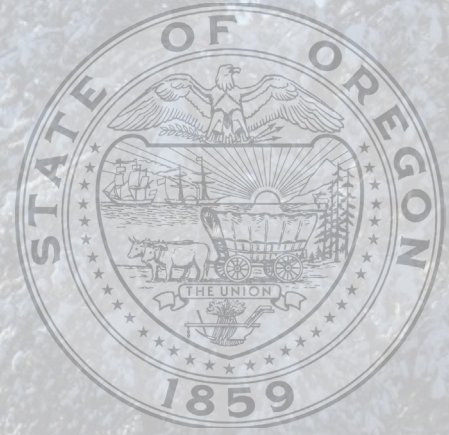




Drinking Water Source Protection

Division 48 Administrative Rules



July 2024
Springfield Board Meeting
Item S



OREGON
WATERSHED
ENHANCEMENT BOARD

Photo Cascade Mountains by Bonnie Moreland, cc

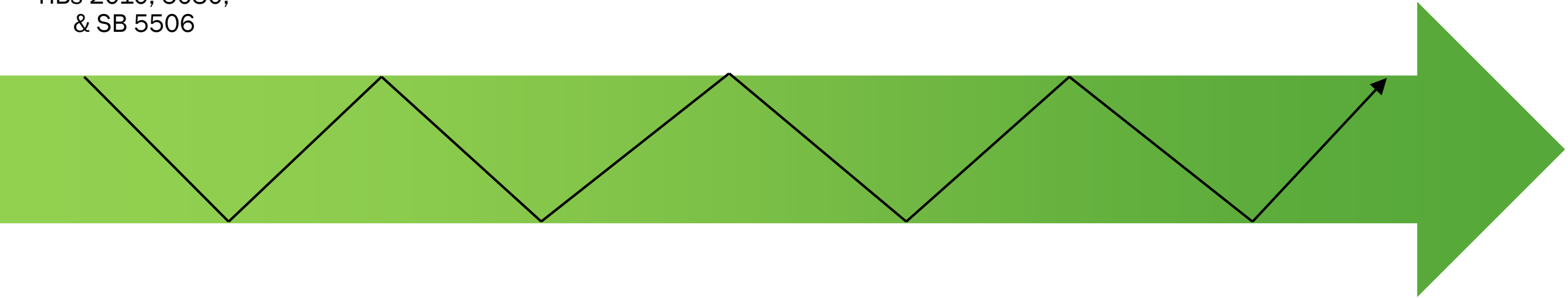


DWSP Timeline



2023 Leg. Session

Governor signs
HBs 2010, 5030,
& SB 5506



House Bill 2010

ORS 448.370-448.380

- Grants to water suppliers to protect, restore, or enhance sources of drinking water through:
 - Acquiring lands from willing sellers
 - Entering into covenants, easements or similar agreements
 - Repaying a loan used to finance one of the above
- Maximum grant award = \$3M
- Partnerships with holders are allowed (other than state agencies)
- Focus on water suppliers that serve:
 - Rural communities
 - Communities experiencing lower incomes
 - Communities that are at or below a specified population level
- Establishes Community Drinking Water Enhancement and Protection Fund



House Bill
5030
&
Senate Bill
5506

Allocated funding to Community Drinking Water
Enhancement and Protection Fund for Drinking Water
Source Protection grants:

