Chapter 287A

2009 EDITION

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DEFINITIONS

287A.001 Definitions for ORS chapter 287A. As used in this chapter:

(1) "Advance refunding bond" means a bond all or part of the proceeds of which are to be used to pay an outstanding bond one year or more after the advance refunding bond is issued.

(2) "Agreement for exchange of interest rates" means a contract, or an option or forward commitment to enter into a contract, for an exchange of interest rates for related bonds that provides for:

(a) Payments based on levels or changes in interest rates; or

(b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to, an interest rate floor or cap or an option, put or call.

(3) "Bond":

(a) Means a contractual undertaking or instrument of a public body to repay borrowed moneys.

(b) Does not mean a credit enhancement device.

(4) "Capital construction" has the meaning given that term in ORS 310.140.

(5) "Capital improvements" has the meaning given that term in ORS 310.140.

(6) "Credit enhancement device":

(a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity or marketability of bonds or agreements for exchange of interest rates.

(b) Does not mean a bond.

(7) "Current refunding bond" means a bond the proceeds of which are to be used to pay or purchase an outstanding bond less than one year after the current refunding bond is issued.

(8) "Forward current refunding" means execution and delivery of a purchase agreement or similar instrument under which a public body contracts to sell current refunding bonds for delivery at a future date that is one year or more after execution of the purchase agreement or similar instrument.

(9) "General obligation bond" means exempt bonded indebtedness, as defined in ORS 310.140, that is secured by a commitment to levy ad valorem taxes outside the limits of sections 11 and 11b, Article XI of the Oregon Constitution.

(10) "Lawfully available funds" means revenues or other moneys of a public body including, but not limited to, moneys credited to the general fund of the public body, revenues from an ad valorem tax and revenues derived from other taxes levied by the public body that are not dedicated, restricted or obligated by law or contract to an inconsistent expenditure or use.

(11) "Operative document" means a bond declaration, trust agreement, indenture, security agreement or other document in which a public body pledges revenue or property as security for a bond.

(12) "Pledge" means:

(a) To create a lien on property pursuant to ORS 287A.310.

(b) A lien created on property pursuant to ORS 287A.310.

(13) "Public body" means:

(a) A county of this state;

(b) A city of this state;

(c) A local service district as defined in ORS 174.116 (2);

(d) A special government body as defined in ORS 174.117;

(e) Oregon Health and Science University; or

(f) Any other political subdivision of this state that is authorized by the Legislative Assembly to issue bonds.

(14) "Refunding bond" means an advance refunding bond, a current refunding bond or a forward current refunding bond.

(15) "Related bond" means a bond for which the public body enters into an agreement for exchange of interest rates or obtains a credit enhancement device.

(16) "Revenue" means all fees, tolls, excise taxes, assessments, property taxes and other taxes, rates, charges, rentals and other income or receipts derived by a public body or to which a public body is entitled.

(17) "Revenue bond" means a bond that is not a general obligation bond.

(18) "Termination payment" means the amount payable under an agreement for exchange of interest rates by one party to another party as a result of the termination, in whole or part, of the agreement prior to the expiration of the stated term. [2007 c.783 §42; 2009 c.537 §9]

AUTHORITY FOR BORROWING

287A.010 Powers conveyed to public bodies. The powers conveyed to public bodies by ORS 287A.001 to 287A.380 are in addition to any other powers possessed by public bodies and do not limit those other powers. [2007 c.783 §68]

(General Obligation Bonds)

287A.050 Authority of city to issue general obligation bonds. (1) A city may issue general obligation bonds to finance capital construction or capital improvements upon approval of the electors of the city.

(2) Unless the city charter provides a lesser limitation, a city may not issue or have outstanding at the time of issuance general obligation bonds in a principal amount that exceeds three percent of the real market value of the taxable property within its boundaries, calculated as provided in ORS 308.207.

(3) The limitation described in subsection (2) of this section does not apply to general obligation bonds issued to finance the costs of local improvements assessed and paid for in installments under statutory or charter authority or to finance capital construction or capital improvements for:

(a) Water supply, treatment or distribution;

(b) Sanitary or storm sewage collection or treatment;

(c) Hospitals or infirmaries;

(d) Gas, power or lighting; or

(e) Off-street motor vehicle parking facilities. [2007 c.783 §43]

287A.100 Authority of county to issue general obligation bonds. (1) Unless the county charter expressly provides otherwise, a county may issue general obligation bonds to finance capital construction or capital improvements upon approval of the electors of the county.

(2) Unless the county charter provides a lesser limitation, a county may not issue or have outstanding at the time of issuance general obligation bonds in a principal amount that exceeds two percent of the real market value of the taxable property in the county, calculated as provided in ORS 308.207. [2007 c.783 §44]

287A.105 Limitation on bonded indebtedness of county. (1) A county may incur bonded indebtedness within the meaning of section 10, Article XI of the Oregon Constitution, by issuing revenue bonds when a county is expressly authorized to issue revenue bonds by a law other than this section. The amount of revenue bonds permitted by this section may not exceed the lesser of:

(a) One percent of the real market value of all taxable property in the county, calculated as provided in ORS 308.207; or

(b) A limitation on bonded indebtedness in the county charter.

