

CHAPTER 97

AN ACT

SB 1561

Relating to the administration of moneys received from the Monsanto settlement; creating new provisions; repealing ORS 466.445 and 466.447; and declaring an emergency.

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

SECTION 1. (1) It is the intent of the Legislative Assembly in enacting sections 1 to 12 of this 2024 Act to:

(a) Establish the Oregon Environmental Restoration Fund in the State Treasury, consisting of moneys paid to the state from the Monsanto Settlement Agreement;

(b) Provide for the investment of settlement funds and for the expenditure of earnings from those investments in an equitable, transparent and accountable manner; and

(c) Ensure that, consistent with the terms of the Monsanto Settlement Agreement, earnings are used to supplement efforts by recognized tribal governments, executive branch agencies and disproportionately impacted communities for environmental remediation or restitutionary projects or purposes having a nexus with environmental harms to air, water, soil or other natural resources or human health caused by environmental contamination, particularly the presence of PCB.

(2) It is the intent of the Legislative Assembly that projects or purposes for which allocations or transfers made under sections 1 to 12 of this 2024 Act be consistent with the terms of the Monsanto Settlement Agreement.

SECTION 2. As used in sections 1 to 12 of this 2024 Act:

(1) “Disproportionately impacted community” means communities that have been disproportionately impacted by PCB or other contaminants or that have been historically underrepresented in public processes regarding environmental laws or policies and as further defined by the Environmental Restoration Council by rule under section 7 of this 2024 Act.

(2) “Monsanto Settlement Agreement” means the settlement agreement between the State of Oregon and Monsanto Company, Pharmacia LLC and Solutia, Inc., effective December 15, 2022, and any modifications thereto.

(3) “PCB” has the meaning given that term in ORS 466.505.

SECTION 3. (1) The Oregon Environmental Restoration Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon Environmental Restoration Fund consists of:

(a) Proceeds from the Monsanto Settlement Agreement;

(b) Moneys transferred to the fund by the Legislative Assembly; and

(c) Other amounts deposited in the fund from any other public or private source.

(2) Moneys in the Oregon Environmental Restoration Fund are continuously appropriated to the Oregon Watershed Enhancement Board to be expended, consistent with the terms of the Monsanto Settlement Agreement, for the following purposes:

(a) To pay the expenses of the board and the Environmental Restoration Council incurred in the administration of sections 1 to 12 of this 2024 Act; and

(b) To carry out section 4 of this 2024 Act.

(3) Moneys in the Oregon Environmental Restoration Fund shall be invested as provided in ORS 293.701 to 293.857 and the earnings from such investments shall be credited to the fund.

(4) The Oregon Watershed Enhancement Board shall administer the Oregon Environmental Restoration Fund.

(5) In addition to services provided as the investment officer for the Oregon Investment Council under ORS 293.716, the State Treasurer shall provide accounting services specific to the Oregon Environmental Restoration Fund.

SECTION 4. (1) The Environmental Restoration Council shall, based on the advice of the State Treasurer, establish a long-term distribution policy for the Oregon Environmental Restoration Fund that seeks to maintain a stable real asset value over time while providing for the transfers described in subsections (3) and (4) of this section.

(2) No later than December 1 of each year, the Environmental Restoration Council shall determine the amounts that shall be transferred from the Oregon Environmental Restoration Fund by the Oregon Watershed Enhancement Board for the purposes of subsections (3) and (4) of this section. The amounts to be transferred shall be based on the balance of the Oregon Environmental Restoration Fund at the end of the prior fiscal year.

(3) First, the board shall transfer from the Oregon Environmental Restoration Fund the amount reasonably necessary to cover the costs of the board and the Environmental Restoration Council in the administration of sections 1 to 12 of this 2024 Act. The amount transferred under this subsection may not exceed 0.25 percent of the Oregon Environmental Restoration Fund balance at the end of the prior fiscal year, unless a greater amount is approved by the Environmental Restoration Council.

