

Senate Bill 1561

Sponsored by Senator STEINER, Representative HELM, Senator DEMBROW, Representatives BOICE, MARSH; Senators FINDLEY, GOLDEN, HANSELL, JAMA, PATTERSON, SMITH DB, TAYLOR, WOODS, Representatives DEXTER, GAMBA, HARTMAN, HOLVEY, LEVY B, LIVELY, NELSON, NOSSE, OWENS, PHAM H, PHAM K (Pre-session filed.)

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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act creates a council and funds to distribute and invest money from a legal settlement. (Flesch Readability Score: 63.6).

Establishes the Environmental Restoration Council. Directs the council to establish programs to distribute moneys from the Monsanto settlement.

Establishes the Oregon Environmental Restoration Fund.

Establishes the State Agency Program Fund.

Establishes the Disproportionately Impacted Community Fund.

Establishes the Tribal Nation Natural Resource Program Fund.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the administration of moneys received from the Monsanto settlement; and declaring an
3 emergency.

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

5 **SECTION 1. The purpose of sections 1 to 12 of this 2024 Act is to:**

6 **(1) Establish the Oregon Environmental Restoration Fund in the State Treasury, con-**
7 **sisting of moneys paid to the state from the Monsanto Settlement Agreement;**

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

10 **(3) Ensure that, consistent with the terms of the Monsanto Settlement Agreement,**
11 **earnings are used to supplement efforts by recognized tribal governments, executive branch**
12 **agencies and disproportionately impacted communities to characterize and repair harm to**
13 **the environment and human health caused by environmental contamination, particularly the**
14 **presence of PCB.**

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

16 **(1) "Disproportionately impacted community" means communities that have been dis-**
17 **proportionately impacted by PCB or other contaminants or that have been historically**
18 **underrepresented in public processes regarding environmental laws or policies and as further**
19 **defined by the Environmental Restoration Council by rule under section 7 of this 2024 Act.**

20 **(2) "Monsanto Settlement Agreement" means the settlement agreement between the**
21 **State of Oregon and Monsanto Company, Pharmacia LLC and Solutia, Inc., effective De-**
22 **cember 15, 2022, and any modifications thereto.**

23 **(3) "PCB" has the meaning given that term in ORS 466.505.**

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

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 (a) Moneys transferred to the fund by the Legislative Assembly; and
- 2 (b) Other amounts deposited in the fund from any other public or private source.

3 (2) All earnings on moneys in the Oregon Environmental Restoration Fund are contin-
4 uously appropriated to the Oregon Watershed Enhancement Board for the following pur-
5 poses:

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

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

9 (3) Moneys in the Oregon Environmental Restoration Fund shall be invested as provided
10 in ORS 293.701 to 293.790 and the earnings from such investments shall be credited to the
11 fund.

12 **SECTION 4.** The Oregon Watershed Enhancement Board shall, at the beginning of each
13 biennium, distribute earnings on moneys in the Oregon Environmental Restoration Fund as
14 follows:

15 (1) First, the board shall subtract from the earnings the amount reasonably necessary
16 to cover the costs of the board and the Environmental Restoration Council in the adminis-
17 tration of sections 1 to 12 of this 2024 Act. The amount subtracted under this subsection
18 may not exceed five percent of total earnings, unless a greater amount is approved by the
19 Environmental Restoration Council.

20 (2) Second, after subtracting the amount under subsection (1) of this section, the board
21 shall transfer the remaining amount of earnings as follows:

22 (a) Fifty percent shall be transferred to the State Agency Program Fund established un-
23 der section 10 of this 2024 Act;

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

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

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

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

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

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

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

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

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

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

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

45 (g) A member of the House of Representatives appointed by the Speaker of the House of

1 **Representatives to be a nonvoting advisory member of the council.**

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

7 **(3) Each legislative member serves at the pleasure of the appointing authority and may**
8 **serve as long as the member remains in the chamber of the Legislative Assembly from which**
9 **the member was appointed.**

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

11 **(5) A majority of the voting members of the council constitutes a quorum for the trans-**
12 **action of business.**

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

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

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

21 **(b) The council may appoint to an advisory committee any person that the council de-**
22 **termines possesses expertise or information that may assist the council in the performance**
23 **of its duties.**