(2) The limitation on bonded indebtedness in subsection (1) of this section does not apply to revenue bonds issued to finance pension liabilities under ORS 238.692 to 238.698 or any other law in effect prior to enactment of ORS 238.692 to 238.698. [2007 c.783 §45]

287A.140 Ad valorem tax levy to pay general obligation bonds. (1) In addition to other taxes imposed, a public body shall levy annually an ad valorem property tax on the taxable property within the boundaries of the public body in an amount that is sufficient, when added to other amounts available, to pay the principal of and interest on outstanding general obligation bonds issued by the public body.

(2) A public body may:

(a) Use the revenues collected under this section and earnings on the revenues only to pay the principal of and interest on general obligation bonds.

(b) Not use or divert taxes levied under subsection (1) of this section for another purpose while principal or interest remains unpaid on the bonds.

(c) If a surplus amount remains after the principal of and interest on an issue of general obligation bonds have been paid and the public body does not have other expenses related to the bonds, transfer the surplus moneys to a fund designated by the governing body of the public body. [2007 c.783 §67]

287A.145 Misspent proceeds of general obligation bonds. (1) If a court of competent jurisdiction determines that the proceeds of an issue of general obligation bonds have been used by a public body for expenditures that are not capital construction or capital improvements, the court may order the public body to:

(a) Replace the misspent proceeds with interest, on a reasonable schedule determined by the court, from moneys other than the tax revenues that the public body levies to pay the debt service; and

(b) Use the replaced moneys for capital construction or capital improvement expenditures or to pay the debt service.

(2) If the public body fails to comply with an order to replace the misspent proceeds or acknowledges that the public body is unable to replace the misspent proceeds, the court may determine that a portion of the future levies to pay the debt service is subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution, by calculating the amount of the tax revenues that are necessary to pay the principal and interest on the bonds that is allocable to the misspent proceeds.

(3) An action may not be filed or maintained against a public body because of an alleged expenditure of the bond proceeds of

general obligation bonds for purposes other than capital construction or capital improvements, if the misspent moneys are less than $5,000. [2007 c.783 §66]

287A.150 Authority of public body to issue revenue bonds. (1) In addition to any other authority to issue revenue bonds, a public body may authorize revenue bonds by resolution or nonemergency ordinance pursuant to this section for a public purpose.

(2) If revenue bonds are authorized by nonemergency ordinance, a public body may not sell the revenue bonds pursuant to this section until the period for referral of the ordinance has expired. If electors of a public body refer a nonemergency ordinance authorizing issuance of revenue bonds, the public body may not sell the revenue bonds unless the electors approve issuance of the revenue bonds.

(3) If revenue bonds are authorized by resolution:

(a) A public body may not sell the revenue bonds until at least 60 days following publication of the notice required in subsection (4) of this section.

(b) The resolution must provide that electors residing within the public body may file a petition with the public body asking the public body to refer the question of whether to issue the revenue bonds to a vote. If within 60 days after the publication of the notice described in subsection (4) of this section, electors file petitions with the public body containing valid signatures of at least five percent of the public body's electors, the public body:

(A) Shall place the question of issuing the revenue bonds on the ballot at the next lawfully available election date; and

(B) May not sell the revenue bonds described in the notice unless a majority of the electors voting on the question of issuing the revenue bonds approve.

(4) A public body authorizing revenue bonds by resolution shall publish a notice describing the purposes for which the revenue bonds will be sold in at least one newspaper of general circulation within the boundaries of the public body in the same manner as other public notices of the public body. At a minimum, the notice must contain:

(a) The date the resolution was adopted and the number thereof, if any;

(b) The expected source of revenue for repayment of the revenue bonds;

(c) The estimated principal amount of the revenue bonds to be sold;

(d) The procedures by which electors may cause the question of issuing the revenue bonds to be referred to a vote;

(e) The period within which electors must file signed petitions to cause referral; and

(f) The fact that the resolution is available for inspection at the appropriate office of the public body.

(5) If revenue bonds are authorized by nonemergency ordinance under subsection (2) of this section, the revenue bonds may be secured by the revenues or other property of the public body that is described in the nonemergency ordinance. If revenue bonds are authorized by resolution under subsection (3) of this section, the revenue bonds may be secured by the revenues or other property of the public body that is described in the notice required under subsection (4) of this section.