(4) Second, the board shall transfer from the Oregon Environmental Restoration Fund the amount determined pursuant to the long-term

distribution policy developed under subsection (1) of this section, to be allocated as follows:

(a) Fifty percent shall be transferred to the State Agency Program Fund established under section 10 of this 2024 Act;

(b) Twenty-five percent shall be transferred to the Disproportionately Impacted Community Fund established under section 11 of this 2024 Act; and

(c) Twenty-five percent shall be transferred to the Tribal Nation Natural Resource Program Fund established under section 12 of this 2024 Act.

SECTION 5. (1) The Environmental Restoration Council is established in the Oregon Watershed Enhancement Board. The council consists of 11 members as follows:

(a) The Governor or the Governor's designee.

(b) The Director of the Department of Environmental Quality or the director's designee.

(c) The State Fish and Wildlife Director or the director's designee.

(d) The Director of the Oregon Health Authority or the director's designee.

(e) The Attorney General or the Attorney General's designee.

(f)(A) Six members, appointed by the Governor, who have expertise and a demonstrated interest in environmental remediation and the impacts from contamination to water, air or land on people or the environment. The Governor shall endeavor to appoint members with complimentary expertise under this paragraph.

(B) Of the members appointed under this paragraph, at least two must possess scientific expertise with the environmental or human health impacts of PCB or other similar substances in the environment.

(C) Council members appointed under subparagraph (B) of this paragraph need not reside in Oregon.

(g) A member of the Senate appointed by the President of the Senate to be a nonvoting advisory member of the council.

(h) A member of the House of Representatives appointed by the Speaker of the House of Representatives to be a nonvoting advisory member of the council.

(2) The term of office of each member of the council appointed by the Governor is four years, but a member serves at the pleasure of the Governor. A member is eligible for reappointment but may not serve more than two consecutive terms. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) Each legislative member serves at the pleasure of the appointing authority and may serve as long as the member remains in the

chamber of the Legislative Assembly from which the member was appointed.

(4) The Governor shall appoint a member of the council to serve as chairperson.

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

(6) The council shall meet annually at the time and place specified by the chairperson or of a majority of the members of the council. The council may meet at other times and places as determined by the chairperson or a majority of the members of the council.

(7) The Oregon Watershed Enhancement Board shall provide staff support to the council. The board may enter into agreements with other state agencies to provide additional staff support to the council.

(8)(a) The council may create advisory committees as necessary to advise the council on carrying out the functions of the council.

(b) The council may appoint to an advisory committee any person that the council determines possesses expertise or information that may assist the council in the performance of its duties.

(9)(a) Voting members of the council, and members of an advisory committee appointed under subsection (8) of this section who are not members of the council, may be reimbursed for actual and necessary travel and other expenses incurred by the member in the performance of official duties in the same manner and amount as provided by ORS 292.495.

(b) Members of the council who are members of the Legislative Assembly are entitled to payment of compensation and expenses as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(10) The council shall submit a report each biennium to the Governor and the Legislative Assembly in the manner provided by ORS 192.245. The report must describe the purposes for which moneys expended from the State Agency Program Fund established under section 10 of this 2024 Act, the Disproportionately Impacted Community Fund established under section 11 of this 2024 Act and the Tribal Nation Natural Resource Program Fund established under section 12 of this 2024 Act were used and the outcomes achieved by funding recipients.

(11) In accordance with the provisions of ORS chapter 183, the council may adopt rules necessary for the administration of the laws that the council is charged with administering.

SECTION 6. (1) The Environmental Restoration Council shall establish by rule procedures and criteria for approving allocations to state agencies that have a nexus with the projects and purposes described in the Monsanto Settlement Agreement from the State Agency Program

Fund established under section 10 of this 2024 Act.

(2)(a) Allocations approved by the council under this section must be for projects or purposes that are consistent with the terms of the Monsanto Settlement Agreement and the strategic priorities established under section 9 of this 2024 Act.

(b) Allocations may be used to supplement existing programs or projects but may not be used to supplant moneys available from any other source.

(c) Allocations may be used as matching funds for federal moneys or moneys available from any other source.

(3) Rules adopted under this section shall include but need not be limited to:

(a) Procedures for soliciting and reviewing applications from state agencies;

(b) Criteria for projects or purposes funded by allocations, including desired outcomes; and

(c)(A) A requirement that each agency that receives an allocation from the State Agency Program Fund biennially report on the amount of allocated funds expended by the agency and the outcome of those expenditures.

