



Oregon

Kate Brown, Governor

Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Racquel Rancier, Policy Manager,
Lisa Snyder, Administrative Services Division Administrator
Bryn Hudson, Water Policy Analyst

SUBJECT: Agenda Item G, August 25, 2021
Water Resources Commission Meeting

Legislative Session and Budget Update

I. Introduction

During this informational report, staff will provide an update on the 2021 Legislative Session and 2021-2023 Legislatively Adopted Budget.

II. Background

The 82nd Oregon Legislative Assembly convened on January 19, 2021. The Legislature adjourned the 2021 Regular Session *Sine Die* on June 26, 2021. During session, more than 2,500 measures, not including amendments, were introduced. More information about the 2021 Legislative Session and the legislative process is available on the Oregon Legislature's website at www.oregonlegislature.com.

III. Recap: Budget and Policy Measures

Attachment 1 summarizes the Department's budget and relevant water legislation.

The Department received a total funds budget of \$190,674,021, including \$58,566,215 General Fund, \$9,499,510 Lottery Funds for debt service, \$121,883,296 Other Funds expenditure limitation, \$725,000 Federal Funds expenditure limitation, and 209 positions (196.81 FTE). The Legislature added a total of 38 new positions; however, there were also reductions in positions. Two limited duration positions (a Planning Coordinator and a Civil Engineering Specialist) and eight Water Right Fee funded positions (8.83 FTE) were removed. The Department's fee bill added back three (2.50 FTE) of the positions removed. With these Legislative investments, the Department is set to gain a net total of 31 positions (24.14 FTE) and the total funds budget is a 32.2% increase from the 2019-21 biennium Legislatively Approved Budget.

The Department tracked more than 700 measures, with less than 200 of those measures becoming law. The Department introduced five policy bills, four of which were enacted into law: Senate Bill 130 (irrigation district pilot project), House Bill 2142 (water right transactions and dam safety fees), House Bill 2143 (hydroelectric fees), and House Bill 2145 (well construction modernization).

IV. Post-Session Implementation

With the increased investments and new legislation, the Department will be spending the next several years on implementation. Projects arising from the 2021 Legislative Session, include but are not limited to:

- Workgroup on transfers of stored water (HB 3103)
- Implementation of House Bill 2145
 - Establishing Water Well Repair, Replacement and Abandonment Funding Program
 - Implementing 100% Technical Well Log Reviews
 - Implementing additional changes through 2024
- Development of water budgets (HB 2018)
- Contested case backlog reduction
- Fee-based programs backlog reductions and stakeholder engagement to determine long-term funding mechanisms
- Regional water planning and management workgroup
- Investing in equitable water access and indigenous resiliency
- Dam safety contracting, including to assess dams and develop a flood methodology
- Working on the Willamette and Deschutes Basin Complex Water Issues, including the Willamette Reservoir Reallocation
- Contracting for a business case for water
- Harney Domestic Well Remediation Grants (HB 3092) and Conservation Enhancement Reserve Program
- Implementing Water Project Support for Community Engagement (HB 3293)
- Water Use Measurement Report to the House Water Committee

V. Interim Legislative Days and Looking to Sessions Ahead

Over the interim, the House and Senate committees will meet during Legislative Days scheduled for September 21-24 and November 15-18, 2021 and January 10-13, 2022. The “short” session is slated to begin February 1, 2022, with a Constitutional *Sine Die* date of March 7, 2022. The Department will begin preparing legislative concept and budget package proposals for the 2023 Legislative Session in the coming months.

VI. Conclusion

The 2021 Legislative Session resulted in significant investments in water resources, including the Water Resources Department, as well as a significant number of new tasks for the Department to undertake. The Department appreciates the efforts of local and state elected officials, members of the public, stakeholder groups, as well as staff across several state agencies that have drawn attention to the water resources challenges across the state and the need for investments to secure our water future. Investments this session will help further recommended actions in the Integrated Water Resources Strategy and the Department's Strategic Plan, which will further water management in the state to better address water needs now and into the future.