(6) A public body may issue refunding bonds under ORS 287A.360 to 287A.380 to pay revenue bonds that were authorized by this section. The procedures and limitations of subsections (1) to (5) of this section do not apply to refunding bonds. [2007 c.783 §46]

287A.180 Short-term borrowing by public body. (1) In addition to any other authority to issue revenue bonds, but subject to applicable limitations imposed by the Oregon Constitution or the charter or ordinance of the public body, a public body may issue revenue bonds pursuant to this section:

(a) In anticipation of tax revenues or other moneys;

(b) To provide interim financing for capital projects to be undertaken by the public body; or

(c) To refund revenue bonds issued pursuant to this section.

(2) To secure revenue bonds authorized under this section, a public body may:

(a) Pledge all or part of the revenues of the public body that may lawfully be used to secure payment of the revenue bonds.

(b) Obtain credit enhancement devices for the revenue bonds authorized by this section.

(c) Establish debt service reserves.

(d) Enter into covenants, by ordinance, resolution or agreement, for the protection and security of the owners of revenue bonds authorized by this section. The covenants constitute enforceable contracts with the owners of the revenue bonds.

(3) Revenue bonds authorized by this section that are issued in anticipation of revenues and revenue bonds issued under subsection (1)(c) of this section:

(a) Must mature within 13 months after they are issued; and

(b) May not be issued in a principal amount that exceeds 80 percent of the taxes or other revenues, except grant moneys, that the public body has budgeted or otherwise reasonably expects to have available to pay the revenue bonds.

(4) Revenue bonds authorized by this section that are issued in anticipation of grant moneys or to provide interim financing for capital projects and revenue bonds issued under subsection (1)(c) of this section must mature not later than five years after the revenue bonds are issued.

(5) The debt limitations imposed by law or the charter of a public body do not apply to revenue bonds or credit enhancement devices authorized by this section. [2007 c.783 §47]

(Debt Limits)

287A.195 Compliance with constitutional or statutory debt limits. (1) When calculating compliance with a constitutional or statutory debt limit for a public body:

(a) The amount of interest to be paid on bonds, whether paid currently or deferred, is not taken into account.

(b) For a zero coupon bond or other original discount bond on which periodic interest payments are not made, only the accreted value of the bond on the date the bond is issued is taken into account.

(c) If a bond is issued to a provider of a credit enhancement device for a bond that is subject to a debt limit, the bond issued to the provider must be taken into account only to the extent that the amount of the bond issued to the provider exceeds the amount of the bond secured by the credit enhancement device.

(d) A public body may deduct from the amount of outstanding indebtedness:

(A) The amount of money and investments that the public body or a trustee of the public body or a trustee or agent of the public body holds to pay bonds that have not been defeased.

(B) The principal amount of bonds that have been defeased.

(2) For purposes of this section, a bond is defeased if:

(a) The public body has set aside in an irrevocable escrow government obligations, as defined in ORS 287A.375, the receipts from which have been calculated by a certified public accountant or other experienced professional to be sufficient, without reinvestment, to pay the principal, interest and premium, if any, due on the bond at maturity or on prior redemption; or

(b) The public body has complied with the provisions in the documents authorizing the bond that govern payment or defeasance of the bond. [2007 c.783 §64]

ADMINISTRATION OF BONDS

287A.300 Terms and conditions of bond sales; delegation of authority. (1) Notwithstanding a limitation in a local charter, when a public body is authorized by law to issue bonds, the public body may:

(a) Combine bonds authorized by different laws or actions of the governing body into a single issue and use a single disclosure document if the bonds in the issue will have the same security, or may use a single disclosure document for bonds authorized by different laws or actions of the governing body if the bonds have different security.

(b) Structure, market and issue bonds in the manner that the public body determines is in the best interest of the people served by the public body.

(c) Sell bonds at a competitive sale or a negotiated sale or in any other manner determined by the public body.

(d) Issue bonds the interest on which is exempt from federal income taxes or is not exempt from federal income taxes.

(e) Establish the maturity dates for bonds to provide for short-term, interim or long-term borrowing and establish the principal amounts, redemption provisions, optional or mandatory tender provisions, interest rates or method for determining a variable or adjustable interest rate, denominations and other terms and conditions of the bonds.

(f) Determine the form and content of bond disclosure documents.

(g) Enter into an agreement with and retain the services of bond counsel and other providers of bond-related services.

(h) Execute and deliver indentures, bond purchase agreements, trust agreements, remarketing agreements, auction agent agreements, broker dealer agreements, tender agent agreements, escrow agreements and other contracts related to the sale, issuance, security for or administration of the bonds.

(i) Enter into agreements with bond trustees and deposit moneys with trustees for the benefit of bond owners and the providers of credit enhancement devices for bonds.

(j) Enter into covenants for the benefit of bond owners or the providers of credit enhancement devices or agreements for exchange of interest rates, including but not

limited to covenants regarding the issuance of additional bonds and rate covenants.

(k) Enter into covenants for the benefit of owners of bonds that are intended to allow bonds to bear interest that is excludable from gross income under the federal Internal Revenue Code or that is otherwise exempt from taxation by the United States.

(L) Take action to comply with covenants.

