

# TITLE 27

## PUBLIC BORROWING AND BONDS

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### Chapter 286

2003 EDITION

#### State Bonds

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**BONDS GENERALLY****286.010 Registration of bonds; exchange or transfer of registered bonds; designation by State Treasurer of agent or coregistrar.**

(1) At the request of the holder of any bond of the state bearing interest coupons and issued after May 29, 1919, the State Treasurer shall issue in exchange for such bond a registered bond or a bearer bond or bonds, substantially of the same tenor and of a like aggregate principal amount, but such registered bonds shall be issued only in denominations of \$500 or multiples thereof, payable, as to both principal and interest, to the holder thereof. Such bonds shall likewise be exchanged for other registered or bearer bonds of like tenor and of a like aggregate principal amount but such bonds shall be issued only in denominations of \$500 or multiples thereof. Upon the transfer of any such bond a new bond or bonds of like tenor and aggregate principal amount shall be issued in the name of the transferee. All such new bonds shall be executed in the same manner as the original bonds by the persons in office at the time such new bonds are issued. Bonds as provided for in this section shall be issued under rules adopted from time to time by the State Treasurer.

(2) The State Treasurer may designate a fiscal agent to register or record bonds of the state under such conditions as may be agreed upon by the treasurer and the agent. The State Treasurer may also appoint an Oregon institution as coregistrar. [Amended by 1981 c.660 §10; 1987 c.869 §3]

**286.020 Fees and charges for registration.** A fee, to be established by the State Treasurer commensurate with expenses, may be charged for each registered bond issued in exchange for one or more bonds, or for one or more bonds previously registered, or for each registered bond issued as a submultiple of the principal of a bond previously registered. The State Treasurer may collect from owners of bonds sent in for registration, and from transferees of registered bonds, the fee for expenses for postage, postal registry fees and postal insurance on bonds mailed to owners and transferees. [Amended by 1981 c.660 §11; 1991 c.139 §1; 1999 c.1043 §4]

**286.025 Disposition of fees and charges for registration.** All moneys received under ORS 286.020 shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer. The State Treasurer may draw warrants in payment of vouchers and drawn against the account in payment of costs of the State Treasurer or of costs of the financial institution appointed registrar as provided for in ORS 286.010 for printing, postage, postal in-

surance, and for all other expenses connected with the registration, reregistration or conversion to bearer form of bonds of the State of Oregon. [1981 c.660 §14; 1983 c.44 §3; 1999 c.1043 §5]

**286.030** [Repealed by 1981 c.660 §18]

**286.031 State Treasurer to issue all state bonds.** Notwithstanding any other provision of law, for all general obligation and revenue bonds of this state the State Treasurer:

(1) Shall issue the bonds after consultation with the state agency responsible for administering the bond proceeds.

(2) Shall set the date of issuance after consultation with the agency.

(3) May combine the issues of bonds for more than one program into a single bond issue whenever a combination is consistent with the constitutional authority under which the bonds are issued.

(4) Shall determine the issuance and re-issuance of all bonds and coupons.

(5) Shall determine where the bonds are to be marketed, sold and redeemed and bond payments are to be made.

(6) May enter into any agreement, and may appoint any agent, that the State Treasurer considers necessary to comply with the law of the nation in which the bonds are marketed or to market the bonds competitively. In making such an agreement or appointment, the State Treasurer shall comply with Oregon law that otherwise applies. [1981 c.660 §1; 1983 c.519 §1; 1987 c.869 §4]

**286.033 Authorization of bond issue.** The state agency shall authorize issuance of bonds subject to ORS 286.031 by resolution of its governing body or, if none, the administrative head of the agency. [1981 c.660 §2]

**286.036 Determination of interest on bonds; interest exempt from state taxes; approval of State Treasurer for issuance of bonds.** (1) The state agency, with the approval of the State Treasurer, shall determine the maximum interest to be borne by the bonds, the interest basis and definition thereof. The maximum effective interest rate shall be certified to the State Treasurer as prudent in light of prevailing interest rates, market conditions and the projected program revenues, if any, and the State Treasurer must approve or disapprove.

(2) The state agency, with the approval of the State Treasurer, shall determine the period over which interest on bonds may be capitalized. The period may not be longer than the estimated period of construction.

(3) The interest upon all bonds, including refunding bonds, of the State of Oregon, shall

be exempt from taxation by the State of Oregon.

(4) A state agency authorized to issue or cause to be issued any general obligation, revenue or industrial development bonds must apply for and receive approval of the State Treasurer prior to issuance of bonds. The approval must include approval of the preliminary official statement, if any, the specific amount of the bonds to be issued and the date of issuance. The State Treasurer may reduce the amount or alter the date of issuance, or both. ORS 286.056 and 286.061 (1) do not apply to revenue or industrial development bonds described in this section. [1981 c.660 §8; 2001 c.536 §4]

**286.038 Authority of State Treasurer to issue bonds the interest on which is taxable; public or private sale.** (1) The State Treasurer may issue any or all bonds, notes or other evidences of indebtedness of the state, the interest on which is taxable for federal income tax purposes to the bondholders. Notwithstanding the grant of such authority to the State Treasurer, in each instance, the state's consent to such taxation shall be given by the State Treasurer only expressly and in writing at the time at which the bonds, notes or other evidences of indebtedness are sold. Such written consent shall be made a part of the transcript of the proceedings of such sale.

(2) Bonds, notes or other evidence of indebtedness described in subsection (1) of this section may be sold at public sale or private negotiated sale, as determined by the State Treasurer. [1987 c.308 §§2,3; 1989 c.681 §8]

**Note:** 286.038 (2) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 286 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**286.040** [Repealed by 1981 c.660 §18]

**286.041 Preparation of form of bonds.**

(1) The State Treasurer shall cause to be prepared, with the approval of the Attorney General, a form of direct, general obligation, interest-bearing bonds of the State of Oregon to be sold in order to provide funds for carrying out the purposes for which general obligation bonds are authorized by the Constitution of the State of Oregon.

(2) The bonds may be issued in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, bear such numbers, be payable at a designated place or places within or without the State of Oregon or at the fiscal agency of the State of Oregon, bear such rate or rates of interest, and contain such other terms, conditions and covenants as the State Treasurer may determine. [1981 c.660 §3]

**286.046** [1981 c.660 §9; repealed by 1991 c.140 §1]

**286.050** [Amended by 1959 c.231 §1; 1979 c.130 §1; repealed by 1981 c.660 §18]

**286.051 Refunding bonds; optional redemption date provisions permitted in bonds; notice requirements.** (1) At the discretion of the State Treasurer, refunding bonds or advance refunding bonds, as provided for in ORS 288.605 to 288.695, may be issued. The bonds may be refunded either prior to or at their maturity dates. Refunding bonds may be issued in the same manner as other bonds are issued under the terms of ORS 286.010 to 286.078, 287.018, 288.020, 293.701, 351.315, 351.345 to 351.460, 351.545, 367.161 to 367.181, 367.555, 367.565, 367.700, 367.715, 391.140, 407.415, 407.515, 456.519, 456.645, 456.650, 456.670, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785. Refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

(2) If the governing body or administrative head of the state agency so elects, and the State Treasurer approves, bonds may be issued with the option upon the part of the state to redeem the bonds, with or without premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds.

