

REPORT ON  
USE OF STATE BOND PROCEEDS TO FINANCE  
FISH PROTECTION AND WATERSHED RESTORATION PROJECTS  
(State Ballot Measure No. 1)

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The City Club membership will vote on this report on May 13, 1988. Until the membership vote, the City Club does not have an official position on this report. The outcome of the membership vote will be reported in the City Club Bulletin (Vol. 68, No. 52) dated May 27, 1988.

Report on  
USE OF STATE BOND PROCEEDS TO FINANCE  
FISH PROTECTION AND WATERSHED RESTORATION PROJECTS

(State Measure No. 1)

Question: Shall fish protection and watershed restoration be added as projects that constitutionally may be financed by Water Development Fund loans?

Purpose: Measure No. 1 amends the Oregon Constitution to authorize the use of state bond proceeds to finance loans to Oregon residents for fish protection and watershed restoration projects through the state Water Development Fund.

To the Board of Governors,  
City Club of Portland:

### I. INTRODUCTION

Measure No. 1, referred to the voters by the 1987 Oregon Legislature, expands permissible uses of Oregon's Water Development Fund (hereafter cited as "Fund") to include fish protection and watershed restoration projects.<sup>1</sup> (See Appendix A for text of Constitutional provision). The Oregon Constitution permits the state to borrow an amount up to one and one half percent of the true cash value of all property in the state for the purpose of funding secured loans through the Fund. At present, loans from the Fund are made available for irrigation and drainage projects, municipal use projects, other authorized water development projects, and for acquiring easements and rights of way for the aforementioned projects. Authorized borrowers include persons or corporations deriving their principal income from agriculture, and cities of less than 30,000 population.

### II. BACKGROUND

The City Club has studied the use of state bond proceeds to finance water projects on several occasions.

The current Water Development Fund was created in 1977 when voters narrowly approved a Constitutional amendment by a margin of 51% to 49%. The City Club supported this measure which provided loan funds exclusively for irrigation and drainage projects.

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<sup>1</sup>For an excellent description of the Measure's legal background, see City Club of Portland Bulletin, "Report on Irrigation and Water Development Bonds," May 12, 1982.

In 1982, another Constitutional amendment was presented to the voters. This amendment provided that 50 percent of the Fund be reserved for irrigation and drainage projects, and that the list of authorized projects be expanded to include water projects for municipal use by towns and communities of less than 30,000 persons. At the time, a City Club committee found that the amendment would substantially benefit the people of Oregon and that it might be an incentive to plan for the future water needs of the state. Voters passed this measure 56% to 44%.

Measure No. 1 would expand the use of the Fund to fish protection and watershed restoration projects. Fish die when inadvertently diverted out of Oregon's streams and rivers by irrigators and hydroelectric projects. Technology is available to prevent these diversions simply and inexpensively. Similarly, Oregon's watershed enhancement programs seek to use simple, effective and relatively economical techniques to improve water quality; delay late season water runoff; improve groundwater storage potential; and rehabilitate streambanks, adjacent lands and associated uplands. Measure No. 1 opens an additional source of funding for these projects.

### III. ARGUMENTS IN FAVOR OF THE MEASURE

1. Oregon has a significant number of worthwhile fish protection and watershed restoration projects. This measure would expand existing law to finance qualified fish protection and watershed restoration projects.
2. Measure No. 1 would provide access to funds for those held legally responsible for fish protection by the legislature (HB 2974, 1987 Legislature).
3. The use of bonds is an appropriate source of funding for loans to credit-worthy individuals or businesses, when those individuals or businesses invest in natural resource projects beneficial to the state's economy.
4. Measure No. 1 provides adequate financial safeguards:
  - a. Funds loaned under the measure would be secured by a first lien on real property or a revenue base.
  - b. The Tax Reform Act of 1986 places restrictions on the amount of tax free bonds each state may issue.
  - c. The Oregon Legislature allocates the amount of available bonding authority that state governmental agencies may utilize each biennium.

- d. The Governor's Watershed Enhancement Board must approve each watershed restoration project.
  - e. The Water Resources Board would review each loan application for project qualification and credit-worthiness.
5. The present Fund is underutilized.
6. Expanding permissible uses of the Fund would not significantly increase administrative costs because existing state Water Resources Board staff is sufficient to absorb the expansion in the Fund's uses.