(B) Reporting requirements:

(i) Must be developed after consultation with state agencies likely to receive proposed allocations under this section; and

(ii) As far as practicable, must be consistent with reporting requirements adopted under sections 7 and 8 of this 2024 Act.

(4) The Oregon Watershed Enhancement Board shall allocate amounts from the State Agency Program Fund established under section 10 of this 2024 Act at the direction of the council, in accordance with rules adopted by the council under this section.

SECTION 7. (1) The Environmental Restoration Council shall establish by rule a program to provide grants to public or private nonprofit entities to carry out projects that benefit disproportionately impacted communities. Rules adopted under this section shall include but need not be limited to:

(a) Procedures for soliciting and reviewing applications from public or private nonprofit entities;

(b) Eligibility criteria for nonprofit entities;

(c) Eligible purposes for which grants may be awarded;

(d) Guidelines for collaborations or partnerships between multiple entities; and

(e)(A) Reporting requirements for grant recipients.

(B) Reporting requirements:

(i) Must be developed after consultation with nonprofit entities likely to receive grants under this section; and

(ii) As far as practicable, be consistent with reporting requirements adopted under sections 6 and 8 of this 2024 Act.

(2) Grants awarded under this section:

(a) Must be awarded for projects or purposes that are consistent with the terms of the Monsanto Settlement Agreement and the strategic priorities established under section 9 of this 2024 Act.

(b) May be used to supplement existing programs or projects but may not be used to supplant moneys available from any other source.

(c) May be used as matching funds for federal moneys or moneys available from any other source.

(3) The council may contract with a third-party entity to implement and serve as the administrator of the grant program established under this section.

(4) Grants awarded under this section shall be paid out of the Disproportionately Impacted Community Fund established under section 11 of this 2024 Act by the Oregon Watershed Enhancement Board in accordance with rules adopted by the council under this section.

SECTION 8. (1) The Environmental Restoration Council shall establish by rule procedures for the transfer of moneys from the Tribal Nation Natural Resource Program Fund established under section 12 of this 2024 Act to federally recognized Indian tribes in this state at the beginning of each biennium.

(2) Transfers made pursuant to this section:

(a) Must be for projects or purposes consistent with the terms of the Monsanto Settlement Agreement.

(b) Must be made in equal amounts to each of the nine federally recognized Indian tribes in this state, unless a different proportion is provided for by the council by rule, consistent with recommendations of the Commission on Indian Services.

(c) May be used to supplement existing programs or projects but may not be used to supplant moneys available from any other source.

(d) May be used as matching funds for federal moneys or moneys available from any other source.

(3)(a) Rules adopted under this section shall include, but need not be limited to, a requirement that each federally recognized Indian tribe that receives a transfer from the Tribal Nation Natural Resource Program Fund biennially report on the amount of funds expended by the tribe and the outcome of those expenditures.

(b) Reporting requirements:

(A) Must be developed after consultation with tribal governments; and

(B) As far as practicable, must be consistent with reporting requirements adopted under sections 6 and 7 of this 2024 Act.

(4) The Oregon Watershed Enhancement Board shall transfer amounts from the Tribal Nation Natural Resource Program Fund established under section 12 of this 2024 Act in accordance with rules adopted under this section.

SECTION 9. (1) The Environmental Restoration Council, in consultation with state agencies described in section 6 (1) of this 2024 Act and the Environmental Justice Council, shall establish strategic priorities for amounts expended from the State Agency Program Fund established under section 10 of this 2024 Act and the Disproportionately Impacted Community Fund established under section 11 of this 2024 Act. Before adopting strategic priorities, the Environmental Restoration Council shall compile and review relevant data or other scientific information.

(2) Strategic priorities may include guidelines for distributing amounts on an annual or biennial basis, and for committing to funding projects for more than one biennium, as appropriate for facilitating program outcomes and continuity.

(3) Priorities established under this section are not subject to the requirements of ORS chapter 183.

(4) The council may only establish or amend priorities under this section after a public hearing and an opportunity for public comment.