(3) If all the bonds being redeemed are not in registered form, at least one notice of the intended redemption of the bonds shall be published in one issue of a newspaper specializing in financial matters published in the city in which the bonds by their terms are made payable, and of at least one such notice in a newspaper of general circulation in Portland, Oregon. Notice shall be published at least 30 days before the redemption date. [1981 c.660 §4; 1987 c.869 §5; 1991 c.67 §71; 1991 c.575 §7; 1997 c.171 §8; 2003 c.201 §36]

**286.056 Notice of sale of bonds.** The State Treasurer shall approve a notice of sale for all bonds that are to be sold at public sale. The State Treasurer shall cause the notice of sale, or a summary of the notice of sale, to be disseminated in a manner prescribed by the State Treasurer, which may include any means and methods for giving public notice of the bond sale, including, when reasonably practicable, the use of one or more electronic media networks. [1981 c.660 §5; 1987 c.869 §6; 1989 c.681 §7; 1997 c.66 §1; 1999 c.44 §14]

**286.058 Contents of notice of sale.** The notice of sale required by ORS 286.056 shall specify:

(1) The process by which bids will be received, considered and acted upon, including the deadline for submitting bids, the total amount of bonds and the denomination of bonds;

(2) The issue date, maturity dates and amounts, interest payment dates, and place of payment of the bonds;

(3) The dates of redemption, if any; the call price premium, if any; and the order and place of redemption;

(4) The method of submitting and the amount of any required good faith deposit;

(5) Such constraints on the coupon or interest rates as the agency, with the approval of the State Treasurer, may wish to impose;

(6) The interest basis and definition thereof on which bids are to be awarded;

(7) The nature of the security on the bonds; and

(8) The name of bond counsel; the name of the source of the preliminary official statement; the means of communication used to circulate the preliminary official statement, which may include electronic or any other means prescribed by the State Treasurer; coupon rate multiples; registration provision, if any; estimated delivery date and place; the purpose of the bonds; the statutes and constitutional provisions pursuant to which the bonds are being issued; the procedure for awarding the bids; and such other provision as the agency, with the approval of the State Treasurer, may wish to impose. [1981 c.660 §6; 1999 c.44 §15; 2001 c.104 §99]

**286.060** [1961 c.582 §1; 1981 c.23 §1; 1981 c.94 §17; repealed by 1981 c.660 §18]

**286.061 Bonds to be general obligations; facsimile signatures authorized; payment procedures.** (1) All bonds issued by the State of Oregon under ORS 286.010 to 286.078, 287.018, 288.020, 293.701, 351.315, 351.345 to 351.460, 351.545, 367.555, 367.565, 367.700, 367.715, 407.415, 407.515, 456.519, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785 shall be direct general obligations of the State of Oregon, in negotiable form, and shall embody an absolute promise to pay the amounts thereof in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States of America.

(2) The bonds shall be executed with a facsimile signature of the Governor and Secretary of State and the manual or facsimile signature of the State Treasurer or Deputy State Treasurer in accordance with ORS 288.540. The bonds shall be issued as bearer coupon bonds or in registered form, either as to principal or interest, or both.

(3) Not less than 20 days before the payment of the principal or interest falls due on any of the bonds, the respective program shall prepare and submit to the State Treasurer, for verification, a claim duly approved by the agency for the amount necessary to

meet the payment thereof. Upon such verification, the agency shall present the claim in like manner as other claims against the state are presented. The claim shall be paid out of moneys provided by law for its payment.

(4) Notwithstanding any other provision of law, when bonds, obligations or other evidence of indebtedness are sold, the proceeds may be used to pay attorney, consultant, paying agent, trustee or other professional fees and other expenses incurred to authorize, issue, carry and repay the bonds, obligations or other evidence of indebtedness.

(5) The State Treasurer may establish funds and accounts separate and distinct from the General Fund as may be authorized by law or reasonably required to protect the bond proceeds and to arrange for their redemption. [1981 c.660 §7; 1985 c.565 §44; 1987 c.273 §1; 1991 c.67 §72; 2003 c.195 §11; 2003 c.201 §37]

**286.063 Exception to expenditure limits for repaying or refinancing debt obligations; administrative limits; reports.** (1) Notwithstanding any law limiting expenditures of a state agency, for the purpose of repaying or refinancing debt obligations of the state in order to obtain savings in total or periodic debt service payments, a law limiting expenditures does not apply to payments approved by the State Treasurer for administrative expenses, debt service or financing costs necessary or appropriate for the retirement or refunding of bonds, certificates of participation or financing agreements as defined in ORS 283.085 unless the law limiting expenditures creates a specific exception to this section.

(2) The Oregon Department of Administrative Services may establish administrative limitations on the payment and recording of expenditures made pursuant to subsection (1) of this section.

(3) The Oregon Department of Administrative Services shall report incurred expenses and debt service savings resulting from actions taken under subsection (1) of this section that affect administrative expenses, debt service or financing costs paid with moneys out of the General Fund or lottery funds, within 90 days of taking action, to the Joint Committee on Ways and Means if the Legislative Assembly is in session or to the Emergency Board during the interim between legislative sessions. [2001 c.602 §2]

**286.066 Appointment of bond counsel; exemption from ORS 279.712.** Each respective general obligation bonding agency shall enter into an agreement with and provide for the appointment of bond counsel for a period of not less than one year during any biennium in which the agency has bonds outstanding or expects to issue bonds. An agency may not enter into an agreement for

the appointment of bond counsel under this section unless the State Treasurer and the Attorney General have reviewed and approved the terms and conditions of the agreement as required by ORS 288.523. ORS 279.712 does not apply to an agreement for the appointment of bond counsel entered into under this section. [1981 c.660 §15; 1995 c.247 §3; 2001 c.536 §5]

**Note:** The amendments to 286.066 by section 243, chapter 794, Oregon Laws 2003, become operative March 1, 2005, and apply only to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. See sections 336 and 337, chapter 794, Oregon Laws 2003. The text that is operative on and after March 1, 2005, is set forth for the user's convenience.

**286.066.** Each respective general obligation bonding agency shall enter into an agreement with and provide for the appointment of bond counsel for a period of not less than one year during any biennium in which the agency has bonds outstanding or expects to issue bonds. An agency may not enter into an agreement for the appointment of bond counsel under this section unless the State Treasurer and the Attorney General have reviewed and approved the terms and conditions of the agreement as required by ORS 288.523. ORS 279A.140 does not apply to an agreement for the appointment of bond counsel entered into under this section.

**286.070** [1961 c.582 §2; repealed by 1981 c.660 §18]

**286.071 Retention of financial consultant services; exemption from ORS 279.712.** (1) The State Treasurer may, or an agency authorized to use bond proceeds may, with the approval of the State Treasurer, enter into an agreement with and retain the services of a financial consultant. The State Treasurer, in granting approval for the retention of a financial consultant authorized by this section, shall consider:

(a) The reputation, experience and credentials of the consultant, including the individuals expected to actually fulfill the contract work; and

(b) The willingness of the consultant to consider the impact of the agency's bond program on overall state resources, levels of bonded indebtedness, and statewide bond issuance procedures and policies.

(2) An agency may not enter into an agreement to retain the services of a financial consultant unless the State Treasurer reviews and approves the terms and conditions of the agreement. ORS 279.712 does not apply to an agreement described in this section. [1981 c.660 §16; 1983 c.798 §6; 2001 c.536 §6]

**Note:** The amendments to 286.071 by section 244, chapter 794, Oregon Laws 2003, become operative March 1, 2005, and apply only to public contracts first advertised, but if not advertised then entered into, on or after March 1, 2005. See sections 336 and 337, chapter 794, Oregon Laws 2003. The text that is operative on and after March 1, 2005, is set forth for the user's convenience.

**286.071.** (1) The State Treasurer may, or an agency authorized to use bond proceeds may, with the approval of the State Treasurer, enter into an agreement with and retain the services of a financial consultant. The

State Treasurer, in granting approval for the retention of a financial consultant authorized by this section, shall consider:

(a) The reputation, experience and credentials of the consultant, including the individuals expected to actually fulfill the contract work; and

(b) The willingness of the consultant to consider the impact of the agency's bond program on overall state resources, levels of bonded indebtedness, and statewide bond issuance procedures and policies.

