



# Oregon

Kate Brown, Governor

## Oregon Watershed Enhancement Board

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## MEMORANDUM

**TO:** Oregon Watershed Enhancement Board  
**FROM:** Eric Hartstein, Senior Policy Coordinator  
**SUBJECT:** **Agenda Item M – OWEB Statute Revisions-Legislative Concept  
July 26-27, 2016 Board Meeting**

### I. Introduction

This staff report updates the Board on a legislative concept under development for the 2017 Legislative Session that seeks to update OWEB's statutes found at ORS 541.890 - 541.972. In addition, OWEB is working with a team to develop legislative concepts related to the Oregon Agricultural Heritage Program. An update on that process is provided separately under Agenda Item L – Governor's Priorities.

### II. Background

The last comprehensive update to OWEB's statutes occurred in the 2011 Legislative Session in response to approval of Ballot Measure 76 in 2010. After review, staff have found other sections of OWEB's statutes that warrant revision, and submitted a placeholder legislative concept in April 2016 that was subsequently approved by the Governor's Office for consideration in the 2017 Legislative session. In June 2016 OWEB submitted additional information for review and drafting of a draft bill by Legislative Counsel. The proposed legislative concept would provide cleanup and updates to sections of OWEB statutes including the Oregon Plan, Oregon Plan Administration, Watershed Enhancement Program, and Reports. The statute revisions are intended to include additional language that will revitalize certain statutes and remove aspects of the statutes that are longer relevant. Some statutes for which repeal or revisions are recommended no longer apply due to statutory changes made by the legislature in previous years, while others reflect the changes to the way OWEB serves the public.

In addition to general statutory cleanup, staff are proposing two substantive changes related to 1) adding U.S. Fish and Wildlife Service (USFWS) as an ex-officio member to the OWEB Board, and 2) removing language that allows the Department of Administrative Services (DAS) to provide liability coverage for watershed councils, based on the fact that OWEB is putting in place stronger requirements for all grantees.

### III. Proposed Revisions

OWEB staff has proposed the following revisions to OWEB statutes:

- Adding a representative of the USFWS as a non-voting member of the OWEB Board. USFWS plays an important role in funding and implementing watershed enhancement and restoration projects across the state, and the

addition of a USFWS representative to the Board will provide important guidance to the agency on a broad array of issues.

- Repealing language in statute that DAS may provide liability coverage for watershed councils at the expense of OWEB. This liability coverage is limited, and OWEB staff is working with stakeholders to develop guidance for watershed councils to obtain appropriate levels of liability insurance commensurate with watershed council activities.
- Repealing language in statute referencing agencies or entities that no longer exist (e.g., State Service Center for Geographic Information Systems).
- Repealing the requirement for other natural resource agencies to provide written reports related to the enhancement or restoration of riparian areas or associated uplands to OWEB to assist in developing and maintaining a centralized repository. The widespread use of the Internet has made this requirement unnecessary, as reports are posted on agency websites and other information clearinghouses found online.
- Eliminating “a person” from being an eligible entity to apply for grant funding. OWEB rarely receives requests directly from a landowner to receive a grant directly from the agency, and when requests are received, staff direct them to local organizations that do conservation work. OWEB’s granting processes require close tracking of project costs, billing, and compliance with state and federal statutes regarding use of funds, including indirect costs through the federal Office of Management and Budget, and the new requirements for liability insurance coverage for restoration projects, as just two examples. Landowners can work directly with local organizations (e.g., soil and water conservation district, watershed council, land trust or other local non-profit organizations) to complete their identified projects with assurance that such organizations must meet the identified grant requirements.
- Repealing elements in OWEB statutes related to Oregon Plan reporting for which the agency lacks the information and scientific/technical expertise to report, thus relying upon the reporting of other agencies.
- Other minor technical corrections that provide statutory “clean-up”.

#### **IV. Next Steps**

The proposed revisions to OWEB statutes will be drafted by Legislative Counsel over the summer. After the draft is completed, staff will have one opportunity to provide revisions. Legislative concept drafting is completed by November 1, 2016 and with approval by the Governor, agency concepts are filed by December 9, 2016 for the 2017 Legislative Session. An update on this process will be provided to the Board at the October 2016 meeting.

#### **V. Recommendation**

This is an information item only.