Attachments:

1. [2021 Legislative Summary](#)

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2021-23 Legislative Summary



	2019-21 Legislatively Approved 1/21	2021-23 Governor's Recommended	2021-23** Legislatively Adopted
General Fund (GF)	\$35,217,838	\$40,104,341	\$58,566,215
Other Funds (OF) including Fees	\$14,413,830	\$12,365,697	***\$35,741,255
Other Funds - Grants/Loans	\$85,849,252	*\$80,997,925	****\$86,142,041
Lottery Funds - Debt Service	\$7,563,194	\$14,289,736	\$9,499,510
Federal Funds	\$1,148,011	\$716,840	\$725,000
Total Funds	\$144,192,125	\$148,474,539	\$190,674,021
Positions / Full-Time Equivalent (FTE)	178/172.67	170/165.44	209/196.81

*Other Funds - Grants and Loans includes Lottery Revenue Bond proceeds in the amount of \$60.1 million in carry forward from the 2019-21 biennium and \$20.5 million in new bonding (plus the cost of issuance).

**Numbers subject to change with further reconciliation.

***Includes \$22.6m American Rescue Plan Act of 2021 (ARPA) funds.

****Other Funds – Grants and Loans includes Lottery Revenue Bond proceeds in the amount of \$17.1 million in carry forward from the 2019-21 biennium and \$68 million in new bonding (plus the cost of issuance).

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Legislation with Budgetary Impacts, Budget Packages, and Investments

[HB 2142](#) / [Senate Bill 5545](#) – **Water Right and Dam Safety Fees** – Increases fees charged by the Water Resources Department that support water right processing and dam safety programs by approximately 17.39 percent. Effective July 1, 2021. Adds a fee per well, for transfer applications that propose to make changes for more than one well. [See *Fee Based Services in SB 5006 below for temporary bridge funding*].

Package 104 – Maintain Water Rights & Dam Safety Services – \$565k OF Revenue, \$527k OF, Adds back 2.50 FTE – Increases fees by approximately 17.39 percent for the 2021-2025 biennias, per the Department of Administrative Services estimates of cost inflation for state agencies. Retains 2.50 of the 8.83 FTE reduced in POP 070. [Integrated Water Resources Strategy \(IWRs\) Actions: 13.B.](#)

Reduction Package 070 – Water Right Revenue Shortfalls – \$1.7m OF Reduction (8.83 FTE) – Reduces 8.83 FTE of 17.93 fee funded FTE in the Water Right Services Division due to revenue shortfalls. See POP 104 which adds back 2.5 FTE.

[HB 2143](#) / [Senate Bill 5545](#) – **Maintain Hydroelectric Services at Agencies – See POP 105** – Simplifies and increases annual fees paid by hydroelectric projects in order to maintain current service levels at OWRD, ODFW, and DEQ. This bill equalizes and increases the annual fee rates for large projects (greater than 123.5 THP) with all projects paying the same fee by 2024. Starting in 2022, large, relicensed projects will pay a base rate of \$0.687/THP in 2021 dollars and will be adjusted by an inflation factor. Large, un-relicensed projects will be phased in, paying \$0.48/THP in 2022 and 2023. Requires Fee Review Panel convene at least once every eight years to reduce or increase the annual fee for large projects based on programmatic needs. Standardizes fees for small projects less than 15 THP at \$15/year and for projects between 15 THP and 123.5 THP at \$50/year. Effective 91st day sine die.

Package 105 – Maintain Hydroelectric Services at Agencies – \$759k OF Revenue – This package and associated legislation will change the hydroelectric project fees that support hydroelectric programs at Department of Environmental Quality, Department of Fish & Wildlife, and the Water Resources Department. [IWRs Action: 13.B.](#)

2021-23 Legislative Summary Continued...

[Senate Bill 5545](#)

Package 087 – State Data Center - \$215k GF – Provides \$215k of ongoing information technology costs associated with the Department's migration to Data Center Services.