(m) Establish bond debt service reserves.

(n) Fund debt service reserves out of bond proceeds or from other revenues.

(o) Specify the individuals who may sign the bonds on behalf of the public body.

(2) When the Oregon Constitution, a charter, a statute, an ordinance or a resolution authorizes a public body to spend bond proceeds for a particular purpose, the public body may also spend bond proceeds to finance costs of issuing, administering and repaying the bonds, including costs of the services of bond counsel or other providers of bond-related services, and to pay the costs of a credit enhancement device or agreement for exchange of interest rates.

(3) When a public body redeems bonds, the public body shall give notice of redemption in the manner specified in the documents authorizing the bonds to be redeemed.

(4) A public body may delegate to an elected or appointed official or an employee of the public body the authority to take an action described in subsection (1) of this section.

(5) Except as provided otherwise in this subsection, at least one of the signatures of bond signatories must be provided in manual form. However, if the bonds are to be authenticated by at least one signature in manual form, all signatures of bond signatories may be in facsimile form. [2007 c.783 §§48,49; 2009 c.538 §7]

287A.310 Definitions for ORS 287A.310 and 287A.315; lien of a pledge; Uniform Commercial Code. (1) As used in this section and ORS 287A.315:

(a) "Obligation" means:

(A) A bond;

(B) The commitment of a public body in connection with a credit enhancement device; or

(C) An agreement for exchange of interest rates.

(b) "Property" means:

(A) Real or personal property, tangible or intangible, whether owned when a pledge is made or acquired subsequently to the time the pledge is made; and

(B) Revenues, contract rights, receivables or securities.

(2) The Uniform Commercial Code does not apply to the creation, perfection, priority or enforcement of a lien of a pledge made by a public body.

(3) When otherwise authorized by statute, charter, ordinance or resolution to issue bonds, a public body may pledge as security for payment of obligations all or part of the property of the public body expressly authorized to be pledged by the governing body of the public body.

(4) The lien created by a pledge is valid and binding from the time the pledge is made. Pledged property is subject immediately to the lien of the pledge without physical delivery, filing or any other act.

(5) Except as otherwise expressly provided in an operative document, the lien of the pledge is superior to and has priority over all other claims and liens.

(6) When property subject to a pledge is acquired by a public body after the pledge is made:

(a) The property is subject to the lien upon acquisition by the public body without physical delivery, filing or any other act.

(b) The lien relates to the time the pledge was originally made.

(7) A public body may reserve a right to pledge a pledged property as security for bonds subsequently issued by the public body. If the public body reserves the right, subject to the terms of the operative document that created a previous pledge, the lien of the subsequent pledge may be on a parity or pari passu basis with the lien of the previous pledge, on a prior and superior basis with the lien of the previous pledge or on a subordinate basis with the lien of the previous pledge, as specified in the operative document creating the subsequent pledge. The lien of the subsequent pledge:

(a) Has the priority specified in the operative document creating the subsequent pledge; and

(b) Is superior to and has priority over all other claims and liens except the lien of a pledge with which the lien of the subsequent pledge is on a parity or subordinate basis, as specified in the operative document.

(8) A pledgee may commence an action in a court of competent jurisdiction to foreclose the lien of the pledge and exercise rights and remedies available to the pledgee under the operative document.

(9) When pledged property consists of moneys or property that is in a fund for debt service reserves or payments, a pledgee may foreclose the lien of the pledge by applying

the moneys or property in the fund to the payment of the bonds subject to the terms, conditions and limitations in the operative document. [2007 c.783 §50]

287A.315 Pledge of full faith and credit and taxing power. (1) A public body may pledge its full faith and credit and taxing power when the public body issues:

(a) A general obligation bond; or

(b) An obligation that is secured by all lawfully available funds of the public body.

(2) When a public body pledges its full faith and credit and taxing power to pay an obligation, the pledge constitutes an enforceable promise or contract by the public body:

(a) To pay the obligation out of lawfully available funds of the public body; and

(b) If lawfully available funds are insufficient to pay when due the amounts owing on the obligation, to levy, impose and collect a tax that is within the authority of the public body to levy, impose and collect in an amount sufficient to pay the amounts owing under the obligation, including past due amounts and penalties.

(3) If a public body fails to pay when due an amount owing under an obligation secured by a pledge of the full faith and credit and taxing power of the public body, the owner of the obligation, or the trustee appointed to act on behalf of the owner, may bring an action in the circuit court of the county in which the principal offices of the public body are located to compel the public body:

(a) To appropriate and expend sufficient lawfully available funds to pay the amounts owing on the obligation; or

(b) If lawfully available funds are insufficient to pay when due the amounts owing on the obligation, to levy, impose and collect a tax that is within the authority of the public body to levy, impose and collect in an amount sufficient to pay the amounts owing under the obligation, including past due amounts and penalties.