\$4M in Lottery Revenue Bonds

\$1M in General Funds





DWSP Timeline

2023 Leg. Session

Governor signs
HBs 2010, 5030,
& SB 5506

Jan 2024 – Present

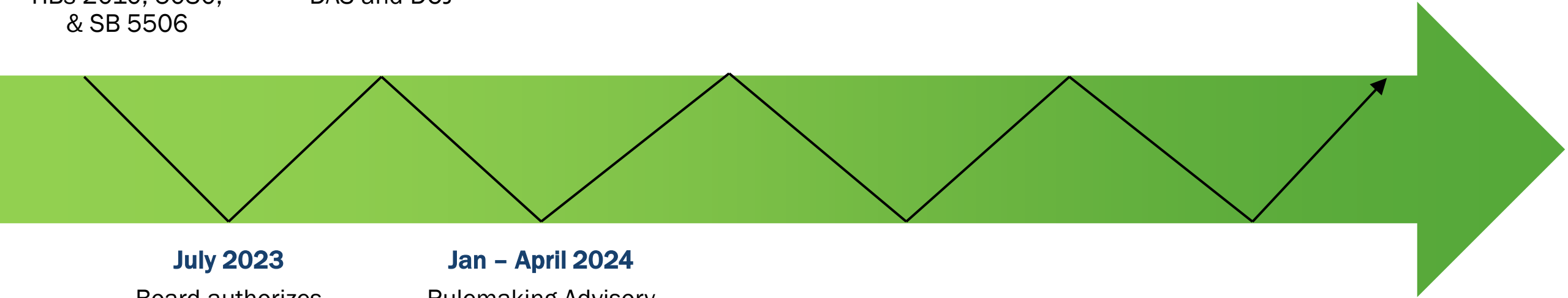
Consultation with
DAS and DOJ

July 2023

Board authorizes
rulemaking

Jan – April 2024

Rulemaking Advisory
Committee meetings
(6 meetings)



RAC Members

Name	Organization
Ann Vileisis	City of Port Orford
Dan Brown	Environmental Protection Agency
Daniel Wear	Sustainable Northwest
Gabriela Ferreira	Oregon Water Resources Department
Kristen Larson	Business Oregon
Jon Wickersham	North Coast Land Conservancy
Julie Harvey	Oregon Department of Environmental Quality
Lori Bell	Oregon Department of Forestry
Michelle Smith	Coalition of Oregon Land Trusts
Stephanie Reid	City of Lincoln City
Steve Graeper	Rhododendron Water Association