#### IV. ARGUMENTS AGAINST THE MEASURE

1. Government bonds may not be an appropriate source of funding for activities of private individuals and businesses.
2. The full lending limit of the Fund is approximately \$1.2 billion. Demand for a significant portion of that amount could adversely affect the state's bond ratings and ability to borrow for other needs. This measure would increase demand upon the Fund.
3. Demand for loan funds for fish protection and watershed restoration projects reduces the amount of money available for other authorized water projects.
4. Agricultural borrowers who benefit from this measure may not be able to repay the loans because of seasonal and market fluctuations.
5. The state's taxpayers would be ultimately responsible for repayment of the bonds used for these purposes.

#### V. DISCUSSION

Your committee was persuaded by the arguments advanced in favor of the Measure No. 1. We are satisfied that a need exists for watershed restoration and fish protection in this state and that this measure provides a sound method to fund loans, while securing repayment. Your committee was unable to locate any opposition to this measure, although there was concern regarding the use of state bonding authority as a source of loan funds.

#### Water Resource Management Legislation

Measure No. 1 is one of several related water resource management bills passed by the 1987 Legislature.

House Bill 3395 would become effective only upon passage of Measure No. 1. Its purpose is to add fish screening or by-pass devices, and fishway and watershed

enhancement projects to the definition of water development projects eligible for loans from the Fund. It would allow soil and water conservation districts to provide security for water development loans in the form of land served by watershed enhancement projects and would allow the Water Resources Commission to reduce the \$100 fee charged for water development loan applications if the project is for fish protection or watershed enhancement.

House Bill 2974, which is effective regardless of the fate of Measure No. 1, requires screening or by-pass devices when determined by the state Department of Fish and Wildlife to be necessary to prevent fish loss on all artificial water courses taking waters from any lake, stream or river. It also allows the department to install and maintain screens at the expense of the responsible person upon failure of that person to do so. Witnesses before your committee estimated that the state will require that 200 to 400 screens be put in place, most of which will cost between \$2,000 to \$4,000 each to install. Although most diversion screening would involve relatively small expenditures, a few major diversions could cost \$1-2 million each. Completing all outstanding fish protection projects would cost \$2.5-5 million.

Senate Bill 23 creates the Governor's Watershed Enhancement Board and, if Measure No. 1 passes, would give the Board the authority to review and approve projects seeking loan funds from the Fund for watershed restoration. In addition, the Board is charged with promoting awareness of watershed enhancement and its benefits, mobilizing volunteer efforts, encouraging use of nonstructural methods of watershed rehabilitation, and improving water quality and availability. Funding mechanisms include a new grant program and access to existing programs, including the Water Development Fund.

Witnesses before your committee indicated that the intent of Measure No. 1 and its enabling legislation is to provide relatively small loans to screen diversions which are generally modest, and to repair waterways and streams by restoring grasses, planting bushes and stabilizing streambanks. Funding requirements for these projects would be small in comparison to the benefits derived by the adjacent landowners and the people of the state.

### The Application Process

In examining the application process, your committee found it to be rigorous and an adequate safeguard against inappropriate use of the Fund. The federal government allocates tax free bonding authority to the states and the Oregon Legislature considers and budgets state government agencies' requests for use of that authority (ORS 286.525). Watershed restoration borrowers must have projects approved

by the Governor's Watershed Enhancement Board. All applicants must complete the Water Resources Department application by showing: a feasibility study, legal description of the project location, itemized cost estimate, evaluation of agricultural potential, proof of ownership, land use approvals and complete financial information. Your committee feels that this rigorous process insures that the loan fund would not be abused.

#### State Bonding Authority

Water Development Loan funds are made available through the bonding authority of the State of Oregon. The state's bond ratings and availability of such funds for these and other uses are areas of significant concern to taxpayers, the ultimate guarantors of repayment.

The Water Development Fund is authorized to loan bond funds totalling \$1.2 billion for both public and private projects. Of the \$22.5 million currently in the Fund, \$400,000 has not been loaned out and is currently available for new projects. Demand beyond the \$400,000 would necessitate sale of new bonds. Bonds are sold in increments of \$5,000, although the cost of issuance make such small sales impractical. The Water Resources Board is willing to "bundle" loan requests so that projects requiring less than \$5,000 each can be accommodated and so that issue costs are minimized. The Water Resources Board would be able to administer an increased demand for loan funds with existing staff.