(2) An agency may not enter into an agreement to retain the services of a financial consultant unless the State Treasurer reviews and approves the terms and conditions of the agreement. ORS 279A.140 does not apply to an agreement described in this section.

**286.076** [1981 c.660 §17; 1987 c.840 §6; repealed by 1989 c.681 §9]

**286.078 Authority of agency head to establish standards necessary to preserve tax exempt status of interest to holders of bonds; rebates; investment.** The head of the state agency responsible for administering bond proceeds of bonds, notes and other evidences of indebtedness may:

(1) Establish, notwithstanding other requirements, standards and priorities for the use of those bond proceeds and of the interest and other earnings thereon and may make such rebates or other payments that are necessary to assure that the interest paid to holders of bonds, notes or other evidences of indebtedness are exempt from federal income taxes. Such rebates shall be considered an interest expense of such obligations, and may be paid from any source of funds which may be used to pay interest on such obligations, or from any source of funds which earns interest that is rebatable.

(2) Invest in United States Government securities or other legal investments which have a yield that is less than the current market yield, but for no other reason than to facilitate compliance with federal laws which govern whether interest on such obligations is excludable from gross income under federal income tax laws. [1981 c.660 §22; 1987 c.307 §1]

**286.079** [1981 c.659 §1; renumbered 286.505]

**286.080** [1979 c.130 §2; renumbered 286.515]

**286.085** [1981 c.659 §2; 1983 c.112 §1; 1983 c.798 §7; renumbered 286.525]

**286.090** [1981 c.659 §4; 1983 c.798 §8; renumbered 286.535]

**286.105 Cash flow projection before bonds issued.** The State Treasurer shall issue no bonds for any state agency authorized to operate a program using proceeds from general obligation or revenue bonds, until:

(1) The agency has prepared and submitted, and the State Treasurer has approved, a cash flow projection detailing program revenues, if any, and their sufficiency to meet debt service requirements. The projections shall include a listing of all significant assumptions of the cash flow model and the

agency's estimate of the likelihood that such assumptions will materialize. If the State Treasurer determines, and notifies the agency in writing, that the cash flow projection and underlying assumptions supplied by the agency are unreasonable or do not fairly represent a likely set of events, the State Treasurer may require additional cash flow projections to be computed using assumptions supplied by the State Treasurer.

(2) If a financial consultant is retained as provided for in ORS 286.071 to assist with the bond program, the consultant has attested that the cash flow projection required in subsection (1) of this section contains all significant disclosures and all significant underlying assumptions necessary to provide a reasonable basis for that projection. [1983 c.798 §2]

**286.115 Report on factors influencing bond payment.** (1) Any state agency that has general obligation or revenue bonds, notes or other obligations outstanding, shall prepare and submit to the State Treasurer reports that:

(a) Detail present and projected cash flow of program revenues, if any, and the anticipated sufficiency of that cash flow to meet required debt service payments;

(b) Detail historical performance regarding payments, delinquencies, reinvestment rates or similar factors that would effect the adequacy of the assumptions underlying the cash flow projection;

(c) Provide a schedule for use of bond proceeds, if any, by program category;

(d) Describe any changes in program administration that could affect the cash flow projection; and

(e) Provide any additional information relating to the ability to repay outstanding bonds as may be required by the State Treasurer.

(2) The reports required in subsection (1) of this section shall be submitted at such times as the State Treasurer determines and which may be reasonably supplied by the agency but in no event more often than quarterly nor less often than yearly. [1983 c.798 §3]

**286.125 Exemption from ORS 286.105 and 286.115.** The State Treasurer may exempt any program or transaction from any or all of the requirements of ORS 286.105 and 286.115 on finding the program or transaction does not significantly affect the financial integrity of the state. [1983 c.798 §5]

**286.135 Annual audit of bond program; exemption.** (1) Any state agency that administers a program for which bonds are outstanding shall request the Secretary of

State to conduct a financial audit of the bond program at least annually. The request for an audit shall include a request that the audit be published as soon as possible following the end of the audit period.

(2) The Oregon Department of Administrative Services may on an annual basis exempt any program from the requirements of subsection (1) of this section. [1983 c.798 §4]

**286.145 Worldwide marketing, sale or redemption of state bonds authorized.** General obligation and revenue bonds of this state may be marketed, sold or redeemed and any bond principal, interest and premium, if any, may be paid in any city of any nation unless contrary to the laws of that city or nation. [1987 c.869 §2]

**286.310** [Repealed by 1981 c.660 §18]

**286.320** [Repealed by 1981 c.660 §18]

**286.330** [Repealed by 1981 c.660 §18]

**286.410** [Repealed by 1953 c.32 §2]

**286.420** [Repealed by 1953 c.32 §2]

**286.430** [Repealed by 1953 c.32 §2]

**286.440** [Repealed by 1953 c.32 §2]

**286.450** [Repealed by 1953 c.32 §2]

## AMOUNT OF BONDS

**286.505 Policy.** The Legislative Assembly finds that incurring of state debt by sale of bonds should be subjected to the same process of executive recommendations and legislative approval as the process by which the state biennial budget is recommended and approved. [Formerly 286.079]

**286.507 Economic development bonds subject to ORS 286.505 to 286.545.** No bonds shall be issued under ORS 285B.320 to 285B.371, except as provided under ORS 286.505 to 286.545. [1985 c.805 §3]

**286.515 Report on debt required; content.** The State Treasurer shall submit to the Oregon Department of Administrative Services by July 1 of each even-numbered year a report detailing a consolidated debt profile of the state's bonded indebtedness and other financing agreements and certificates of participation authorized by law, how that amount compares to economic growth of the state during the preceding biennium, how the state's indebtedness level compares to other states and any other relevant information the State Treasurer considers important for policy consideration and inclusion in the Governor's budget report to the Legislative Assembly. [Formerly 286.080; 1989 c.1032 §6]

**286.525 Recommendation by Governor of total maximum debt level; advice of State Treasurer; biennial agency reports.** (1) The Governor shall recommend to the Legislative Assembly for each biennium the total level for all state programs for which

general obligation or revenue bonds or certificates of participation or other financing agreements as defined in ORS 283.085 are authorized. In making the recommendations, the Governor shall seek the advice of the State Treasurer on the total level for each biennium. The treasurer's advice shall be given at a time requested by the Governor and shall be based on the treasurer's review of available economic and financial data for the state. After reviewing the treasurer's advice, the Governor shall present the total level for each program to the Legislative Assembly as part of the Governor's budget along with the figures advised by the treasurer. The Legislative Assembly shall then determine the level for each program for each biennium.

(2) For each biennium, each state agency authorized to issue general obligation or revenue bonds or certificates of participation or other financing agreements shall report to the Governor biennially on a date determined by the Governor on agency plans for issuing bonded indebtedness or certificates of participation or other financing agreements during the coming biennium. The agency shall include any knowledge it has on retiring outstanding indebtedness during the following biennium or thereafter. [Formerly 286.085; 1989 c.1032 §7; 1997 c.49 §4]

**286.535 Modification of amounts of bonds and certificates of participation by Governor.** (1) The bond issuance amounts authorized by this section and ORS 286.505, 286.525, 286.635, 407.325 and 407.505 and the amounts of certificates of participation or other financing agreements may be modified by the Governor within program designations or between program designations but shall not exceed the amount of bonds, certificates of participation or other financing agreements authorized by the Legislative Assembly for the biennium.

