHED IMPROVEMENT OPERATING FUND

SECTION 26. ORS 541.379 is amended to read:

541.379. (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 **for carrying out this section;**

(b) Activities of state and local agencies and other public entities **for which funding was approved by the board prior to the effective date of this 2011 Act and that are** 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 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** that are not capital expenditures; and

(d) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** 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] the fund. 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.

SECTION 27. ORS 541.379 is repealed on July 1, 2013. The State Treasurer shall transfer any balance of the Watershed Improvement Operating Fund remaining available and unexpended on July 1, 2013, to the credit of the Watershed Conservation Operating Fund.

WATERSHED IMPROVEMENT GRANT FUND

SECTION 28. ORS 541.397 is amended to read:

541.397. (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 **as set forth in the 2009 Edition of Oregon Revised Statutes that were issued prior to the effective date of this 2011 Act.** Interest accruing to the Watershed Improvement Grant Fund shall be credited to *[the Restoration and Protection Research Fund created under ORS 541.378]* **the fund.** 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]* **as described in subsection (1) of this section.**

(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]* funding the grants described in subsection *[(2)]* (1) of this section.

SECTION 29. ORS 541.397 is repealed on July 1, 2015. The State Treasurer shall transfer any balance of the Watershed Improvement Grant Fund remaining available and unexpended on July 1, 2015, to the credit of the Watershed Conservation Grant Fund.

MISCELLANEOUS

SECTION 30. (1) Section 9 of this 2011 Act and the amendments to ORS 541.377 by section 1 of this 2011 Act are intended to change the name of the “Restoration and Protection Sub-account” to the “Natural Resources Subaccount.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Restoration and Protection Subaccount,” wherever they occur in statutory law, other words designating the “Natural Resources Subaccount.”

SECTION 30a. If Senate Bill 242 becomes law, section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242) (amending ORS 541.375), is repealed and ORS 541.375, as amended by section 22 of this 2011 Act, is amended to read:

541.375. (1)(a) The following entities may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415:

- (A) A person;
- (B) An Indian tribe;
- (C) A watershed council;
- (D) A soil and water conservation district;
- (E) A community college;
- (F) A [state institution of higher education] public university listed in ORS 352.002;
- (G) An independent not-for-profit institution of higher education; or
- (H) A political subdivision of this state that is not a state agency.

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with an entity described in paragraph (a) of this subsection.

(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, regardless of the anticipated funding source for the project.

(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) If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:

- (a) Is based on sound principles of native fish or wildlife habitat conservation or watershed management;
- (b) Uses methods most adapted to the project locale;
- (c) Meets the criteria established by the board under ORS 541.396; and
- (d) Contributes 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 conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.

(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 and habitat for native fish or wildlife. 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]* **public universities listed in ORS 352.002**, 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, the board may not disburse funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body until the applicant presents evidence that the agency has granted the permit or license.

SECTION 30b. The amendments to ORS 541.375 by section 30a of this 2011 Act become operative on January 1, 2012.

CAPTIONS

SECTION 31. The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

EMERGENCY CLAUSE

SECTION 32. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on July 1, 2011.

Passed by Senate June 23, 2011

Repassed by Senate June 29, 2011

Passed by House June 28, 2011

Received by Governor:

Filed in Office of Secretary of State:

DRAFT

PARKS AND RECREATION DEPARTMENT

DIVISION 6

DISTRIBUTION OF STATE FUNDING ASSISTANCE TO UNITS OF LOCAL GOVERNMENT FOR PUBLIC PARKS AND RECREATION

736-006-0100

Purpose of Rule

This division establishes the procedures and standards used by the Oregon Parks and Recreation Department when distributing state monies to eligible local governments for outdoor park and recreation areas and facilities, acquisition of property for park purposes, trails, bicycle recreation opportunities, non-motorized water-based recreation, and the process for establishing the priority order in which projects shall be funded.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0105

Statutory Authority and Procedure

ORS 390.180 requires the Director of the Oregon Parks and Recreation Department to adopt rules establishing procedures the Oregon Parks and Recreation Department shall use when the Department disburses money to local governments.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0110

Definitions

As used in this division, unless the context requires otherwise:

(1) "Acquisition" -- Means the gaining of property rights, including but not limited to fee title or easements, for public use.

(2) "Bicycle Recreation" -- Means the use of bicycles for enjoyment, social interaction, education, or physical well-being while on recreational trails or paths that are not along or adjacent to public roads or streets, and that are primarily recreational rather than transportation in nature.

(3) "Commission" -- Means the Oregon Parks and Recreation Commission.

(4) "Committee" -- Means the Local Government Grant Advisory Committee appointed by the Director to prioritize local government project applications.

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(5) "Conversion" -- Means the act of utilizing property acquired or developed using either Local Government Grant Program funds or Land and Water Conservation Funds for purposes other than public outdoor recreation uses.

(6) "Current Master Plan" -- Means a site-specific resource-based plan guiding recreational site acquisition, development, protection, and management of park areas and facilities.

(7) "Department" -- Means the Oregon Parks and Recreation Department (OPRD).

(8) "Development" -- Means the construction or rehabilitation of facilities necessary for the use and enjoyment of public outdoor recreation resources.

(9) "Director" -- Means the Director of the Oregon Parks and Recreation Department.

(10) "Eligible Project" -- Means an acquisition, development, major rehabilitation undertaking, or planning or feasibility studies which satisfies the requirements of the Local Government Grant Program.

(11) "Force Account" -- Means the governmental entity's own work force performing project work rather than contracting out for the services.

(12) "LWCF or Land and Water Conservation Fund" -- Means those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).

(13) "Local Comprehensive Plan" -- Means the acknowledged comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS chapter 197.

(14) "Local Governments" -- Means cities, municipal corporations, counties, political subdivisions, park and recreation districts, port districts, and metropolitan service districts.

(15) "Local Government Grant Policies and Procedures Manual" -- Means a manual prepared by the Department containing state and federal policies, procedures and instructions to assist local government agencies wishing to participate in the Local Government Grant Program.

(16) "Local Government Grant Program" -- Means the program and process for distributing state monies to eligible local governments for outdoor park and recreation areas and facilities located on properties controlled or managed by the eligible local government.

(17) "Major Rehabilitation" -- Means the repair, restoration, or reconstruction of facilities, which is necessitated by obsolescence, building code changes, or normal wear and tear not attributed to lack of maintenance.

(18) "OPRD" -- Means the Oregon Parks and Recreation Department.

(19) "Outdoor Recreation" -- Means structured and unstructured leisure and fitness ~~activities~~ activities that occur in open air and are not provided in a roofed and enclosed facility.

(20) "Project" -- Means the planning or feasibility study documents or the site and associated improvements where acquisition, development, or major rehabilitation will occur.

(21) "Project Authorization" -- Means the State/Local Agreement that authorizes the project to begin effective on or after the date signed by both the Director and Project Sponsor or their designee.

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(22) "Project Sponsor" -- Means the recipient of the grant funds and the entity responsible for implementation of the project and the maintenance and operation of the site.

(23) "SCORP" -- Means the Statewide Comprehensive Outdoor Recreation Plan that is Oregon's basic five-year plan for outdoor recreation and that provides the state with an up-to-date regional information and planning tool serving as the basis by which all Oregon recreation providers (state, federal, local, and private) catalogue and rank their recreation needs, obtain funding through partnerships and grants, and affirm their respective roles.

(24) "State/Local Agreement" -- Means the signed agreement between the Department and Project Sponsor, which authorizes the project to begin on, or after the date signed by both the Director and the Project Sponsor and that describes the contractual relationship and responsibilities of the parties to the Project.

(25) "Sustainability" -- Means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 1-2008(Temp), f. 2-15-08, cert. ef. 3-1-08 thru 8-1-08; PRD 5-2008, f. & cert. ef. 5-15-08

736-006-0115

Apportionment of Monies between Small and Large Grants

(1) ~~Ten~~ Up to 15 ~~Fifteen~~ percent of available funds shall be set aside for small grants. Small grants are projects with a maximum \$~~50~~75,000 grant request.

(2) Other than for land acquisitions, the remainder of available funds shall be for large projects with a maximum \$750,000 grant request.

(3) A Project Sponsor may request grant funding for land acquisitions in an amount not to exceed \$1,000,000.

(4) In consultation with the Committee, the Commission and the Director may set the maximum at less than that above amounts based upon the availability of funds.

(5) Based on the quality and quantity of Eligible Projects, the Committee, with concurrence of the Director, may dedicate a portion of the funds for projects expected to be completed within 12 months of grant award.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0125

Application Procedure

160 | The purpose of this ~~section-rule~~ is to set forth requirements that must be met by local government
 161 | applicants in submitting an application for Local Government Grant Program funding assistance.

162
 163 | (1) Eligibility for Funding Assistance. Public agencies eligible for state funding assistance are:

164
 165 | (a) Cities, Municipal Corporations;

166
 167 | (b) Counties, Political Subdivisions;

168
 169 | (c) Park and Recreation Districts;

170
 171 | (d) Port Districts;

172
 173 | (e) Metropolitan Service Districts.

174
 175 | (2) Matching Requirements:

176
 177 | (a) ~~The Local Government Grant Program provides for up to 50 percent funding assistance for~~
 178 | ~~cities~~Cities ~~and~~ /districts with a population greater than 25,000 and ~~for~~ counties with a population
 179 | greater than 50,000 must provide a match of at least 50 percent of total project costs.

180
 181 | (b) ~~The Local Government Grant Program provides for up to 60 percent funding assistance for~~
 182 | ~~cities~~Cities ~~and~~ /districts with a population between 5,000 and 25,000 and counties with a population
 183 | between 30,000 and 50,000 must provide a match of at least 40 percent of total project costs.

184
 185 | (c) ~~The Local Government Grant Program provides for up to 80 percent funding assistance for~~
 186 | ~~cities~~Cities ~~and~~ /districts with a population of less than 5,000 and counties with a population of less
 187 | than 30,000 must provide a match of at least 20 percent of total project costs.

188
 189 | (d) ~~If an applicant established that a situations of extreme economic hardship impacts a project, the~~
 190 | ~~applicant and at the may request of the applicant, that the Director may authorize a reduced match~~
 191 | ~~down to a minimum of 20 percent of total project costs. The Director has sole discretion to authorize~~
 192 | ~~a reduced match under this subsection based on consideration of the applicant's request, the project,~~
 193 | ~~and the project's eligible match; the availability of funds; the scope and need of projects available for~~
 194 | ~~funding; and the urgency and statewide importance of prospective projects.~~

195
 196 | (e) The eligible match by the Project Sponsor may include local budgeted funds, local agency labor or
 197 | equipment, federal revenue sharing, other eligible grants, state and county inmate labor, donated
 198 | funds, the value of private donated property, equipment, materials, labor, the value of land acquired
 199 | within the past six year period, cost of appraisals, pre-development costs within the past two year
 200 | period or any combination thereof. Engineering and administration costs and costs incurred prior to
 201 | the ~~state~~State/Local Agreement cannot exceed 15 percent of the total project costs.

202
 203 | (3) Eligible Projects:

204
 205 | (a) Acquisition, development, major rehabilitation, planning, or feasibility study projects that are
 206 | consistent with the outdoor recreation goals and objectives contained in the SCORP, the recreation
 207 | elements of local comprehensive plans and local master plans or both. Projects may support
 208 | traditional outdoor recreation settings such as parks, or funds may be provided for: projects that
 209 | ensure natural and cultural resource protection while maintaining public access for recreation;
 210 | projects that protect public open space; bicycle recreation; non-motorized water recreation; trails for
 211 | non-motorized recreation; or emerging new outdoor recreation trends. Only outdoor park and
 212 | recreation areas and facilities are eligible.

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(b) Water based outdoor recreation facilities such as short-term transient moorages and non-motorized boat and watercraft projects, trails, support facilities for non-motorized water recreation, and water access.

(4) Planning Requirements. Project Sponsors participating in the funding assistance program must show that:

(a) There is a current master plan in effect and that the project is consistent with the local comprehensive land use plan and SCORP,

(b) There is not a current master plan in effect, but the project is consistent with the local comprehensive land use plan and SCORP, or

(c) The project request is for planning assistance.

(5) Application Form. All applications for funding assistance for outdoor park and recreation program projects must be submitted on forms as prescribed and supplied by the Department. All applications must be consistent with the Local Government Grant Policies and Procedures Manual and contain the following information:

(a) Program narrative;

(b) Environmental assessment;

(c) Vicinity map;

(d) Project boundary map;

(e) Civil Rights compliance;

(f) Copy of property deed or lease or formal and binding control and tenure agreement showing cooperation with the landowner to ensure long-term use, generally not less than 25 years, of facilities for public recreation;

(g) Preliminary plans and specifications for construction projects;

(h) Estimate of development costs and project construction schedule;

(i) Copy of property Purchase Agreement (for acquisitions only);

(j) Local/County Planning Department Certification/Review;

(k) All required permits and certifications as identified in the Local Government Grant Policies and Procedure Manual;

(l) Government-to-Government Inquiries (Tribal) -- Certification to the Department that the Project Sponsor has communicated their grant proposal to the appropriate federally recognized tribe for the review and determination of tribal interest or concern for those areas of known or suspected tribal archeological resources.

(m) Other documentation that may be required by the Department.

(6) Project Award Procedure:

266

267 (a) Upon receipt of the application by the Department, the Grants Program staff shall perform a
268 technical review of all applications and forward eligible large grant applications to the Committee.
269 The Committee will meet to evaluate the applications and make recommendations to the Director for
270 Commission approval. The ~~commission~~ Commission may deny any or all recommendations of the
271 Committee.

272

273 (b) Project Sponsors with large project grant requests may be expected to provide a presentation to
274 the Committee under a procedure established by the Department.

275

276 (c) Project Sponsors whose projects have been approved by the Commission and are scheduled for
277 funding assistance must submit to the Department the following project information:

278

279 (A) Certification by project sponsor of availability of local match;

280

281 (B) Preliminary plans and specifications (for construction projects);

282

283 (C) Appraisal for acquisition projects. Appraisals must conform to the Uniform Appraisal Standards
284 for Federal Land Acquisitions;

285

286 (D) Preliminary title report for acquisitions;

287

288 (E) Verification that the applicant has a Compliance Plan that meets the requirements of the
289 Americans with Disabilities Act of 1990 and its 2010 (or most recent) regulations. ~~Most current~~
290 ~~Documented Americans with Disabilities Act Compliance Plan;~~

291

292 (d) The Department will remove those project applications from the Commission approved list that
293 are unable to provide the required documentation required in subsection (c) of this section.

294

295 (e) In the event that the funding assistance available cannot fully fund the last priority project, ~~the a~~
296 Project Sponsor will may be given the option of reducing the scope of the project. The Department, at
297 its discretion, may pass the available funds to another priority project or hold the remaining funds and
298 combine them with the next planned distribution of funds.

299

300 (f) Projects that do not receive funding assistance for the fiscal year submitted will be returned to the
301 applicant without prejudice.

302

303 (7) Project Agreement:

304

305 (a) A signed State/Local Agreement shall constitute project authorization. No ~~project may begin grant~~
306 funds may be disbursed without a signed State/Local Agreement from the Department.

307

308 (b) The Project Sponsor shall have six months from the date of authorization to begin substantial
309 work (e.g. the award of contracts or completion of at least 25 percent of the work, if done by force
310 account). The Department may cancel a grant when the Project not conforming to this schedule,
311 unless the Project Sponsor provides substantial justification to warrant an extension.

312

313 (c) The Project Sponsor shall complete and bill all projects by the dates as specified in the State/Local
314 Agreement.

315

316 (d) The Department may inspect all projects.

317

318 (e) Partial payments up to 90 percent of the grant amount may be billed during the project for work
 319 completed. Final payment will be made upon certification of project completion by the Project
 320 Sponsor. Real property acquisitions may receive the full grant amount if the funds are to be dispersed
 321 in escrow for the closing of a property acquisition.

322
 323 (f) The Department may provide the Project sponsor partial payments of up to 25 percent of the grant
 324 amount after the Department issues the Notice to Proceed and in advance of work completed if a
 325 general contractor requires advanced funding prior to construction/development work or ordering
 326 materials/supplies.

327
 328 (g) Project amendments that increase the Local Government Grant award amount will generally not
 329 be allowed.

330
 331 (h) The Project Sponsor must submit requests for time extensions to complete work to the Department
 332 in writing and must be approved prior to the expiration of the approved project period as set forth in
 333 the State/Local Agreement.

334
 335 (8) The Project Sponsor shall install and maintain throughout the life of the agreement appropriate
 336 signage for each project indicating the Oregon Parks and Recreation Department Grant Program's
 337 assistance and shall certify that signage is in place prior to requesting final payment.

338
 339 Stat. Auth.: ORS 390.180

340 Stats. Implemented: ORS 390.180

341 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-
 342 08, cert. ef. 3-1-08

343

344 **736-006-0130 [Renumbered to 736-006-0145]**

345

346 **736-006-0135 [Renumbered to 736-006-0150]**

347

348 **736-006-0140**

349

350 **Conversion Requirements**

351

352 (1) Park and recreation areas and facilities must be dedicated for a minimum of 25 years for park and
 353 recreation purposes. Leases for federally owned property must be at least 25 years. If the current lease
 354 is within 5 years of termination, a letter of intent to renew the lease will be required from the federal
 355 agency. Project sponsors must insure that the land within the project boundary will be used only for
 356 park and recreational purposes, Project Sponsor controls or will control the land, and that the Project
 357 Sponsor will not change the use of, sell, or otherwise dispose of land within the project boundary,
 358 except upon written State approval. If the Project Sponsor converts land within the project boundary
 359 to use for other than outdoor park and recreation purposes or disposes of such land by sale or
 360 otherwise, applicant must provide replacement property within 24 months of either the conversion or
 361 the discovery of the conversion.

362

363 (2) If replacement property cannot be obtained within the 24 months, the Project Sponsor will provide
 364 payment of the grant program's prorated share of the current fair market value to OPRD. The prorated
 365 share is that percentage of the original grant (plus any amendments) as compared to the original
 366 project cost(s). The replacement property must be equal to the current fair market value of the
 367 converted property, as determined by an appraisal. The recreation utility of the replacement property
 368 must also be equal to that of the lands converted or disposed.