The Tax Reform Act of 1986 restricts the amount of general obligation bonds each state may issue for private activity. The limit is based upon population and Oregon's allocation is approximately \$150 million. ORS 286.525 makes the Oregon Legislature responsible for budgeting state government agencies' requests for use of general obligation bonds. In the current 1987-89 biennium, \$98 million of the private activity cap is allocated. The Department of Water Resources is approved for use of \$5 million. It is this budgeting process that is the key to protecting the state's credit.

Water Development Fund bonds currently issued are repaid at rates ranging from 6.3 to 10.2%. Loans are 15-20 years and require annual installment payments due 90 days prior to the date on which the state must pay bondholders. No new bonds have been issued since 1984. This is primarily due to the financial problems in the agricultural sector and the decline of rates for private financing. Nine percent of the loans are in default, the security has been foreclosed and is being aggressively marketed for recovery of bond funds.

A significant increase in private lending rates would make the Fund an attractive source of funds, particularly for large agricultural entities which are credit-worthy and which have legal responsibilities for watershed restoration or, to a lesser degree, fish protection. Although the Fund is currently underutilized at \$22.5 million, the potential for \$1.2 billion in outstanding loans is disturbing. The state budgeting process is the key to credit protection and assures that this and all other similar programs would not harm the state's bond ratings, availability of funds or the taxpayer guarantors of all of these loans.

#### VI. CONCLUSION

Loans made for the purposes described above would stop the degradation of fish populations and quality and quantity of water and would protect the investment the state is making in fish runs.

#### VII. RECOMMENDATION

Your committee recommends a "yes" vote on Measure No. 1.

Respectfully submitted,

Kristen Kotka Abram  
Steven Chase  
Ronald Eiseman  
Susan Ferris  
John Geil  
Linda Hedge, Chair

Approved by the Research Board on April 21, 1988 for transmittal to the Board of Governors. Approved by the Board of Governors on April 25, 1988 for publication and distribution to the membership, and for presentation and vote on May 13, 1988.

## APPENDIX A

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

**Enrolled**  
**House Joint Resolution 45**

Sponsored by Representatives McTEAGUE, BAUMAN, FRENCH, HOSTICKA, KOPETSKI, SOWA,  
Senators CEASE, L. HILL, JERNSTEDT, TIMMS, KITZHABER

**Be It Resolved by the Legislative Assembly of the State of Oregon:**

**PARAGRAPH 1.** Section 1, Article XI-I of the Constitution of the State of Oregon, is amended to read:

Sec. 1. Notwithstanding the limits contained in sections 7 and 8, Article XI of this Constitution, the credit of the State of Oregon may be loaned and indebtedness incurred in an amount not to exceed one and one-half percent of the true cash value of all the property in the state for the purpose of creating a fund to be known as the Water Development Fund. The fund shall be used to provide financing for loans for residents of this state for construction of water development projects for irrigation, drainage, **fish protection, watershed restoration** and municipal [use] **uses** and for the acquisition of easements and rights of way for water development projects authorized by law. Secured repayment thereof shall be and is a prerequisite to the advancement of money from such fund. As used in this section, "resident" includes both natural persons and any corporation or cooperative, either for profit or nonprofit, whose principal income is from farming in Oregon or municipal or quasi-municipal or other body subject to the laws of the State of Oregon. Not less than 50 percent of the potential amount available from the fund will be reserved for irrigation and drainage projects. For municipal use, only municipalities and communities with populations less than 30,000 are eligible for loans from the fund.

**PARAGRAPH 2.** The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next regular primary election.

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## APPENDIX B

Persons Interviewed

Jane Cease, State Senator, Co-Chair of Joint Legislative Committee on Water Policy, 1987 session  
Joyce Cohen, State Senator, Co-Chair of Joint Legislative Committee on Trade and Economic Development and Chair of Subcommittee on Bonded Indebtedness, 1987 session  
Dave McTeague, State Representative, Co-Chair of Joint Legislative Committee on Water Policy, 1987 session  
Bruce L. Moyer, Fiscal Manager, Water Development Loan Program, Oregon Water Resources Department  
Michael Weland, Assistant Director, Oregon Department of Fish and Wildlife

## APPENDIX C

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