(2) If the Legislative Assembly establishes categories of general obligation bonds, direct revenue bonds, pass through revenue bonds, certificates of participation or other financing agreements, the authority granted under subsection (1) of this section does not authorize modification as between categories.

(3) Nothing in this section and ORS 286.505, 286.525, 407.325 and 407.505 applies to refunding bonds authorized or required under any state bond program adopted under ORS 286.085.

(4) The provisions of law fixing the amount of bonds that may be issued under Article XI-G of the Oregon Constitution are controlling over any greater amount that may be appropriated therefor. [Formerly 286.090; 1987 c.754 §3; 1991 c.703 §46]

**286.545 Effect of issuing bonds in subsequent biennium; time limit.** (1) When a public agency has authority to issue general obligation bonds and the process of bidding and acceptance is completed before the end of the biennium, the agency may issue the bonds in the next biennium subject to the limit in amount of issuance imposed in the preceding biennium, if any. Any bonds issued under the authority granted by this section shall not be considered a part of the issuing agency's general obligation limitation, if any, for the next biennium.

(2) No bonds shall be issued under the authority granted by subsection (1) of this section on a date later than the effective date of legislation setting general obligation bond limits, as required by ORS 286.525 (1), for the next biennium. [1983 c.112 §§3,4]

**286.550 State Debt Policy Advisory Commission; membership; compensation; quorum; meetings; personnel.** (1) There is established a State Debt Policy Advisory Commission, consisting of five members.

(2) The State Treasurer and the Director of the Oregon Department of Administrative Services shall serve as ex officio members of the commission. One member of the commission shall be a member of the Senate appointed by the President of the Senate. One member of the commission shall be a member of the House of Representatives appointed by the Speaker of the House. One member of the commission shall be a public member, knowledgeable on matters of public finance, appointed by the Governor from among those persons recommended by the State Treasurer.

(3) The term of an appointed member is two years, but an appointed member serves at the pleasure of the appointing authority. Before the expiration of the term of an appointed member, the appointing authority shall appoint a successor. If there is a vacancy for any reason in the office of an appointed member, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

(5) The State Treasurer shall serve as chairperson of the commission, with such duties and powers necessary for the performance of that office as the commission determines appropriate.

(6) A majority of the members of the commission constitutes a quorum for the transaction of business.

(7) The commission shall meet at least once every six months at a place and time determined by the commission. The commis-

sion also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(8) The office of the State Treasurer shall provide the commission with office space and clerical and other administrative support. [1997 c.49 §1]

**Note:** 286.550 and 286.555 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 286 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**286.555 Functions and duties of commission.** The State Debt Policy Advisory Commission shall advise the Governor and the Legislative Assembly regarding policies and actions that enhance and preserve the state's credit rating and maintain the future availability of low-cost capital financing. In carrying out this function, the commission shall:

(1) Develop a six-year forecast of debt capacity targets by debt type and repayment source based on the policies and actions established under this section.

(2) Convert debt capacity targets to net available capacity estimates by reflecting amounts of capacity currently issued, the planned issuance of prior authorized debt and estimates of debt repayment.

(3) Report findings, including net debt capacity, and recommendations to the Governor and to the Legislative Assembly by April 1 of each even-numbered year. [1997 c.49 §2]

**Note:** See note under 286.550.

## LOTTERY BONDS

**286.560 Definitions for ORS 286.560 to 286.580, 327.700 to 327.711 and 348.716.** As used in ORS 286.560 to 286.580, 327.700 to 327.711 and 348.716, unless the context requires otherwise:

(1) "Appropriated funds" for a particular fiscal year means any moneys, other than unobligated net lottery proceeds, that are specifically appropriated or otherwise specifically made available by the Legislative Assembly or the Emergency Board for a fiscal year to replenish reserves established as additional security for lottery bonds pursuant to the authority granted in ORS 286.580 (6).

(2) "Bond-related costs" means:

(a) The costs and expenses of issuing, administering and maintaining lottery bonds and the lottery bond program, including but not limited to paying or redeeming lottery bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286.580 (6) and paying the

administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the lottery bonds or the lottery bond program;

(b) The costs of funding any lottery bond reserves;

(c) Capitalized interest for lottery bonds;

(d) Rebates or penalties due to the United States in connection with lottery bonds; and

(e) Any other costs or expenses that the State Treasurer or the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing lottery bonds or maintaining the lottery bond program.

(3) "Lottery bonds" means:

(a) The state park lottery bonds authorized by ORS 390.060 to 390.067, the infrastructure lottery bonds authorized by ORS 285B.530 to 285B.548 and the education lottery bonds authorized by ORS 327.700 to 327.711;

(b) Any other bonds payable from the revenues of the Oregon State Lottery unless the legislation authorizing those bonds expressly provides that those bonds shall not be issued under ORS 286.560 to 286.580 and 348.716; and

(c) Any refunding lottery bonds.

(4) "Lottery Bond Administrative Fund" means the fund created by ORS 286.573.

(5) "Lottery Bond Fund" means the fund created by ORS 286.570.

(6) "Lottery bond program" means a financing program authorized by:

(a) ORS 285B.530 to 285B.548, 327.700 to 327.711 or 390.060 to 390.067; or

(b) Any other Act of the Legislative Assembly authorizing the issuance of bonds that are payable from the revenues of the Oregon State Lottery, unless the legislation authorizing those bonds expressly provides that those bonds shall not be issued under ORS 286.560 to 286.580 and 348.716.

(7) "Refunding lottery bonds" means any bonds issued for the purpose of refunding any lottery bonds.

(8) "Unobligated net lottery proceeds" means all revenues derived from the operation of the Oregon State Lottery except for:

(a) The revenues used for the payment of prizes and expenses of the Oregon State Lottery as provided in section 4 (4)(d), Article XV of the Oregon Constitution, and ORS 461.500 and 461.510;

(b) The revenues required to be applied, distributed or allocated as provided in ORS 461.543; and

(c) The revenues required to be allocated to pay the Westside lottery bonds and any bonds issued to refund the Westside lottery bonds, to fund reserves for any of those bonds and to pay related costs of the Department of Transportation.

(9) "Westside lottery bonds" means the bonds issued by this state under the authority granted in ORS 391.140 that, notwithstanding ORS 267.334, 285B.419, 285B.422, 285B.425, 285B.482, 285B.530 to 285B.548, 286.560 to 286.580, 327.700 to 327.711, 348.716 and 390.060 to 390.067, shall have a claim on lottery funds that is superior to the claim of the lottery bonds authorized by ORS 286.560 to 286.580 and 348.716. [1999 c.44 §1]

**Note:** 286.560 to 286.580 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 286 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**286.563 Purposes; nature of lottery bonds.** (1) The Legislative Assembly declares that the purpose of ORS 286.560 to 286.580 and 348.716 is to combine previously enacted legislation authorizing lottery bonds into a single Act that provides uniform administrative procedures for all lottery bonds issued by the State of Oregon.

(2) The lottery bonds issued under ORS 286.560 to 286.580 and 348.716 shall be special obligations of the State of Oregon that are payable solely from unobligated net lottery proceeds, amounts available in the Lottery Bond Fund and in any reserve accounts established for lottery bonds under ORS 286.560 to 286.580 and 348.716 and any appropriated funds. The faith and credit of the State of Oregon or any of its taxing power shall not be pledged or committed to the payment of lottery bonds or any other commitment of the State of Oregon authorized by ORS 286.560 to 286.580 and 348.716. [1999 c.44 §2]

**Note:** See note under 286.560.

**286.566 Requirements for legislation authorizing lottery bonds.** (1) Any legislation authorizing issuance of lottery bonds under ORS 286.560 to 286.580 and 348.716 shall:

(a) State the purposes for which the proceeds of lottery bonds may be spent;

(b) Contain findings that those uses are lawful uses of lottery revenues;

(c) Indicate the amount of lottery bonds that may be issued under the legislation;

(d) Specify the fund into which the net proceeds of those lottery bonds shall be deposited; and

(e) Provide for the payment of the bond-related costs for the lottery bonds.