Package 090 – Equitable Water Access and Indigenous Energy Resiliency – \$1.5m GF– Provides funding for equitable water access and Indigenous energy resiliency as recommended by the Racial Justice Council. Investments focus on conducting community led assessments of water needs of Black, Indigenous, Latino, Latina, Latinx, Asian, Pacific Islander, Native American, and Tribal communities; convening a Justice, Equity, Diversity, and Inclusion Advisory Group as part of the IWRS and assessing and facilitating implementation of best practices to advance diversity, equity and inclusion within the Department's programs and processes. [IWRS Actions: 8.C, 13.A.](#)

Package 101 – Protecting Public Safety and Water Supplies – \$1.9m GF; 3.52 FTE / 4 positions – Provides 2 engineers to assess dams for seismic, flood and other safety risks; \$400k for an Oregon flood methodology for dams, and \$600k for engineering analyses on dams. Includes 1 position for coordination, planning and outreach on earthquakes, drought, floods, climate change, and dam failures, and work on Natural Hazards Mitigation, Climate Adaptation, the Governor's Climate Executive Order, the Continuity of Operations Plan, and planning for and responding to potential dam failures. Includes a position for a safety and training program to support statewide initiatives and to comply with ORS 654.010, the Governor's EO on Employee Wellness, and Oregon OSHA regulations. [IWRS Actions: 5.A, 5.B, 5.5A, 5.5B, 5.5C, 7C, 8C, 13.B.](#)

Package 102 – Strategic Modernization of IT Systems and Tools – \$819k GF; 2.64 FTE / 3 positions – Invests in information technology systems and data including 1 systems analyst, 1 database administrator, and one records coordinator position to modernize data and records systems. Provides \$225,000 for state data system center charges. [IWRS Actions 1.B, 1.C, 2.B, 13.B.](#)

Package 103 – Fund Legal Expenses to Prevent Service Impacts – \$800k GF – Provides funding to address sustained increased costs for DOJ services and to prevent impacts on Department services due to budget shortfalls, as experienced in prior biennia. [IWRS Actions 13.B.](#)

Package 109 – Timely Water Management and Distribution – \$1.37m GF, \$3,118 OF, 5.28 FTE / 6 positions – Adds five new assistant watermasters to support water regulation and distribution, complaint response, and surface water and groundwater data collection. Re-classifies eight watermasters from NRS-3 to NRS-4 to align with job responsibility and basin complexity. Adds Deputy Division Administrator to help provide critical services to the public. [IWRS Actions 1.B, 2.B, 10.F, 11.B.](#)

Package 110 – Foundational Data for Groundwater Studies – \$2.00m GF, 6.16 FTE / 7 positions – Provides seven positions to expand the agency's capacity for groundwater basin studies, produce a groundwater budget for each basin in Oregon, and expand baseline water level and water use data collection. Includes \$600,000 for professional contracts. [IWRS Actions 1.A, 1.B, 1.C, 2.A, 2.B, 5.A, 11.E.](#)

Package 111 – Complex Water Issues: Deschutes and Other Basins – \$422k GF – 0.88 FTE / 1 position – Contract funding and one position to support to work on complex water basin issues and help implement agency priorities in priority water basins, including the Deschutes and Willamette River basins. [IWRS Actions 9.B, 9.C, 13.C.](#)

Package 112 – Harney Conservation Reserve Enhancement Programs – \$706k GF – 0.88 FTE / 1 position – \$500,000 in funding for cost share for the enrollment of lands and one position to support implementation of Conservation Reserve Enhancement Program to incentivize voluntary non-use of groundwater. [IWRS Actions 2.B, 10.D, 11.E, 13.B, 13.C.](#)

2021-23 Legislative Summary Continued...

Package 113 – Willamette Basin Reallocation Pre-implementation – \$321k GF – 0.88 FTE / 1 position – Establishes Willamette Basin Coordinator position and funding support to work on complex water basin issues and help implement agency priorities in priority water basins in conjunction with package 111. [IWRS Actions 9.B, 9.C, 10.B, 11.B, 13.B, 13.C.](#)

Reduction Package 099 – MS 365 Technical Reduction – \$125,000 GF Reduction – Reduces funds related to the licensing of Microsoft 365, which is now included in the agency’s budget as a component of the state government service charges assessed by the Department of Administrative Services.

Reduction Package 801 – LFO Analyst Technical Adjustments – \$43.0 million OF expenditure limitation reduction – Removes expenditure limitation associated with bonds not issued in the 2019-21 biennium.