369

370 (3) If conversion should occur through processes outside of the Project Sponsor's control such as
 371 condemnation or road placement or realignment, the Project Sponsor will be required to pass through
 372 to OPRD the prorated share of whatever consideration is provided to the Project Sponsor by the entity
 373 that caused the conversion. The monetary value of whatever consideration provided by the taking
 374 entity will normally consist of the fair market value of the property established by an appraisal.

375
 376 (4) Project Sponsors that have not addressed or submitted documentation to the Department or
 377 National Park Service (NPS) for review and approval of an active conversion through the Land and
 378 Water Conservation Fund Program or the Local Government Grant Program are not eligible to apply
 379 for Local Government Grant Program assistance.

380
 381 (5) Project Sponsors who have addressed a conversion at the local level and have submitted
 382 documentation to the Department and/or NPS for review and approval of the conversion through the
 383 Land and Water Conservation Fund Program or the Local Government Grant Program may apply for
 384 funding assistance.

385
 386 Stat. Auth.: ORS 390.180

387 Stats. Implemented: ORS 390.180

388 Hist.: PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

389
 390 **736-006-0145**

391
 392 **Local Government Grant Advisory Committee**

393
 394 (1) The Committee shall be composed of ten (10) members appointed by the Director to four-year
 395 terms and shall represent the following interests:

396
 397 (a) Counties east of the Cascade Mountains;

398
 399 (b) Counties west of the Cascade Mountains;

400
 401 (c) Cities under 15,000 people;

402
 403 (d) Cities over 15,000 people;

404
 405 (e) Park and Recreation Districts, Metropolitan Service Districts or Port Districts;

406
 407 (f) Oregon Parks and Recreation Department;

408
 409 (g) People with Disabilities; and

410
 411 (h) Three members of the public at large, with at least one member who represents the ethnic
 412 diversity of the state's population;

413
 414 (i) The chair shall be appointed by the Director from the Committee membership, considering the
 415 recommendations of the Committee.

416
 417 (2) Committee members shall be selected for each position by:

418
 419 (a) County representation shall be from lists supplied by the Oregon Parks Association and the
 420 Association of Oregon Counties;

421

- 422 (b) City representation shall be from lists supplied by the Oregon Recreation and Park Association
 423 and the League of Oregon Cities;
 424
- 425 (c) Park and Recreation Districts, Port Districts, or Metropolitan Service Districts representation shall
 426 be from a list supplied by the Special Districts Association of Oregon;
 427
- 428 (d) Representatives for Public at Large, People with Disabilities, and the Department shall be selected
 429 by the Director.
 430
- 431 (3) The travel, meals and lodging expenses of all members of the Committee will be reimbursed by
 432 the Department according to the rates established by the Department of Administrative Services and
 433 approved by the Director.
 434
- 435 (4) Function of Local Government Grant Advisory Committee:
 436
- 437 (a) The Committee shall meet upon the call of the Director. The Committee will establish a priority
 438 order of eligible local government projects for state funding assistance and provide other assistance as
 439 requested by the Department. The meeting will assure full and open project selection processes that
 440 will include an outreach to ~~all~~ citizens of the state.
 441
- 442 (b) The Department will provide public notice of all projects to be presented to the Committee at least
 443 30 days prior to their meeting.
 444
- 445 (5) Priority Selection Criteria. Large projects shall be prioritized by the Committee based on at least
 446 the following:
 447
- 448 (a) Department review and recommendations, including a technical review of each project to confirm
 449 eligibility of the local government and the proposed project.
 450
- 451 (b) The Committee shall score all applications using project selection criteria, including but not
 452 limited to the following:
 453
- 454 (A) Extent the project demonstrates user benefits, public interest and support;
 455
- 456 (B) Extent the project demonstrates conformance with local and state planning guidelines, the
 457 Statewide Comprehensive Outdoor Recreation Plan (SCORP) and local Park Master Plans; all
 458 projects must be identified in local comprehensive plans and current master plans;
 459
- 460 (C) Financial considerations, including cost/benefit ratio;
 461
- 462 (D) Environmental assessment as defined in the Local Government Grant Procedure Manual;
 463
- 464 (E) Extent the project increases outdoor recreation opportunity in the service area;
 465
- 466 (F) Extent the Project Sponsor employs the principles of sustainability in their project(s);
 467
- 468 (G) How well the project's design accommodates people with disabilities.
 469
- 470 (c) Small project requests will be scored and prioritized for funding by a committee appointed by the
 471 Director using the above criteria in subsection (b) of this section.
 472
- 473 Stat. Auth.: ORS 390.180
 474 Stats. Implemented: ORS 390.180

475 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0130, PRD 6-2004, f. & cert.
476 ef. 5-5-04

477

478 **736-006-0150**

479

480 **Emergency Procedure**

481

482 | (1) Under certain conditions such as, [but not limited to](#), reduction or increase of these funds, an
483 emergency procedure for awarding or canceling grants may be initiated at the discretion of the
484 Director.

485

486 (2) In implementing the emergency procedure, the Director shall consider the availability of funds;
487 the scope and need of projects available for funding; the urgency and statewide importance of
488 prospective projects; and the need to expend additional funds that may become available in a timely
489 manner. The Director may propose projects to the Commission for funding under this section and the
490 Commission may waive other requirements of this rule for the purpose of obligating funds in a timely
491 manner.

492

493 Stat. Auth.: ORS 390.180

494 Stats. Implemented: ORS 390.180

495 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0135, PRD 6-2004, f. & cert.
496 ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

PARKS AND RECREATION DEPARTMENT

DIVISION 6

**DISTRIBUTION OF STATE FUNDING ASSISTANCE TO UNITS
OF LOCAL GOVERNMENT FOR PUBLIC PARKS AND RECREATION**

736-006-0100

Purpose of Rule

This division establishes the procedures and standards used by the Oregon Parks and Recreation Department when distributing state monies to eligible local governments for outdoor park and recreation areas and facilities, acquisition of property for park purposes, trails, bicycle recreation opportunities, non-motorized water-based recreation, and the process for establishing the priority order in which projects shall be funded.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

736-006-0105

Statutory Authority and Procedure

ORS 390.180 requires the Director of the Oregon Parks and Recreation Department to adopt rules establishing procedures the Oregon Parks and Recreation Department shall use when the Department disburses money to local governments.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04

736-006-0110

Definitions

As used in this division, unless the context requires otherwise:

(1) "Acquisition" -- Means the gaining of property rights, including but not limited to fee title or easements, for public use.

(2) "Bicycle Recreation" -- Means the use of bicycles for enjoyment, social interaction, education, or physical well-being while on recreational trails or paths that are not along or adjacent to public roads or streets, and that are primarily recreational rather than transportation in nature.

(3) "Commission" -- Means the Oregon Parks and Recreation Commission.

(4) "Committee" -- Means the Local Government Grant Advisory Committee appointed by the Director to prioritize local government project applications.

- 53
54 (5) "Conversion" -- Means the act of utilizing property acquired or developed using either Local
55 Government Grant Program funds or Land and Water Conservation Funds for purposes other than
56 public outdoor recreation uses.
57
- 58 (6) "Current Master Plan" -- Means a site-specific resource-based plan guiding recreational site
59 acquisition, development, protection, and management of park areas and facilities.
60
- 61 (7) "Department" -- Means the Oregon Parks and Recreation Department (OPRD).
62
- 63 (8) "Development" -- Means the construction or rehabilitation of facilities necessary for the use and
64 enjoyment of public outdoor recreation resources.
65
- 66 (9) "Director" -- Means the Director of the Oregon Parks and Recreation Department.
67
- 68 (10) "Eligible Project" -- Means an acquisition, development, major rehabilitation undertaking, or
69 planning or feasibility studies which satisfies the requirements of the Local Government Grant
70 Program.
71
- 72 (11) "Force Account" -- Means the governmental entity's own work force performing project work
73 rather than contracting out for the services.
74
- 75 (12) "LWCF or Land and Water Conservation Fund" -- Means those funds made available to the state
76 through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).
77
- 78 (13) "Local Comprehensive Plan" -- Means the acknowledged comprehensive land use plan prepared
79 by each local jurisdiction within the state, as required by ORS chapter 197.
80
- 81 (14) "Local Governments" -- Means cities, municipal corporations, counties, political subdivisions,
82 park and recreation districts, port districts, and metropolitan service districts.
83
- 84 (15) "Local Government Grant Policies and Procedures Manual" -- Means a manual prepared by the
85 Department containing state and federal policies, procedures and instructions to assist local
86 government agencies wishing to participate in the Local Government Grant Program.
87
- 88 (16) "Local Government Grant Program" -- Means the program and process for distributing state
89 monies to eligible local governments for outdoor park and recreation areas and facilities located on
90 properties controlled or managed by the eligible local government.
91
- 92 (17) "Major Rehabilitation" -- Means the repair, restoration, or reconstruction of facilities, which is
93 necessitated by obsolescence, building code changes, or normal wear and tear not attributed to lack of
94 maintenance.
95
- 96 (18) "OPRD" -- Means the Oregon Parks and Recreation Department.
97
- 98 (19) "Outdoor Recreation" -- Means structured and unstructured leisure and fitness activities that
99 occur in open air and are not provided in a roofed and enclosed facility.
100
- 101 (20) "Project" -- Means the planning or feasibility study documents or the site and associated
102 improvements where acquisition, development, or major rehabilitation will occur.
103
- 104 (21) "Project Authorization" -- Means the State/Local Agreement that authorizes the project to begin
105 effective on or after the date signed by both the Director and Project Sponsor or their designee.

106

107 (22) "Project Sponsor" -- Means the recipient of the grant funds and the entity responsible for
 108 implementation of the project and the maintenance and operation of the site.

109

110 (23) "SCORP" -- Means the Statewide Comprehensive Outdoor Recreation Plan that is Oregon's basic
 111 five-year plan for outdoor recreation and that provides the state with an up-to-date regional
 112 information and planning tool serving as the basis by which all Oregon recreation providers (state,
 113 federal, local, and private) catalogue and rank their recreation needs, obtain funding through
 114 partnerships and grants, and affirm their respective roles.

115

116 (24) "State/Local Agreement" -- Means the signed agreement between the Department and Project
 117 Sponsor, which authorizes the project to begin on, or after the date signed by both the Director and
 118 the Project Sponsor and that describes the contractual relationship and responsibilities of the parties to
 119 the Project.

120

121 (25) "Sustainability" -- Means using, developing, protecting, and managing the resource in a manner
 122 that enables people to meet current and future generation needs from the multiple perspective of
 123 environmental, economic, and community objectives.

124

125 Stat. Auth.: ORS 390.180

126 Stats. Implemented: ORS 390.180

127 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 1-2008(Temp), f.
 128 2-15-08, cert. ef. 3-1-08 thru 8-1-08; PRD 5-2008, f. & cert. ef. 5-15-08

129

130 **736-006-0115**

131

132 **Apportionment of Monies between Small and Large Grants**

133

134 (1) Up to 15 percent of available funds shall be set aside for small grants. Small grants are projects
 135 with a maximum \$75,000 grant request.

136

137 (2) Other than for land acquisitions, the remainder of available funds shall be for large projects with a
 138 maximum \$750,000 grant request.

139

140 (3) A Project Sponsor may request grant funding for land acquisitions in an amount not to exceed
 141 \$1,000,000.

142

143 (4) In consultation with the Committee, the Commission and the Director may set the maximum at
 144 less than that above amounts based upon the availability of funds.

145

146 (5) Based on the quality and quantity of Eligible Projects, the Committee, with concurrence of the
 147 Director, may dedicate a portion of the funds for projects expected to be completed within 12 months
 148 of grant award.

149

150 Stat. Auth.: ORS 390.180

151 Stats. Implemented: ORS 390.180

152 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-
 153 08, cert. ef. 3-1-08

154

155 **736-006-0125**

156

157 **Application Procedure**

158

159 The purpose of this rule is to set forth requirements that must be met by local government applicants
160 in submitting an application for Local Government Grant Program funding assistance.

161

162 (1) Eligibility for Funding Assistance. Public agencies eligible for state funding assistance are:

163

164 (a) Cities, Municipal Corporations;

165

166 (b) Counties, Political Subdivisions;

167

168 (c) Park and Recreation Districts;

169

170 (d) Port Districts;

171

172 (e) Metropolitan Service Districts.

173

174 (2) Matching Requirements:

175

176 (a) Cities and districts with a population greater than 25,000 and counties with a population greater
177 than 50,000 must provide a match of at least 50 percent of total project costs.

178

179 (b) Cities and districts with a population between 5,000 and 25,000 and counties with a population
180 between 30,000 and 50,000 must provide a match of at least 40 percent of total project costs..

181

182 (c) Cities and districts with a population of less than 5,000 and counties with a population of less than
183 30,000 must provide a match of at least 20 percent of total project costs.

184

185 (d) If an applicant established that a situation of extreme economic hardship impacts a project, the
186 applicant may request that the Director authorize a reduced match down to a minimum of 20 percent
187 of total project costs. The Director has sole discretion to authorize a reduced match under this
188 subsection based on consideration of the applicant's request, the project, and the project's eligible
189 match; the availability of funds; the scope and need of projects available for funding; and the urgency
190 and statewide importance of prospective projects.

191

192 (e) The eligible match by the Project Sponsor may include local budgeted funds, local agency labor or
193 equipment, federal revenue sharing, other eligible grants, state and county inmate labor, donated
194 funds, the value of private donated property, equipment, materials, labor, the value of land acquired
195 within the past six year period, cost of appraisals, pre-development costs within the past two year
196 period or any combination thereof. Engineering and administration costs and costs incurred prior to
197 the State/Local Agreement cannot exceed 15 percent of the total project costs.

198

199 (3) Eligible Projects:

200

201 (a) Acquisition, development, major rehabilitation, planning, or feasibility study projects that are
202 consistent with the outdoor recreation goals and objectives contained in the SCORP, the recreation
203 elements of local comprehensive plans and local master plans or both. Projects may support
204 traditional outdoor recreation settings such as parks, or funds may be provided for: projects that
205 ensure natural and cultural resource protection while maintaining public access for recreation;
206 projects that protect public open space; bicycle recreation; non-motorized water recreation; trails for
207 non-motorized recreation; or emerging new outdoor recreation trends. Only outdoor park and
208 recreation areas and facilities are eligible.

209

210 (b) Water based outdoor recreation facilities such as short-term transient moorages and non-
211 motorized boat and watercraft projects, trails, support facilities for non-motorized water recreation,
212 and water access.

213
214 (4) Planning Requirements. Project Sponsors participating in the funding assistance program must
215 show that:

216
217 (a) There is a current master plan in effect and that the project is consistent with the local
218 comprehensive land use plan and SCORP,

219 (b) There is not a current master plan in effect, but the project is consistent with the local
220 comprehensive land use plan and SCORP, or

221
222 (c) The project request is for planning assistance.

223
224 (5) Application Form. All applications for funding assistance for outdoor park and recreation program
225 projects must be submitted on forms as prescribed and supplied by the Department. All applications
226 must be consistent with the Local Government Grant Policies and Procedures Manual and contain the
227 following information:

228
229 (a) Program narrative;

230
231 (b) Environmental assessment;

232
233 (c) Vicinity map;

234
235 (d) Project boundary map;

236
237 (e) Civil Rights compliance;

238
239 (f) Copy of property deed or lease or formal and binding control and tenure agreement showing
240 cooperation with the landowner to ensure long-term use, generally not less than 25 years, of facilities
241 for public recreation;

242
243 (g) Preliminary plans and specifications for construction projects;

244
245 (h) Estimate of development costs and project construction schedule;

246
247 (i) Copy of property Purchase Agreement (for acquisitions only);

248
249 (j) Local/County Planning Department Certification/Review;

250
251 (k) All required permits and certifications as identified in the Local Government Grant Policies and
252 Procedure Manual;

253
254 (l) Government-to-Government Inquiries (Tribal) -- Certification to the Department that the Project
255 Sponsor has communicated their grant proposal to the appropriate federally recognized tribe for the
256 review and determination of tribal interest or concern for those areas of known or suspected tribal
257 archeological resources.

258
259 (m) Other documentation that may be required by the Department.

260
261 (6) Project Award Procedure:

262

- 263 (a) Upon receipt of the application by the Department, the Grants Program staff shall perform a
264 technical review of all applications and forward eligible large grant applications to the Committee.
265 The Committee will meet to evaluate the applications and make recommendations to the Director for
266 Commission approval. The Commission may deny any or all recommendations of the Committee.
267
- 268 (b) Project Sponsors with large project grant requests may be expected to provide a presentation to
269 the Committee under a procedure established by the Department.
270
- 271 (c) Project Sponsors whose projects have been approved by the Commission and are scheduled for
272 funding assistance must submit to the Department the following project information:
273
- 274 (A) Certification by project sponsor of availability of local match;
275
- 276 (B) Preliminary plans and specifications (for construction projects);
277
- 278 (C) Appraisal for acquisition projects. Appraisals must conform to the Uniform Appraisal Standards
279 for Federal Land Acquisitions;
280
- 281 (D) Preliminary title report for acquisitions;
282
- 283 (E) Verification that the applicant has a Compliance Plan that meets the requirements of the
284 Americans with Disabilities Act of 1990 and its 2010 regulations.
285
- 286 (d) The Department will remove those project applications from the Commission approved list that
287 are unable to provide the required documentation required in subsection (c) of this section.
288
- 289 (e) In the event that the funding assistance available cannot fully fund the last priority project, a
290 Project Sponsor may be given the option of reducing the scope of the project. The Department, at its
291 discretion, may pass the available funds to another priority project or hold the remaining funds and
292 combine them with the next planned distribution of funds.
293
- 294 (f) Projects that do not receive funding assistance for the fiscal year submitted will be returned to the
295 applicant without prejudice.
296
- 297 (7) Project Agreement:
298
- 299 (a) A signed State/Local Agreement shall constitute project authorization. No grant funds may be
300 disbursed without a signed State/Local Agreement from the Department.
301
- 302 (b) The Project Sponsor shall have six months from the date of authorization to begin substantial
303 work (e.g. the award of contracts or completion of at least 25 percent of the work, if done by force
304 account). The Department may cancel a grant when the Project not conforming to this schedule,
305 unless the Project Sponsor provides substantial justification to warrant an extension.
306
- 307 (c) The Project Sponsor shall complete and bill all projects by the dates as specified in the State/Local
308 Agreement.
309
- 310 (d) The Department may inspect all projects.
311
- 312 (e) Partial payments up to 90 percent of the grant amount may be billed during the project for work
313 completed. Final payment will be made upon certification of project completion by the Project
314 Sponsor. Real property acquisitions may receive the full grant amount if the funds are to be dispersed
315 in escrow for the closing of a property acquisition.