(2) Unless specifically prohibited by the legislation authorizing lottery bonds:

(a) Any agency or other entity holding net proceeds of lottery bonds shall, upon the written request of the Director of the Oregon Department of Administrative Services, transfer to the Oregon Department of Administrative Services for deposit in the Lottery Bond Administrative Fund the amounts that the director states in the request are reasonably required to pay for bond-related costs that are allocable to those net proceeds.

(b) The agencies or other entities receiving proceeds of lottery bonds shall, if so directed by the Oregon Department of Administrative Services, take any action specified by the Oregon Department of Administrative Services that is necessary to maintain the excludability of lottery bond interest from gross income under the Internal Revenue Code. [1999 c.44 §3]

**Note:** See note under 286.560.

**286.570 Lottery Bond Fund; purposes.**

(1) The Lottery Bond Fund is established in the State Treasury, separate and distinct from the General Fund. The amounts of unobligated net lottery proceeds described in ORS 286.576 (2)(a) and (b) and any appropriated funds and investment earnings of the Lottery Bond Fund shall be credited to the Lottery Bond Fund. The State Treasurer may establish reserves for lottery bonds as provided in ORS 286.580 (6). The reserves shall be credited to such account in the Lottery Bond Fund as the State Treasurer may designate.

(2) The amounts credited to the Lottery Bond Fund are continuously appropriated only for the purpose of paying, when due, the principal of and the interest and premium, if any, on outstanding lottery bonds, funding lottery bond reserves and paying amounts due in connection with any instrument authorized by ORS 286.580 (6).

(3) The moneys in the Lottery Bond Fund shall be used and applied solely to pay, when due, the principal of and the interest and premium, if any, on any lottery bonds, to fund reserves and to pay amounts due under instruments authorized by ORS 286.580 (6). [1999 c.44 §4]

**Note:** See note under 286.560.

**Note:** Section 9, chapter 44, Oregon Laws 1999, provides:

**Sec. 9.** (1) The State Treasurer shall merge into the Lottery Bond Fund the lottery bond funds authorized by ORS 285B.530 to 285B.548, 327.700 to 327.711 and 390.060 to 390.067.

(2) The State Treasurer shall merge into the Lottery Bond Administrative Fund the lottery bond admin-

istrative funds authorized by ORS 285B.530 to 285B.548, 327.700 to 327.711 and 390.060 to 390.067.

(3) The State Treasurer may merge into a single reserve account the reserve accounts created for lottery bonds authorized by ORS 285B.530 to 285B.548, 327.700 to 327.711 and 390.060 to 390.067. [1999 c.44 §9]

**286.573 Lottery Bond Administrative Fund; purposes.** The Lottery Bond Administrative Fund is established in the State Treasury, separate and distinct from the General Fund. The amounts of unobligated net lottery proceeds specified in ORS 286.576 (2)(c), the proceeds of any lottery bonds issued to pay bond-related costs and the investment earnings on amounts in the Lottery Bond Administrative Fund shall be credited to the Lottery Bond Administrative Fund. All moneys credited from time to time to the Lottery Bond Administrative Fund, including any investment earnings thereon, are appropriated continuously to the Oregon Department of Administrative Services only for payment of bond-related costs. Amounts in the Lottery Bond Administrative Fund shall be disbursed upon the written request of the Director of the Oregon Department of Administrative Services. [1999 c.44 §5]

**Note:** See note under 286.560.

**286.576 Allocation of lottery moneys for lottery bonds; priorities.** (1) Subject only to the availability of unobligated net lottery proceeds, in each fiscal year in which lottery bonds are outstanding, there shall be allocated from the Administrative Services Economic Development Fund created by ORS 461.540 or, if unobligated net lottery proceeds in that fund are insufficient, from any other fund or account of this state that contains unobligated net lottery proceeds, an amount of unobligated net lottery proceeds that is sufficient:

(a) To pay all lottery bond principal, interest and premium, if any, that is scheduled to be paid in that fiscal year;

(b) To restore the balance in any reserve account for lottery bonds to the level the state has covenanted to maintain in the account under ORS 286.580 (6), including any amounts due under an instrument authorized by ORS 286.580 (6); and

(c) To pay bond-related costs that will be due in that fiscal year.

(2) The amounts of unobligated net lottery proceeds allocated pursuant to subsection (1) of this section shall be transferred to the following funds and accounts in the following order of priority:

(a) First, there shall be transferred to the Lottery Bond Fund an amount of unobligated net lottery proceeds that, when added to any amounts credited to the Lottery Bond Fund that are available for such purpose, will be sufficient to pay all amounts of lottery bond

principal, interest and premium scheduled to be paid in that fiscal year;

(b) Second, if the balances in any reserve accounts for lottery bonds are less than the amounts the state has covenanted to maintain in those reserve accounts, there shall be transferred to the Lottery Bond Fund for credit to those reserve accounts amounts of unobligated net lottery proceeds sufficient to restore the balances in those reserve accounts to the levels the state has covenanted to maintain; and

(c) Third, any remaining amount shall be transferred to the Lottery Bond Administrative Fund.

(3) Notwithstanding any other provision of law, in accordance with section 4 (4), Article XV of the Oregon Constitution, the annual allocations of unobligated net lottery proceeds made by this section and the transfers of unobligated net lottery proceeds required to be made by this section shall be satisfied and credited from the first unobligated net lottery proceeds received by this state before any other allocation, appropriation or disbursement of the earnings of the unobligated net lottery proceeds is made in such fiscal year.

(4) The percentages of revenues of the Oregon State Lottery that are dedicated for particular purposes under section 4 (4), Article XV of the Oregon Constitution, shall be calculated without deducting from the total lottery revenues the amount of unobligated net lottery proceeds that are required to pay lottery bonds.

(5) If there are not sufficient revenues of the Oregon State Lottery to pay lottery bonds and to satisfy the percentage dedications set forth in the Oregon Constitution, the State Treasurer shall, before issuing any series of lottery bonds, cause a projection of unobligated net lottery proceeds and lottery bond debt service to be prepared. The State Treasurer shall not issue a series of lottery bonds if the projection indicates that there will not be sufficient proceeds of the Oregon State Lottery to satisfy the percentage dedications of section 4 (4), Article XV of the Oregon Constitution, and to leave unobligated net lottery proceeds in amounts at least equal to the debt service on all lottery bonds, including the series proposed to be issued. However, if at some time in the future a conflict arises because of a decline in revenues of the Oregon State Lottery, unobligated net lottery proceeds shall be allocated and applied first to pay lottery bonds, and the remaining net revenues of the Oregon State Lottery shall be divided pro rata among the constitutionally dedicated uses.

(6) Notwithstanding any other provision of law, when the Legislative Assembly enacts

laws granting pledges, making dedications or making appropriations of net proceeds of the Oregon State Lottery for purposes other than payment of lottery bonds, all such pledges, dedications and appropriations, whenever granted or made, shall be subordinate to the pledges and dedications of unobligated net lottery proceeds for lottery bonds. [1999 c.44 §6]

**Note:** See note under 286.560.

**286.578 Litigation challenging legality of Oregon State Lottery.** (1) Lottery bonds may be issued pursuant to ORS 286.580 without regard to any litigation challenging the legality of the Oregon State Lottery. Lottery bonds issued pursuant to ORS 286.580 are valid and binding obligations of the State of Oregon that are payable only from amounts pledged under ORS 286.580 (7) or from appropriated funds, even if the Oregon State Lottery is partially or wholly invalidated. In the event the lottery is invalidated, the Oregon Department of Administrative Services shall request the Legislative Assembly or, if the Legislative Assembly is not in session, the Emergency Board to provide appropriated funds pursuant to ORS 286.580 (6).