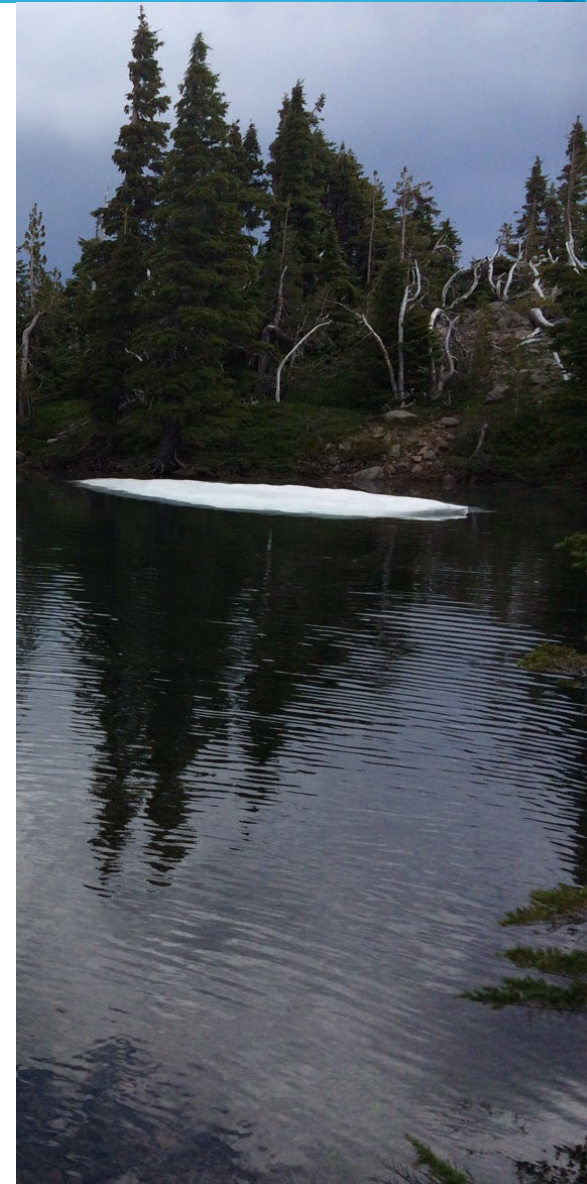




**In line with statute from House Bill 2010
(ORS 448.370-448.380)**

**Grants to Water Suppliers to protect, restore,
or enhance sources of drinking water through:**

- The acquisition of lands from willing sellers;
- Entering into covenants, easements, or similar agreements with willing landowners; or
- Repaying a loan used to finance a project as described above.





Definitions

695-048-0020



KEY DEFINITIONS:

“Long-Term Management Plan”

“Notice of Grant Requirements”

“Partnership”

“Protective Instrument”

Types of Public Water Systems

Drinking water terms from OHA and DEQ



Protective Instrument = estate in fee simple absolute, Conservation Easement, real covenant, equitable servitude, or similar agreements

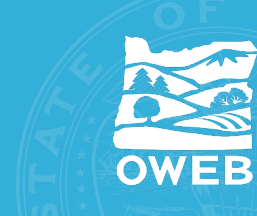
- Legal description of the land
- Objectives of the grant
- Specific obligations of grantee
- Access
- Duration of agreement
- Requirements of holder
- Notice of grant requirements for fee-simple acquisition





Eligible Applicants

695-048-0040



Water Suppliers with service populations at or below 25,000 users.

Eligible Water Suppliers may form Partnerships with eligible Holders.





Eligible Properties

695-048-0050



The protection, restoration, or enhancement of the property will benefit a drinking water source used by the Water Supplier.

Eligible properties must be partially or fully within a delineated Drinking Water Source Area.





ELIGIBLE

- Public Water Systems owned by a **local government or** non-profit, including:
 - Community Water Systems
 - Transient Non-Community Water Systems
 - Non-Transient Non-Community Water Systems
 - Oregon Very Small Water Systems
- Tribal Public Water Systems

INELIGIBLE

- Federal, state, and for-profit water systems



Maximum Grant Award & Matching Contributions

695-048-0070 & 695-048-0080



Maximum Grant Award = \$3,000,000

Matching Contributions:

- 5% match (non-OWEB funds)
- Qualifying match:
 - In-kind contributions;
 - Funding commitments made by others;
 - Forgiven portion of a loan used to acquire the Protective Instrument;
 - Interest paid on a loan used to acquire the Protective Instrument; and
 - A donated portion of a sale.
- 18-month lookback period from application deadline

Application Requirement

695-048-0090



CAPACITY & COMMITMENT

- Partnership information
- Resolution by applicant's governing body to fulfill obligations
- Long-term management plan
- Demonstration of Water System and/or well ownership and authority to use the water



DETAILS OF ACQUISITION

- Timeline for acquisition
- Reasoning for type of Protective Instrument
- Loan agreement (for loan repayment projects)



Application Requirement

695-048-0090



PROJECT JUSTIFICATION

- Property proximity to drinking water intake and/or wells; location within Drinking Water Source Area
- How project will address risk(s) identified in Source Water Assessment, including:
 - Land uses or activities that potentially threaten water quality
 - Which pollutant(s) will be addressed
 - How acquisition will reduce risk
 - Map showing land parcel and potential sources of pollution
 - Description of hydrologic/soil characteristics (for groundwater projects)
- How project will protect or restore water storage capacity/baseflow

Application Requirement

695-048-0090



COMMUNITY CHARACTERISTICS

- Seasonal variations in the number of users
- Drought or low water supply
- Economically distressed due to any of the following:
 - Small population size
 - Lower income population
 - Rural community