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

28 **(b) Members of the council who are members of the Legislative Assembly are entitled to**
29 **payment of compensation and expenses as provided in ORS 171.072, payable from funds ap-**
30 **propriated to the Legislative Assembly.**

31 **(10) The council shall submit a report each biennium to the Governor and the Legislative**
32 **Assembly in the manner provided by ORS 192.245. The report must describe the purposes for**
33 **which moneys expended from the State Agency Program Fund established under section 10**
34 **of this 2024 Act, the Disproportionately Impacted Community Fund established under section**
35 **11 of this 2024 Act and the Tribal Nation Natural Resource Program Fund established under**
36 **section 12 of this 2024 Act were used and the outcomes achieved by funding recipients.**

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

39 **SECTION 6. (1) The Environmental Restoration Council shall establish by rule procedures**
40 **and criteria for approving allocations to state agencies from the State Agency Program Fund**
41 **established under section 10 of this 2024 Act.**

42 **(2)(a) Allocations approved by the council under this section must be for environmental**
43 **characterization, remediation or restitution projects or purposes that are consistent with the**
44 **terms of the Monsanto Settlement Agreement and the strategic priorities established under**
45 **section 9 of this 2024 Act.**

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

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

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

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

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

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

12 (B) Reporting requirements:

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

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

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

20 SECTION 7. (1) The Environmental Restoration Council shall establish by rule a program
21 to provide grants to public or private nonprofit entities to carry out environmental charac-
22 terization, remediation or restitution projects that benefit disproportionately impacted com-
23 munities. Rules adopted under this section shall include but need not be limited to:

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

26 (b) Eligibility criteria for nonprofit entities;

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

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

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

30 (B) Reporting requirements:

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

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

35 (2) Grants awarded under this section:

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

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

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

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

45 (4) Grants awarded under this section shall be paid out of the Disproportionately Im-

1 **pacted Community Fund established under section 11 of this 2024 Act by the Oregon**
 2 **Watershed Enhancement Board in accordance with rules adopted by the council under this**
 3 **section.**

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

8 **(2) Transfers made pursuant to this section:**

9 **(a) Must be for environmental characterization, remediation or restitution projects or**
 10 **purposes consistent with the terms of the Monsanto Settlement Agreement.**

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

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

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

18 **(3)(a) Rules adopted under this section shall include, but need not be limited to, a re-**
 19 **quirement that each federally recognized Indian tribe that receives a transfer from the**
 20 **Tribal Nation Natural Resource Program Fund biennially report on the amount of funds ex-**
 21 **pended by the tribe and the outcome of those expenditures.**

22 **(b) Reporting requirements:**

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

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

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

29 **SECTION 9. (1) The Environmental Restoration Council, in consultation with relevant**
 30 **state agencies and the Environmental Justice Council, shall establish strategic priorities for**
 31 **amounts expended from the State Agency Program Fund established under section 10 of this**
 32 **2024 Act and the Disproportionately Impacted Community Fund established under section 11**
 33 **of this 2024 Act. Before adopting strategic priorities, the Environmental Restoration Council**
 34 **shall compile and review relevant data or other scientific information.**

35 **(2) Strategic priorities shall include the prioritization of projects for:**

36 **(a) Characterizing the presence of PCB or other environmental contaminants in air, land,**
 37 **water, fish, wildlife and wildlife habitats; and**

38 **(b) Addressing harms to the environment or public health as a result of contamination**
 39 **from PCB or other environmental contaminants.**

40 **(3) Strategic priorities may include guidelines for distributing amounts on an annual or**
 41 **biennial basis, and for committing to funding projects for more than one biennium, as ap-**
 42 **propriate for facilitating program outcomes and continuity.**

43 **(4) Priorities established under this section are not subject to the requirements of ORS**
 44 **chapter 183.**

45 **(5) The council may only establish or amend priorities under this section after a public**

1 hearing and an opportunity for public comment.

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

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

8 (3) Moneys in the State Agency Program Fund are continuously appropriated to the
9 Oregon Watershed Enhancement Board for the purpose of making allocations approved by
10 the Environmental Restoration Council under section 6 of this 2024 Act.

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

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

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

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

23 (4) At the close of each biennium, any amounts in the Disproportionately Impacted
24 Community Fund that are unexpended, unobligated and not subject to any conditions shall
25 revert to the Oregon Environmental Restoration Fund established under section 3 of this
26 2024 Act.