(2) By enacting this section, the Legislative Assembly acknowledges its current intention to provide appropriated funds if amounts are certified by the Director of the Oregon Department of Administrative Services under ORS 286.580, but the Legislative Assembly or the Emergency Board does not have a legal obligation to provide appropriated funds. [2002 s.s.1 c.8 §2]

**Note:** See note under 286.560.

**286.580 Issuance of lottery bonds; refunding bonds; bond covenants; reserves for bonds; appropriation to maintain reserves; credit enhancements.** (1) In accordance with any applicable provisions of ORS chapters 286 and 288 and ORS 286.560 to 286.580 and 348.716, the State Treasurer, with the concurrence of the Director of the Oregon Department of Administrative Services, may issue lottery bonds from time to time to finance any lottery bond program and to pay costs of issuing lottery bonds and administering the lottery bond program, and the State Treasury may be paid for all bond-related costs the State Treasury incurs.

(2) Lottery bond proceeds and unobligated net lottery proceeds may be used to pay bond-related costs.

(3) In addition to lottery bonds for any lottery bond program, the State Treasurer may, at the request of the affected agency or the Oregon Department of Administrative Services, issue one or more series of refunding lottery bonds. The refunding lottery bonds shall be structured so that the amount

required to pay those bonds in each year does not exceed the amount of unobligated net lottery proceeds that could have been committed to pay the lottery bonds that are refunded. Refunding lottery bonds shall be issued in such amount as the State Treasurer determines is necessary or appropriate in order to:

(a) Pay or defease the principal of and the interest and redemption premium, if any, on the bonds to be refunded; and

(b) Pay any bond-related costs related to the refunding lottery bonds.

(4) All lottery bonds issued under this section shall be payable from:

(a) The amount pledged for payment under subsection (7) of this section; and

(b) Any appropriated funds.

(5) The lottery bonds shall not be general obligations of this state and shall not be secured by or payable from any funds or assets of this state other than the amounts pledged for payment or security and any appropriated funds. The Legislative Assembly shall not be under any legal compulsion or obligation to provide any appropriated funds and shall not be liable to any party for any failure to provide appropriated funds. All lottery bonds issued under ORS 286.560 to 286.580 and 348.716 shall contain a statement that this state is not obligated to pay lottery bond principal, interest or premium thereon from any source other than the amounts pledged for payment and any appropriated funds, and that the full faith and credit or the taxing power of the State of Oregon are not pledged to the payment of lottery bond principal, interest or premium.

(6) The State Treasurer may establish reserves for lottery bonds. The reserves may be in the form of cash, investments, surety bonds, municipal bond insurance, lines of credit, letters of credit or other similar instruments. The State Treasurer, on behalf of the State of Oregon, may covenant to maintain the reserves at particular levels, but solely from the amounts that may be pledged to pay lottery bonds under subsection (7) of this section. If the reserves are drawn down below the level that this state has covenanted to maintain, the Director of the Oregon Department of Administrative Services shall promptly certify to the Legislative Assembly or, if the Legislative Assembly is not then in session, to the Emergency Board, the amount needed to restore the reserves to their required level. The Legislative Assembly or the Emergency Board may provide appropriated funds in the amount certified by the Director of the Oregon Department of Administrative Services. Any appropriated funds so provided shall be used immediately

to restore the balance in the reserves established for the lottery bonds. The State of Oregon may enter into covenants with the owners of the lottery bonds that specify the timing and content of the director's certification. By enacting this subsection, the Legislative Assembly acknowledges its current intention to provide appropriated funds in the amount certified by the director under this subsection. However, the Legislative Assembly or the Emergency Board shall not have any legal obligation to provide any appropriated funds.

(7) Notwithstanding any other provision of law, the State Treasurer may pledge all or any portion of the unobligated net lottery proceeds, amounts in the Lottery Bond Fund and any unexpended lottery bond proceeds to pay lottery bonds and to pay amounts due in connection with any credit enhancement or any instrument authorized by subsection (6) of this section. The lien of such pledge shall be valid and binding immediately upon delivery by the state of the lottery bonds, credit enhancement agreement or instrument secured by the pledge. The amounts so pledged shall be immediately subject to the lien of the pledge upon receipt of the amounts by this state regardless of when or whether they are allocated or transferred to the Lottery Bond Fund or the Lottery Bond Administrative Fund and regardless of whether there was physical delivery, filing or other act. Except to the extent provided in the pledge, the lien of the pledge shall be superior to all other claims, liens and appropriations of any kind. The State Treasurer may provide that lottery bonds may be issued in different series and that each series may be secured by a lien on, and pledge of, the unobligated net lottery proceeds that is superior to, subordinate to, or on a parity with, the lien of the pledge securing other series of lottery bonds. Nothing in this section shall be construed to limit the powers granted in any other part of ORS 286.560 to 286.580 and 348.716.

(8) Any covenants made under this section for the benefit of owners of lottery bonds shall constitute contracts between the State of Oregon and the owners of lottery bonds. The State Treasurer, or the Director of the Oregon Department of Administrative Services with the consent of the State Treasurer, may, on behalf of the State of Oregon and in addition to the covenants authorized by subsection (6) of this section, make the following covenants for the benefit of the owners of lottery bonds and any providers of credit enhancement or instruments authorized by subsection (6) of this section:

(a) Except as permitted by a pledge made under subsection (7) of this section, this state

shall not create any lien or encumbrance on the unobligated net lottery proceeds that is superior to the liens of the pledges authorized by subsection (7) of this section.

(b) Subject only to the availability of unobligated net lottery proceeds, the State of Oregon shall budget and appropriate in each fiscal year an amount of unobligated net lottery proceeds that, when added to other funds lawfully budgeted and appropriated and available for the purpose, will be sufficient:

(A) To pay in full the principal, interest and premium due and to become due on all outstanding lottery bonds in the fiscal year;

(B) To maintain the required balance in any reserves established for lottery bonds; and

(C) To pay amounts due to the providers of credit enhancement for lottery bonds or instruments authorized by subsection (6) of this section.

(c) This state shall apply the unobligated net lottery proceeds and any other amounts so budgeted and appropriated for those purposes.

(d) This state shall continue to operate the Oregon State Lottery until all lottery bonds are paid or defeased.

(9) In connection with the issuance of any lottery bonds, the State Treasurer may establish such accounts and subaccounts within the Lottery Bond Fund that the State Treasurer determines are necessary or appropriate. In addition, the State Treasurer or the Director of the Oregon Department of Administrative Services may, on behalf of this state, enter into any agreements that the State Treasurer determines are necessary or appropriate to issue lottery bonds and carry out the provisions of ORS 286.560 to 286.580 and 348.716 and all legislation authorizing lottery bond programs.

(10) If the State Treasurer determines that the acquisition is cost-effective, the State Treasurer may acquire a municipal bond insurance policy, letter of credit, line of credit, surety bond or other credit enhancement device for lottery bonds, and may enter into any related agreements.

(11) The State Treasurer may provide that all or any portion of the Lottery Bond Fund, the Lottery Bond Administrative Fund or any accounts in either fund shall be held by a trustee, may enter into agreements with the trustee regarding the use and application of the amounts held in those funds and accounts and may transfer amounts credited to those funds and accounts to the trustee. [1999 c.44 §7]

**Note:** See note under 286.560.

**286.585 Lottery bonds for community sports facilities; use of proceeds of bonds.**

(1) Pursuant to ORS 286.560 to 286.580 and 348.716 and subject to future legislative approval, lottery bonds may be issued to make grants or loans to Oregon cities to fund projects for the reconstruction, renovation or development of community sports facilities in order to make the facilities suitable for use by a major league baseball team if a city is selected as an expansion site by major league baseball or if a major league baseball team agrees to relocate to a city.

