

Enrolled Senate Bill 751

Sponsored by Senators METSGER, NELSON; Representative MONNES ANDERSON

CHAPTER

AN ACT

Relating to removal of contaminated sediment from the Willamette River; creating new provisions; and amending ORS 468.220.

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

SECTION 1. (1) The Legislative Assembly finds that the listing of an area on the National Priorities List described in 42 U.S.C. 9605, commonly known as establishing a Superfund site, and the remedial investigations and feasibility studies undertaken following such a listing identify the presence of pollutants, hazardous substances and contaminants in the area that are not directly traceable to a particular responsible party.

(2) The Legislative Assembly finds that ORS 465.200 to 465.510 provide for joint and several liability among potentially responsible parties for the cleanup of Superfund sites. Because joint and several liability does not identify a potentially responsible party's share of cleanup costs, remedial actions are often delayed as potentially responsible parties litigate each share of the liability.

(3) The Legislative Assembly declares that the state has the authority and the ability to facilitate cleanup of the submerged and submersible lands in the Willamette River Superfund site.

(4) The Legislative Assembly finds that cleanup of the submerged and submersible lands of the Willamette River, including the Superfund site, will provide benefits to the people of Oregon, to industries and to living resources, water quality, water uses, recreation, habitat protection, habitat preservation and other watershed qualities, and will provide significant economic enhancement to the State of Oregon.

SECTION 2. ORS 468.220 is amended to read:

468.220. (1) The Department of Environmental Quality shall be the agency for the State of Oregon for the administration of the Pollution Control Fund. The department is hereby authorized to use the Pollution Control Fund for one or more of the following purposes:

(a) To grant funds not to exceed 30 percent of total project costs for eligible projects as defined in ORS 454.505 or sewerage systems as defined in ORS 468B.005.

(b) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (a) of this subsection in an amount not to exceed 100 percent of the total project costs for eligible projects.

(c) To acquire, by purchase, or otherwise, other obligations of any city that are authorized by its charter in an amount not to exceed 100 percent of the total project costs for eligible projects.

(d) To grant funds not to exceed 30 percent of the total project costs for facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities.

(e) To make loans or grants to any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, for planning of eligible projects as defined in ORS 454.505, sewerage systems as defined by ORS 468B.005 or facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities. Grants made under this paragraph shall be considered a part of any grant authorized by paragraph (a) or (d) of this subsection if the project is approved.

(f) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (d) of this subsection in an amount not to exceed 100 percent of the total project costs.

(g) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of the State of Oregon, or combination thereof, for the purpose of paragraphs (a) and (d) of this subsection in an amount not to exceed 100 percent of the total project costs.

(h) To pay compensation required by law to be paid by the state for the acquisition of real property for the disposal by storage of environmentally hazardous wastes.

(i) To dispose of environmentally hazardous wastes by the Department of Environmental Quality whenever the department finds that an emergency exists requiring such disposal.

(j) To acquire for the state real property and facilities for the disposal by landfill, storage or otherwise of solid waste, including but not limited to, transfer and resource recovery facilities.

(k) To acquire for the state real property and facilities for the disposal by incineration or otherwise of hazardous waste or PCB.

(L) To provide funding for the Assessment Deferral Loan Program Revolving Fund established in ORS 454.436.

(m) To provide funding for the Orphan Site Account established in ORS 465.381 but only to the extent that the department reasonably estimates that debt service from bonds issued to finance such facilities or activities shall be fully paid from fees collected pursuant to ORS 453.402 (2)(c), under ORS 459.236 and under ORS 465.101 to 465.131 for the purpose of providing funds for the Orphan Site Account and other available funds, but not from repayments of financial assistance under ORS 465.265 to 465.310 or from moneys recovered from responsible parties.

(n) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of this state, or combination thereof, for facilities or activities related to removal or remedial action of hazardous substances.

(o) To provide funding for the Water Pollution Control Revolving Fund established under ORS 468.427, either as a grant or an advance. If the funding provided is an advance, the department shall establish the program described in ORS 468.433 (2) to pay the bonds that funded the advance.

(p) To fund loans to or buy debt obligations of a public agency, as defined in ORS 468.423, that finance the costs of treatment works, as defined in ORS 468.423, which are funded in part through the Water Pollution Control Revolving Fund.

(q) To provide funding for remedial actions related to contaminated sediment found in the submerged and submersible lands, as those terms are defined in ORS 274.005, within the Willamette River between Swan Island and the confluence of the Willamette and Columbia Rivers and associated remedial actions. The funding provided under this paragraph may be used for remedial action costs, as defined in ORS 465.200.

(2) The facilities referred to in subsection (1)(a) to (c) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the federal government, user charges, assessments and other fees.

(3) The facilities referred to subsection (1)(d), (f) and (g) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-

liquidating from revenues, gifts, grants from the federal government, user charges, assessments and other fees.

(4) The real property and facilities that receive funding under subsection (1)(j), (k), (o) and (p) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the federal government, user charges, assessments and other fees.

(5) The department may sell or pledge any bonds, notes or other obligations acquired under subsection (1)(b) of this section.

(6) Before making a loan or grant to or acquiring general obligation bonds or other obligations of a municipal corporation, city, county or agency for facilities for the disposal of solid waste or planning for such facilities, the department shall require the applicant to demonstrate that it has adopted a solid waste management plan that has been approved by the department. The plan must include a waste reduction program.

(7) Any grant authorized by this section shall be made only with the prior review of the Joint Committee on Ways and Means during the legislative sessions or the Emergency Board during the interim period between sessions.

(8) The department may assess those entities to whom grants and loans are made under this section to recover expenses incurred in administering this section.

SECTION 3. (1) There is established a Willamette River Cleanup Authority consisting of five members. The authority shall be composed of:

(a) The Governor;

(b) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives; and

(c) Two members of the Senate, appointed by the President of the Senate.

(2) The purpose of the authority is to:

(a) Receive periodic reports from the Department of Environmental Quality, the United States Environmental Protection Agency and potentially responsible parties involved in the remedial investigation and feasibility study process relating to the listing of the Willamette River on the National Priorities List described in 42 U.S.C. 9605; and

(b) Make recommendations to the Legislative Assembly on the amount of general obligation bonds or other bonds that would need to be issued to pay for the implementation of all or a portion of the record of decision of the remedial investigation and feasibility study process.

(3) The Governor shall serve as chairperson, and a majority of members constitutes a quorum for the transaction of business.

(4) All agencies of the state government, as defined in ORS 174.111, are directed to assist the authority in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the authority consider necessary to perform their duties.

(5) The authority may hold public meetings for the transaction of any of its business at the times and places as it may prescribe. At any such public hearing, any person interested in the matter being investigated may appear and testify.

(6) The authority shall establish such advisory or technical committees as it considers necessary to aid and advise the authority in the performance of its duties. The authority shall determine the representation, membership, terms and organization of the committees and shall appoint committee members, except that at least one advisory committee shall be composed of representatives of property owners in the area that is the subject of the remedial investigation and feasibility study, state and local environmental organizations, the Port of Portland, the City of Portland and private-sector labor representatives.

(7) Members of the advisory or technical committees are not entitled to compensation nor reimbursement for actual and necessary travel and other expenses.

Passed by Senate June 17, 2003

Repassed by Senate August 12, 2003

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Secretary of Senate

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President of Senate

Passed by House August 8, 2003

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Speaker of House

Received by Governor:

.....M.,....., 2003

Approved:

.....M.,....., 2003

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2003

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Secretary of State