

**A-Engrossed**  
**House Bill 3026**

Ordered by the House May 23  
Including House Amendments dated May 23

Sponsored by Representative G SMITH

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Includes fiber optic infrastructure projects in types of projects that may receive financial assistance from Special Public Works Fund. **Directs Economic and Community Development Department to evaluate impact telecommunications infrastructure project or fiber optic infrastructure project determined eligible for revenue bond financing would have on private companies that provide telecommunications or fiber optic services to public.**

**A BILL FOR AN ACT**

1  
2 Relating to fiber optic infrastructure projects; amending ORS 285B.410, 285B.419, 285B.438, 285B.455  
3 and 285B.467.

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

5 **SECTION 1.** ORS 285B.410 is amended to read:

6 285B.410. As used in ORS 285B.410 to 285B.482, unless the context requires otherwise:

7 (1) "Community facilities" means municipal facilities that assist the economic and community  
8 development of the municipality, as specified in rules adopted by the Economic and Community De-  
9 velopment Department, whether operated by the municipality or by a person under a management  
10 contract or an operating agreement with the municipality.

11 (2) "Community facilities project" means a project for the acquisition, construction or develop-  
12 ment of community facilities, including the acquisition of land, the mitigation of environmental  
13 conditions on industrial lands, the construction, acquisition, renovation or reconstruction of  
14 buildings, structures and other real property, and the acquisition or construction of related equip-  
15 ment and fixtures.

16 (3) "Direct project management costs" means new expenses incurred by a municipality solely to  
17 support, plan for and manage an infrastructure or community facilities project, funded in whole or  
18 in part through financial assistance under ORS 285B.410 to 285B.482, during the planning and con-  
19 struction phases of the project.

20 (4) **"Fiber optic infrastructure" means real or personal property, structures or equipment**  
21 **constructed, used or configured for the optical transmission or receipt of voice, data, text,**  
22 **images or video between sites and facilities.**

23 [(4)] (5) "Infrastructure project" means:

24 (a) A project for the construction of sewage treatment works, solid waste disposal sites, water  
25 supply works, roads, public transportation, railroad industrial spurs or sidings, telecommunications  
26 infrastructure, **fiber optic infrastructure**, storm drainage systems or other facilities that comprise

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 the physical foundation for industrial and commercial activity. The costs of property acquisition di-  
2 rectly related to the infrastructure project and acquisition of easements or rights of way necessary  
3 to accomplish construction of the infrastructure project are eligible for assistance under ORS  
4 285B.410 to 285B.482. The costs of activities related to performing an environmental action on a  
5 brownfield are eligible for assistance under ORS 285B.416 (2) and 285B.455 (5). Purchases of off-site  
6 property for project-related purposes such as wetland mitigation or other uses not directly related  
7 to the infrastructure are not eligible for assistance. As used in this paragraph, “brownfield” and  
8 “environmental action” have the meanings given those terms respectively in ORS 285A.185 and  
9 285A.188.

10 (b) A project, in consultation with the Department of Transportation and other affected agen-  
11 cies, for the acquisition, reconstruction or rehabilitation of an abandoned railroad line or railroad  
12 line that has been designated by the owner and operator thereof as subject to abandonment within  
13 a three-year period pursuant to federal law and regulations governing abandonment of common  
14 carrier railroad lines. The project may include operation or maintenance costs if the project also  
15 includes acquisition, reconstruction or rehabilitation.

16 (c) A safe drinking water project, in consultation with the Water Resources Department, the  
17 Department of Human Services or the Department of Land Conservation and Development, for im-  
18 proving a drinking water system for the purpose of achieving or maintaining compliance with ap-  
19 plicable state or federal drinking water quality regulations.

20 (d) A project, as specified by rule of the Economic and Community Development Department,  
21 resulting from an emergency as defined in ORS 401.025.