316

317 (f) The Department may provide the Project sponsor partial payments of up to 25 percent of the grant
 318 amount after the Department issues the Notice to Proceed and in advance of work completed if a
 319 general contractor requires advanced funding prior to construction/development work or ordering
 320 materials/supplies.

321

322 (g) Project amendments that increase the Local Government Grant award amount will generally not
 323 be allowed.

324

325 (h) The Project Sponsor must submit requests for time extensions to complete work to the Department
 326 in writing and must be approved prior to the expiration of the approved project period as set forth in
 327 the State/Local Agreement.

328

329 (8) The Project Sponsor shall install and maintain throughout the life of the agreement appropriate
 330 signage for each project indicating the Oregon Parks and Recreation Department Grant Program's
 331 assistance and shall certify that signage is in place prior to requesting final payment.

332

333 Stat. Auth.: ORS 390.180

334 Stats. Implemented: ORS 390.180

335 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-
 336 08, cert. ef. 3-1-08

337

338 **736-006-0130** [Renumbered to **736-006-0145**]

339

340 **736-006-0135** [Renumbered to **736-006-0150**]

341

342 **736-006-0140**

343

344 **Conversion Requirements**

345

346 (1) Park and recreation areas and facilities must be dedicated for a minimum of 25 years for park and
 347 recreation purposes. Leases for federally owned property must be at least 25 years. If the current lease
 348 is within 5 years of termination, a letter of intent to renew the lease will be required from the federal
 349 agency. Project sponsors must insure that the land within the project boundary will be used only for
 350 park and recreational purposes, Project Sponsor controls or will control the land, and that the Project
 351 Sponsor will not change the use of, sell, or otherwise dispose of land within the project boundary,
 352 except upon written State approval. If the Project Sponsor converts land within the project boundary
 353 to use for other than outdoor park and recreation purposes or disposes of such land by sale or
 354 otherwise, applicant must provide replacement property within 24 months of either the conversion or
 355 the discovery of the conversion.

356

357 (2) If replacement property cannot be obtained within the 24 months, the Project Sponsor will provide
 358 payment of the grant program's prorated share of the current fair market value to OPRD. The prorated
 359 share is that percentage of the original grant (plus any amendments) as compared to the original
 360 project cost(s). The replacement property must be equal to the current fair market value of the
 361 converted property, as determined by an appraisal. The recreation utility of the replacement property
 362 must also be equal to that of the lands converted or disposed.

363

364 (3) If conversion should occur through processes outside of the Project Sponsor's control such as
 365 condemnation or road placement or realignment, the Project Sponsor will be required to pass through
 366 to OPRD the prorated share of whatever consideration is provided to the Project Sponsor by the entity
 367 that caused the conversion. The monetary value of whatever consideration provided by the taking
 368 entity will normally consist of the fair market value of the property established by an appraisal.

369
 370 (4) Project Sponsors that have not addressed or submitted documentation to the Department or
 371 National Park Service (NPS) for review and approval of an active conversion through the Land and
 372 Water Conservation Fund Program or the Local Government Grant Program are not eligible to apply
 373 for Local Government Grant Program assistance.

374
 375 (5) Project Sponsors who have addressed a conversion at the local level and have submitted
 376 documentation to the Department and/or NPS for review and approval of the conversion through the
 377 Land and Water Conservation Fund Program or the Local Government Grant Program may apply for
 378 funding assistance.

379
 380 Stat. Auth.: ORS 390.180
 381 Stats. Implemented: ORS 390.180
 382 Hist.: PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08

383
 384 **736-006-0145**

385
 386 **Local Government Grant Advisory Committee**

387
 388 (1) The Committee shall be composed of ten (10) members appointed by the Director to four-year
 389 terms and shall represent the following interests:

- 390
 391 (a) Counties east of the Cascade Mountains;
 392
 393 (b) Counties west of the Cascade Mountains;
 394
 395 (c) Cities under 15,000 people;
 396
 397 (d) Cities over 15,000 people;
 398
 399 (e) Park and Recreation Districts, Metropolitan Service Districts or Port Districts;
 400
 401 (f) Oregon Parks and Recreation Department;
 402
 403 (g) People with Disabilities; and
 404
 405 (h) Three members of the public at large, with at least one member who represents the ethnic
 406 diversity of the state's population;
 407
 408 (i) The chair shall be appointed by the Director from the Committee membership, considering the
 409 recommendations of the Committee.

- 410
 411 (2) Committee members shall be selected for each position by:
 412
 413 (a) County representation shall be from lists supplied by the Oregon Parks Association and the
 414 Association of Oregon Counties;
 415
 416 (b) City representation shall be from lists supplied by the Oregon Recreation and Park Association
 417 and the League of Oregon Cities;
 418
 419 (c) Park and Recreation Districts, Port Districts, or Metropolitan Service Districts representation shall
 420 be from a list supplied by the Special Districts Association of Oregon;
 421

422 (d) Representatives for Public at Large, People with Disabilities, and the Department shall be selected
423 by the Director.

424

425 (3) The travel, meals and lodging expenses of all members of the Committee will be reimbursed by
426 the Department according to the rates established by the Department of Administrative Services and
427 approved by the Director.

428

429 (4) Function of Local Government Grant Advisory Committee:

430

431 (a) The Committee shall meet upon the call of the Director. The Committee will establish a priority
432 order of eligible local government projects for state funding assistance and provide other assistance as
433 requested by the Department. The meeting will assure full and open project selection processes that
434 will include an outreach to citizens of the state.

435

436 (b) The Department will provide public notice of all projects to be presented to the Committee at least
437 30 days prior to their meeting.

438

439 (5) Priority Selection Criteria. Large projects shall be prioritized by the Committee based on at least
440 the following:

441

442 (a) Department review and recommendations, including a technical review of each project to confirm
443 eligibility of the local government and the proposed project.

444

445 (b) The Committee shall score all applications using project selection criteria, including but not
446 limited to the following:

447

448 (A) Extent the project demonstrates user benefits, public interest and support;

449

450 (B) Extent the project demonstrates conformance with local and state planning guidelines, the
451 Statewide Comprehensive Outdoor Recreation Plan (SCORP) and local Park Master Plans; all
452 projects must be identified in local comprehensive plans and current master plans;

453

454 (C) Financial considerations, including cost/benefit ratio;

455

456 (D) Environmental assessment as defined in the Local Government Grant Procedure Manual;

457

458 (E) Extent the project increases outdoor recreation opportunity in the service area;

459

460 (F) Extent the Project Sponsor employs the principles of sustainability in their project(s);

461

462 (G) How well the project's design accommodates people with disabilities.

463

464 (c) Small project requests will be scored and prioritized for funding by a committee appointed by the
465 Director using the above criteria in subsection (b) of this section.

466

467 Stat. Auth.: ORS 390.180

468 Stats. Implemented: ORS 390.180

469 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0130, PRD 6-2004, f. & cert.
470 ef. 5-5-04

471

472 **736-006-0150**

473

474 **Emergency Procedure**

475

476 (1) Under certain conditions such as, but not limited to, reduction or increase of these funds, an
477 emergency procedure for awarding or canceling grants may be initiated at the discretion of the
478 Director.

479

480 (2) In implementing the emergency procedure, the Director shall consider the availability of funds;
481 the scope and need of projects available for funding; the urgency and statewide importance of
482 prospective projects; and the need to expend additional funds that may become available in a timely
483 manner. The Director may propose projects to the Commission for funding under this section and the
484 Commission may waive other requirements of this rule for the purpose of obligating funds in a timely
485 manner.

486

487 Stat. Auth.: ORS 390.180

488 Stats. Implemented: ORS 390.180

489 Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0135, PRD 6-2004, f. & cert.
490 ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08



Vanessa DeMoe
Rules Coordinator, OPRD
725 Summer St. NE, Suite C
Salem, OR 97301

Re: Local Government Grant Program Rule Changes

Ms. DeMoe,

Please accept this correspondence as a formal written response to the Notice of Proposed Rule Making for the Local Government Grant Program (LGGP), administered under OAR 736-006. The Oregon Parks Association (OPA) appreciates the opportunity to comment on the proposed rule changes and is grateful for the invitation to serve on the Rules Advisory Committee. OPA represents recreation providers throughout the state of Oregon, with the majority of our membership comprised of local County park and recreation departments. Our members have a long and treasured history of partnering with OPRD, cities, and special districts to advocate for parks and open space, providing a high quality park and recreation system across the state, meeting the varied recreational needs of our communities.

As you are aware, Ballot Measure 76 was passed in 2010 by the intent of voters, with a primary focus on preserving, protecting, and restoring parks and natural areas, which Oregonians have repeatedly proven are a valuable resource. While the majority of the lottery funds apportioned through BM 76 are used to fund OPRD facilities, a significant amount of dollars have been set aside for the LGGP, as voters expressed a clear need to develop and maintain local parks for a “close to home” recreation experience. This has been an important source of funding to some local park providers, but in OPA’s opinion the program has not met the voter’s intent, resulting in a minimal benefit to county park programs. Since the inception of the program, \$52,369,742 of funds has been allocated, with \$5,209,642 going to county parks projects. Approximately \$2,000,000 of the county portion was a direct allocation to a special project in Jackson County. As such, roughly \$3,200,000 has been awarded to counties through the competitive grant process (6.3%). This is a disparity that we feel should be addressed in the current OAR revision.

The inequity of grant allocations was discussed at the Rules Advisory Committee meeting, convened by OPRD to address stakeholder concerns. As budgets tighten across the state in response to our current economic challenges, county parks programs are forced to focus on operations, lacking funds to reinvest in capital assets. Subsequently, many county programs are facing an extremely large backlog of maintenance, much like OPRD was facing when voters originally passed Ballot Measure

66 in 1998 to address the issue. While the LGGP is available as a resource to assist in deferred maintenance, many county parks programs are currently unable to produce the required match. OPA realizes that adjusting match rates is a difficult task, as many providers use the LGGP as a resource and are not facing the same challenges as county parks programs. However, we do not believe that the proposed language goes far enough, as it places an unreasonable burden on the OPRD Director subjecting him to scrutiny from grant applicants and elected officials questioning the criteria used to reduce match due to “extreme economic hardship.” For this reason, we are suggesting an alternative approach.

The recent economic crisis has forced government to reinvent how we deliver our service in an attempt to maintain an adequate level of service to the public. Regional planning has been successful in many disciplines including transportation and economic revitalization. The success exhibited by departments such as ODOT and the Governor’s Economic Revitalization Team has produced models that can and should be applied to parks and recreation across the state. Far too often recreation providers are planning projects and building facilities to meet the needs of their constituents without developing a regional recreation plan. While plans exist at the state and local levels, rarely do they exist at the regional level. This coordination and planning is needed now more than ever, as resources are limited and many of us find ourselves duplicating the services others may provide. Regional planning is key to developing a statewide network of recreation facilities and programs that maximize the benefit to Oregonians, as they ultimately are the ones who entrusted OPRD with the task to manage lottery fund for state parks, regardless of the provider.

The Oregon Department of Transportation (ODOT) has been extremely successful in working with local communities and planning groups on transportation related projects. Much of this coordination is done at the regional level, focusing on community needs, stakeholder involvement, and local input to meet the needs identified by the Oregon Transportation Commission (OTC) in the Statewide Transportation Improvement Plan (STIP). Several models have been developed for this cooperation, but two of the most successful involve the formation of Area Commissions on Transportation (ACT) and the Connect Oregon program. Both programs encourage local input and planning through a regional allocation model in which local advisory committees score, review, and recommend funding of transportation projects to the OTC. Connect Oregon mandates a minimum level of funding to a region, per a fixed allocation method, leaving the remaining portion of funds to be used for statewide competitive projects. This methodology encourages local planning and support for regional projects, but leaves those applicants seeking larger grant awards the opportunity to compete at a statewide level.

The Governor’s Economic Revitalization Team has embraced regional planning as well, with the creation of Regional Solutions Teams. These teams provide a collaborative approach to community development, incorporating a bottom-up approach to project development. Team members work at the local level to identify issues, priorities, create solutions and capitalize on opportunities to complete projects.

The above described are only a few programs in which regional planning has proven to be successful. OPA would like to see OPRD investigate the feasibility of a regional allocation method for the LGGP prior to rule adoption. We believe that an allocation model could be developed that gives regions, through an advisory committee, the flexibility to adapt to unique regional economic conditions through a small/medium grant application process, while leaving a set amount available for a statewide competitive large grant process. A program of this nature would encourage regional park

planning, distribute LGGP funds across the state, and result in the communication and prioritization of park projects at the regional level, something that is currently not occurring.

OPA encourages OPRD to facilitate a further discussion on the proposed OAR revisions prior to rule adoption in an effort to ensure all Oregonians are receiving the maximum benefit from the LGGP. OPA has long valued its partnership with OPRD and appreciates the opportunity to participate in statewide park and recreation issues.

Sincerely,

Brian Carroll
OPA President

Steve Lambert
OPA Legislative Chair



Oregon

John Kitzhaber, Governor

Oregon Parks & Recreation Department

Grants Division
725 Summer Street NE, Suite C
Salem, OR 97301-1266
FAX: (503) 986-0793
General Info: 503-986-0707

March 5, 2012

Brian Carroll
OPA President

Steve Lambert
OPA Legislative Chair

Re: Local Government Grant Program (LGGP) Rule Changes

Thank you for your letter describing your concerns about the proposed administrative rule changes. In it, you requested that OPRD provide further discussions on the proposed revisions to ensure maximum benefits from the grant program prior to submitting the rule for adoption by the Oregon Parks and Recreation Commission.

The biggest concern you raised was the perception that counties had received an inequitable amount of funds from the LGGP over the years and that this disparity could be changed through revisions to the rules. You described the difficulties faced by counties as budgets have tightened and many counties are unable to produce the required match to obtain grants. You also recommended a possible regional model approach in order to find equity for counties in grant fund distributions.

I appreciate the thought put into your suggestion and empathize with the difficulties facing operation of park systems by counties and other jurisdictions in our state. The current economic conditions have been difficult for many park providers, their programs, and for the citizens who benefit from them.

As currently administered, the LGGP awards grants to eligible projects based on the merit of each project in comparison to other projects under consideration in each grant cycle. Projects are designed by the eligible entity and funds are requested based on what the applicant determines is the financial need. Projects compete against each other for available funds rather than jurisdictions competing against similar jurisdictions for available funds. This method ensures that all projects regardless of jurisdiction are equally competitive. To apportion available funds by type of jurisdiction or park system would be a major departure from current and past administration of the LGGP.

Looking at the historical data, the LGGP has funded approximately 57% of all the grant requests received. Of the 36 Oregon counties, 29 have applied for grants and 53.4% of their requests have been funded. This includes the \$1.5 million awarded directly to Jackson County for the Bear Creek Greenway. Rarely has funding been denied because a project does not have merit. Most projects that did not receive funding were the result of our program not having enough funds to meet the needs of all applicants. Further refinement of project details has often led to approval in later rounds of competition. In fact, of the projects submitted by counties that were not successful, 7 were funded in later grant rounds and 2 totaling \$4.45 million did receive funding through the ATV Grant Program.

With regard to your comments on match requirements, I understand the financial difficulties that Oregon's counties are facing. However, I don't know that those difficulties are any greater or less than those facing other jurisdictions eligible for grants under the LGGP. The current match criteria are rather liberal. While cash match is acceptable, the requirement may be met through force accounting, volunteers, donations, and value of real property as examples. The amount of match required has been tiered to advantage smaller jurisdictions who have less assets to draw upon to meet the requirement.

Your suggestion of creating a more comprehensive approach to recreation planning on a regional basis is worthy of discussion. To some extent, the recreation needs of the state are compiled in the Statewide Comprehensive Outdoor Recreation Plan (SCORP) in 11 regional tourism areas. Project applicants must demonstrate a connection to these needs in their grant applications. The SCORP is currently being revised; the next edition will provide a county-by-county inventory that will provide a clearer picture of needs at the county level than in the past. This could provide an opportunity for regional recreation providers to collaborate in a way that could reduce redundancy and competition for projects. Perhaps the annual conference of the Oregon Recreation and Parks Association (ORPA) could provide a forum for discussion of this concept with leaders from other jurisdictions and communities from across the state.

I believe the LGGP as generally designed and administered has been balanced and fair in its evaluation criteria and its awards. While the suggestions you have offered are worthy of further discussion, I cannot recommend that we suspend adoption of the proposed changes to the rule until these suggestions are aired with other affected parties.

Sincerely,

Tim Wood
Director

C: Wayne Rawlins, Grants Division, OPRD
Roger Roper, Assistant Director, OPRD
LGGP Rulemaking Advisory Committee
Ivan Anderholm, Assistant Director, Lake Oswego Parks and Recreation
Ryan Green, Government Relations Director, Oregon Paralyzed Veterans of America
Ann Hanus, Policy Manager, Association of Oregon Counties

Don Horton, Director, Bend Metro Parks and Recreation District
Bob Keefer, Superintendent, Willamalane Park and Recreation District
Burke O'Brien, Public Works Director, Morrow County
Brian Sjothun, Director, Medford Parks and Recreation Department
Lori Stirn, Director, Hood River Valley Park & Recreation District
Will Tucker, Commissioner, Linn County
Executive Director, ORPA
Rod Wojtanik, Project Manager, Oregon Metro

Summary of Testimony Received

OAR 736-006

January 10, 2012 – Salem – Rulemaking Advisory Committee Meeting

January 17, 2012 – Salem – Public Hearings

January 18, 2012 – Bend – Public Hearings

January 19, 2012 – Medford – Public Hearings

	Person or Entity	Representing	Format	Summary of Comment(s)
1	Gene Ditter, Mayor	City of Sublimity	Public Hearing	No comments
2	Van Schoenburg, Parks & Water	City of Sublimity	Public Hearing	No comments
3	Tom Watson	Medford	Public Hearing	No comments
4	Brian Carroll and Steve Lambert	Oregon Parks Association	Rulemaking Advisory Committee Letter to Director	Recommended to not adopt rules as proposed; recommended a regional approach.