(2) The use of lottery bond proceeds is authorized based on the following findings:

(a) The financial assistance to cities will assist in the construction, improvement and expansion of infrastructure and community facilities that comprise the physical foundation for commercial activity and provide the basic framework for continued and expanded economic opportunities and quality communities throughout Oregon.

(b) Such financial assistance to cities will therefore promote economic development within this state, and thus the use of net proceeds derived from the operation of the Oregon State Lottery to pay debt service on lottery bonds issued under this section to provide such financial assistance to cities is an appropriate use of state lottery funds under section 4, Article XV of the Oregon Constitution, and ORS 461.510.

(3) Lottery bonds issued pursuant to this section shall be issued only at the request of the Director of the Economic and Community Development Department.

(4) The net proceeds of lottery bonds issued pursuant to this section shall be deposited in the Economic Infrastructure Project Fund established by ORS 285B.551. The Director of the Economic and Community Development Department shall allocate the moneys deposited in the Economic Infrastructure Project Fund for the purpose described in this section in accordance with the policies developed by the Oregon Economic and Community Development Commission in accordance with ORS 285A.045.

(5) The proceeds of lottery bonds issued pursuant to this section shall be used only for the purposes set forth in this section and for bond-related costs. [1999 c.908 §17]

**Note:** 286.585 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 286 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**PRIVATE ACTIVITY BONDS****286.605 Definitions for ORS 286.615 to 286.645.** As used in ORS 286.615 to 286.645:

(1) "Issuer" means a governmental unit in this state that has authority to issue private activity bonds and includes the Oregon Economic and Community Development Commission.

(2) "Private activity bonds" has the meaning given in section 141 of the Internal Revenue Code of 1986. [1985 c.806 §19; 1987 c.754 §1; 1995 c.79 §100]

**286.615 Private Activity Bond Committee; purpose of private activity bonding; rules.** (1) The Private Activity Bond Committee is established. It shall consist of one representative each from the Oregon Department of Administrative Services and from the State Treasurer and one public representative appointed to serve at the pleasure of the Governor.

(2) The representative from the department shall serve as chair of the committee.

(3) The purpose of private activity bonding in this state shall be to maximize the economic benefits of such bonding to the citizens of this state. To this end, the committee shall adopt by rule standards for amounts allotted to it for further allocation for economic development, housing, education, redevelopment, public works, energy, waste management, waste and recycling collection, transportation and other activities which the committee determines will benefit the citizens of this state. In developing standards, the committee shall:

(a) Survey the expected need for private activity bond allocations at least once each year;

(b) Develop strategies for reserving and allocating the limit which are designed to maximize the availability of tax exempt financing among competing sectors of the Oregon economy; and

(c) Ensure that such standards include but are not limited to:

(A) Support projects that increase the number of family wage jobs in this state.

(B) Promote economic recovery in small cities heavily dependent on a single industry.

(C) Emphasize development in underdeveloped rural areas of this state.

(D) Utilize educational resources available at institutions of higher education.

(E) Support development of the state's small businesses, especially businesses owned by women and members of minority groups.

(F) Encourage use of Oregon's human and natural resources in endeavors which

harness Oregon's economic comparative advantages.

(G) Limit assistance to projects that assist businesses selling goods and services in markets for which national or international competition exists.

(4) The state private activity bond limit allotted to the Private Activity Bond Committee as provided in ORS 286.635 shall be allocated and reallocated among issuers by the Private Activity Bond Committee as follows:

(a) Any amounts not reserved to an issuer or a class of issuers under the limitation adopted under ORS 286.525 shall be allocated or reallocated by the committee under rules adopted under subsection (3) of this section.

(b) Any amounts provided for in the limitation under ORS 286.525 that are unused shall be carried forward for use as provided by rules adopted under subsection (3) of this section.

(c) The rules adopted by the committee shall limit the period of time for which an allocation of private activity bonding authority is effective. Such rules shall insure allocations made during a calendar year shall be used during that calendar year or the unused amount of the allocation shall be reallocated during that calendar year.

(5) Unused allocations shall not be transferable among issuers but shall be available for reallocation. [1985 c.806 §21; 1987 c.754 §2; 1991 c.142 §1; 2001 c.680 §1]

**286.625** [1985 c.806 §22; repealed by 1991 c.141 §1]

**286.635 Private activity bonds subject to ORS 286.505 to 286.545.** Private activity bonds shall be subject to ORS 286.505 to 286.545. [1985 c.806 §20; 1987 c.754 §4]

**286.645 State Treasurer to maintain records.** The office of State Treasurer shall maintain the official state private activity bond limit records and provide administrative support to the Private Activity Bond Committee and the Advisory Council on the Allocation of the State Private Activity Bond Limit. [1985 c.806 §23]

## BACCALAUREATE BONDS

**286.700 Findings favoring post-secondary education.** (1) The Legislative Assembly encourages citizens of the State of Oregon to avail themselves of post-secondary education opportunities.

(2) The Legislative Assembly finds:

(a) For the benefit of its citizens, the state supports a system of common schools, institutions of higher education and community colleges.

(b) A post-secondary education advances a citizen's ability to pursue life, liberty and happiness through a wide range of employment opportunities.

(c) A well educated citizenry contributes to the economic well-being of the state and nation.

(d) A well trained and skilled citizenry enhances economic development of the state.

(e) While students have just begun their education upon completion of a formal education, a lifetime pursuit of learning contributes to a well informed citizenry and to Oregon's cherished quality of life.

(f) Citizens educated in Oregon are more likely to pursue careers in Oregon.

(g) It is in the interest of the state to encourage its citizens to plan and save for a post-secondary education.

(h) An Oregon Baccalaureate Bond program providing citizens an opportunity to save for a post-secondary education for their children, themselves or any citizen is in the social and economic self-interest of the State of Oregon.

(i) A systematic way to save for post-secondary education can assist all of Oregon's higher education, community college and career schools to better project enrollments, thereby permitting the prudent allocation of scarce resources. [1989 c.681 §3; 1995 c.343 §25]

**286.705 Definitions for ORS 286.038, 286.056 and 286.700 to 286.720.** As used in ORS 286.038, 286.056 and 286.700 to 286.720:

(1) "Oregon Baccalaureate Bonds" means bonds, notes or other evidences of indebtedness of the State of Oregon issued by the State Treasurer on behalf of a state agency.

(2) "Post-secondary education" means training and instruction provided by fully accredited public or private institutions of higher learning, community colleges and post-high-school career schools.

(3) "Post-secondary institution" means any fully accredited public or private institution of higher education, community college or career school providing post-high-school training and instruction. [1989 c.681 §4; 1995 c.343 §26]

**286.710 Authority of State Treasurer to issue bonds; conditions.** (1) Notwithstanding any other provisions of law, in consultation with the administrative head of the state agency responsible for administering the bond proceeds, the State Treasurer may:

(a) Structure, market and issue bonds in the manner which the State Treasurer determines is in the best interests of the citizens of Oregon, after considering financial, economic and social factors;

(b) Sell bonds at public sale or private, negotiated sale;

(c) Pursuant to paragraph (a) of this subsection, issue bonds as Oregon Baccalaureate Bonds, to encourage investors to save for post-secondary education opportunities; and

(d) Permit sale of bonds to be made by negotiated sale if the State Treasurer finds one or more of the following to be true:

(A) The current conditions of the credit markets are such that delays associated with the competitive sale process will likely result in higher interest rates to the state; or

(B) The total cost to the state of the proposed bond issue will likely be lower under a negotiated sale.