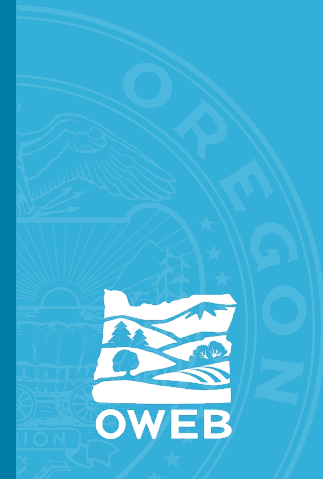




LOTTERY REVENUE BONDS (LRB):

- More restrictive than General Funds
- Only fee simple, conservation easement, other perpetual agreements that run with the land can be funded with LRB
- Does not allow for loan repayment
- Does not allow for applicant indirect costs
- Must be capital expenditures
- 60-day lookback period for expenses

Use of
Grant Funds
695-048-0100





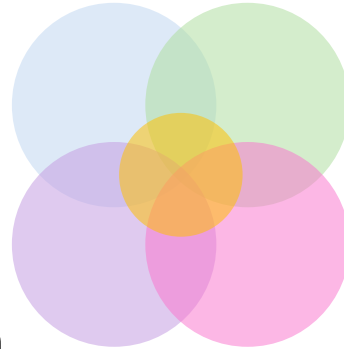
GENERAL FUNDS (GF):

- Less restrictive than Lottery Revenue Bonds
- All project types can be funded with GF
- Allows for applicant indirect costs, interest on bridge loans, cost of developing a Long-Term Management Plan
- 18-month lookback period for expenses

Use of
Grant Funds
695-048-0100



- ✓ Organizational and partnership capacity and experience
- ✓ Resources for long-term protection
 - Long-term management plan
- ✓ Strength of technical, legal, financial aspects of real estate transaction
- ✓ Project readiness, particularly due diligence
- ✓ Degree and urgency of risk to the land and associated Drinking Water Source Area
- ✓ Significance of the acquisition to drinking water sources



- ✓ Impacts to water system from:
 - Seasonal variations in number of users
 - Drought or low water supply
 - Risks to water quality.
- ✓ Water Supplier is economically distressed due to small population size, lower income population, or rural population
- ✓ Duration and type of the Protective Instrument, with preference for longer-term agreements
- ✓ Climate-Related Evaluation Criteria

First Grant Solicitation Cycle

695-048-0120



- Loan repayment and associated eligible costs are eligible activities that can be funded by General Funds for transactions that have closed no more than 60 months before the applicable Drinking Water Source Protection Grant application deadline.
- Eligible match for Projects described in OAR 695-048-0100(1)(a)-(c) can date back to 60 months before the applicable Drinking Water Source Protection Grant application deadline **for projects funded by General Funds.**
- A third-party demonstration of market value of the Protective Instrument is not required **for loan repayments.**
- OWEB retains discretion to not apply some evaluation criteria in OAR 695-048-0110 to applications submitted for loan repayment during the first grant solicitation cycle.
- The First Cycle Modifications do not apply to any grant cycle other than the program's initial grant cycle.



- Long-Term Management Plan if deemed appropriate and necessary by the Board
- OWEB review and approval of the Partnership agreement between the Grantee and the Holder
- Subsequent conveyances requirements per OAR 695-048-0180



Public Comment on Grant Applications

695-048-0150



- Written comments received by OWEB prior to the Board meeting at which the Board will consider the application;
- Comments made at public hearings held by the applicant in accordance with ORS 271.735; and
- Comments made at the Board meeting at which the grant application is considered.





- Use of the land must be consistent with ORS 448.370. OWEB may initiate any and all legal remedies available to OWEB to address compliance issues, including but not limited to recovery of the OWEB grant funds, and reasonable interest and penalties.
- A Grantee is responsible for fulfilling the terms and conditions of any agreement related to the Project.
- OWEB and the Board are not liable to any landowner, person, or entity for the failure of a Grantee to fulfill the terms or conditions of any agreement between the person or entity and the Grantee.