2012 Local Government Grant Program Administrative Rule Advisory Committee

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Steve Lambert, Program Manager
Jackson County Parks
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Central Point, OR 97502

Burke O'Brien, Public Works Director
Morrow County
PO Box 428
Lexington, Oregon 97839

Oregon Parks and Recreation Commission

April 4, 2012

Agenda Item: 11b Action

Topic: Request to Adopt Rules for OAR Chapter 736-017: Veterans and War Memorial Grant Program

Presented by: Wayne Rawlins

Background:

The 76th Legislative Assembly in 2011 passed Senate Bill 342 relating to new provisions and amendments governing the use of the Parks and Natural resources fund moneys.

In relation to the Veterans and War Memorial Grant Program, the administrative rules need to be updated to reflect those changes. In particular, the statute only changed who may apply for grant funds. Previously, just veterans' non-profit organization could apply for grant funds for construction or restoration of veteran or war memorial projects located on government-owned properties.

Now to be an eligible applicant, one must be a local or regional governmental entity and they must demonstrate a cooperative effort with a non-profit veterans' organization. There are no other administrative rule changes being considered.

Since the rule change is non-discretionary and not open to interpretation, staff did not convene a Rulemaking Advisory Committee as is our normal process, but did solicit public input. None were received.

Action Requested: Staff request Commission approval to adopt OAR 736-017 regarding the Veterans' and War Memorial Grant Program as shown in Attachment C.

Attachments: A - Senate Bill 342
B - Draft of proposed rule amendments
C - Administrative Rules as if adopted

Prior Action by Commission: Previous approval to go to rulemaking.

Prepared by: Wayne Rawlins

76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

Enrolled

Senate Bill 342

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

CHAPTER

AN ACT

Relating to the use of Parks and Natural Resources Fund moneys; creating new provisions; amending ORS 390.134, 390.180, 541.351, 541.360, 541.370, 541.371, 541.373, 541.375, 541.376, 541.377, 541.379, 541.392, 541.397, 541.401 and 805.256; repealing ORS 541.378, 541.379, 541.397 and 541.399 and section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242); appropriating money; and declaring an emergency.

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

PARKS AND NATURAL RESOURCES FUND

SECTION 1. ORS 541.377 is amended to read:

541.377. (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] native 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)] (2) The Legislative Assembly [shall] may 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.

PARKS SUBACCOUNT

SECTION 2. Section 3 of this 2011 Act is added to and made a part of ORS chapter 390.

SECTION 3. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Parks Subaccount. 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 Parks Subaccount and earnings from investment of the moneys in the subaccount shall be credited to the subaccount.

(2) Moneys deposited from the Oregon State Lottery to the Parks Subaccount may be used only for:

(a) Maintaining, constructing, improving, developing, managing and operating state parks, ocean shores, public beach access areas, historic sites, natural areas and outdoor and recreation areas;

(b) Acquiring real property, or interests in real property, that has significant natural, scenic, cultural, historic or recreational value for the creation or operation of state parks, ocean shores, public beach access areas, outdoor recreation areas and historic sites; and

(c) Providing grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas.

(3) All moneys in the Parks Subaccount shall be transferred to the State Parks and Recreation Department Fund and used to carry out the purposes described in subsection (2) of this section by achieving each of the following:

(a) Providing additional public parks, natural areas or outdoor recreation areas to meet the needs of current and future residents of this state.

(b) Protecting natural, cultural, historic and outdoor recreational resources of statewide or regional significance.

(c) Managing public parks, natural areas and outdoor recreation areas to ensure the long-term ecological health of those parks and areas and to provide for the enjoyment of those parks and areas by current and future residents of this state.

(d) Providing diverse and equitable opportunities for residents of this state to experience nature and to participate in outdoor recreational activities in state, regional, local or neighborhood public parks and recreation areas.

STATE PARKS AND RECREATION DEPARTMENT FUND

SECTION 4. ORS 390.134 is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty-five percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to

acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(8)] (11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. **Notwithstanding ORS 192.230 to 192.250**, the director shall make the report in a form and manner as the committee may prescribe.

(12) **On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount.**

Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 5. ORS 390.134, as amended by section 2, chapter 792, Oregon Laws 2007, and section 47, chapter 11, Oregon Laws 2009, is amended to read:

390.134. (1) As used in this section:

(a) "Camper" has the meaning given that term in ORS 801.180.

(b) "County" includes a metropolitan service district organized under ORS chapter 268, but only to the extent that the district has acquired, through title transfer, and is operating a park or recreation site of a county pursuant to an intergovernmental agreement.

(c) "Motor home" has the meaning given that term in ORS 801.350.

(d) "Travel trailer" has the meaning given that term in ORS 801.565.

(2) The State Parks and Recreation Department Fund is established separate and distinct from the General Fund. Moneys in the fund are continuously appropriated to the State Parks and Recreation Department for the purposes provided by law. The fund shall consist of the following:

(a) All moneys placed in the fund as provided by law. Any interest or other income derived from the depositing or other investing of the fund must be credited to the fund.

(b) All registration fees received by the Department of Transportation for campers, motor homes and travel trailers that are transferred to the fund under ORS 366.512. The funds must be deposited in a separate subaccount established under subsection (3) of this section.

(c) Revenue from fees and charges pursuant to ORS 390.124.

(3) Any moneys placed in the fund for a particular purpose may be placed in a separate subaccount within the fund. Each separate subaccount established under this subsection must be separately accounted for. Moneys placed in a subaccount must be used for the purposes for which they are deposited.

(4) All of the moneys in the fund except those moneys described in subsection (3), (5), (6), [or] (7), **(8) or (9)** of this section must be deposited in a separate subaccount within the fund and used by the State Parks and Recreation Department for the acquisition, development, maintenance, care and use of park and recreation sites and for the maintenance and operation of the Oregon State Fair. The moneys in the subaccount under this subsection must be accounted for separately and stated separately in the State Parks and Recreation Department's biennial budget.

(5)(a) Thirty percent of the amount transferred to the State Parks and Recreation Department under ORS 366.512 from the registration of travel trailers, campers and motor homes and under ORS 803.601 from

recreational vehicle trip permits must be deposited in a separate subaccount within the fund to be distributed for the acquisition, development, maintenance, care and use of county park and recreation sites. The moneys in the subaccount under this paragraph must be accounted for separately. The following apply to the distribution of moneys under this paragraph:

(A) The moneys must be distributed among the several counties for the purposes described in this paragraph. The distribution shall be made at times determined by the State Parks and Recreation Department but must be made not less than once a year.

(B) The sums designated under this paragraph must be remitted to the county treasurers of the several counties by warrant.

(b) The department shall establish an advisory committee to advise the department in the performance of its duties under this subsection. The composition of the advisory committee under this subsection is as determined by the department by rule. In determining the composition of the advisory committee, the department shall attempt to provide reasonable representation for county officials or employees with responsibilities relating to county parks and recreation sites.

(c) The department, by rule, shall establish a program to provide moneys to counties for the acquisition, development, maintenance, care and use of county park and recreation sites. The rules under this paragraph shall provide for distribution of moneys based on use and need and, as the department determines necessary, on the need for the development and maintenance of facilities to provide camping sites for campers, motor homes and travel trailers.

(6) The department shall create a separate City and County Subaccount within the fund to be used to reimburse cities and counties as provided in ORS 390.290.

(7) The department shall create a separate rural Fire Protection District Subaccount to be used to provide funds for the fire protection districts as provided in ORS 390.290.

(8) Twelve percent of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount shall be used only to carry out the purposes and achievements described in section 3 (2) and (3) of this 2011 Act through the awarding of grants to regional or local government entities to acquire property for public parks, natural areas or outdoor recreation areas or to develop or improve public parks, natural areas or outdoor recreation areas. Moneys described in this subsection may not be used to pay the cost of administering grants or the cost of any Secretary of State audit required under section 4c, Article XV of the Oregon Constitution.

(9) If the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the State Treasurer shall, during the next following biennium, deposit for use as described in subsection (8) of this section the amount required under subsection (8) of this section plus an amount equal to the difference between the amount deposited for use as described in subsection (8) of this section during the preceding biennium and 25 percent of the moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount during the preceding biennium.

(10) Subsections (8) and (9) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount to be used for the purposes described in subsection (8) of this section. The Legislative Assembly may not authorize the percentage of the amount transferred to the State Parks and Recreation Department Fund from the Parks Subaccount that is deposited for use as described in subsection (8) of this section in a biennium to be less than the percentage required to be deposited under subsections (8) and (9) of this section.

[(8)] (11) On or before January 15 of each odd-numbered year, the State Parks and Recreation Director shall report to the Joint Committee on Ways and Means created by ORS 171.555 on the use of moneys deposited pursuant to ORS 805.256 in the fund. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

(12) On or before January 15 of each odd-numbered year, the director shall submit a report to the Joint Committee on Ways and Means created by ORS 171.555 that describes the measurable biennial and cumulative results of activities and programs financed by moneys transferred to the State Parks and Recreation Department Fund from the Parks Subaccount. Notwithstanding ORS 192.230 to 192.250, the director shall make the report in a form and manner as the committee may prescribe.

SECTION 6. ORS 390.180 is amended to read:

390.180. (1) The State Parks and Recreation Director shall adopt rules that:

(a) Establish the standards the State Parks and Recreation Department shall use when that department:

- (A) Performs comprehensive statewide recreational planning; or
 - (B) Disburses any moneys to **regional or** local governments or other state agencies under programs established under state or federal law.
 - (b) Establish a process for the development of a master plan for each state park, including public participation and coordination with affected local governments.
 - (c) Establish a master plan for each state park, including an assessment of resources and a determination of the capacity for public use and enjoyment of each park, that the State Parks and Recreation Department shall follow in its development and use of each park.
 - (d) Make state funding assistance available to **regional or local governments that demonstrate cooperation with nonprofit veterans' organizations for the construction and restoration of memorials honoring veterans and war memorials located on public property.**
- (2) The State Parks and Recreation Director shall submit an adopted state park master plan to the local government with land use planning responsibility for the subject park.

NATURAL RESOURCES DEFINITIONS

SECTION 7. ORS 541.351 is amended to read:

541.351. 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)] (4) "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)] (5) "Native" means indigenous to Oregon and not introduced.
- (6) "**Oregon Conservation Strategy**" means the comprehensive wildlife conservation strategy for this state adopted by the State Fish and Wildlife Commission.
- (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*] **native fish or wildlife** 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 streamflow 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.

NATURAL RESOURCES SUBACCOUNT

SECTION 8. Sections 9 and 10 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

SECTION 9. (1) Of the moneys deposited into the Parks and Natural Resources Fund created under ORS 541.377 from the Oregon State Lottery, 50 percent shall be deposited into a Natural Resources Subaccount for the public purpose of financing the restoration and protection of native fish and wildlife, watersheds and water quality in Oregon. The State Treasurer may invest and reinvest the moneys in the Natural Resources Subaccount as provided in ORS 293.701 to 293.820.

(2) Moneys in the Natural Resources Subaccount shall be used to accomplish each of the following:

(a) Protecting and improving water quality in the rivers, lakes and streams of this state by restoring natural watershed functions or stream flows;

(b) Securing long-term protection for lands and waters that provide significant habitats for native fish and wildlife;

(c) Restoring and maintaining habitat needed to sustain healthy and resilient populations of native fish and wildlife;

(d) Maintaining the diversity of plants, animals and ecosystems in this state;

(e) Involving people in voluntary actions to protect, restore and maintain the ecological health of lands and waters in this state; and

(f) Remedying the conditions that limit the health of fish and wildlife, fish and wildlife habitats and watershed functions that are in the greatest need of conservation.

(3) Except as provided in subsections (4) and (5) of this section, of the moneys deposited into the Natural Resources Subaccount from the Oregon State Lottery:

(a) Sixty-five percent of the moneys shall be deposited into the Watershed Conservation Grant Fund established under section 12 of this 2011 Act to be used by the Oregon Watershed Enhancement Board for the purposes set forth in section 13 of this 2011 Act; and

(b) Thirty-five percent of the moneys shall be deposited into the Watershed Conservation Operating Fund established under section 16 of this 2011 Act.

(4) If the amount transferred from the Oregon State Lottery to the Parks and Natural Resources Fund during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, except as provided in subsection (5) of this section, the State Treasurer shall, during the next following biennium, deposit from the Natural Resources Subaccount to the Watershed Conservation Grant Fund the amount described in subsection (3)(a) of this section plus an amount equal to the difference between the amount deposited from the subaccount to the Watershed Conservation Grant Fund during the preceding biennium and 70 percent of the moneys received by the subaccount from the Oregon State Lottery during the preceding biennium.

(5) The requirements in subsections (3) and (4) of this section apply only for biennia in which the Legislative Assembly does not require a greater percentage of the Natural Resources Subaccount moneys to be deposited into the Watershed Conservation Grant Fund. The Legislative Assembly may not authorize the percentage of Natural Resources Subaccount moneys deposited into the Watershed Conservation Grant Fund in a biennium to be less than the percentage required to be deposited under subsections (3) and (4) of this section.

SECTION 10. Each state agency that receives moneys from the Natural Resources Sub-account created under section 9 of this 2011 Act shall submit a report to the Legislative Assembly each biennium regarding the use of the moneys by the agency. The report shall include, but need not be limited to, a description of the measurable biennial and cumulative results of the activities and programs for which the agency expended the moneys. Reports required by this section are in addition to any audit report supplied by the Secretary of State under ORS chapter 297.

WATERSHED CONSERVATION GRANT FUND

SECTION 11. Sections 12 and 13 of this 2011 Act are added to and made a part of ORS 541.351 to 541.415.

SECTION 12. (1) The Watershed Conservation Grant Fund is established separate and distinct from the General Fund. The Watershed Conservation Grant Fund shall consist of all moneys placed in the fund as provided by law. All moneys in the Watershed Conservation Grant Fund are continuously appropriated to the Oregon Watershed Enhancement Board for grants to fund projects described in ORS 541.401 that use grant moneys as provided under section 13 of this 2011 Act. Interest accruing to the Watershed Conservation Grant Fund shall be credited to the fund. Watershed Conservation Grant Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Grant Fund.

(2) The board also may accept gifts and grants from any public or private source for the purpose of providing the grants described in this section.

SECTION 13. The purpose of the Watershed Conservation Grant Fund is to provide funding for grants to achieve the purposes and uses described in section 9 of this 2011 Act and to implement the mission of the Oregon Plan, including but not limited to grants to further the Oregon Conservation Strategy and the watershed health and native fish recovery programs of this state. Moneys appropriated to the fund shall be used only for the following activities:

(1) Acquiring from willing owners interests in land or water that will protect or restore native fish or wildlife habitats. The interests may include, but need not be limited to, fee interests, conservation easements or leases.

(2) Projects to protect or restore native fish habitat or wildlife habitat.

(3) Projects to protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows.

(4) Resource assessment, planning, design and engineering, technical assistance, monitoring and outreach activities necessary for carrying out subsections (1) to (3) of this section.

SECTION 14. ORS 541.401 is amended to read:

541.401. The Oregon Watershed Enhancement Board may award funds from the Watershed *[Improvement]* Conservation Grant Fund only for *[the purposes listed in ORS 541.399]* activities described in section 13 of this 2011 Act. 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 established in accordance with ORS 541.370 *[(3)]*; and

(3) The project provides a public benefit *[through]* by supporting improved:

(a) Water quality;

(b) Native fish or wildlife habitat; or Enrolled Senate Bill 342 (SB 342-C) Page 9

(c) *[Public information or education on a]* Watershed or ecosystem function.

SECTION 15. ORS 541.399 is repealed.

WATERSHED CONSERVATION OPERATING FUND

SECTION 16. (1) The Watershed Conservation Operating Fund is established in the State Treasury separate and distinct from the General Fund. The Watershed Conservation Operating Fund shall consist of all moneys placed in the fund as provided by law. The purpose of the fund is to carry out activities that support all of the purposes described in section 9 of this 2011 Act. Moneys in the Watershed Conservation Operating Fund shall be used for each of the following:

(a) To develop, implement or update state conservation strategies or plans to protect or restore native fish or wildlife habitats or to protect or restore natural watershed or ecosystem functions to improve water quality or stream flows;

(b) To develop, implement or update regional or local strategies or plans that are consistent with state strategies or plans described in paragraph (a) of this subsection;

(c) To develop, implement or update state strategies or plans to prevent, detect, control or eradicate invasive species that threaten native fish or wildlife habitats or that impair water quality;

(d) To support local delivery, including but not limited to delivery by watershed councils, soil and water conservation districts and other community-based organizations, of watershed education activities and other programs or projects that protect or restore native fish or wildlife habitats, watersheds or ecosystems;

(e) To pay the Oregon Watershed Enhancement Board costs of administering the Watershed Conservation Grant Fund;

(f) To enforce fish and wildlife laws and regulations and fish and wildlife habitat protection laws and regulations; and

(g) To reimburse the Secretary of State as described in ORS 297.230 for the costs of audits performed by the Secretary of State under section 4c, Article XV of the Oregon Constitution.

(2) Interest accruing to the Watershed Conservation Operating Fund shall be credited to the fund. Watershed Conservation Operating Fund moneys appropriated and not expended by the completion of a biennium shall remain in the Watershed Conservation Operating Fund.

(3) Any public or private source may make gifts or grants to the Watershed Conservation Operating Fund.

SECTION 17. ORS 541.373 is amended to read:

541.373. (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, **and the Oregon Conservation Strategy.**

(2) **If requested by the source, the Governor shall deposit moneys received under this section into the Watershed Conservation Grant Fund for use as provided under section 13 of this 2011 Act.** The Governor shall deposit **all other** moneys received under this section in the State Treasury to the credit of the Watershed [Improvement] Conservation Operating Fund established under *[ORS 541.379 to be used for the purposes specified in ORS 541.379 (1)(b)]* **section 16 of this 2011 Act.**

SECTION 18. ORS 541.371 is amended to read:

541.371. (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 other partners** and to support the efforts of watershed councils, *[and]* soil and water conservation districts **and other partners** 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, **the Oregon Conservation Strategy, the watershed health and native fish recovery programs of this state** 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:]* **any other expenditures consistent with section 16 of this 2011 Act, moneys in the Watershed Conservation Operating Fund may be expended in the form of grants or allocations:**

(a) *[May allocate funds to be used for staff for]* To soil and water conservation districts and watershed councils^[.] **for costs of employing staff to further the development and implementation of activities, projects and programs for the purposes described in section 16 of this 2011 Act; or**

(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.