(4) An owner of the obligation, or a trustee appointed to act on behalf of the owner, may initiate a proceeding to impose remedial sanctions under ORS 33.055 against members of the governing body of a public body for failure to comply with an order of the court under this section.

(5) A pledge of the full faith and credit and taxing power authorized by this section does not, by itself, create a lien on the revenues or property of the public body. [2007 c.783 §50a]

287A.325 Covenants of public bodies regarding pledges. (1) The Legislative Assembly finds that:

(a) It is a matter of statewide concern that certain covenants made by public bodies regarding a pledge of revenues to secure bonds not be impaired by subsequent initiative or referendum measures.

(b) The covenants described in paragraph (a) of this subsection usually are in the form of a promise to charge and collect rates, fees, tolls, rentals or other charges sufficient to produce moneys to maintain a specified level of debt service coverage.

(c) The possibility that the covenants described in paragraph (a) of this subsection might be rolled back, frozen or otherwise subjected to subsequently imposed conditions or restrictions negatively affects the ability of public bodies to market their bonds, to obtain credit enhancement and to obtain satisfactory ratings on their bonds.

(2) Therefore, the Legislative Assembly declares that covenants are material to the security for bonds and to investors' expectations regarding timely payment of the bonds.

(3) An elector-approved initiative or referendum measure that purports to change ordinances or resolutions affecting rates, fees, tolls, rentals or other charges has no force or effect if giving force and effect to the change would impair existing covenants made with existing bond owners.

(4) A public body may enter into rate covenants that obligate the public body to periodically set rates and charges:

(a) That generate pledged revenues at specific levels including, but not limited to, a specific monetary charge for each unit of commodity or service provided or a schedule of rates and charges that includes fixed and variable components;

(b) At levels sufficient to maintain underlying credit ratings assigned to bonds by one or more nationally recognized credit rating services without regard to improvement in credit ratings due to the additional security provided for the bonds by a credit enhancement device;

(c) That generate pledged revenues each year in amounts at least equal to operations and maintenance expenses of the system that produces the pledged revenues, plus debt service on revenue bonds and other borrowings, plus an additional amount that is reasonably required to obtain favorable terms for the revenue bonds and other borrowings; or

(d) In accordance with a formula established in the operative document governing revenue bonds or other borrowings. The for-

mula may provide for rates and charges to be determined by reference to factors including, but not limited to:

(A) Historical operating expenses;

(B) Projected future operating expenses;

(C) The funding of depreciation;

(D) The costs of capital improvements;

(E) The costs of complying with contractual obligations and covenants;

(F) The costs of complying with regulatory requirements;

(G) Reports of independent consultants regarding the level of pledged revenues required to operate and maintain a utility in accordance with prudent utility practice;

(H) Debt service on the revenue bonds or other borrowings bonds; and

(I) The moneys needed to establish or maintain reserves required by law or contract and the moneys needed to maintain an unencumbered carryforward fund balance or working capital to meet unanticipated expenses or fluctuations in revenues that may arise.

(5) Without regard to the date of execution of a rate covenant, a rate covenant authorized by this section is a contract that binds the public body and is enforceable against the public body in accordance with the terms of the rate covenant. [2007 c.783 §51]

287A.335 Agreements for exchange of interest rates; rules. (1) As used in this section, "counterparty" means an entity with whom a public body enters into an agreement for exchange of interest rates.

(2) Upon a finding by a public body that an agreement for exchange of interest rates benefits the public body, the public body may enter into the agreement for exchange of interest rates with a counterparty. An agreement for exchange of interest rates may be made to manage payment, interest rate, spread or similar exposure undertaken in connection with related bonds that:

(a) Exist when the agreement for exchange of interest rates is executed;

(b) Are reasonably expected to be executed when regularly scheduled payments are due from the issuer under the agreement; or

(c) Are identified after the agreement for exchange of interest rates is executed and substituted for related bonds described in paragraph (a) or (b) of this subsection as a result of prepayment, refunding, conversion, ratings changes, redemption, defeasance or other similar event.

(3) Upon entering into an agreement for exchange of interest rates under this section and continuing until the agreement is satisfied, terminated or otherwise no longer in effect, provided a payment default has not occurred, the public body may treat the amount or rate of interest on the related bond as the amount or rate of interest payable after giving effect to the agreement for exchange of interest rates for the purpose of calculating:

(a) Tax levies to pay regularly scheduled bond debt service; and

(b) Other amounts that are based on the rate of interest of the bond.

(4) Subject to covenants applicable to a related bond and the limitations of this section, payments required under an agreement for exchange of interest rates may:

(a) Be treated as interest payments on the related bond;

(b) Be made from revenues or other moneys contributed to or legally available to pay the related bond; and

(c) Rank in an order of priority of payment relative to the payment of the related bond as the public body determines.

(5) In connection with entering into an agreement for exchange of interest rates, a public body may obtain a credit enhancement device to secure the agreement for exchange of interest rates.