Any subsequent conveyance must:

- Comply with requirements of ORS 541.960 [*Title restrictions on land purchased through grant agreement*]
- Be made subject to Board approval and, if applicable, Department of Administrative Services approval
- Not result in a Profit
- For fee simple and CE, be transferred only to eligible applicants or eligible Holders
- Comply with the requirements of ORS 448.370 and OAR 695-048

Standard OWEB Rule Sections

Board Approval & Delegation of Authority

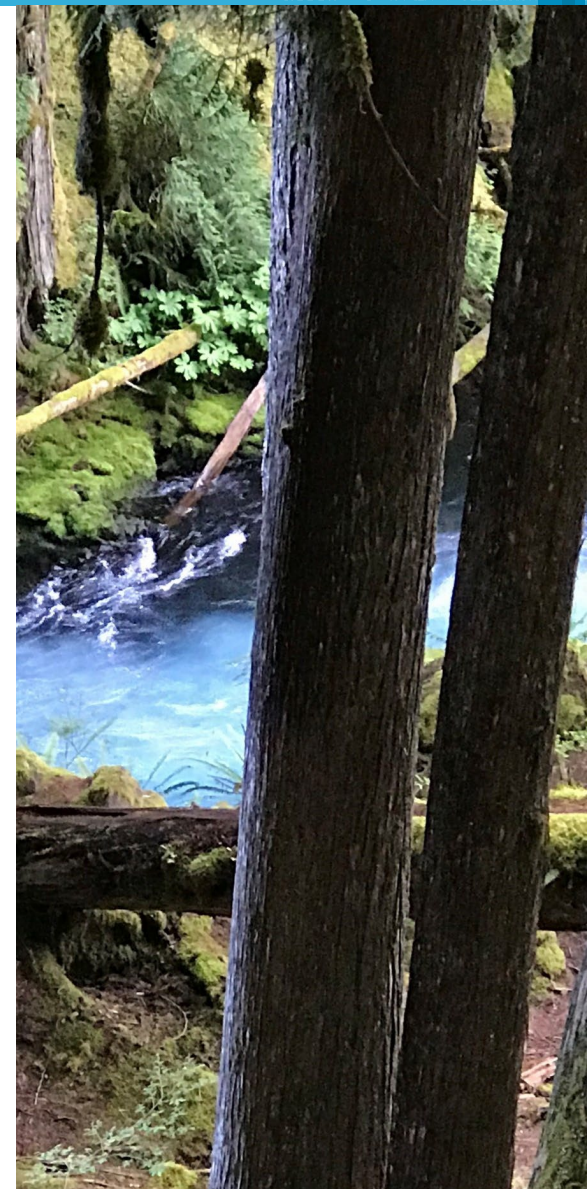
- 695-048-140

Distribution of Funds

- 695-048-160

Waiver of Rules

- 695-048-190





DWSP Timeline

2023 Leg. Session

Governor signs
HBs 2010, 5030,
& SB 5506

Jan 2024 – Present

Consultation with
DAS and DOJ

Apr – Jun 2024

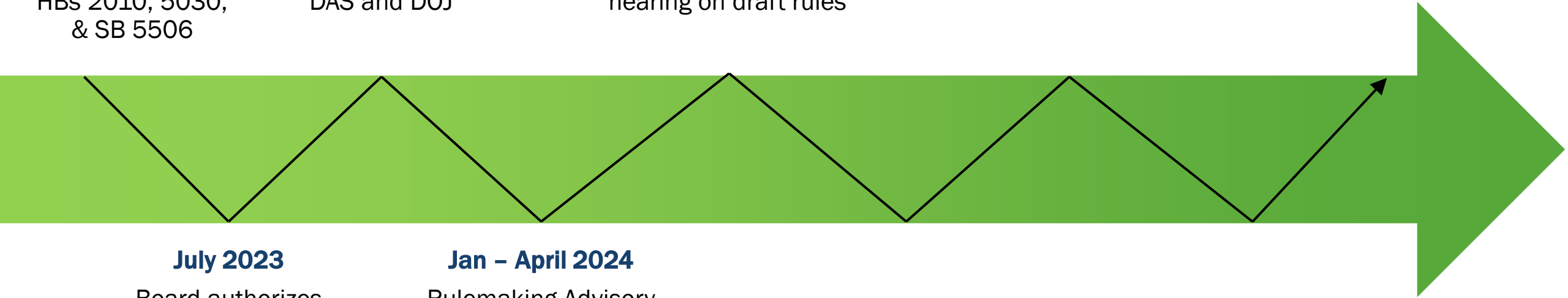
Public comment &
hearing on draft rules

July 2023

Board authorizes
rulemaking

Jan – April 2024

Rulemaking Advisory
Committee meetings





DWSP Timeline

2023 Leg. Session

Governor signs HBs 2010, 5030, & SB 5506

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Apr – Jun 2024

Public comment & hearing on draft rules

July 2023

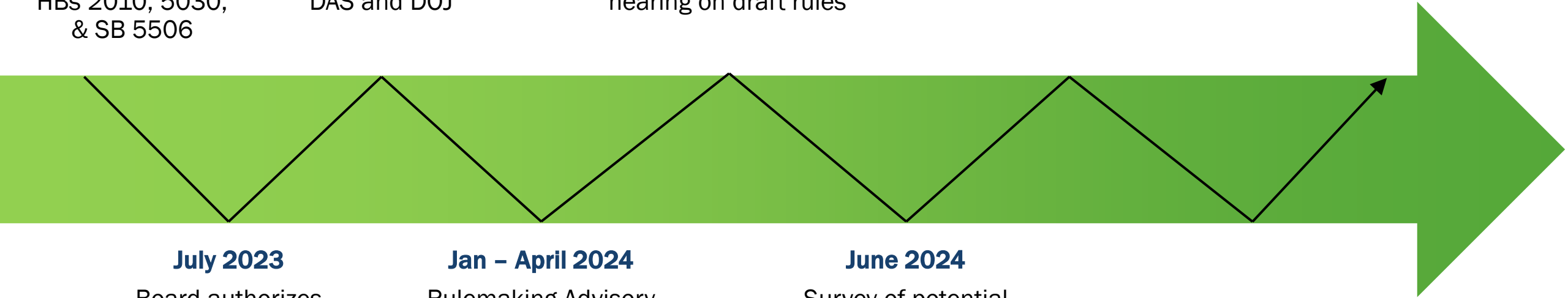
Board authorizes rulemaking

Jan – April 2024

Rulemaking Advisory Committee meetings

June 2024

Survey of potential applicants



Survey Results



Targeted outreach to Public Water Suppliers (including Tribal PWS) and holders

- 61 responses (47 PWS, 8 holders, 6 other)
- Positive or tentative interest from 44 respondents
- 24 respondents potentially interested in first cycle



Geography

- Spans the state with a concentration on the coast



Type of acquisition

- Primarily fee simple with some interest in CE and equitable servitudes



Program demand:

- First cycle: **\$12M to \$26M**
- Future cycles: **Additional ~\$8M**



DWSP Timeline

2023 Leg. Session

Governor signs HBs 2010, 5030, & SB 5506

Jan 2024 – Present

Consultation with DAS and DOJ

Apr – Jun 2024

Public comment & hearing on draft rules

July 2024

Board adoption of DWSP Rules

April 2025

Apps recommended for funding presented to Board; Report due to legislature

July 2023

Board authorizes rulemaking

Jan – April 2024

Rulemaking Advisory Committee meetings

June 2024

Survey of potential applicants

Oct – Dec 2024

First grant solicitation cycle (tentative)

Future dates are tentative

Thank you!

For More Information Contact

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