SECTION 19. ORS 805.256 is amended to read:

805.256. (1) After deduction of the cost of administration of the salmon registration plate program, moneys from the surcharge imposed by ORS 805.255 shall be transferred and appropriated as follows:

(a) Half of the moneys shall be transferred to the *[Oregon Watershed Enhancement Board established under ORS 541.360 and are continuously appropriated to the board]* **Watershed Conservation Operating Fund** for activities under *[ORS 541.379]* **section 16 of this 2011 Act** 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]* **watersheds, native fish and wildlife and water quality; and**

(b) Half of the moneys shall be transferred to the State Parks and Recreation Department Fund established under ORS 390.134 and continuously appropriated for the purposes described in ORS 390.134 (4).

(2) As used in this section, “the cost of administration of the salmon registration plate program” is the sum of all Department of Transportation expenses for the issuance or transfer of salmon registration plates under ORS 805.255 that are above the normal costs of issuing, renewing and transferring registration plates in the normal course of the business of the department. These expenses include, but are not limited to, the costs of collecting the salmon registration plate surcharge and transferring salmon registration plates.

OREGON WATERSHED ENHANCEMENT BOARD

SECTION 20. ORS 541.360 is amended to read:

541.360. (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 **Extension Service**, 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] **541.401 and sections 12 and 13 of this 2011 Act** and resubmit the proposal.

SECTION 21. ORS 541.370 is amended to read:

541.370. (1) In carrying out the watershed enhancement program **described in ORS 541.365**, 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]* **conservation** grant program using funds from the Watershed *[Improvement]* **Conservation** Grant Fund established under *[ORS 541.397]* **section 12 of this 2011 Act**, from the *[Restoration and Protection]* **Natural Resources** Subaccount established under *[ORS 541.377]* **section 9 of this 2011 Act** 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.

SECTION 22. ORS 541.375 is amended to read:

541.375. (1)(a) *[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]* **The following entities** may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415[.]:

(A) A person;

(B) An Indian tribe;

(C) A watershed council;

(D) A soil and water conservation district;

(E) A community college;

(F) A state institution of higher education;

(G) An independent not-for-profit institution of higher education; or

(H) A political subdivision of this state that is not a state agency.

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with *[one of the other eligible entities]* **an entity described in paragraph (a) of this subsection.**

(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, **regardless of the anticipated funding source for the project.**

(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:]* **If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:**

(a) *[Are]* **Is** based on sound principles of native fish or wildlife habitat conservation or watershed management;

(b) *[Use]* **Uses** methods most adapted to the project locale;

(c) *[Meet]* **Meets** the criteria established by the board under ORS 541.396; and

(d) *[Contribute]* **Contributes** 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]* **conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.**

(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]* **and habitat for native fish or wildlife.** 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]* **may not disburse [any] funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body** until the applicant presents evidence that the agency has granted the permit or license.

SECTION 23. ORS 541.376 is amended to read:

541.376. (1) Land purchased through a grant agreement with the Oregon Watershed Enhancement Board shall be subject to title restrictions **that are consistent with the conservation purposes of the grant and** 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.

SECTION 24. ORS 541.392 is amended to read:

541.392. *[(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] **section 13 of this 2011 Act**. The report shall include but need not be limited to:

[(a)] (1) An explanation of the effectiveness and workability of the partnership process described in ORS 541.384;

[(b)] (2) A description of any modifications to the process that have been instituted; and

[(c)] (3) 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.*]

RESTORATION AND PROTECTION RESEARCH FUND

SECTION 25. ORS 541.378 is repealed. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Operating Fund moneys to the credit of the Watershed Improvement Operating Fund. The State Treasurer shall transfer any balance of the Restoration and Protection Research Fund remaining available and unexpended on the effective date of this 2011 Act that was derived from interest on Watershed Improvement Grant Fund moneys to the credit of the Watershed Improvement Grant Fund.

WATERSHED IMPROVEMENT OPERATING FUND

SECTION 26. ORS 541.379 is amended to read:

541.379. (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 **for carrying out this section;**

(b) Activities of state and local agencies and other public entities **for which funding was approved by the board prior to the effective date of this 2011 Act and that are** 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 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** that are not capital expenditures; and

(d) Watershed improvement grants described in ORS 541.399 and 541.401 **as set forth in the 2009 Edition of Oregon Revised Statutes and issued prior to the effective date of this 2011 Act** 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] the fund. 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.

SECTION 27. ORS 541.379 is repealed on July 1, 2013. The State Treasurer shall transfer any balance of the Watershed Improvement Operating Fund remaining available and unexpended on July 1, 2013, to the credit of the Watershed Conservation Operating Fund.

WATERSHED IMPROVEMENT GRANT FUND

SECTION 28. ORS 541.397 is amended to read:

541.397. (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 **as set forth in the 2009 Edition of Oregon Revised Statutes that were issued prior to the effective date of this 2011 Act.** Interest accruing to the Watershed Improvement Grant Fund shall be credited to *[the Restoration and Protection Research Fund created under ORS 541.378]* **the fund.** 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]* **as described in subsection (1) of this section.**

(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]* funding the grants described in subsection *[(2)]* (1) of this section.

SECTION 29. ORS 541.397 is repealed on July 1, 2015. The State Treasurer shall transfer any balance of the Watershed Improvement Grant Fund remaining available and unexpended on July 1, 2015, to the credit of the Watershed Conservation Grant Fund.

MISCELLANEOUS

SECTION 30. (1) Section 9 of this 2011 Act and the amendments to ORS 541.377 by section 1 of this 2011 Act are intended to change the name of the “Restoration and Protection Sub-account” to the “Natural Resources Subaccount.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Restoration and Protection Subaccount,” wherever they occur in statutory law, other words designating the “Natural Resources Subaccount.”

SECTION 30a. If Senate Bill 242 becomes law, section 276, chapter ___, Oregon Laws 2011 (Enrolled Senate Bill 242) (amending ORS 541.375), is repealed and ORS 541.375, as amended by section 22 of this 2011 Act, is amended to read:

541.375. (1)(a) The following entities may submit a request for funding for, or for advice and assistance in developing, a project under ORS 541.351 to 541.415:

- (A) A person;
- (B) An Indian tribe;
- (C) A watershed council;
- (D) A soil and water conservation district;
- (E) A community college;
- (F) A [state institution of higher education] public university listed in ORS 352.002;
- (G) An independent not-for-profit institution of higher education; or
- (H) A political subdivision of this state that is not a state agency.

(b) A state agency or federal agency may apply for funding under this section only as a coapplicant with an entity described in paragraph (a) of this subsection.

(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, regardless of the anticipated funding source for the project.

(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) If a project or a portion of a project is not subject to the funding criteria described in ORS 541.401 and applies to receive funding from the board, the board may approve the project or portion of a project for funding only if the project or portion of a project:

- (a) Is based on sound principles of native fish or wildlife habitat conservation or watershed management;
- (b) Uses methods most adapted to the project locale;
- (c) Meets the criteria established by the board under ORS 541.396; and
- (d) Contributes 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 conservation or restoration of habitat for, or of watershed or ecosystem function for, native fish or wildlife.

(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 and habitat for native fish or wildlife. 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]* **public universities listed in ORS 352.002**, 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, the board may not disburse funds to the applicant for any part of the project that requires the applicant to obtain a permit or license from a local, state or federal agency or governing body until the applicant presents evidence that the agency has granted the permit or license.

SECTION 30b. The amendments to ORS 541.375 by section 30a of this 2011 Act become operative on January 1, 2012.

CAPTIONS

SECTION 31. The unit captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

EMERGENCY CLAUSE

SECTION 32. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on July 1, 2011.

Passed by Senate June 23, 2011

Repassed by Senate June 29, 2011

Passed by House June 28, 2011

Received by Governor:

Filed in Office of Secretary of State:

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Draft

PARKS AND RECREATION DEPARTMENT

DIVISION 17

VETERANS AND WAR MEMORIAL GRANTS

736-017-0000

Purpose

The purpose of this division is to establish the procedures and criteria that the Oregon Parks and Recreation Department (OPRD) will use in recommending Veterans and War Memorial Grants for funding to the commission pursuant to ORS 390.180(1)(d).

Stat. Auth.: ORS 390.124
Stats. Implemented: ORS 390.180(1)(d)
Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

736-017-0005

Definitions

As used in this division, unless the context requires otherwise, the following definitions apply:

- (1) "Agreement" means the formal contract between OPRD and the Project Sponsor describing the terms and conditions associated with any granting of funds. Also called "Grant Agreement."
- (2) "Commission" means the Oregon Parks and Recreation Commission.
- (3) "Committee" means the Veterans and War Memorial Grant Review Committee described in OAR 736-017-0010.
- (4) "Department" means the Oregon Parks and Recreation Department (OPRD).
- (5) "Construction" means the creation of a new memorial on public property.
- (6) "Director" means the director of the Oregon Parks and Recreation Department.
- (7) "Eligible Project" means a construction or restoration undertaking which satisfies the requirements of the Veterans and War Memorial Grant Program.

- 29 | (8) "Governmental Entity" means a body of government, whether district, local, or
30 | regional ~~state, or federal~~, that owns or leases the property on which the project is to
31 | reside.
- 32 | (9) "Grant" means an award from the Veterans and War Memorial Grant Program.
- 33 | (10) "Grant Application" means the form and its format as developed by ~~the~~ OPRD that
34 | an applicant uses to request a grant.
- 35 | (11) "Match" means project sponsor's budgeted funds, donated funds, value of
36 | equipment, materials, labor, planning, or any combination thereof.
- 37 | (12) "Maintenance" means the continuation or preservation of a memorial. It includes the
38 | routine maintenance of or around a memorial such as landscaping, power washing,
39 | general cleaning, dusting, or removal of trash.
- 40 | (13) "Memorial" means a monument or place designed to commemorate or preserve the
41 | memory of wars involving the United States of America or to honor veterans of the
42 | Armed Forces of the United States of America.
- 43 | (14) "Nonprofit Veterans' Organization" means a group that:
- 44 | (a) Is a nonprofit group that represents veterans of the Armed Forces of the United States,
45 | or is established for the purpose of supporting or recognizing such veterans;
- 46 | (b) Has an established membership, that includes officers, and bylaws; ~~and~~
- 47 | (c) Is physically located in Oregon or has a chapter that is physically located in Oregon;
48 | and
- 49 | (d) The Internal Revenue Service recognizes as a non-profit organization.
- 50 | (15) "OPRD" means the Oregon Parks and Recreation Department.
- 51 | (16) "Planning" means the research, design, engineering, environmental, and site survey
52 | of any Memorial construction or restoration project.
- 53 | (17) "Project Completion" means satisfaction of all requirements of a grant agreement as
54 | determined after review or inspection by OPRD.
- 55 | (18) "Project Authorization" means the Agreement that authorizes the project as signed
56 | by the director and the Project Sponsor.
- 57 | (19) "Project Sponsor" means the governmental entity that is the recipient of the grant
58 | funds and the responsible party for implementation of the project.

59 (20) "Public Property" means public lands, premises and buildings, including but not
60 limited to any building used in connection with the transaction of public business or any
61 lands, premises or buildings owned or leased by ~~the federal government, this state or any~~
62 ~~political subdivision therein~~ regional or local governmental entity.

63 (21) "Restoration" means the improvement, rehabilitation, repair, or reconstruction of an
64 existing memorial. It does not include routine maintenance.

65 (22) "Veterans and War Memorial Grant Instruction Manual" means a manual prepared
66 by the OPRD containing state policies, procedures, instructions and grant criteria to assist
67 applicants and Project Sponsors wishing to participate in the Veterans and War Memorial
68 Grant Program.

69 Stat. Auth.: ORS 390.124

70 Stats. Implemented: ORS 390.180(1)(d)

71 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

72 **736-017-0010**

73 **Veterans and War Memorial Grant Review Committee**

74 (1) The Veterans and War Memorial Grant Review Committee shall be composed of 12
75 members. The committee shall include:

76 (a) The Local Government Grant Advisory Committee described in OAR 736-006-0145;
77 and

78 (b) Two people appointed by the director to four-year terms that represent either a
79 nonprofit veterans' organization or a governmental agency responsible for the
80 administration of law relating to veterans.

81 (2) The director shall appoint the chair from the committee membership, considering the
82 recommendations of the committee.

83 (3) The committee shall meet upon the call of the director.

84 (4) The Veterans and War Memorial Grant Review Committee shall follow grant
85 application review procedures as provided in this division.

86 Stat. Auth.: ORS 390.124

87 Stats. Implemented: ORS 390.180(1)(d)

88 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

89 **736-017-0015**

90 **Director Authority**

91 (1) In addition to those considered by the committee, the director may recommend
 92 eligible projects to the commission for grant funding. The director may recommend
 93 grants for construction and restoration.

94 (2) The director may recommend funding eligible projects either in whole or in part.

95 (3) The director may establish minimum or maximum grant award amounts each funding
 96 cycle.

97 (4) The director may establish funding priorities or other criteria for each funding cycle.

98 Stat. Auth.: ORS 390.124

99 Stats. Implemented: ORS 390.180(1)(d)

100 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

101 **736-017-0020**

102 **Eligibility**

103 (1) The department may consider a grant application from any regional or local
 104 governmental entity that meets the requirements of this section.

105 (2) Site. To be eligible for a grant, a memorial must be placed on public property owned
 106 or controlled by a governmental entity.

107 (3) The ~~governmental entity~~ project sponsor must agree in writing to having the memorial
 108 sited and maintained for not less than 20 years from project completion ~~of the project~~.
 109 ~~The agreement between the government entity and the project sponsor must identify the~~
 110 ~~party or parties responsible for maintenance of the memorial;~~

111 ~~(a) For a construction project, an applicant must demonstrate that the governmental~~
 112 ~~entity or entities that owns or controls the public property will accept the memorial on~~
 113 ~~that site. For a restoration, an applicant must demonstrate that the governmental entity or~~
 114 ~~entities that owns or controls the public property will authorize restoration activities on~~
 115 ~~the memorial;~~

116 ~~(ba)~~ An applicant governmental entity must provide in their grant application:

117 (Aa) General description of the intended construction or restoration project;

118 (Bb) Documentation that ~~establishes the project sponsor is a nonprofit veterans'~~
 119 ~~organization, including, but not limited, proof of existing non-profit status as recognized~~
 120 ~~by the Internal Revenue Service~~ demonstrates cooperation with a nonprofit veterans'
 121 organization assisting in the construction or restoration of a memorial;

122 (Cc) Location of project with site maps;

- 123 | (~~D~~d) Conceptual design drawings, engineering plans, or both.
- 124 | (~~E~~e) Description of project time period including proposed beginning and completion
125 | dates;
- 126 | (~~F~~f) Roles and responsibilities of the project sponsor and ~~government nonprofit veterans'~~
127 | ~~organization entity~~ including post-project completion responsibilities;
- 128 | (~~G~~g) Description of financing plan for eligible projects, including sources of funds and
129 | match;
- 130 | (~~H~~h) Summary of proposed budget for the eligible project;
- 131 | (~~I~~i) Allowance by the state for any audits.
- 132 | (4) Matching Requirements. The Veterans and War Memorial Grant program provides,
133 | subject to the availability of funds, for up to 80 percent funding assistance with a
134 | minimum of 10 percent cash match. The project sponsor shall provide a minimum 10
135 | percent cash match. The project sponsor may provide the remaining match by planning
136 | work done prior to project authorization or planning, construction, or restoration work
137 | performed following project authorization.
- 138 | (5) Ineligible costs for grant:
- 139 | (a) Overhead -- The regular operating expenses of either the applicant or the
140 | governmental entity receiving the memorial such as rent, building upkeep, utilities, and
141 | all fixed costs associated with the daily operations of a business, agency or group;
- 142 | (b) Overtime;
- 143 | (c) Expenses for equipment or materials used outside the scope of this project;
- 144 | (d) Costs or expenses incurred prior to a Grant Agreement except planning work done
145 | prior to project authorization under section (4) above.
- 146 | Stat. Auth.: ORS 390.124
147 | Stats. Implemented: ORS 390.180(1)(d)
148 | Hist.: PRD 6-2006, f. & cert. ef. 12-15-06
- 149 | **736-017-0025**
- 150 | **Application Process**
- 151 | (1) When the commission has Veterans and War Memorial Grant Program funds to
152 | award, the director will announce through a variety of media the availability of,

153 application procedures for, deadlines and other information for applying for a grant,
154 including whether the director has established funding priorities for that funding cycle.

155 (2) Applicants must submit a grant application to the department. Applicants may use the
156 "*Veterans and War Memorial Grant Instruction Manual*" for guidance in preparing and
157 submitting a grant application to the department.

158 (3) A grant application that contains multiple work items must be structured so that the
159 commission may award partial funding to a specific work item proposed in the grant
160 application.

161 [ED. NOTE: Forms referenced are available from the agency.]

162 [Publications: Publications referenced are available from the agency.]

163 Stat. Auth.: ORS 390.124

164 Stats. Implemented: ORS 390.180(1)(d)

165 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

166 **736-017-0030**

167 **Evaluation of Applications**

168 (1) The department will review eligible applications that the department receives by the
169 announced deadline for completeness. The department will provide all complete, eligible
170 applications to the committee.

171 (2) The committee will rank applications based on the following criteria:

172 (a) Whether the application meets the director's funding priorities for that funding cycle;

173 (b) Whether the application has demonstrated the need for the project;

174 (c) Whether the applicant has demonstrated that adequate budget and financial controls
175 are in place to properly administer the grant; and

176 (d) Any other criteria determined by the director prior to the announcement of the
177 availability of grant funding, and which are contained in that announcement.