(6) An agreement for exchange of interest rates entered into under this section:

(a) Is not a debt or other obligation of the issuer for purposes of any limitation upon the indebtedness of the issuer.

(b) Is subject only to the limitations of this section and is not subject to other limitations applicable to the related borrowing.

(7) A termination payment required to be paid by the public body under an agreement for exchange of interest rates:

(a) May be paid from moneys derived from the issuance and sale of revenue bonds.

(b) May not be paid from ad valorem property taxes levied outside the limitations of section 11 or 11b, Article XI of the Oregon Constitution.

(8) The Oregon Municipal Debt Advisory Commission shall adopt administrative rules establishing required terms, conditions, annual or periodic reporting requirements and other requirements for an agreement for exchange of interest rates entered into by a public body, if the commission determines those requirements are desirable to protect the interests of the public body.

(9) A public body may create reserves to pay amounts due under agreements for exchange of interest rates and fund the reserves with moneys derived from the

issuance and sale of bonds or from revenues or other moneys described in subsection (4)(b) of this section. [2007 c.783 §53; 2009 c.538 §8]

287A.339 Termination payment of conduit borrower. When a public body is authorized by law to issue bonds, the public body may lend moneys derived from an issuance and sale of bonds to a conduit borrower of proceeds from outstanding, previously issued conduit revenue bonds for the purpose of paying a termination payment required to be paid by the borrower under an agreement for exchange of interest rates entered into by the borrower in relation to the outstanding conduit revenue bonds. [2009 c.538 §6]

Note: 287A.339 was added to and made a part of ORS chapter 287A by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

287A.340 Credit enhancement devices. (1) A public body may obtain a credit enhancement device and enter into related agreements.

(2) The public body may pay the provider of the credit enhancement device from the same sources that the public body may lawfully use to pay the related bonds or from any other legally available source.

(3) The public body may issue a bond to the provider of a credit enhancement device to secure the obligations of the public body or to pay amounts due to the provider. [2007 c.783 §52]

287A.343 Public body purchase of own bonds. (1) Notwithstanding any limitation in a local charter, a public body may bid for, purchase, hold, cause to be held in trust and remarket bonds issued by the public body.

(2) Except as otherwise provided in the operative documents, the purchase or acquisition of bonds under this section does not cancel or extinguish the bonds unless the public body elects in writing to cancel or extinguish the bonds. [2009 c.537 §4]

Note: 287A.343 was added to and made a part of ORS chapter 287A by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

Note: Section 11 (2), chapter 537, Oregon Laws 2009, provides:

Sec. 11. (2) Section 4 of this 2009 Act [287A.343] applies to bonds purchased by a public body:

(a) On or after the effective date of this 2009 Act [June 25, 2009]; and

(b) Before the effective date of this 2009 Act if the public body acted within its authority to purchase the bonds and did not elect in writing to cancel or extinguish the bonds. [2009 c.537 §11(2)]

287A.345 State taxation of bond interest. Interest on bonds of a public body is exempt from personal income tax under ORS chapter 316. [2007 c.783 §65]

287A.350 Public records. The records of registered bond ownership, whether maintained by a public body or otherwise, are not public records within the meaning of ORS 192.410 (4). [2007 c.783 §69]

REFUNDING BONDS

Note: Section 70, chapter 783, Oregon Laws 2007, provides:

Sec. 70. (1) ORS 288.605 to 288.695 (2005 or earlier edition) do not apply to or affect advance refunding bonds issued prior to October 4, 1977.

(2) Sections 54 to 59 of this 2007 Act [287A.360 to 287A.380] do not apply to or affect refunding bonds issued prior to the effective date of this 2007 Act [January 1, 2008]. [2007 c.783 §70]

287A.360 Current refunding bonds. (1) In addition to any other authority to issue refunding bonds, a public body may issue current refunding bonds to refund its outstanding bonds pursuant to this section.

(2) A public body may secure current refunding bonds with any of the revenues and covenants that the public body could have used to secure the refunded bonds and with revenues and covenants authorized by law when the refunding bonds are issued.

(3) A public body may issue:

(a) General obligation bonds to refund outstanding general obligation bonds without obtaining approval of the electors of the public body.

(b) Revenue bonds to refund revenue bonds that were issued in accordance with ORS 287A.150 without complying with the procedures prescribed in ORS 287A.150. [2007 c.783 §54; 2009 c.538 §9]

287A.365 Advance refunding bonds and forward current refunding. (1) The Legislative Assembly declares that the issuance of advance refunding bonds and the authority to effect a forward current refunding are matters of general statewide concern, and ORS 287A.360 to 287A.380 preempt all local statutory or charter authority to issue advance refunding bonds or to effect a forward current refunding.

(2) A public body may issue advance refunding bonds or enter into forward current refundings in compliance with:

(a) ORS 287A.360 to 287A.380; and

(b) Rules adopted by the State Treasurer.