22 [(5)] (6) “Municipality” means a city, a county, the Port of Portland created by ORS 778.010, a  
23 county service district organized under ORS chapter 451, a tribal council of an Indian tribe in this  
24 state or a district as defined in ORS 198.010.

25 [(6)] (7) “Nonurban infrastructure projects” includes all those infrastructure projects which do  
26 not meet the definition of urban infrastructure projects.

27 [(7)] (8) “Public transportation” includes public depots, public parking, public docks, public  
28 wharves, railroads and airport facilities.

29 [(8)] (9) “Roads” includes:

30 (a) Ways described as streets, highways, throughways or alleys;

31 (b) Road related structures that are in the right of way such as tunnels, culverts or similar  
32 structures; and

33 (c) Structures that provide for continuity of the right of way such as bridges.

34 [(9)] (10) “Sewage treatment works” includes all facilities necessary for collecting, pumping,  
35 treating and disposing of sanitary or storm sewage.

36 [(10)] (11) “Solid waste disposal site” has the meaning given to the term “disposal site” by ORS  
37 459.005.

38 [(11)] (12) “Storm drainage systems” means facilities necessary for collecting, controlling, con-  
39 veying, treating and disposing of storm water runoff.

40 [(12)] (13) “Telecommunications infrastructure” means real or personal property, structures or  
41 equipment constructed, used or configured for the electronic transmission or receipt of voice, data,  
42 text, images or video between sites and facilities.

43 [(13)] (14) “Urban infrastructure projects” includes all those infrastructure projects located in  
44 whole or in part within the acknowledged Portland Metropolitan Area Regional Urban Growth  
45 Boundary, and the acknowledged urban growth boundaries of the cities of Eugene, Springfield,

1 Salem, Keizer or Medford or projects that will principally benefit these areas. The Director of the  
2 Economic and Community Development Department is authorized to resolve situations left in ques-  
3 tion by this definition.

4 [(14)] (15) "Water supply works" includes all facilities necessary for tapping natural sources of  
5 domestic and industrial water, treating and protecting the quality of the water and transmitting it  
6 to the point of sale to any public or private agency for domestic, municipal and industrial water  
7 supply service.

8 **SECTION 2.** ORS 285B.419 is amended to read:

9 285B.419. (1) The Economic and Community Development Department shall adopt rules and  
10 policies for the administration of the Special Public Works Fund. Insofar as practicable, the de-  
11 partment's rules shall provide that infrastructure projects that meet the following criteria receive  
12 priority for assistance:

13 (a) Provide for the establishment or enlargement of economically viable industries, with rea-  
14 sonable long term growth prospects, including opportunities for innovative new industries or for  
15 continuance of existing basic industries.

16 (b) Result in a net benefit to the state in the long term and not require continuing state subsi-  
17 dies.

18 (c) Utilize existing public and private assets, including infrastructure, human resources and  
19 plant and equipment.

20 (d) Improve the conditions of the economically disadvantaged and increase the number of jobs  
21 that increase average incomes.

22 (e) Support the development of businesses owned by women and members of minority groups.

23 (f) Harness Oregon's comparative advantage with emphasis on the growth and development of  
24 existing, in-state businesses, especially small businesses.

25 (g) Direct assistance to infrastructure projects that assist businesses selling goods and services  
26 in markets for which national or international competition exists and prohibit assistance to  
27 infrastructure projects that primarily focus on relocating business or economic activity from one  
28 part of the state to another.

29 (h) Result in the economic revitalization of communities.

30 (i) Are funded and otherwise supported to the maximum extent possible by private resources.

31 (j) Result in business growth or expansion which would not occur in Oregon without an invest-  
32 ment from the Special Public Works Fund.

33 (2)(a) The Economic and Community Development Department shall manage the Special Public  
34 Works Fund and any expenditures from its accounts and transfers between its accounts so that the  
35 fund value shall be equal to at least 50 percent of lottery revenues actually transferred to the fund  
36 plus interest on such amounts compounded annually at five percent.