(2) The State Treasurer may investigate and implement the means and procedures to facilitate the participation by the broadest practical range of investors in the Oregon Baccalaureate Bond program. The means and procedures may include, but are not limited to, adjustments in the denominations in which the bonds are issued and the frequency with which such bonds are issued.

(3) For purposes of this section:

(a) "Bonds" means any certificates of indebtedness, bonds, notes, warrants, lease purchase agreements, installment purchase agreements, certificates of participation or other general or special obligations of the State of Oregon or any of its agencies.

(b) "Total cost to the state" includes the difference between the bonds' true interest cost computed to give effect to all components of underwriter's discount and expenses of the transaction paid directly or indirectly by the state and its agencies. [1989 c.681 §5; 1995 c.186 §1]

**286.715 Bond purchase not to guarantee admission to post-secondary institution.** The purchase of an Oregon Baccalaureate Bond does not guarantee the purchaser, owner or beneficiary of the bond admittance to any public or private post-secondary institution. [1989 c.681 §6]

**286.720 Short title.** ORS 286.038, 286.056 and 286.700 to 286.720 may be cited as the "Oregon Baccalaureate Bond Act of 1989." [1989 c.681 §2]

## PENSION LIABILITY BONDS

**286.730 Definitions for ORS 286.730 to 286.750.** As used in ORS 286.730 to 286.750, unless the context requires otherwise:

(1) "Article XI-O bonds" means general obligation bonds or other general obligation indebtedness issued or incurred under the authority of Article XI-O of the Oregon Constitution.

(2) "Bond administration fund" means the Article XI-O Bond Administration Fund established under ORS 286.745.

(3) "Bond fund" means the Article XI-O Bond Fund established under ORS 286.740.

(4) "Bond-related costs" means:

(a) The costs of paying the principal of, the interest on and the premium, if any, on Article XI-O bonds;

(b) The costs and expenses of issuing, administering and maintaining Article XI-O bonds including, but not limited to, redeeming Article XI-O bonds, paying amounts due in connection with bond insurance, other credit enhancements or the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the purpose of issuing, administering or maintaining Article XI-O bonds;

(c) Capitalized interest on Article XI-O bonds;

(d) Costs of funding reserves for Article XI-O bonds, including costs of surety bonds and similar instruments;

(e) Rebates or penalties due the United States Government in connection with Article XI-O bonds; and

(f) Other costs or expenses that the State Treasurer or the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing, administering or maintaining Article XI-O bonds.

(5) "State agency" means a state officer, board, commission, corporation, institution, department or other state organization that has officers or employees participating in the Public Employees Retirement System. [2003 c.746 §2]

**286.735 Authority of State Treasurer to issue pension liability bonds; nature and purpose of bonds; refunding bonds.**

(1) Article XI-O bonds are a general obligation of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-O bonds. The State of Oregon shall pledge its full faith and credit and taxing power to pay Article XI-O bonds; however, the ad valorem taxing power of the State of Oregon may not be pledged to pay Article XI-O bonds.

(2) The State Treasurer may issue Article XI-O bonds:

(a) To finance all or a portion of the state's pension liabilities for retirement, health care or disability benefits, in an

amount that produces net proceeds that do not exceed the State Treasurer's estimate of those liabilities based on information provided to the State Treasurer by the Public Employees Retirement System, plus an amount determined by the State Treasurer to pay estimated bond-related costs. If Article XI-O bonds are issued for a purpose described in this paragraph, the Director of the Oregon Department of Administrative Services shall allocate the bond-related costs of those Article XI-O bonds among affected state agencies based on their payroll costs and shall bill those state agencies for an appropriate share of the bond-related costs on a monthly or other periodic basis. A state agency receiving a bill under this paragraph shall pay the amounts billed from the first moneys legally available to the state agency after paying the costs incurred for obligations under ORS 283.085 to 283.092.

(b) To refund Article XI-O bonds. The amount of Article XI-O bonds issued under this paragraph may not exceed the estimated costs of paying, redeeming or defeasing the refunded bonds, plus an amount determined by the State Treasurer to pay estimated bond-related costs. If Article XI-O bonds are issued under this paragraph, the Director of the Oregon Department of Administrative Services shall bill a state agency that was responsible for payment of the refunded bonds for an appropriate share of the bond-related costs on a monthly or other periodic basis. A state agency receiving a bill under this paragraph shall pay the amounts billed from the first moneys legally available to the state agency after paying the costs incurred for obligations under ORS 283.085 to 283.092.

(3) The net proceeds of Article XI-O bonds issued to finance all or a portion the state's pension liabilities for retirement, health care or disability benefits must be transferred to the Public Employees Retirement Board for deposit in the Public Employees Retirement Fund established under ORS 238.660. [2003 c.746 §3]

**286.740 Article XI-O Bond Fund; purposes.** (1) The Article XI-O Bond Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the bond fund must be credited to the bond fund. Amounts credited to the bond fund are continuously appropriated to the Oregon Department of Administrative Services for the purpose of paying, when due, the principal of, the interest on and the premium, if any, on outstanding Article XI-O bonds. The Oregon Department of Administrative Services shall credit to the bond fund:

(a) Capitalized or accrued interest on Article XI-O bonds;

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond fund;

(c) Reserves established for the payment of Article XI-O bonds; and

(d) Amounts received in payment of a bill for bond-related costs in amounts and at times so that sufficient moneys are available in the bond fund to pay the principal of, the interest on and the premium, if any, on Article XI-O bonds when due.

(2) The department may create separate accounts in the bond fund for reserves and debt service for each series of Article XI-O bonds. [2003 c.746 §4]

**286.745 Article XI-O Bond Administration Fund; purposes.** (1) The Article XI-O Bond Administration Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned on the bond administration fund must be credited to the bond administration fund. Amounts credited to the bond administration fund are continuously appropriated to the Oregon Department of Administrative Services for payment of bond-related costs. The department shall credit to the bond administration fund:

(a) Proceeds of Article XI-O bonds that were issued to pay bond-related costs that are not credited to the bond fund;

(b) Amounts appropriated or otherwise provided by the Legislative Assembly for deposit in the bond administration fund; and

(c) Amounts received in payment of a bill for bond-related costs that are not credited to the bond fund.

(2) The department may create separate accounts in the bond administration fund. [2003 c.746 §5]

**286.750 Terms and conditions of pension liability bonds; credit enhancements; related agreements.** (1) In accordance with the applicable provisions of this chapter and ORS chapter 288, the State Treasurer, after consulting with the Director of the Oregon Department of Administrative Services, may issue Article XI-O bonds from time to time for the purposes described in ORS 286.735 (2).

(2) Article XI-O bonds may:

(a) Be sold at a competitive or negotiated sale;

(b) Bear interest that is includable in or excludable from gross income under the Internal Revenue Code; and

(c) Be sold on terms approved by the State Treasurer, including terms related to the time of sale, the issuance of bonds in series, the maturity of each series and the interest borne by each series of bonds.

(3) Subject to the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may:

(a) Acquire municipal bond insurance, a letter of credit, a line of credit, surety bonds or another credit enhancement device for Article XI-O bonds; and

(b) Enter into related agreements.

(4) Subject to the approval of the State Treasurer, the Director of the Oregon Department of Administrative Services may:

(a) Enter into agreements with a trustee or escrow agent regarding the use and application of the amounts held in the Article XI-O Bond Fund or the Article XI-O Bond Administration Fund; and

(b) Transfer amounts credited to the bond fund or the bond administration fund to a trustee or escrow agent. [2003 c.746 §6]