(3) A public body may secure advance refunding bonds with any of the revenues and covenants that the public body could have used to secure the refunded bonds and with revenues and covenants authorized by law when the refunding bonds are issued. [2007 c.783 §55]

287A.370 Proposed refunding plan for advance refunding bonds or forward current refunding; rules; fees. (1) The State Treasurer shall review the plan of a public body to issue advance refunding bonds or to enter into a forward current refunding to determine whether the plan complies with applicable rules of the State Treasurer, as provided in this section.

(2) After adoption of an ordinance or resolution approving a plan to issue advance refunding bonds or to enter into a forward current refunding, a public body shall submit the refunding plan to the State Treasurer for review and approval.

(3) After review of a proposed refunding plan, the State Treasurer shall advise the public body, in writing, whether the plan is approved. If the State Treasurer does not notify the public body within 30 business days after receipt of the plan, the plan is deemed approved. A public body may issue advance refunding bonds or enter into a forward current refunding in accordance with a refunding plan approved by the State Treasurer.

(4) The State Treasurer may adopt rules to regulate forward current refunding and the issuance of advance refunding bonds.

(5) The State Treasurer may charge public bodies fees and expenses as provided in ORS 286A.014 in connection with the activities of this section. [2007 c.783 §56]

287A.375 Maximum amount of advance refunding bonds. (1) As used in this section, "government obligations" means:

(a) Direct obligations of the United States of America or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by the obligations;

(b) Bonds, debentures, notes, certificates of participation or other obligations issued by a federal agency or other instrumentality of the federal government; or

(c) Other debt obligations determined by administrative rule of the State Treasurer to be highly secured and widely accepted in the marketplace as obligations for a defeasance escrow.

(2) A public body may not issue advance refunding bonds in a principal amount in excess of the minimum principal amount that is estimated at the time of sale to be necessary:

(a) To purchase a principal amount of government obligations that is, together with the interest earnings thereon, sufficient to pay the installments of principal, interest and redemption premiums, if any, on the bonds being refunded when due in accordance with the advance refunding plan; and

(b) To pay all costs in connection with issuing the advance refunding bonds and obtaining credit enhancement devices.

(3) If the public body that issues advance refunding bonds receives an amount of proceeds that exceeds the actual amount required under subsection (2) of this section, the public body must use the excess amount of proceeds to pay interest on the advance refunding bonds.

(4) Before applying advance refunding bond proceeds to the purposes for which the refunding bonds have been issued, a public body may invest advance refunding bond proceeds, together with other moneys set aside for the payment of the bonds to be refunded, only in government obligations.

(5) The public body shall make investments pursuant to subsection (4) of this section at times and in a manner required to provide funds sufficient to pay principal, interest and redemption premiums, if any, in accordance with the advance refunding plan. [2007 c.783 §57]

287A.380 Tax levy to pay maturing general obligation advance refunding bonds. (1) Pursuant to ORS 287A.140, a public body shall levy taxes to pay the maturing interest and principal of advance refunding bonds that are general obligation bonds.

(2) Notwithstanding ORS 287A.140 or any other provision of law, a public body may not cause a tax to be levied to pay the maturing interest and principal of general obligation bonds that have been defeased as described in ORS 287A.195 (2), unless the amounts held to defease the bonds are insufficient. [2007 c.783 §59]

WARRANTS AND CHECKS; INTEREST; UNCLAIMED WARRANTS AND CHECKS; MASTER WARRANTS

287A.472 Interest on municipal warrants not paid on presentation. All warrants for payment of money issued by cities and other municipalities that are not paid upon presentation and so indorsed shall draw interest at the legal rate after such indorsements but municipalities may by proper resolution fix the rate at less than the legal rate and may make such interest payable semiannually. [Formerly 287.452]

287A.474 Warrants and checks more than two years old; report by fiscal officer; claim by owner. (1) The county fiscal officer shall prepare a report of all warrants and checks issued more than two years prior to July 1 of that year which have not been paid, pursuant to ORS 98.352.

(2) The lawful owner of any warrant or check included in any list referred to in subsection (1) of this section, not presented to the county treasurer for payment and not paid, thereafter may file a claim with the Department of State Lands in the manner provided by ORS 98.392 and 98.396. [Formerly 287.454]

287A.482 Definitions for ORS 287A.482 to 287A.488. As used in ORS 287A.482 to 287A.488:

(1) "County fiscal officer" means:

(a) The county accountant in counties where such office is established by law.

(b) The county clerk in counties not having a county accountant.

