

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, 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. [Formerly 541.375]

**Note:** See note under 541.890.

**541.934 Grant recipient liability insurance.** The recipient of a grant issued by the Oregon Watershed Enhancement Board must maintain an insurance policy providing liability protection for actions by, or on behalf of, the recipient in connection with the grant. The insurance must provide liability protection for the recipient and for all officers, employees and agents of the recipient acting within the scope of their employment or duties. The board may include the cost of liability insurance as part of, or in connection with, a grant award. The board, in consultation with the grant recipient, shall establish guidelines for the liability coverage. [2017 c.14 §1]

**Note:** 541.934 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 541 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### (Program Funding)

**541.935 Oregon Plan for Salmon and Watersheds Legal Fund; sources; uses.** There is hereby established in the State Treasury the Oregon Plan for Salmon and Watersheds Legal Fund for the purpose of funding the activities of the Department of Justice in providing legal advice to or appearing on behalf of a state agency that takes, funds or authorizes actions when those actions are challenged under the federal Endangered Species Act (16 U.S.C. 1531 et seq.), as amended, or the Federal Water

Pollution Control Act (P.L. 92-500), as amended, to the limits of the fund. The fund created by this section shall consist of all moneys received on behalf of the fund by gift, grant or appropriation, from whatever source. Moneys in the fund are continuously appropriated to the Department of Justice for the uses described in this section. Such uses may include, but need not be limited to, participation in a legal proceeding involving an action taken by a citizen or political subdivision of this state, where that action is authorized or funded by this state, and where:

(1) The state agency that authorizes or funds the action:

(a) Determines that the action is consistent with the Oregon Plan and is in compliance with applicable state laws; and

(b) Recommends to the Attorney General that the state participate in such legal challenge; and

(2) The Attorney General, after consulting with the Governor, the President of the Senate and the Speaker of the House of Representatives, determines that such participation is in the best strategic interest of the state. [Formerly 541.415]

**Note:** See note under 541.890.

**541.937 Flexible Incentives Account; sources; uses.** (1) There is created a Flexible Incentives Account in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. The moneys in the account are continuously appropriated to the Oregon Watershed Enhancement Board for the purposes specified in this section.

(2) The Oregon Watershed Enhancement Board shall use the Flexible Incentives Account to assist landowners in the implementation of strategies intended to protect and restore native species of fish, wildlife and plants and to maintain long-term ecological health, diversity and productivity in a manner consistent with statewide, regional or local conservation plans. The board shall seek to fund those strategies that offer the greatest public benefit at the lowest cost. The account may also be used to fund activities to achieve the purposes of stewardship agreements entered into under ORS 541.973 between a landowner, or a representative of the landowner, and the State Department of Agriculture or the State Board of Forestry.

(3) The account shall consist of moneys appropriated to it by the Legislative Assembly and moneys provided to the board by federal, state, regional or local governments for the purposes specified in this section. The board may accept private moneys in the form of gifts, grants and bequests for deposit into the account. [Formerly 541.381]