SECTION 10. (1) The State Agency Program Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund.

(2) Moneys in the State Agency Program Fund consist of moneys transferred to the fund under section 4 of this 2024 Act and moneys deposited or transferred into the fund from any other public or private source.

(3) Moneys in the State Agency Program Fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of making allocations in amounts and for durations approved by the Environmental Restoration Council under section 6 of this 2024 Act. To facilitate program outcomes and continuity, moneys in the fund may be committed for funding state agency projects or programs for multiple biennia.

(4) At the close of each biennium, any amounts in the State Agency Program Fund that are unexpended, unobligated and not subject to any conditions shall revert to the Oregon Environmental Restoration Fund established under section 3 of this 2024 Act.

(5) The Oregon Watershed Enhancement Board shall administer the State Agency Program Fund.

SECTION 11. (1) The Disproportionately Impacted Community Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund.

(2) Moneys in the Disproportionately Impacted Community Fund consist of moneys transferred to the fund under section 4 of this 2024 Act and moneys deposited or transferred into the fund from any other public or private source.

(3) Moneys in the Disproportionately Impacted Community Fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of providing grants under section 7 of this 2024 Act, as directed by the Environmental Restoration Council.

(4) At the close of each biennium, any amounts in the Disproportionately Impacted Community Fund that are unexpended, unobligated and not subject to any conditions shall revert to the Oregon Environmental Restoration Fund established under section 3 of this 2024 Act.

(5) The Oregon Watershed Enhancement Board shall administer the Disproportionately Impacted Community Fund.

SECTION 12. (1) The Tribal Nation Natural Resource Program Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund.

(2) Moneys in the Tribal Nation Natural Resource Program Fund consist of moneys transferred to the fund under section 4 of this 2024 Act and moneys deposited or transferred into the fund from any other public or private source.

(3) Moneys in the Tribal Nation Natural Resource Program Fund are continuously appropriated to the Oregon Watershed Enhancement Board for the purpose of making transfers to federally recognized Indian tribes under section 8 of this 2024 Act.

(4) At the close of each biennium, any amounts in the Tribal Nation Natural Resource Program Fund that are unexpended, unobligated and not subject to any conditions shall revert to the Oregon Environmental Restoration Fund established under section 3 of this 2024 Act.

(5) The Oregon Watershed Enhancement Board shall administer the Tribal Nation Natural Resource Program Fund.

SECTION 13. Notwithstanding section 4 of this 2024 Act, the Environmental Restoration Council shall first determine the amounts to be

transferred under section 4 of this 2024 Act no later than December 1, 2025.

SECTION 14. Notwithstanding the term of office specified in section 5 (2) of this 2024 Act, of the members of the Environmental Restoration Council first appointed by the Governor under section 5 (1)(e) of this 2024 Act:

- (1) Two shall serve a term of two years; and
- (2) Two shall serve a term of three years.

SECTION 15. No later than September 15, 2073, the Environmental Restoration Council shall submit a report to the interim committees of the Legislative Assembly related to the environment in the manner provided by ORS 192.245. The report must evaluate and make recommendations as to whether the long-term distribution strategy developed by the council under section 4 of this 2024 Act should continue to seek to maintain a stable real asset value over time, notwithstanding the amendments to section 4 of this 2024 Act by section 16 of this 2024 Act, or whether the distribution strategy should seek to distribute amounts from the Oregon Environmental Restoration Fund so that no balance remains in the fund after a period of 50 years.

SECTION 16. Section 4 of this 2024 Act is amended to read:

Sec. 4. (1) The Environmental Restoration Council shall, based on the advice of the State Treasurer, establish a long-term distribution policy for the Oregon Environmental Restoration Fund that [*seeks to maintain a stable real asset value over time while providing*] **provides** for the transfers described in subsections (3) and (4) of this section.

(2) No later than December 1 of each year, the Environmental Restoration Council shall determine the amounts that shall be transferred from the Oregon Environmental Restoration Fund by the Oregon Watershed Enhancement Board for the purposes of subsections (3) and (4) of this section. The amounts to be transferred shall be based on the balance of the Oregon Environmental Restoration Fund at the end of the prior fiscal year.