37 (b) If necessary to ensure repayment of bonds issued under ORS 285B.410 to 285B.482, the Eco-  
38 nomic and Community Development Department is authorized to reduce the value of the fund to less  
39 than the limit provided in paragraph (a) of this subsection if the department:

40 (A) Finds that without such a reduction in fund value, bonds secured by the fund are likely to  
41 be in default; and

42 (B) Imposes a moratorium on grants until the requirements of paragraph (a) of this subsection  
43 are met.

44 (3)(a) Not more than 100 percent of the total cost of any infrastructure or community facilities  
45 project shall be financed from the Special Public Works Fund.

1 (b) For purposes of a project described in [*ORS 285B.410 (4)(d)*] **ORS 285B.410 (5)(d)**, the total  
2 cost described in paragraph (a) of this subsection is the total local matching funds requirement for  
3 the federal disaster relief assistance committed to the project.

4 (4) The department may commit moneys in the Special Public Works Fund or reserve future in-  
5 come to the fund for disbursement in future years under ORS 285B.440 (4). The department shall commit  
6 or reserve moneys under this subsection only after:

7 (a) Allowing for contingencies;

8 (b) Finding that there will be sufficient unobligated net income to the fund to make such future  
9 payments. Such a finding shall be based on financial plans which are consistent with the financial  
10 requirements of subsections (2) and (4) of this section; and

11 (c) Providing in any contract for such commitment that the liability of the state to make such  
12 annual payments shall be contingent on the availability of moneys in the Special Public Works Fund.

13 (5) In assisting local governments with infrastructure and community facilities projects, the de-  
14 partment shall cooperate to the maximum extent possible with other state agencies financing similar  
15 projects, including but not limited to the Department of Environmental Quality, the Water Resources  
16 Department and the Department of Transportation.

17 (6) The department shall notify the Housing and Community Services Department of any pro-  
18 posed Special Public Works Fund project with a related workforce increase at the time the depart-  
19 ment receives the completed application for the project.

20 **SECTION 3.** ORS 285B.438 is amended to read:

21 285B.438. (1) For the purposes of a project described in [*ORS 285B.410 (4)(d)*] **ORS 285B.410**  
22 **(5)(d)**, the Economic and Community Development Department may lend or grant moneys in the  
23 Special Public Works Fund to provide local matching funds to a municipality for infrastructure  
24 projects to which available federal disaster relief assistance is committed.

25 (2) ORS 285B.413 (1) and (2), 285B.419 (1), 285B.434 (2), (3), (4), (5), (7) and (8), 285B.464 and  
26 285B.467 (2) and (8) do not apply to the application of a municipality seeking local matching funds  
27 for a project eligible under [*ORS 285B.410 (4)(d)*] **ORS 285B.410 (5)(d)**.

28 **SECTION 4.** ORS 285B.455 is amended to read:

29 285B.455. (1) There is created the Special Public Works Fund, separate and distinct from the  
30 General Fund. All moneys credited to the Special Public Works Fund are appropriated continuously  
31 **to the Economic and Community Development Department** and shall be used for the purposes  
32 outlined in ORS 285A.075 (9) and 285B.410 to 285B.482. There shall be credited to the Special Public  
33 Works Fund[, *money*]:

34 (a) **Moneys** appropriated to the fund by the Legislative Assembly[.];

35 (b) Earnings on the fund[.];

36 (c) Repayment of financial assistance; and

37 (d) Bond proceeds as authorized under ORS 285B.410 to 285B.482.

38 (2) Moneys in the Special Public Works Fund, with the approval of the State Treasurer, may be  
39 invested as provided by ORS 293.701 to 293.820 and the earnings from such investments shall be  
40 credited to the account in the Special Public Works Fund designated by the Economic and Commu-  
41 nity Development Department.