[House Bill 5006 / SB 5534](#)

Water Projects Grants & Loans - \$30 million into the Water Supply Development Account in Lottery Revenue Bond Proceeds to provide Water Projects Grants and Loans to evaluate, plan, and develop in-stream and out-of-stream water projects. [IWRS Actions: 10.E, 13.E.](#)

Deschutes Basin Board of Control Piping Project: \$10 million in Lottery Revenue Bond Proceeds in the Water Supply Development Account for the Deschutes Basin Board of Control Piping Project to pipe currently open canals. [IWRS Actions: 10.A, 13.E.](#)

City of Newport for Big Creek Dams Remediation: \$14 million in Lottery Revenue Bond Proceeds in the Water Supply Fund for a grant to the City of Newport for remediation of the Big Creek Dams, including design, environmental permitting, and construction of a seismically sound replacement dam. [IWRS Actions: 5.5A, 5.5B, 5.5C, 7C, 13.E.](#)

Wallowa Lake Irrigation District for Wallowa Lake Dam Rehabilitation: \$14 million in Lottery Revenue Bond Proceeds in the Water Supply Fund for a grant to the Wallowa Lake Irrigation District for the rehabilitation of the Wallowa Lake Dam. [IWRS Actions: 5.5A, 5.5B, 7C, 13.E.](#)

Debt Service and Cost of Issuance: Increase of \$3,514,230 Lottery Funds expenditure limitation for the Department to pay debt service on Lottery Bonds anticipated to be issued during the 2021-23 biennium. \$1,042,341 Other Fund for bond issuance costs.

[House Bill 5006](#)

Regional Water Planning and Management: \$500,000 GF to engage Oregon Consensus to convene a workgroup to consider and develop a framework for state-supported regional water planning and management. \$200,000 for 1 limited duration position to support regional water planning and associated convening work. [IWRS Action: 13.C.](#)

BUDGET NOTE: Oregon Water Resources Department is directed to use provided funding to contract with Oregon Consensus to convene a workgroup comprised of a balanced membership including, but not limited to, conservation groups, agricultural water users, municipal water users, environmental justice organizations, tribal interests, and state agencies including Water Resources Department and the Oregon Department of Fish and Wildlife to consider regional water management opportunities that build on the 100 Year Water Vision and further the goals of the Integrated Water Resources Strategy.

Nesika Beach Fire Protection Infrastructure: \$250,000 GF for grant to the Nesika Beach Ophir Water District to extend a water pipeline to a new firehouse near Ophir. [IWRS Action: 13.E.](#)

2021-23 Legislative Summary Continued...

Feasibility Study Grants: \$500,000 GF for Feasibility Study Grants for the qualifying costs of planning studies performed to evaluate the feasibility of developing water conservation, reuse or storage projects. [IWRS Actions: 10.E, 13.D.](#)

Columbia River-Umatilla Solutions Task Force Agreements: \$500,000 GF for a grant for Umatilla County for the purpose of implementing agreements of the Columbia River - Umatilla Solutions Task Force. [IWRS Action: 13.C.](#)

2022 Integrated Water Resources Strategy Update: \$450,000 GF, including 1 limited duration position, to provide facilitation, document development, and staffing support for the 2022 update of the Integrated Water Resources Strategy. [IWRS Action: 13.A.](#)

Business Case Assessment for Water: \$350,000 GF to contract for a business case assessment to examine the economic value of water and the impact of water investment. [IWRS Action: 8.C.](#)

Place-based Integrated Water Resources Planning: \$200,000 GF to support current participating entities in the Place-Based Planning program. [IWRS Actions: 9.A, 13.C.](#)

Expenditure Limitation: Increased expenditure limitation for funding provided by HB 3092 and HB 2145, as well as within SB 5006 and SB 5534.

Contested Case Backlog: Includes a one-time increase of \$2.2 million GF and one limited-duration position to facilitate the referral and completion of administrative hearings or other procedures to alleviate the backlog of contested cases related to water right decisions. [IWRS Actions: 10.G, 13.B.](#)

American Rescue Plan Act State Fiscal Recovery Funds:

- **Umatilla County Regional Water Infrastructure Project:** \$6 million in ARPA Funds for a grant to Umatilla County for the Ordinance Project. [IWRS Action: 13.E.](#)
- **Place-based Planning:** \$1 million to support place-based planning efforts. [IWRS Actions: 9.A, 13.C](#)
- **Water Well Abandonment, Repair, and Replacement Fund:** \$2 million for deposit into the Water Well Abandonment, Repair, and Replacement fund to help abandon wells and to repair or replace water wells used for household purposes. *[See House Bill 2145].* [IWRS Actions: 7.A, 13.E.](#)
- **Local Fish Passage for Dam Upgrades:** \$500,000 to assist local governments with meeting fish passage requirements for dam upgrade projects. [IWRS Action: 11.D.](#)
- **Fee-based Services Pending Development of Long-Term Funding Mechanisms:** \$3 million to support fee-based programs during 2021-23 and to provide facilitation for stakeholder engagement to develop more sustainable, long-term funding mechanisms to support these programs. *[See HB 2142 and package 104 above].* [IWRS Actions: 10.G, 13.B.](#)
- **Dam Safety Flood Methodology and Inundation Assessments:** \$4 million to contract for professional engineering services to perform flood methodology, inundation assessments, and engineering analyses for dams. [IWRS Actions: 5.A, 5.B, 5.5A, 5.5B, 5.5C, 7C.](#)
- **Purchase and Deployment of Surface and Groundwater Data Collection Equipment:** \$3 million for surface water and ground water data collection equipment. [IWRS Actions: 1.B, 13.B.](#)
- **Water Measurement Cost Share Revolving Fund:** \$1 million for the Cost-Share Measurement Program to assist water users with the installation of measuring devices. [IWRS Actions: 1.B, 2.B.](#)

2021-23 Legislative Summary Continued...

[HB 3103](#) – **Transfers of Stored Water – \$485k GF** – Allows the holder of a water right certificate that authorizes water storage to change the type of use identified in the water right. Provides \$485,100 to engage a professional facilitator to work with stakeholders on a path forward for transferring the point of diversion and location of storage right. Effective January 1, 2022. [IWRS Action: 10.B.](#)

[HB 2018](#) – **Groundwater Data – \$2.387m GF – 5.75 FTE / 9 positions**– Provides funding to develop and publish ground water budgets for all major hydrologic basins in Oregon, a report on statewide consumptive water use and evaporation from all major reservoirs; to expand the ground water level monitoring network; and to help the public utilize the data. Includes 1 NRS 4 to assist with development of groundwater budgets; 1 NRS 4 to assess open water evaporation and historical irrigation water use; 3 NRS 4s to engage with communities on data collection and use; 3 NRS 3s to expand the groundwater monitoring network; and, one Principal Executive Manager D to oversee studies and contracts. Effective January 1, 2022. [IWRS Actions: 1.A, 1.B, 11.E., 13.B.](#)

[HB 2145](#) – **Well Construction Modernization – \$675k GF, \$581k OF Revenue – 2.64 FTE / 3 positions** – Modernizes and increases efficiency within the well construction program to prevent well deficiencies that can lead to contamination or waste of groundwater and to better protect groundwater resources for Oregonians. Reduces deficiencies proactively by ensuring well drillers have the necessary skills to properly construct wells, extending the continuing education program to 2030 and requiring welding training for licensure or if a welding deficiency is found. Maximizes the effectiveness of current staff at the Department to better protect the groundwater resources for current and future uses, while ensuring a level playing field among the well drilling community through: establishing timeframes for submittal of start cards and requiring certain notifications of work being undertaken; updating requirements for information on start cards and well logs and starting in July 1, 2024, requiring electronic submittal; increasing the start card fee by \$125 effective January 1, 2022; requiring the Department to conduct a technical review of well logs within 120 days starting in July 1, 2022; requiring well drillers to submit the exempt use fee and map along with the well log to shift staff to technical well log reviews starting January 1, 2022; and allowing the Department to apply for an injunction for violation of well construction laws. The bill also establishes a funding program, including \$100,000 GF [*SB 5006 includes additional \$2 million for Fund and expenditure limitation*], to help domestic well owners whose wells have deficiencies, have been impacted by groundwater level declines or natural disasters such as wildfires, or who are lower or moderate income and need assistance in repairing, replacing, or abandoning their wells effective January 1, 2022. Includes 3 positions to meet the provisions of the bill. Most provisions effective July 1, 2023, except where stated in the bill. Requires agency to report to the legislature on well log reviews and inspections by January 31, 2023 and 2025. [IWRS Actions: 7.A., 13.E.](#)