178 (3) The committee recommends funding grants up to the amount of funds that may be
179 available in the program that biennium. The committee may also rank several alternates
180 in priority order that may be funded if any of the recommended grants are not awarded.

181 Stat. Auth.: ORS 390.124

182 Stats. Implemented: ORS 390.180(1)(d)

183 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

184 **736-017-0035**

185 **Award of Grants**

186 | (1) Grants will be subject to binding grant agreements between ~~the~~OPRD and the Project
187 Sponsor. The grant agreement will specify the terms and conditions of the grant,
188 generally including:

189 (a) The total project costs, the match to be provided by the Project Sponsor, and the
190 amount of the grant;

191 (b) A statement of the work to be accomplished;

192 (c) When the grant-assisted project may begin and a schedule for accomplishing work,
193 reporting on progress, delivering products, and project completion.

194 (2) If grant funds remain or become unobligated, the department may reallocate such
195 funds to other department grant programs.

196 Stat. Auth.: ORS 390.124

197 Stats. Implemented: ORS 390.180(1)(d)

198 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

199 **736-017-0040**

200 **Disbursement of Grant Funds**

201 (1) All grant funds shall be disbursed to project sponsors on a reimbursable basis after
202 submission of billings on approved schedules specified in grant agreements. Project
203 sponsor shall supply information substantiating billings if requested by the department.

204 (2) Under certain conditions such as reduction or increase of these funds an emergency
205 procedure for awarding or canceling grants may be initiated at the discretion of the
206 director.

207 (3) In implementing the emergency procedure, the director shall consider the availability
208 of funds; the scope and need of projects available for funding; and the urgency and
209 statewide importance of prospective projects. The director may propose projects to the
210 commission for funding under this section and the commission may waive other
211 requirements of these rules for the purpose of obligating funds in a timely manner.

212 Stat. Auth.: ORS 390.124

213 Stats. Implemented: ORS 390.180(1)(d)

214 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

215 **736-017-0050**

216 **Recovery of Grant Funds**

217 (1) Project sponsors that fail to complete approved projects to the department's
218 satisfaction shall return all unexpended grant funds.

219 (2) Project sponsors shall maintain records adequate for audit purposes for a period of not
220 less than five years after project completion and shall reimburse the department for any
221 costs questioned in audit findings.

222 Stat. Auth.: ORS 390.124

223 Stats. Implemented: ORS 390.180(1)(d)

224 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

- 30 (11) "Match" means project sponsor's budgeted funds, donated funds, value of equipment, materials,
31 labor, planning, or any combination thereof.
- 32 (12) "Maintenance" means the continuation or preservation of a memorial. It includes the routine
33 maintenance of or around a memorial such as landscaping, power washing, general cleaning, dusting,
34 or removal of trash.
- 35 (13) "Memorial" means a monument or place designed to commemorate or preserve the memory of
36 wars involving the United States of America or to honor veterans of the Armed Forces of the United
37 States of America.
- 38 (14) "Nonprofit Veterans' Organization" means a group that:
- 39 (a) Is a nonprofit group that represents veterans of the Armed Forces of the United States, or is
40 established for the purpose of supporting or recognizing such veterans;
- 41 (b) Has an established membership, that includes officers, and bylaws; and
- 42 (c) Is physically located in Oregon or has a chapter that is physically located in Oregon.
- 43 (d) Is also called a "Veterans' Nonprofit Organization".
- 44 (e) Is recognized as an existing non-profit status by the Internal Revenue Service.
- 45 (15) "OPRD" means the Oregon Parks and Recreation Department.
- 46 (16) "Planning" means the research, design, engineering, environmental, and site survey of any
47 Memorial construction or restoration project.
- 48 (17) "Project Completion" means satisfaction of all requirements of a grant agreement as determined
49 after review or inspection by OPRD.
- 50 (18) "Project Authorization" means the Agreement that authorizes the project as signed by the director
51 and the Project Sponsor.
- 52 (19) "Project Sponsor" means the recipient of the grant funds and the responsible party for
53 implementation of the project.
- 54 (20) "Public Property" means public lands, premises and buildings, including but not limited to any
55 building used in connection with the transaction of public business or any lands, premises or buildings
56 owned or leased by a local or regional government.
- 57 (21) "Restoration" means the improvement, rehabilitation, repair, or reconstruction of an existing
58 memorial. It does not include routine maintenance.
- 59 (22) "Veterans and War Memorial Grant Instruction Manual" means a manual prepared by the OPRD
60 containing state policies, procedures, instructions and grant criteria to assist applicants and Project
61 Sponsors wishing to participate in the Veterans and War Memorial Grant Program.

62 Stat. Auth.: ORS 390.124
63 Stats. Implemented: ORS 390.180(1)(d)
64 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

65 **736-017-0010**

66 **Veterans and War Memorial Grant Review Committee**

67 (1) The Veterans and War Memorial Grant Review Committee shall be composed of 12 members. The
68 committee shall include:

69 (a) The Local Government Grant Advisory Committee described in OAR 736-006-0145; and

70 (b) Two people appointed by the director to four-year terms that represent either a veterans'
71 organization or a governmental agency responsible for the administration of law relating to veterans.

72 (2) The director shall appoint the chair from the committee membership, considering the
73 recommendations of the committee.

74 (3) The committee shall meet upon the call of the director.

75 (4) The Veterans and War Memorial Grant Review Committee shall follow grant application review
76 procedures as provided in this division.

77 Stat. Auth.: ORS 390.124
78 Stats. Implemented: ORS 390.180(1)(d)
79 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

80 **736-017-0015**

81 **Director Authority**

82 (1) In addition to those considered by the committee, the director may recommend eligible projects to
83 the commission for grant funding. The director may recommend grants for construction and
84 restoration.

85 (2) The director may recommend funding eligible projects either in whole or in part.

86 (3) The director may establish minimum or maximum grant award amounts each funding cycle.

87 (4) The director may establish funding priorities or other criteria for each funding cycle.

88 Stat. Auth.: ORS 390.124
89 Stats. Implemented: ORS 390.180(1)(d)
90 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

91 **736-017-0020**

92 **Eligibility**

- 93 (1) The department may consider a grant application from any local or regional government that meets
94 the requirements of this section.
- 95 (2) Site. To be eligible for a grant, a memorial must be placed on public property owned or controlled
96 by a local or regional government.
- 97 (3) The project sponsor must agree in writing to:
- 98 (a) Having the memorial sited and maintained for not less than 20 years from completion of the
99 project.
- 100 (b) An applicant must provide in their grant application:
- 101 (A) General description of the intended construction or restoration project;
- 102 (B) Documentation that demonstrates cooperation with a non-profit veterans' organization assisting in
103 the construction or restoration of a memorial;
- 104 (C) Location of project with site maps;
- 105 (D) Conceptual design drawings, engineering plans, or both.
- 106 (E) Description of project time period including proposed beginning and completion dates;
- 107 (F) Roles and responsibilities of the project sponsor and veterans' organization including post-project
108 completion responsibilities;
- 109 (G) Description of financing plan for eligible projects, including sources of funds and match;
- 110 (H) Summary of proposed budget for the eligible project;
- 111 (I) Allowance by the state for any audits.
- 112 (4) Matching Requirements. The Veterans and War Memorial Grant program provides, subject to the
113 availability of funds, for up to 80 percent funding assistance with a minimum of 10 percent cash
114 match. The project sponsor shall provide a minimum 10 percent cash match. The project sponsor may
115 provide the remaining match by planning work done prior to project authorization or planning,
116 construction, or restoration work performed following project authorization.
- 117 (5) Ineligible costs for grant:
- 118 (a) Overhead -- The regular operating expenses of either the applicant or the governmental entity
119 receiving the memorial such as rent, building upkeep, utilities, and all fixed costs associated with the
120 daily operations of a business, agency or group;
- 121 (b) Overtime;
- 122 (c) Expenses for equipment or materials used outside the scope of this project;

123 (d) Costs or expenses incurred prior to a Grant Agreement except planning work done prior to project
124 authorization under section (4) above.

125 Stat. Auth.: ORS 390.124
126 Stats. Implemented: ORS 390.180(1)(d)
127 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

128 **736-017-0025**

129 **Application Process**

130 (1) When the commission has Veterans and War Memorial Grant Program funds to award, the director
131 will announce through a variety of media the availability of, application procedures for, deadlines and
132 other information for applying for a grant, including whether the director has established funding
133 priorities for that funding cycle.

134 (2) Applicants must submit a grant application to the department. Applicants may use the "*Veterans*
135 *and War Memorial Grant Instruction Manual*" for guidance in preparing and submitting a grant
136 application to the department.

137 (3) A grant application that contains multiple work items must be structured so that the commission
138 may award partial funding to a specific work item proposed in the grant application.

139 [ED. NOTE: Forms referenced are available from the agency.]

140 [Publications: Publications referenced are available from the agency.]

141 Stat. Auth.: ORS 390.124
142 Stats. Implemented: ORS 390.180(1)(d)
143 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

144 **736-017-0030**

145 **Evaluation of Applications**

146 (1) The department will review eligible applications that the department receives by the announced
147 deadline for completeness. The department will provide all complete, eligible applications to the
148 committee.

149 (2) The committee will rank applications based on the following criteria:

150 (a) Whether the application meets the director's funding priorities for that funding cycle;

151 (b) Whether the application has demonstrated the need for the project;

152 (c) Whether the applicant has demonstrated that adequate budget and financial controls are in place to
153 properly administer the grant; and

154 (d) Any other criteria determined by the director prior to the announcement of the availability of grant
155 funding, and which are contained in that announcement.

156 (3) The committee recommends funding grants up to the amount of funds that may be available in the
157 program that biennium. The committee may also rank several alternates in priority order that may be
158 funded if any of the recommended grants are not awarded.

159 Stat. Auth.: ORS 390.124
160 Stats. Implemented: ORS 390.180(1)(d)
161 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

162 **736-017-0035**

163 **Award of Grants**

164 (1) Grants will be subject to binding grant agreements between the OPRD and the Project Sponsor.
165 The grant agreement will specify the terms and conditions of the grant, generally including:

166 (a) The total project costs, the match to be provided by the Project Sponsor, and the amount of the
167 grant;

168 (b) A statement of the work to be accomplished;

169 (c) When the grant-assisted project may begin and a schedule for accomplishing work, reporting on
170 progress, delivering products, and project completion.

171 (2) If grant funds remain or become unobligated, the department may reallocate such funds to other
172 department grant programs.

173 Stat. Auth.: ORS 390.124
174 Stats. Implemented: ORS 390.180(1)(d)
175 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

176 **736-017-0040**

177 **Disbursement of Grant Funds**

178 (1) All grant funds shall be disbursed to project sponsors on a reimbursable basis after submission of
179 billings on approved schedules specified in grant agreements. Project sponsor shall supply information
180 substantiating billings if requested by the department.

181 (2) Under certain conditions such as reduction or increase of these funds an emergency procedure for
182 awarding or canceling grants may be initiated at the discretion of the director.

183 (3) In implementing the emergency procedure, the director shall consider the availability of funds; the
184 scope and need of projects available for funding; and the urgency and statewide importance of
185 prospective projects. The director may propose projects to the commission for funding under this
186 section and the commission may waive other requirements of these rules for the purpose of obligating
187 funds in a timely manner.

188 Stat. Auth.: ORS 390.124
189 Stats. Implemented: ORS 390.180(1)(d)
190 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

191 **736-017-0050**

192 **Recovery of Grant Funds**

193 (1) Project sponsors that fail to complete approved projects to the department's satisfaction shall return
194 all unexpended grant funds.

195 (2) Project sponsors shall maintain records adequate for audit purposes for a period of not less than
196 five years after project completion and shall reimburse the department for any costs questioned in
197 audit findings.

198 Stat. Auth.: ORS 390.124
199 Stats. Implemented: ORS 390.180(1)(d)
200 Hist.: PRD 6-2006, f. & cert. ef. 12-15-06

Oregon Parks and Recreation Commission

April 4, 2012

Agenda Item:	11c	Action
Topic:	Adopt OAR 736-045; Natural Areas Program	
Presented by:	Jim Morgan	

Background:

Passage of Oregon Senate Bill 58 conveyed the Oregon Natural Heritage Program from Department of State Lands (DSL) and State Land Board to Oregon Parks and Recreation Department (OPRD) and the Parks and Recreation Commission. The Natural Heritage Program is a cooperative interagency program that identifies significant plant, animal, and plant community resources of Oregon.

SB 58 abolished the Natural Heritage Advisory Council and provided that the OPRD Director may appoint a natural area advisory committee to advise in the function and performance of the natural heritage program. The bill transfers the authority from the State Land Board to the Commission the authority to designate State Natural Heritage sites and transfers the management of federal funds made available under Section 6 of the Federal Endangered Species Act to OPRD.

At the September 22, 2011 meeting, the commission granted permission to begin permanent rule making for creation of OAR 736-045 to provide rules necessary to facilitate the transfer and management of the Natural Areas Program from DSL to OPRD.

The rule changes were open for public comment during the month of November 2011. No comments were received. The rule text showing changes is included in Attachment A and a clean copy is included in Attachment B.

Prior Action by Commission:

The commission granted permission to undertake permanent rule making, for changes to OAR 736-045 listed above, at the September 21, 2011 meeting.

Action Requested:

Staff requests that the commission adopt changes in OAR chapter 736-045 as provided in Attachment B.

Prepared by: Jim Morgan

OREGON PARKS AND RECREATION DEPARTMENT

DIVISION 45

OREGON NATURAL AREAS PROGRAM RULES

General Provisions

736-045-005

Purpose

The purpose of this division is to provide a central and continuing register of areas in Oregon that contain significant natural heritage resources and special species, and describe the process used to register properties on the Oregon Register of Natural Areas.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; Renumbered from 736-045-0890, DSL 9-2008, f. & cert. ef. 12-10-08

736-045-010

Definitions

As used in this division, the definitions in ORS 273.563 and ORS 390.005 apply, unless the context provides otherwise:

- (1) "Agency" means a local, state or federal, agency, board, commission, or department.
- (2) "Commission" means the State Parks and Recreation Commission.
- (3) "Committee" means the Natural Areas Advisory Committee.
- (4) "Candidate natural area" means a natural resource area that may be considered for registration or dedication.
- (5) "Data bank" means the Natural Areas Program inventory of natural heritage resources classification, data analysis, priority setting, owner and other data maintained by the Institute for Natural Resources under ORS 352.239.

- (6) “Dedicate” means the formal recognition and protection of a natural area for conservation purposes.
- (7) “Department” means Oregon Parks and Recreation Department.
- (8) “Director” means the Oregon Parks and Recreation Department Director.
- (9) “Instrument” means any written document intended to convey an interest in real property under ORS 93.710, or an agreement between parties according to the Natural Areas Program or the Oregon Natural Areas Plan.
- (10) “Introduced plant species” means exotic or non-native species.
- (11) “Managed area” means a registered or dedicated state natural area that, by management agreement between the department and private landowner, or agency, the area and its natural heritage resources are maintained in a manner to protect the natural character.
- (12) “Management scheme” means a plan that sets forth in detail the responsibilities for the administration of an individual state natural area.
- (13) “Natural area” means a unit of land or water or both that may be considered for dedication under ORS 273.563 to 273.591 and that has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values, be valuable as habitat for plant and animal species or for the study and appreciation of natural features.
- (14) “Natural heritage resources” means the terrestrial ecosystems types, aquatic ecosystems types and unique geologic types as defined in the Oregon Natural Areas Plan or a unit of land or water which contains a natural resource.
- (15) “Plan” means the Oregon Natural Areas Plan established under ORS 273.578, which governs the Natural Areas Program in selecting natural areas for conservation.
- (16) “Program” means the Natural Areas Program as established in ORS 273.566, which provides for the establishment of a limited system of State Natural Area representing a full range of Oregon’s natural resources and includes special species of plants and animals.
- (17) “Register” means the Oregon Register of Natural Areas established under ORS 273.581. The Register contains an official list of areas which have significant natural resources and special species.
- (18) “Special species” means those species of plants and animals determined by the department to be of significant value in a state natural area and defined in the Plan.

(19) “State natural area” means an area that an individual, organization or public agency dedicates as a state natural area under ORS 273.586. The department classifies property dedicated as a state natural area under ORS 273.586 and this division and owned by the department as a “State Natural Area Reserve.”

(20) “Wildlife” means any wild or free living vertebrate or invertebrate animal.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563, ORS 390.005

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82, Renumbered from 736-045-0895 and 736-045-0950; DSL 9-2008, f. & cert. ef. 12-10-08

Natural Areas Advisory Committee

736-045-0100

Composition and Roles

(1) The director may appoint a Natural Areas Advisory Committee composed of nine members as follows:

(a) Three authorized representatives of state agencies with jurisdiction over a managed areas or natural areas that are appropriate for dedication, including:

(A) The department;

(B) Department of State Lands;

(C) Department of Forestry;

(D) Department of Fish and Wildlife;

(E) Department of Education; and

(F) Oregon Department of Transportation;

(b) Two authorized representatives of federal natural resources management agencies, such as the U.S. Forest Service and Bureau of Land Management; and

(c) Four individuals recognized as experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology;

(2) Members appointed under subsection (1)(c) may serve two consecutive four-year terms on the committee. However, the director shall appoint the first committee members following the effective date of this rule to serve a two, three, or four-year term.

(3) The director shall appoint the chair from the committee membership, considering the recommendations of the committee.

(4) The committee shall meet at times and places specified by the call of the director.

(5) A majority of the members of the committee constitutes a quorum for the transaction of business.

(6) Function and duties of the Natural Areas Advisory Committee. Upon the request of the director, the committee may assist the department in:

(a) Development of policy for the Natural Areas Program through the review and approval of the Oregon Areas Plan;

(b) Reviewing nominations for registration and the voluntary dedication of State Natural Area Reserves, and review instruments of dedication for such areas;

(c) Providing recommendations to the commission, State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and

(d) Advising the commission in the adoption of rules that may be considered necessary in carrying out ORS 273.563 to 273.591.

(7) Members of the advisory committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the department for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.573

Schedule of Fees and Charges

736-045-0200

Acceptance of Funds

(1) The department may accept monies for, but not limited to, documents, including records, reports or maps pertaining to Program data, and services under this division.

(2) The department may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any foundation, individual or organization for the purpose of carrying out the provisions of ORS 273.563 to 273.591.