42 (3) The Economic and Community Development Department shall be the agency for the State  
43 of Oregon for the administration of the Special Public Works Fund.

44 (4) The department may establish such other accounts within the Special Public Works Fund for  
45 the payment of project costs, reserves, debt service payments, credit enhancement, administration

1 and operation expenses or any other purpose necessary to carry out ORS 285B.410 to 285B.482.

2 (5) Out of moneys in the Special Public Works Fund, the department may:

3 (a) Make technical assistance grants and loans to municipalities. The department may not ex-  
4 pend more than one percent of the value of the Special Public Works Fund for technical assistance  
5 grants and loans to municipalities in a biennium.

6 (b) Make grants to municipalities to provide local matching funds for the purposes of a project  
7 described in [ORS 285B.410 (4)(d)] **ORS 285B.410 (5)(b)** in an amount that does not exceed \$2.5  
8 million in any biennium.

9 **SECTION 5.** ORS 285B.467 is amended to read:

10 285B.467. (1) The Economic and Community Development Department shall:

11 (a) Adopt by rule standards by which to determine the eligibility for revenue bond financing  
12 under ORS 285B.467 to 285B.479 of infrastructure and community facilities projects that have qual-  
13 ified under ORS 285B.419 to 285B.437 and 285B.449[.]; and

14 (b) **Evaluate the impact a telecommunications infrastructure project or a fiber optic**  
15 **infrastructure project determined eligible for revenue bond financing under ORS 285B.467 to**  
16 **285B.479 would have on private companies that provide telecommunications or fiber optic**  
17 **services to the public.**

18 (2) In adopting rules establishing guidelines or criteria for awarding loans or grants for drinking  
19 water projects, the department shall coordinate the department's rulemaking process with the Water  
20 Resources Department and the Department of Human Services in order to assure that rules adopted  
21 under this subsection are consistent with rules adopted under ORS 431.120 and 541.845. The rules  
22 adopted under this subsection shall:

23 (a) Require the installation of meters on all new service connections to any distribution lines  
24 funded under ORS 285B.410, 285B.461, 285B.560 to 285B.599, 431.120, 541.700, 541.705, 541.755,  
25 541.765, 541.830, 541.845 and this section; and

26 (b) Require a plan, to be adopted by the municipality, for installation of meters on all service  
27 connections throughout the drinking water system.

28 (3) Upon determining an infrastructure or community facilities project eligible for revenue bond  
29 financing under ORS 285B.467 to 285B.479, the department shall forward the application to the State  
30 Treasurer, who shall determine whether to issue revenue bonds.

31 (4) Notwithstanding [ORS 285B.410 (4)(a)] **ORS 285B.410 (5)(a)** and 285B.416 (1), when an  
32 infrastructure or community facilities project is determined to be eligible for revenue bond financing  
33 under ORS 285B.467 to 285B.479, direct project management costs and the costs for preliminary  
34 planning or legal, fiscal and economic investigations, reports and studies to determine the economic  
35 and engineering feasibility of the project are included within the total project costs of the project  
36 and may be paid from bond proceeds.

37 (5) Administrative expenses of the department in processing applications and investigating pro-  
38 posed infrastructure and community facilities projects and bond sales shall not be derived from bond  
39 proceeds.

40 (6) The department may pledge all or any portion of the existing or future assets and receipts  
41 of the Special Public Works Fund to pay debt service on bonds issued pursuant to ORS 285B.410 to  
42 285B.482. Such pledge shall take effect immediately, without delivery of the pledged funds to third  
43 parties, and the lien of the pledge shall be superior to all other liens of any nature.

44 (7) The department is authorized to establish separate accounts within the fund for separate  
45 bond issues.

1           (8) As used in this section, “service connection” does not include fire hydrants, fire sprinkler  
2 system connections, line blow-offs and drains, stand-by emergency interties, valve controlled drink-  
3 ing fountains and other similar intermittently used connections.

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