[HB 3092](#) – **Domestic Well Remediation in Harney Basin – \$500k GF** – Directs WRD to establish program for replacing, repairing, or deepening domestic wells affected by overallocation of ground water within the Greater Harney Valley Groundwater Area of Concern (GWAC). Funds issued from the grant may provide up to 75 percent of total cost of replacing, repairing, or deepening well, not to exceed \$10,000. Grants awards should prioritize payments for wells owned by or serving persons of lower or moderate income and for wells based on severity of changes and declines in groundwater. Provides a \$500,000 GF to deposit in the Domestic Well Remediation Fund to assist domestic well owners [*Expenditure limitation approved in SB 5006.*] Effective 91st day sine die. [IWRS Actions: 7.A, 9.A, 13.E.](#)

Water Related Legislation – No Budgetary Impact

[SB 130](#) – **Irrigation District Pilot Project** – Extends the sunset date to January 2, 2030 for the Irrigation District Pilot Project for Temporary Transfers, which allows irrigation districts to make annual place of use changes to water rights within their legal boundaries without making application to the Water Resources Department for a temporary transfer.

2021-23 Legislative Summary Continued...

[SB 391](#) – Accessory Dwelling Units – Allows counties to authorize owners of a lot or parcel in a rural residential zone to construct one ADU on the lot or parcel, subject to certain conditions and locally adopted land use regulations. Includes provisions related to water supply, wells, and water rights.

[SCR 17](#) – Establishes Environmental Justice Framework – Resolves that agencies: 1) are responsible to respond to health, environmental, economic and climate crises, and are accountable to build a just, equitable and resilient future; 2) develop guidance for the consideration of environmental justice in implementing responsibilities; 3) make reparative investments in frontline communities and direct resources to policies and processes focused on certain systems; 4) address environmental pollution; 5) invest in watershed protection and water infrastructure; and 6) further resolve that a regenerative economy be based on community health protection, respect for traditional ecological knowledge systems and the full and fair participation of Black, Native American, Indigenous and People of Color communities, essential workers, youth, low-income people, and those who are most vulnerable in rural and urban communities.

[HB 2244](#) – Automatic Stays – Amends ORS 536.075 and provides that if the Commission or Department denies a stay and a petitioner requests a hearing on the denial of the stay, the court shall hold the hearing within 21 days. In addition, the bill provides that for a petition for judicial review on a final order that has regulated off water use in favor of a determined claim or senior water right, the stay does not go into effect until such time as the petition for review is served to the Commission or Department and proof of service is filed with the court. The bill requires that if the commission or department receives service of a petition for judicial review related to a final order that regulated off a water use for a senior right or determined claim, not more than five business days after receiving the service the commission or department shall send the petition to the person or tribe that made the call for the senior right or determined claim. Effective January 1, 2022.

[HB 2298](#) – Environmental Restoration Weirs – Directs ODFW to adopt rules and administer a program regarding voluntary projects for stream restoration and habitat improvement through construction of environmental restoration weirs in closed basins east of the cascades on streams of a specified size. Requires coordination with the Water Resources Department, if the Department determines a weir results in injury to an existing water right, the agencies may require the person to modify an environmental restoration weir. Specifies that bill does not creates any new requirement or exemption with respect to obtaining a permit or certificate to use, store, or appropriate water. Effective May 21, 2021. [IWRS Action: 11.A.](#)

[HB 3104](#) – Correction of Erroneous Material – Makes non-substantive changes, including to ORS 539.010 and 553.270.

[HB 3126](#) – Water District Wildfire Recovery – Directs county board to annex to domestic water supply district, upon petition, land surrounded by district where water supply has become inadequate or contaminated due to wildfire, if district or independent water supply source of district has water supply sufficient to provide water to land.

[HB 3293](#) – Water Project Support for Community Engagement – Directs agencies who are providers of water project support to make support available to local organizations and local governments for increasing participation by representatives of disproportionately impacted communities. Requires that community engagement plans utilize the approaches and best practices that will increase participation for disproportionately impacted communities for decision making. Requires that water project providers adopt rules identifying best practices and coordinate with each other at least every five years. Effective January 1, 2022. [IWRS Action: 8.C.](#)

[HB 2345](#) – Rural Capacity – Establishes program to help rural jurisdictions to apply for and administer grants and other forms of funding. Efforts include working with state agencies to coordinate on investments in water and sewer systems needed in cities in rural areas.