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

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

33 (3) Moneys in the Tribal Nation Natural Resource Program Fund are continuously ap-
34 propriated to the Oregon Watershed Enhancement Board for the purpose of making trans-
35 fers to federally recognized Indian tribes under section 8 of this 2024 Act.

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

40 **SECTION 13.** The Oregon Watershed Enhancement Board shall first transfer earnings
41 on moneys in the Oregon Environmental Restoration Fund as provided in section 4 of this
42 2024 Act on July 1, 2025.

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

1 (1) One shall serve a term of two years; and

2 (2) Two shall serve a term of three years.

3 **SECTION 15.** No later than September 15, 2073, the Environmental Restoration Council
 4 shall submit a report to the interim committees of the Legislative Assembly related to the
 5 environment in the manner provided by ORS 192.245. The report must evaluate and make
 6 recommendations as to whether both the principal and earnings of the Oregon Environ-
 7 mental Restoration Fund should be distributed as calculated by the State Treasurer under
 8 section 4 of this 2024 Act, as amended by section 16 of this 2024 Act, or if distribution of the
 9 earnings on moneys in the Oregon Environmental Restoration Fund should continue indefi-
 10 nitely as provided in section 4 of this 2024 Act, notwithstanding the amendments to section
 11 4 of this 2024 Act by section 16 of this 2024 Act.

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

13 **Sec. 4. (1)** The Oregon Watershed Enhancement Board shall, at the beginning of each biennium,
 14 distribute [*earnings on*] moneys in the Oregon Environmental Restoration Fund as follows:

15 [(1)] (a) First, the board shall subtract from the earnings the amount reasonably necessary to
 16 cover the costs of the board and the Environmental Restoration Council in the administration of
 17 sections 1 to 12 of this 2024 Act. The amount subtracted under this subsection may not exceed five
 18 percent of total earnings, unless a greater amount is approved by the Environmental Restoration
 19 Council.

20 [(2)] (b) Second, after subtracting the amount under subsection (1) of this section, the board shall
 21 [*transfer the remaining amount of earnings as follows:*] **withdraw from the fund the amount cal-**
 22 **culated by the State Treasurer under subsection (2) of this section, to be transferred as fol-**
 23 **lows:**

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

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

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

30 (2) **The State Treasurer shall calculate a rate of disbursement of the principal and**
 31 **earnings of the Oregon Environmental Restoration Fund so that, as far as is practicable, an**
 32 **equal amount is withdrawn from the fund each year for a period of 50 years, with no balance**
 33 **remaining at the end of the 50 year period. The State Treasurer may adjust the amount**
 34 **calculated under this section as necessary to account for the actual performance of the fund.**

35 **SECTION 17.** Section 3 of this 2024 Act is amended to read:

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

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

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

40 (2) [*All earnings on*] Moneys in the Oregon Environmental Restoration Fund are continuously
 41 appropriated to the Oregon Watershed Enhancement Board for the following purposes:

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

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

45 (3) Moneys in the Oregon Environmental Restoration Fund shall be invested as provided in ORS

1 293.701 to 293.790 and the earnings from such investments shall be credited to the fund.

2 **SECTION 18.** (1) **The amendments to sections 3 and 4 of this 2024 Act by sections 16 and**
3 **17 of this 2024 Act become operative on July 1, 2075.**

4 (2) **The State Treasurer and the Oregon Watershed Enhancement Board may take any**
5 **action before the operative date specified in subsection (1) of this section that is necessary**
6 **for the State Treasurer or the board to exercise, on and after the operative date specified**
7 **in subsection (1) of this section, all of the duties, functions and powers conferred on the**
8 **State Treasurer or the board by the amendments to sections 3 and 4 of this 2024 Act by**
9 **sections 16 and 17 of this 2024 Act.**

10 **SECTION 19.** **There is allocated for the biennium ending June 30, 2025, from the**
11 **Polychlorinated Biphenyls Remediation and Restitution Account established under ORS**
12 **466.447, the amount of \$5,000,000, to the Oregon Watershed Enhancement Board to carry out**
13 **sections 1 to 12 of this 2024 Act.**

14 **SECTION 20.** **This 2024 Act being necessary for the immediate preservation of the public**
15 **peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect**
16 **on its passage.**

17 _____