(3) All money received by the department for the purposes of this division shall be paid into the State Treasury and credited to the Natural Areas Program Account.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 9-1982, f. & ef. 10-1-82

Oregon Register of Natural Heritage Resources

736-045-0300

Criteria for Inclusion in or Removal from the Register

The commission must determine criteria for inclusion in the Register to fulfill not only the definition of a natural area but the natural heritage resources and site considerations within the priorities and criteria for conservation in the Plan. The commission, department, the committee upon request pursuant to OAR 736-045-0100(6)(b), and the Institute for Natural Resources pursuant to ORS 352.239(2)(g) will use the following criteria in evaluating a candidate natural area proposed for inclusion in or removal from the Register:

- (1) The priority for protection in the Plan of the primary natural heritage resources objective and other natural heritage resources in the candidate natural area;
- (2) Whether the natural heritage resource occurrence(s) is an adequate representative of the type;
- (3) The extent to which each natural heritage resource has retained its natural character, *i.e.*, a measurement of the degree of human-caused disturbance;
- (4) The health and viability of the natural heritage resource occurrence(s), *i.e.*, the ability of each natural heritage resource occurrence to perpetuate itself or its natural sequence of development in the candidate natural area;
- (5) The number of natural heritage resources that will be adequately represented in the candidate natural area;

- (6) The degree of uniqueness and educational and natural interpretation values of a geologic resource(s);
- (7) The priority of protection given in the Plan to each special species of plant or animal;
- (8) The contribution the particular candidate natural area will make to the protection of the special species;
- (9) Manageability, *i.e.*, the capability of the candidate natural area to be managed to protect and maintain the natural values, as well as to make it available and useful for its designated purposes;
- (10) Whether there are alternative methods of accomplishing the same purposes of this division; and
- (11) The cost effectiveness of including a candidate natural area in the Register.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591; ORS 352.239(2)

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0305

Procedures for Registering

The department and the Institute for Natural Resources will review and provide recommendations on proposals for registration and dedication of natural areas for the Register, together with field evaluation, maps and sufficient data to complete the register file. Pursuant to OAR 736-045-0100(6)(b), the director may also request that the committee review a nomination for the Register.

- (1) A proposal for the Register of private land shall include the written permission for registration of the landowner.
- (2) The commission may place a natural area onto the Register or remove a natural area from the Register. The department will provide recommendation to the commission for its consideration.
- (3) A voluntary management agreement may be developed between the department and a private landowner or agency of a natural area on the Register.
- (4) The commission may enter onto the Register any candidate natural area that a federal or state agency establishes by public hearing and dedicates under this division.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591; ORS 352.239(2)(g).

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0310

Register File

The Register may include file(s) of registered state natural areas or state natural area reserves:

(1) The card file may include name of a state natural area, location, size, ownership, register category, and principal natural heritage resource(s) and special species. The card file may be cross referenced by county and principal resource.

(2) The data file may include:

(a) Data form – comprehensive information compiled for each state natural area;

(b) Instrument of dedication or other documents certifying official dedication;

(c) Consent form – written permission for registration for a state natural areas on private land;

(d) Supportive data – includes maps, photographs, remote sensing imagery, species lists, field notes, reports, research papers, and references to other information available;

(e) Cross references to the data bank maintained by the Institute for Natural Resources pursuant to ORS 352.239(2)(f) – to data file, computer and manual file consistent with data bank components;

(f) Implementation data – written management agreement pertaining to the state natural area; and

(g) Summary sheet – a map and one page summary of information about each area which can be duplicated and circulated to appropriate authorities.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591; ORS 352.239(2)(f)

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

736-045-0320

Location and Maintenance of Register

The department will maintain the Oregon Register of Natural Areas at the department's office in Salem, OR.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.581(1)

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0330

Register Review

The department may review and update the Register every five years.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273 .563 - ORS 273 .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

736-045-0340

Register Withdrawal

The commission may remove natural areas from the Register. The commission will consider ORS 273.586(4) and the factors in OAR 736-045-0300 in removing a state natural area or state natural area reserve from the Register.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.581(4); ORS 273.586(4).

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

Dedication and Management of a State Natural Area

736-045-0400

Purpose

The purpose and scope of dedication is to establish and maintain the integrity of the Plan, and the Program, by means of written formal recognition and protection of a natural area of land, water, or both land and water for natural heritage conservation purposes.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 9-1982, f. & ef. 10-1-82

736-045-0405

Instruments of Dedication

(1) Private dedication – a private individual or organization that is the owner of any registered natural area may voluntarily agree to dedicate that area as a state natural area by executing with the department, an instrument of dedication. Instrument provisions and policies include, but are not limited to, the following:

(a) An agreement that provides each natural heritage resource in the state natural area with the most secure protection obtainable;

(b) An unlimited period of time, or a term sufficiently long to warrant dedication protection;

(c) Permission for conducting scientific research and other activities shall be commensurate with Program objectives; and

(d) Termination of dedication may occur upon written notification to the commission, including specific reasons for termination, and provision by the commission of opportunity for adequate public notice and hearing.

(2) The department shall file an executed instrument of dedication of a state natural area under private ownership under section (1) in the office of the clerk of the county in which any or all of the state natural area is located, and shall be effective upon its recording.

(3) The department shall provide a copy of the dedication and management agreement(s) to the private owner of a state natural area.

(4) Agency dedication – any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591, this division, and the Plan, after providing the opportunity for adequate public notice and hearing.

(5) The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education, and the State Land Board shall, with the advice and assistance of the department, establish procedures for the dedication of state natural areas on land or water, the title of which is held by the State of Oregon, and which is under that agency's management and control.

(6) Instruments of dedication under sections (1) and (4) shall contain any information or provisions as the private owner, organization or agency and department consider necessary to complete the dedication.

(7) Termination of the dedication of a state natural area by a public agency or a state natural area reserve by the department requires that the terminating agency:

(a) Provide an opportunity for adequate public notice and hearing; and

(b) Makes a finding of either:

(A) An imperative and unavoidable necessity due to natural disaster in the site, need of the natural resource during time of declared war, or the need of the natural resource because of extreme economic crisis of the state; or

(B) That the state natural area or state natural area reserve is no longer needed according to the guidelines of the Plan, or has permanently lost its character, subject to the department's approval.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.586

Hist.: LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0410

Publicity

The department and the Institute for Natural Resources may develop and make available to private landowners, researchers, agencies and interested persons information about a state natural area or state natural area reserve and appropriate descriptive material. However, publicity which would tend to encourage the general public to visit a state natural area or state natural area reserve in greater numbers than its carrying capacity will be avoided.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591; ORS 352.239(2)(f).

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0412

Reports

At regular intervals the department may make or cause to be made a record of management activities and other influences affecting each state natural area and state natural area reserve.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0414

Instruments

The instruments of dedication shall include, but not be limited to, the following:

(1) The size, location, purpose, and resources of the state natural area or state natural area reserve;

(2) A management scheme written for each state natural area or state natural area reserve which describes:

(a) The conservation objective of the area;

(b) Proscribed, allowed and prohibited activities on the area; and

(c) Provisions as consistent as possible with OAR 736-045-0410 through 736-045-0448, which, unless otherwise noted, are a part of each management scheme.

(3) Agreements between the department and any agency necessary to establish the state natural area or state natural area reserve.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0416

State Natural Area Manager

Notwithstanding the instruments of dedication, managers of state natural areas or state natural area reserves shall not take any action or fail to take any action that is in conflict with an applicable statute, rule, regulation or policy relating to an agency having an interest in or responsibility for the state natural area or state natural area reserve.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0418

Fire

Prescribed fire may only be used as a management tool in such areas or situations where fire is needed to maintain or protect a state natural area or state natural area reserve as an ecosystem type specified in the management scheme.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-8

736-045-0420

Water Level Control

Agencies shall manage state natural areas and the department shall manage state natural area reserves to maintain their natural water levels. Water levels which have previously been altered by man may be changed if provided for in the management scheme as essential for the restoration of natural conditions.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0422

Disturbance of Natural Features

The management of state natural area and state natural area reserves shall not include the cutting or removal of vegetation or the disturbance of other natural features, except that which is essential to carry out the management scheme enumerated in this division.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0424

Visitor Protection

Guard rails, fences, steps, and bridges may be provided when essential to the safety of a reasonable alert and cautious visitor.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0426

Erosion Control

Erosion and soil deposition due to disturbances of natural conditions by man within or outside a state natural area or state natural area reserve may be controlled as provided in the management scheme.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0428

Scenic or Landscape Management

No measures or actions shall be taken to alter the natural growth or features of a state natural area or state natural area reserve for the purpose of enhancing its neatness, beauty, or amenities.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0430

Control of Succession

Control of succession may be undertaken only if maintenance or restoration of a particular ecosystem type or preservation of threatened or endangered species is designated in the instruments of dedication as an objective of the state natural area or state natural area reserve. Based on scientific evidence of necessity, successional control measures may be undertaken as provided in the management scheme. Such measures shall be applied with caution and only to that part of the area as is necessary.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0432

Control of Introduced Plant Species

Control of introduced plant species may be undertaken as provided in the management scheme.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0434

Control of Wildlife Populations

The control of wildlife populations on state natural areas and state natural area reserves shall be by agreements between the commission and Oregon Department of Fish and Wildlife, or other agency. As far as practical, any control measures shall be to correct

those situations where wildlife populations are significantly affecting natural conditions on a state natural area or state natural area reserve.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0436

Introduction and Management of Special Species

The introduction into or the management of a state natural area or state natural area reserve for special wildlife species shall be by agreement between the commission and the Oregon Department of Fish and Wildlife, Oregon Department of Agriculture or other agency as provided in the management scheme.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0438

Use Tolerance

The management scheme shall set forth the use tolerance or durability of all or any portion of a state natural area or state natural area reserve and specify the steps to be taken if overuse occurs.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0440

Collecting Permits

A person wishing to collect material from a site for the purposes of research, education or restoration within a state natural area or state natural area reserve shall secure written permission from:

- (1) The department;
- (2) The owner of the land; and

(3) The appropriate agency if any, including but not limited to the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0442

Boundary Markers

When feasible, boundaries of a state natural area or state natural area reserve may be made evident by placing markers at corners or other strategic locations or by boundary signs.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0444

Fences

Fences and barriers may be installed as provided in the management scheme.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0446

Trails

The location and specifications of any trails may be established in the management scheme. Trails shall be adequate to provide for permitted use of a state natural area or state natural area reserve, but otherwise kept to a minimum. The use of paving materials, footbridges and elevated walks may be permitted when necessary.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0448

Other Structures and Improvements

Signs and temporary research installations may be permitted within a state natural area or state natural area reserve. No other structures or facilities shall be located within a state natural area or state natural area reserve except as provided in the management scheme or this division.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0500

Amendments

The commission may review and approve or disapprove any modification to the Plan submitted by the department.

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.578(2)

Hist.: LB 9-1982, f. & ef. 10-1-82

736-045-0505

Waiver of Rules

The commission may waive all or any part of this division that would prevent the establishment, management, or protection of a state natural area or state natural area reserve if such rule is in conflict with an applicable statute, rule, regulation, or policy relating to an agency having an interest in or responsibility for the state natural area or the department interest in or responsibility for the state natural area reserve.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 273.563 - ORS 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

For a copy of the Oregon Natural Areas Plan, go to:

<http://orbic.pdx.edu/documents/2010NAP.pdf>

OREGON PARKS AND RECREATION DEPARTMENT

DIVISION 45

OREGON NATURAL AREAS PROGRAM RULES

General Provisions

736-045-005

Purpose

The purpose of [this division](#) ~~these rules~~ is to provide a central and continuing register of areas in Oregon ~~which~~ [that](#) contain significant natural heritage resources and special species, and describe the process used to register properties on the Oregon Register of Natural Areas. ~~Ref. ORS 273.581, Chapter 208, Oregon Laws 1981.~~

Stat. Auth.: ORS [273390.124\(4\)](#)

Stats. Implemented: ORS 273-.563 - 273-.591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; Renumbered from 736-045-0890, DSL 9-2008, f. & cert. ef. 12-10-08

736-045-010

Definitions

As used in ~~these rules~~ [this division](#), [the definitions in ORS 273.563 and ORS 390.005 apply](#), unless the context provides otherwise:

- (1) ~~"Agency"~~ means ~~any local, federal, state or federal, local government~~ agency, [board, commission, or](#) department, ~~board, or commission.~~
- (2) ~~"Commission"~~ means the [State](#) ~~Oregon~~ Parks and Recreation Commission.
- (3) "Committee" ~~means the Natural Areas Advisory Committee.~~
- (4) ~~"Candidate Natural Area"~~ means a natural resource area ~~which~~ [that](#) may be considered for registration or dedication.
- (5) "Data bank" means the Natural Areas Program inventory of natural heritage resources classification, data analysis, priority setting, owner and other data maintained by the Institute for Natural Resources under ORS 352.239.

(6) ~~“Dedicated”~~ means the formal recognition and protection of a natural area for conservation purposes.

(7) “Department” means Oregon Parks and Recreation Department.

(8) “Director” means the Oregon Parks and Recreation Department Director.

~~(8) “Document” means a documented record, report or map pertaining to the Natural Heritage Program data.~~

~~(9) “Instrument”~~ means any written document intended to convey an interest in real property ~~pursuant to~~ under ORS 93.710, or an agreement between parties ~~pursuant~~ according to the Natural Areas Program, ~~or~~ the Oregon Natural Areas Plan.

(10) ~~“Introduced plant Species~~ species” means exotic or non-native species.

(11) ~~“Managed Area~~ area” means a registered or dedicated ~~s~~State ~~n~~Natural ~~a~~Area ~~Reserve~~ that, by management agreement between the ~~department~~ Commission and private landowner, or agency, the area and its natural heritage ~~resources~~ are maintained in a manner to protect the natural character.

(12) ~~“Management Schemes~~ scheme” means a plan that sets forth in detail the responsibilities for the administration of an individual ~~s~~State ~~n~~Natural ~~a~~Area ~~Reserve~~.

(13) ~~“Natural Area~~ area” means a unit of land or water; or both; ~~that~~ which may be considered for dedication under ORS 273.563 to 273.591 ~~and that~~ ~~It means a natural heritage resource area which~~ has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values, be valuable as habitat for plant and animal species or for the study and appreciation of natural features.

~~Ref. ORS 273.566(1).~~

~~(14) “State Natural Area Reserve” means an area as defined as “Natural Area” above, that an individual, organization or public agency dedicates under the provisions of ORS 273.586.~~

~~(15)~~ (14) ~~“Natural heritage resources”~~ means the terrestrial ecosystems types, aquatic ecosystems types; and unique geologic types as defined in the Oregon Natural Areas Plan ~~or; means~~ a unit of land or water which contains a natural resource(s).

~~(15)~~ (16) ~~“Plan”~~ means the Oregon Natural Areas Plan ~~as~~ established ~~in~~ under ORS 273.5786, which governs the Natural Areas Program in ~~the selecting~~ on of natural areas for conservation. ~~Ref. ORS 273.566, Oregon Laws 1981, C. 208.~~

~~(16)~~ (17) ~~“Program”~~ means the Natural Areas Program as established in ORS 273.566, which provides for the establishment of a limited system of State Natural Area ~~Reserves~~

representing a full range of Oregon's natural resources and includes special species of plants and animals.

(178) "Register" means the Oregon Register of Natural Areas ~~as established under~~ ORS 273.581. The Register contains an official list of areas which have significant natural resources and special species.

(189) "Special ~~Species~~species" means those species of plants and animals determined by the ~~d~~Department to be of significant value in a state natural area ~~reserve~~ and defined in the Plan.

(19) "State natural area" means an area that an individual, organization or public agency dedicates as a state natural area under ORS 273.586. The department classifies property dedicated as a state natural area under ORS 273.586 and this division and owned by the department as a "State Natural Area Reserve."

(20) "Wildlife" means any wild or free living vertebrate or invertebrate animal.

Stat. Auth.: ORS ~~390.124(4)~~273

Stats. Implemented: ORS 273.563—~~273.594~~, ORS 390.005

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82, Renumbered from 736-045-0895 and 736-045-0950; DSL 9-2008, f. & cert. ef. 12-10-08

Natural Areas Advisory Committee

736-045-0100

Composition and Roles

(1) The director may appoint a Natural Areas Advisory Committee composed of nine members as follows. ~~The committee should include:~~

(a) Three authorized representatives of state agencies with jurisdiction over a managed areas or natural areas that are appropriate for dedication, including:

(A) The department;

(B) Department of State Lands;

(C) Department of Forestry;

(D) Department of Fish and Wildlife;

(E) Department of Education; and

(F) Oregon Department of Transportation;

(b) Two authorized representatives of federal natural resources management agencies, such as the U.S. Forest Service and Bureau of Land Management; and

(c) Four individuals recognized as experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology;

(2) Members appointed under subsection (1)(c) may serve two consecutive four-year terms on the committee. However, the director shall appoint the first committee members following the effective date of this rule to serve a two, three, or four-year term.

(3) The director shall appoint the chair from the committee membership, considering the recommendations of the committee.

(4) The committee shall meet at times and places specified by the call of the director.

(5) A majority of the members of the committee constitutes a quorum for the transaction of business.

(6) Function and Duties of the Natural Areas Advisory Committee. Upon the request of the director, the committee may assist the department in:

(a) Development of policy for the Natural Areas Program through the review and approval of the Oregon Areas Plan;

(b) Reviewing nominations for registration and the voluntary dedication of State Natural Area Reserves, and review instruments of dedication for such areas;

(c) Providing recommendations to the commission, State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and

(d) Advising the commission in the adoption of rules that may be considered necessary in carrying out ORS 273.563 to 273.591.