(3) First, the board shall transfer from the Oregon Environmental Restoration Fund the amount reasonably necessary to cover the costs of the board and the Environmental Restoration Council in the administration of sections 1 to 12 of this 2024 Act. The amount transferred under this subsection may not exceed 0.25 percent of the Oregon Environmental Restoration Fund balance at the end of the prior fiscal year, unless a greater amount is approved by the Environmental Restoration Council.

(4) Second, the board shall transfer from the Oregon Environmental Restoration Fund the amount determined pursuant to the long-term distribution policy developed under subsection (1) of this section, to be allocated as follows:

(a) Fifty percent shall be transferred to the State Agency Program Fund established under section 10 of this 2024 Act;

(b) Twenty-five percent shall be transferred to the Disproportionately Impacted Community Fund established under section 11 of this 2024 Act; and

(c) Twenty-five percent shall be transferred to the Tribal Nation Natural Resource Program Fund established under section 12 of this 2024 Act.

SECTION 17. The amendments to section 4 of this 2024 Act by section 16 of this 2024 Act become operative on January 1, 2075.

SECTION 18. (1) For the biennium ending June 30, 2025, the Oregon Department of Administrative Services shall distribute moneys in the Polychlorinated Biphenyls Remediation and Restitution Account established under ORS 466.447 as described in subsection (2) of this section.

(2) There is allocated for the biennium ending June 30, 2025, from the Polychlorinated Biphenyls Remediation and Restitution Account, the amount of \$5,000,000, to the Oregon Watershed Enhancement Board to implement sections 1 to 12 of this 2024 Act.

SECTION 19. Notwithstanding ORS 466.447, the Oregon Department of Administrative Services shall transfer all moneys in the Polychlorinated Biphenyls Remediation and Restitution Account established under ORS 466.447, except for the amount allocated under section 18 (2) of this 2024 Act, to the Oregon Environmental Restoration Fund established under section 3 of this 2024 Act, to be expended for the purposes described in section 3 of this 2024 Act.

SECTION 20. The Polychlorinated Biphenyls Remediation and Restitution Account established under ORS 466.447 is abolished. Any moneys remaining in the account on the operative date of this section shall be transferred to the Oregon Environmental Restoration Fund established under section 3 of this 2024 Act.

SECTION 21. ORS 466.445 and 466.447 are repealed.

SECTION 22. Section 20 of this 2024 Act and the repeal of ORS 466.445 and 466.447 by section 21 of this 2024 Act become operative on January 2, 2026.

SECTION 23. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 7 (1), chapter 603, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts but excluding lottery funds and federal funds, collected or re-

ceived by the Oregon Watershed Enhancement Board, for operations, is increased by \$1,322,956, to carry out the provisions of sections 1 to 12 of this 2024 Act.

SECTION 24. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter 365, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts but excluding lottery funds and federal funds, collected or received by the State Treasurer, for administrative services, is increased by \$175,221, to carry out the provisions of sections 1 to 12 of this 2024 Act.

SECTION 25. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (3), chapter 452, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, the proceeds of bonds for the Orphan Site Account and federal funds from congestion mitigation and air quality grants, drinking water protection, laboratory accreditation and woodstove grants and for smoke monitoring laboratory services, but excluding lottery funds and federal funds not

described in section 2, chapter 452, Oregon Laws 2023, collected or received by the Department of Environmental Quality, for land quality, is increased by \$141,727, to carry out the provisions of sections 1 to 12 of this 2024 Act.

SECTION 26. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (7), chapter 590, Oregon Laws 2023, for the biennium ending June 30, 2025, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and including federal funds from the Pacific Coastal Salmon Recovery Fund, but excluding lottery funds and federal funds not described in section 2, chapter 590, Oregon Laws 2023, collected or received by the State Department of Fish and Wildlife, for the Habitat Division, is increased by \$137,568, to carry out the provisions of sections 1 to 12 of this 2024 Act.

SECTION 27. This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

Approved by the Governor April 4, 2024

Filed in the office of Secretary of State April 4, 2024

Effective date April 4, 2024