(2) "Master warrant" means a warrant or order issued and drawn pursuant to ORS 287A.486. [Formerly 287.482]

287A.484 Master warrant procedure authorized if warrants would be not paid. Whenever the county fiscal officer audits and approves a claim and issues a warrant therefor and at the same time or subsequently ascertains that the county treasurer has not sufficient moneys in the particular fund of the county from which the claim so approved and allowed is payable and that the warrant as issued against that fund for the payment of the claim would be indorsed "Not Paid for Want of Funds," the county fiscal officer may, with approval by resolution of the county court or the board of county commissioners, issue a master warrant to any person for the purpose of obtaining money to pay such claim. The money shall be obtained only in the manner provided in ORS 287A.486. [Formerly 287.484]

287A.486 Procedure. (1) The county fiscal officer shall draw a master warrant in the amount of one or more claims referred to in ORS 287A.484, payable to any person who is willing to accept the master warrant, and such person shall, upon delivery of the master warrant duly indorsed "Not Paid for Want of Funds," pay to the county treasurer the full amount for which the master warrant is drawn.

(2) The amount paid under subsection (1) of this section shall constitute a special fund to be used toward the payment of warrants issued under ORS 287A.484 by the county fiscal officer in payment of claims audited and approved and included in the amount of any master warrant issued to the person advancing such moneys. [Formerly 287.486]

287A.488 Taxes must be levied for payment of claims included in master warrant. No master warrant shall be issued under ORS 287A.482 to 287A.488 unless taxes have been levied for the payment of all claims included in the master warrant and such taxes are in the process of being collected at the time of the issuance of the master warrant. [Formerly 287.488]

OREGON MUNICIPAL DEBT ADVISORY COMMISSION

287A.630 Oregon Municipal Debt Advisory Commission; creation; term; compensation. (1) The Oregon Municipal Debt Advisory Commission is hereby created, consisting of the following seven members:

(a) The State Treasurer or the State Treasurer's designee.

(b) Three public body finance officers appointed by the Governor:

(A) One of whom is an individual recommended by the Association of Oregon Counties.

(B) One of whom is an individual recommended by the League of Oregon Cities.

(C) One of whom is an individual recommended by the Oregon School Boards Association.

(c) One representative of special districts appointed by the Governor.

(d) Two public members not represented in the other categories of appointment, appointed by the Governor.

(2) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the Governor. A member is eligible for reappointment for no more than one additional term.

(3) Before the expiration of the term of an appointed member, the Governor shall appoint a successor to assume the duties of the member on July 1 next following. In case of a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term.

(4) The Governor shall designate one of the appointed members to serve a one-year term as chairperson, subject to reappointment.

(5) Appointed members of the commission are entitled to compensation and expenses as provided in ORS 292.495. [Formerly 287.030]

287A.632 Meetings; quorum; personnel. (1) The Oregon Municipal Debt Advisory Commission shall meet:

(a) At the call of the chairperson; or

(b) At the request of:

(A) A majority of the members;

(B) The State Treasurer; or

(C) The Governor.

(2) A majority of all members of the advisory commission constitutes a quorum for the transaction of business.

(3) The office of the State Treasurer shall provide the commission with administrative and clerical assistance required by the commission. [Formerly 287.032]

287A.634 Powers and duties of commission; rules; fees. (1) The Oregon Municipal Debt Advisory Commission may:

(a) Provide assistance and consultation, upon request of the state or a public body, to assist them in the planning, preparation, marketing and sale of new bond issues to reduce the cost of the issuance to the issuer and to assist in protecting the issuer's credit.

(b) Collect, maintain and provide financial, economic and social data on public bodies pertinent to their ability to issue and pay bonds.

(c) Collect, maintain and provide information on bonds sold and outstanding and serve as a clearinghouse for all local bond issues.

(d) Maintain contact with municipal bond underwriters, credit rating agencies, investors and others to improve the market for public body bond issues.

(e) Undertake or commission studies on methods to reduce the costs of state and local bond issues.

(f) Recommend changes in state law and local practices to improve the sale and servicing of local bonds.

(g) Perform any other function required or authorized by law.

(h) Pursuant to ORS chapter 183, adopt rules necessary to carry out its duties.

(2) The commission shall publish:

(a) A periodic newsletter describing proposed bond issues, bond sales, refundings, credit rating changes and other information relating to municipal bonds that is pertinent to issuers, underwriters, investors and the public.

(b) An annual report describing and evaluating the operations of the commission during the preceding year.

(3) The commission may charge reasonable fees for providing services under subsection (1) of this section.

(4) The commission shall transfer the amounts received under this section to the State Treasurer for deposit in the Miscellaneous Receipts Account in the General Fund for the State Treasurer described in ORS 286A.016. The moneys deposited in the account pursuant to this section are continuously appropriated to the State Treasurer for payment of expenses of the State Treasurer in providing services to the commission pursuant to ORS 287A.632. [Formerly 287.034]

287A.640 Notice to commission of proposed issues; duty of public bodies to assist; rules. (1) The Oregon Municipal Debt Advisory Commission may, by rule, require a public body to provide the commission with prior notice of proposed issuance of new bonds in a form and at times specified by the commission.

(2) To assist the commission in carrying out its duties, a public body shall verify, at the request of the commission, the information maintained by the commission or the State Treasurer on the public body's outstanding bonds. [Formerly 287.040]