~~(1) Natural Areas Advisory Committee may be appointed by and serve at the will of the Director of Oregon Parks and Recreation Department, comprised of members chosen as follows and who shall elect from its membership a chairperson:~~

~~a) individuals recognized experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology;~~

- ~~b) citizens selected from the various regions of the state. These members shall have interest in natural resource conservation, management or the commodity use of natural resources; and,~~
- ~~c) authorized representatives of state and federal natural resources management agencies.~~

~~(2) The Committee may assist the Department in:~~

- ~~-(a) the development of policy for the Natural Areas Program through the review and approval of the Oregon Areas Plan;~~
- ~~-(b) reviewing nominations for registration and the voluntary dedication of State Natural Area Reserves, and review instruments of dedication for such areas;~~
- ~~-(c) providing recommendations to the State Parks and Recreation Commission, State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and~~
- ~~-(d) advising the Commission in the adoption of rules that may be considered necessary in carrying out ORS 273.563 to 273.591.~~

~~(3) Members of the advisory committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the department for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.~~

Stat. Auth.: ORS 390.124(4)

Stats. Implemented: ORS 273.573

Schedule of Fees and Charges

-736-045-0200

Acceptance of Funds

- (1) The ~~d~~Department may accept monies for, but not limited to, documents, including records, reports or maps pertaining to Program data, and services under this division~~these rules.~~
- (2) The ~~d~~Department may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any ~~private~~-foundation, individual or organization for the purpose of carrying out the provisions of ORS 273.563~~1~~ to 273.591, ~~and Chapter 208, Oregon Laws 1981.~~
- (3) All money~~ies~~ received by the ~~d~~Department for the purposes of this division shall be paid into the State Treasury and credited to the Natural Areas Program a~~Account of the Natural Areas Program. Ref. ORS 273.591.~~

Stat. Auth.: ORS ~~390.124(4)273~~

Stats. Implemented: ~~ORS 273~~ORS 273-.563 - ~~ORS 273~~ORS 273-.591

Hist.: LB 9-1982, f. & ef. 10-1-82

Oregon Register of Natural Heritage Resources

736-045-0300

Criteria for Inclusion in or Removal from the Register

~~The commission must determine c~~Criteria ~~for to be inclusion~~~~ed within in~~ the Register ~~must be determined by the Commission~~ to fulfill not only the definition of a natural area but the natural heritage resources and site considerations within the priorities and criteria for conservation in the Plan, ~~ORS 273.563 to 273.591 and Chapter 208, Oregon Laws 1981.~~ ~~The commission, department, the committee upon request pursuant to OAR 736-045-0100(6)(b), and the Institute for Natural Resources pursuant to ORS 352.239(2)(g)~~ will use the following criteria ~~will be used~~ in evaluating a candidate natural area proposed for inclusion in or removal from the Register:

- (1) The priority for protection in the Plan of the primary natural heritage ~~resources~~ objective and other natural heritage resources in the candidate natural area~~site as presented in the Plan~~;
- (2) ~~Whether t~~The natural heritage resource occurrence(s) is an adequate representative of the type;
- (3) The extent to which each natural heritage resource has retained its natural character, *i.e.*, a measurement of the degree of human-~~caused~~ disturbance;
- (4) The health and viability of the natural heritage resource occurrence(s), *i.e.*, the ability of each natural heritage resource occurrence to perpetuate itself or its natural sequence of development in the candidate natural area;
- (5) The number of natural heritage resources ~~or natural heritage resources which~~that will be adequately represented in the candidate natural area;
- (6) The degree of ~~uniqueness~~uniqueness and educational and natural interpretation values of a geologic resource(s);
- (7) The priority of protection given in the Plan~~given~~ to each special species of plant or animal ~~presented in the Plan~~;
- (8) The contribution the particular candidate natural area will make to the protection of the special species;~~and~~

(9) Manageability, *i.e.*, the capability of the candidate natural area to be ~~ing~~ managed ~~so as~~ to protect and ~~to~~ maintain the natural values, as well as to make it available and useful for its designated purposes;

(10) Whether there are alternative methods of accomplishing the same purposes of this division; and

(11) The cost effectiveness of including a candidate natural area in the Register.;

Stat. Auth.: ORS 390.124(4)~~273~~

Stats. Implemented: ORS 273.563 - 273.591; ORS 352.239(2)

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0305

Procedures for Registering

The department and the Institute for Natural Resources will review and provide recommendations on proposals for registration and dedication of natural areas ~~Each proposal~~ for the Register, together with field evaluation, maps and sufficient data to complete the register file. Pursuant to OAR 736-045-0100(6)(b), the director may also request that the committee review a nomination for the Register. ~~, shall be reviewed by the Commission:~~

(1) A proposal for the Register of private land shall ~~contain~~ include the written ~~consent~~ permission for registration of the landowner.

(2) The ~~Commission~~ commission may place a ~~site~~ natural area onto the Register; or remove a ~~site~~ natural area from the Register. The ~~Department~~ department ~~will review~~ and will provide recommendation to the ~~Commission~~ commission for ~~its~~ their consideration.

(3) A voluntary management agreement may be developed between the ~~Commission~~ department and a private landowner; or agency; of a ~~site~~ natural area on the Register; ~~with the assistance of the Department.~~

(4) The commission may enter onto the Register a ~~Any~~ candidate natural area(s) that a federal or state agency establishes by public hearing and dedicates under this division ~~signed by a federal or state agency, having been established by public hearing, may be entered onto the Register by the Commission.~~

~~Stat. Auth.:~~ ORS 390.124(4)~~273~~

~~Stats. Implemented:~~ ORS 273.563 - 273.591; ORS 352.239(2)(g).

~~Hist.:~~ LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0310

Register File

The Register may include file(s) of registered state natural areas or state natural area reserves:

(1) The card file may include name of a state natural area, location, size, ownership, register category, and principal nNatural hHeritage rResource(s) and special species. The card file may be cross referenced by county and principal resource.

(2) The data file may include:

(a) Data ~~Form~~ form - c ~~Comprehensive~~ information compiled for each state natural area;

(b) Instrument of ~~Dedication~~ dedication o ~~Or~~ other documents certifying official dedication;

(c) Consent ~~Form~~ form - w ~~Written~~ consent permission for registration for a state natural areas on private land;

(d) Supportive ~~Data~~ data - i ~~Includes~~ maps, photographs, remote sensing imagery, species lists, field notes, reports, research papers, and references to other information available;

(e) Cross references to the ~~Data~~ data Bank ~~bank maintained by the Institute for Natural Resources pursuant to ORS 352.239(2)(f) - to~~ ~~To~~ data file, computer and manual file consistent with data bank components;

(f) Implementation ~~Data~~ data - w ~~Written~~ management agreement pertaining to the state natural area; and

(g) Summary ~~Sheet~~ sheet - a ~~A~~ map and one page summary of information about each area which can be duplicated and circulated to appropriate authorities.

Stat. Auth.: ORS 390.124(4)273

Stats. Implemented: ~~ORS 273~~ ORS 273-.563 - ~~ORS 273~~ ORS 273-.591; ORS 352.239(2)(f)

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

736-045-0320

Location and Maintenance of Register

The department will maintain ~~data files of~~ the Oregon Register of Natural Areas ~~will be located~~ at the dDepartment's office in Salem, OR, ~~and will be maintained by the Department.~~

Stat. Auth.: ORS ~~273~~390.124(4)

Stats. Implemented: ORS 273.~~563—273.591~~581(1)

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0330

Register Review

The department willmay review and update the Register ~~shall be reviewed and updated~~ every five years ~~by the Department.~~

Stat. Auth.: ~~ORS 273~~ORS 390.124(4)

Stats. Implemented: ~~ORS 273~~ORS 273 .563 - ~~ORS 273~~ORS 273 .591

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

736-045-0340

Register Withdrawal

The commission may remove ~~Registered~~-natural areas ~~may be withdrawn~~ from the Register ~~by the Commission.~~ The commission will consider ORS 273.586(4) and the factors in OAR 736-045-0300 in removing a state natural area or state natural area reserve from the Register.

Stat. Auth.: ~~ORS 273~~ORS 390.124(4)

Stats. Implemented: ~~ORS 273~~ORS 273.581(4); ORS 273.586(4).~~.563—ORS 273 .591~~

Hist.: LB 26, f. 8-5-75, ef. 8-25-75; LB 9-1982, f. & ef. 10-1-82

Dedication and Management of a State Natural Area ~~Reserve~~

736-045-0400

Purpose

The purpose and scope of dedication is to establish and maintain the integrity of the Plan, and the Program, by means of written formal recognition and protection of a natural area of land, ~~and/or~~ water, or both land and water for natural heritage conservation purposes.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 9-1982, f. & ef. 10-1-82

736-045-0405

Instruments of Dedication

(1) Private ~~Dedication~~[dedication – a](#) ~~—A~~ private individual or organization ~~which~~[that](#) is the owner of any registered natural area may voluntarily agree to dedicate that area as a ~~State-state~~[Natural-natural Area-area](#) ~~Reserve~~ by executing with the ~~Commission~~, ~~following review by the D~~ department, an instrument of dedication. Instrument provisions and policies include, but are not limited to, the following:

(a) An agreement that provides each natural heritage resource in the ~~State-state~~[Natural-natural Area-area](#) ~~Reserve~~ with the most secure protection obtainable;

(b) An unlimited period of time, or a term sufficiently long to warrant dedication protection;

(c) Permission for conducting scientific research and other activities shall be commensurate with Program objectives; [and](#)

~~(ed)~~ Termination of dedication may occur upon written notification to the ~~Commission~~[commission](#), including specific reasons for termination, and provision by the ~~Commission~~[commission](#) of opportunity for adequate public notice and hearing.

(2) The ~~department~~ shall file an executed ~~Instrument~~[instrument](#) of ~~Dedication~~[dedication](#) of a ~~state natural~~[n](#)-area under private ownership ~~under section (1)~~ shall be filed by the ~~Commission~~ in the office of the clerk of the county in which any or all of the ~~State-state~~[Natural-natural a](#) ~~Area~~ ~~Reserve~~ is located, and shall be effective upon its recording.

(3) ~~The department~~ shall provide ~~a~~ copy of the dedication and management agreement(s) ~~shall be provided~~ to the private owner of a ~~State-state~~[Natural-natural Area-area](#) ~~Reserve~~.

(4) ~~Public~~-Agency ~~Dedication~~[dedication – a](#) ~~—A~~Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591, [this division](#), and the Plan, after providing the opportunity for adequate public notice and hearing.

(5) The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education, ~~and~~ and the State Land Board shall, with the advice and assistance of the ~~Department~~[department](#), establish procedures for the dedication of ~~State-state~~[Natural-natural Area-areas](#) ~~Reserves~~ on land or water, the title of which is held by the State of Oregon, and which is under that agency's management and control.

(6) ~~The instrument(s)~~ of dedication ~~and management~~ under sections (1) and (4) shall contain any information or provisions as the private owner, organization or agency and ~~d~~Department consider necessary to complete the dedication.

(7) Termination of the dedication of a state natural area by a public agency or a State state Natural natural Area area Reserve reserve by the department a public agency requires that the terminating agency:

(a) Provide an sion of opportunity for adequate public notice and hearing; and

(b) Makes a A findinging by the agency of of either:

(A) ~~An~~ imperative and unavoidable necessity due to natural disaster in the site, need of the natural resource during time of declared war, or the need of the natural resource because of extreme economic crisis of the state; or

(B) ~~A finding by that agency, with the approval of the Department T~~ that the sState nNatural aArea or state natural area reserve Reserve is no longer needed according to the guidelines of the Plan, or has permanently lost its character, subject to- the department's approval.

Stat. Auth.: ORS ~~273.390.124(4)~~

Stats. Implemented: ORS ~~273.563 – 273.591~~ 273.586

Hist.: LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0410

Publicity

The department and the Institute for Natural Resources may develop and make available to private landowners, researchers, agencies and interested persons iInformation about a sState nNatural aArea or state natural area reserve Reserve and appropriate descriptive material ~~may be developed and made available to interested persons~~. However, publicity which would tend to encourage the general public to visit a state natural area or State state Natural natural Area area Reserve reserve in greater numbers than its carrying capacity ~~shall~~ will be avoided.

Stat. Auth.: ORS 390.124(4) ~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591; ORS 352.239(2)(f).

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0412

Reports

At regular intervals the ~~Department~~ department ~~shall~~ may make or cause to be made a record of management activities and other influences affecting ~~for~~ each state natural area and ~~State-state Natural-natural Area-area Reserve-reserve~~ a record of management activities and other influences affecting each ~~State Natural Area Reserve~~.

Stat. Auth.: ORS 390.124~~(4)~~273

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0414

Instruments

The instruments of dedication shall include, but not be limited to, the following:

- (1) The size, location, purpose, and resources of the state natural area ~~reserve~~ or state natural area reserve;
- (2) A management scheme written for each state natural area or state natural area reserve which describes:
 - (a) The conservation objective of the area;
 - (b) Proscribed, allowed and prohibited activities on the area; and
 - (c) Provisions as consistent as possible with ~~the following practices in~~ OAR 736-045-~~0952-0410~~ through 736-045-~~0448996~~, which ~~shall~~, unless otherwise noted, are a part of each management scheme.
- (3) Agreements between the ~~Commission~~ department and any agency necessary to establish the state natural area or state natural area reserve ~~Reserve~~.

Stat. Auth.: ORS 390.124~~(4)~~273

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0416

State Natural Area ~~Reserve~~ Manager

Notwithstanding the instruments of dedication, managers of ~~a~~ state natural areas or state natural area reserves shall not take any action or fail to take any action ~~which~~ that is in conflict with an applicable statute, rule, regulation or policy relating to an agency having an interest in or responsibility for the state natural area or state natural area reserve.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0418

Fire

Prescribed fire may only be used as a management tool in such areas or situations where fire is needed to maintain or protect a [state natural area or](#) state natural area reserve as an ecosystem type specified in the management scheme.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-8

736-045-0420

Water Level Control

[Agencies shall manage state natural areas and the department shall manage](#) state natural area reserves ~~shall be managed~~ to maintain their natural water levels. Water levels which have previously been altered by man may be changed if provided for in the management scheme as essential for the restoration of natural conditions.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0422

Disturbance of Natural Features

The management of [state natural area and](#) state natural area reserves shall not include the cutting or removal of vegetation or the disturbance of other natural features, except that which is essential to carry out the management scheme enumerated in [this divisionese](#) ~~rules~~.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273.563 - 273.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0424

Visitor Protection

Guard rails, fences, steps, and bridges may be provided when essential to the safety of a reasonable alert and cautious visitor.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0426

Erosion Control

Erosion and soil deposition due to disturbances of natural conditions by man within or outside a [state natural area or](#) state natural area reserve may be controlled as provided in the management scheme.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0428

Scenic or Landscape Management

No measures or actions shall be taken to alter the natural growth or features of a [state natural area or](#) state natural area reserve for the purpose of enhancing its neatness, beauty, or amenities.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0430

Control of Succession

Control of succession may be undertaken only if maintenance or restoration of a particular ecosystem type or preservation of threatened or endangered species is designated in the instruments of dedication as an objective of the [state natural area or](#) state natural area reserve. Based on scientific evidence of necessity, successional control measures may be undertaken as provided in the management scheme. Such measures shall be applied with caution and only to that part of the area as is necessary.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0432

Control of Introduced Plant Species

Control of introduced plant species may be undertaken as provided in the management scheme.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0434

Control of Wildlife Populations

The control of wildlife populations on [state natural areas and](#) state natural area reserves shall be by agreements between the ~~c~~Commission and Oregon Department of Fish and Wildlife, or other agency. ~~As far~~~~Insofar~~ as practical, any control measures ~~applied~~ shall be to correct those situations where wildlife populations are significantly affecting natural conditions on a [state natural area or](#) state natural area reserve.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0436

Introduction and Management of Special Species

The introduction into or the management of a [state natural area or](#) state natural area reserve for special wildlife species shall be by agreement between the ~~Commission~~ [commission](#) and the Oregon Department of Fish and Wildlife, Oregon Department of Agriculture or other agency as provided in the management scheme.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0438

Use Tolerance

The management scheme shall set forth the use tolerance or durability of all or any portion of a [state natural area or](#) state natural area reserve and specify the steps to be taken if overuse occurs.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0440

Collecting Permits

A person wishing to collect material from a site for the purposes of research, education or restoration within a [state natural area or](#) state natural area reserve shall secure written permission from:

(1) ~~The Oregon Parks and Recreation Department;~~ and

(2) The owner of the land; and

(3) The appropriate agency if any, including but not limited to the Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273.563 - 273.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82; DSL 9-2008, f. & cert. ef. 12-10-08

736-045-0442

Boundary Markers

When feasible, boundaries of a [state natural area or](#) state natural area reserve may be made ~~clearly~~ evident by placing markers at corners or other strategic locations or by boundary signs.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0444

Fences

Fences and barriers may be installed as provided in the management scheme.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0446

Trails

The location and specifications of any trails may be established in the management scheme. Trails shall be adequate to provide for permitted use of a [state natural area or state natural area reserve](#), but otherwise kept to a minimum. The use of paving materials, footbridges and elevated walks may be permitted when necessary.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0448

Other Structures and Improvements

Signs and temporary research installations may be permitted within a [state natural area or state natural area reserve](#). No other structures or facilities shall be located within a [state natural area or state natural area reserve](#) except as provided in the management scheme or ~~in this division~~ [these rules](#).

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273-.563 - ORS 273-.591
Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

736-045-0500

Amendments

The ~~c~~Commission may review and approve or disapprove any modification to the Plan submitted by the ~~d~~Deartment.

Stat. Auth.: ORS [390.124\(4\)](#)~~273~~
Stats. Implemented: ORS 273.~~578(2)~~.~~563~~ — ~~ORS 273 .591~~
Hist.: LB 9-1982, f. & ef. 10-1-82

736-045-0505

Waiver of Rules

The ~~c~~Commission may waive all or any part of ~~these~~ ~~this division~~ ~~rules~~ ~~that~~ ~~which~~ would prevent the establishment, management, or protection of a state natural area or state natural area ~~Reserve~~ reserve if such rule is in conflict with an applicable statute, rule, regulation, or policy relating to an agency having an interest in or responsibility for the state natural area or the department interest in or responsibility for the state natural area ~~reserve~~ Reserve.

Stat. Auth.: ORS 390.124~~273~~

Stats. Implemented: ORS 273-.563 - ORS 273-.591

Hist.: LB 18, f. 7-29-74, ef. 8-25-74; LB 9-1982, f. & ef. 10-1-82

~~The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State. Terms and Conditions of Use~~

For a copy of the Oregon Natural Areas Plan, go to:

<http://orbic.pdx.edu/documents/2010NAP.pdf>

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