

(Including Amendments To Resolve Conflicts)

B-Engrossed Senate Bill 23

Ordered by the House June 13
Including Senate Amendments dated February 24 and House Amendments
dated June 13

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Makes numerous technical changes to procedures for issuing, selling and maintaining bonds issued by public issuers.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public bonds; creating new provisions; amending ORS 223.235, 238.694, 271.390, 284.365,
3 285A.274, 287.018, 287.025, 287.053, 288.150, 288.155, 288.515, 288.605, 288.645, 288.865, 294.035,
4 294.040, 294.046, 294.048, 294.135, 294.326, 294.381, 294.483, 295.005, 297.405, 305.583, 310.651,
5 441.590, 468.272, 478.390 and 777.590 and section 4, chapter 112, Oregon Laws 2005 (Enrolled
6 House Bill 2033); repealing ORS 288.310 and 288.320 and section 1, chapter 112, Oregon Laws
7 2005 (Enrolled House Bill 2033), and section 2, chapter 91, Oregon Laws 2005 (Enrolled House
8 Bill 2395); and declaring an emergency.

9 **Be It Enacted by the People of the State of Oregon:**

10 **SECTION 1.** ORS 223.235 is amended to read:

11 223.235. (1) When in any local government a bond lien docket is made up, as provided in ORS
12 223.230, as to the final assessments for any local improvement, the local government shall by ordi-
13 nance or resolution of the governing body authorize the issue of its bonds pursuant to the applicable
14 provisions of ORS chapter 288 and in accordance with this section.

15 (2) The bonds authorized to be issued under this section [*shall*] **must** be issued in an amount
16 that does not exceed the unpaid balance of all final assessments for the related local improvements,
17 plus the amounts necessary to fund any debt service reserve and to pay any other financing costs
18 associated with the bonds.

19 (3)(a) If the question of the issuance of the specific bonds has been approved by the electors of
20 the local government and the bonds are issued as general obligation bonds, the local government
21 shall each year assess, levy and collect a tax on all taxable property within its boundaries. The
22 amount of the tax [*shall*] **must** be sufficient to pay all principal of and interest on the bonds that
23 are due and payable in that year and to replenish any debt service reserves required for the bonds.
24 In computing the amount of taxes to impose, the local government shall:

25 (A) Deduct from the total amount otherwise required the amount of final installment payments

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 *[which]* **that** are pledged to the payment of the bonds and *[which]* **that** are due and payable in that
2 year, *and shall*; **and**

3 **(B)** Add to this net amount the amount of reasonably anticipated delinquencies in the payments
4 of the installments or the taxes.

5 (b) The taxes *[shall]* **must** be levied in each year and returned to the county officer whose duty
6 it is to extend the tax roll within the time and in the manner provided in ORS 310.060.

7 (c) The taxes *[shall]* become payable at the same time and *[be]* **are** collected by the same officer
8 who collects county taxes and *[shall]* **must** be turned over to the local government according to law.

9 (d) The county officer whose duty it is to extend the county levy shall extend the levy of the
10 local government in the same manner as city taxes are extended. Property *[shall be subject to sale]*
11 **may be sold** for nonpayment of the taxes levied by a local government in like manner and with like
12 effect as in the case of county and state taxes.

13 (4) If the question of the issuance of the specific bonds has not been approved by the electors
14 of the local government *[and the bonds are issued]*, **the local government may issue the bonds**
15 as limited tax *[obligation]* bonds, **as defined in ORS 288.150** *[the local government may, subject only*
16 *to the limitations of section 11b (1), Article XI of the Oregon Constitution, calculate, assess, levy and*
17 *collect a tax on all taxable property within its boundaries in the manner provided in subsection (3) of*
18 *this section. The amount of such tax shall be sufficient to pay all principal of and interest on such*
19 *bonds which is due and payable in that year and to replenish any debt service reserves required for*
20 *such bonds, provided that if such bonds are issued as limited tax obligation bonds the amount of such*
21 *tax shall not exceed the amount permitted under section 11b (1), Article XI of the Oregon*
22 *Constitution]*.

23 (5)(a) All bonds issued pursuant to this section, including general obligation bonds, *[shall be]*
24 **are** secured by and *[be]* payable from the installments of final assessments with respect to which the
25 bonds were issued.

26 (b) In the ordinance or resolution authorizing the issuance of the bonds, the governing body of
27 the issuing local government may:

28 (A) Provide that installments of final assessments levied with respect to two or more local im-
29 provements shall secure a single issue of bonds.

30 (B) Reserve the right to pledge, as security for any bonds thereafter issued pursuant to this
31 section, any installments of final assessments previously pledged as security for other bonds issued
32 pursuant to this section.

33 (c) All bonds *[shall]* **must** be secured by a lien on the installments of final assessments with
34 respect to which they were issued. The lien *[shall be]* **is** valid, binding and fully perfected from the
35 date of issuance of the bonds. The installments of final assessments *[shall be]* **are** immediately sub-
36 ject to the lien without the physical delivery thereof, the filing of any notice or any further act. The
37 lien *[shall be]* **is** valid, binding and fully perfected against all persons having claims of any kind
38 against the local government or the property assessed whether in tort, contract or otherwise, and
39 irrespective of whether *[such]* **the** persons have notice of the lien.

40 (6) As additional security for any bonds issued under this section, including general obligation
41 bonds, the governing body of the issuing local government may pledge or mortgage, or grant security
42 interests in, its revenues, assets and properties, and otherwise secure and enter into covenant with
43 respect to the bonds, as provided in ORS 288.155.

44 (7)(a) A local government *[shall have the power, at any time and]* **may**, from time to time after
45 the undertaking of a local improvement has been authorized, *[to]* borrow money and issue and sell

1 notes for the purpose of providing interim financing for the actual costs of the local improvement.

2 (b) Notes authorized under this subsection may be issued in a single series for the purpose of
3 providing interim financing for two or more local improvements.

4 (c) Notes authorized under this subsection [*shall mature not*] **may not mature** later than one
5 year after the date upon which the issuing local government expects to issue bonds for the purpose
6 of providing permanent financing with respect to installment payments of the final assessments for
7 the local improvements.

8 (d) Any notes authorized under this subsection may be refunded from time to time by the issu-
9 ance of additional notes or out of the proceeds of bonds issued pursuant to this section. The notes
10 may be made payable from the proceeds of any bonds to be issued under this section to provide
11 permanent financing or from any other sources from which the bonds are payable.

12 (e) The governing body of the issuing local government may pledge to the payment of the notes
13 any revenues that may be pledged to the payment of bonds authorized to be issued under this section
14 with respect to the local improvements for which the notes provide interim financing.

15 **SECTION 2.** ORS 238.694 is amended to read:

16 238.694. (1) The Legislative Assembly finds that authorizing issuance of limited tax bonds or
17 revenue bonds to finance pension liabilities may reduce the cost of public pensions to taxpayers and
18 that the reduction of those costs to taxpayers is a matter of statewide concern.

19 (2) Notwithstanding **the limitation on indebtedness in ORS 287.053** or any **other** limitation
20 on indebtedness or borrowing under state or local law, for the purpose of obtaining funds to pay the
21 pension liability of a governmental unit, the governing body of a governmental unit may authorize
22 and cause the issuance of limited tax bonds as defined in ORS 288.150, revenue bonds authorized
23 by charter or pursuant to ORS 288.805 to 288.945, or any combination of those bonds.

24 (3) The governing body of a governmental unit may pledge the full faith and credit and taxing
25 power of the governmental unit to the payment of the principal and interest on bonds issued under
26 ORS 238.692 to 238.698, and any premium on those bonds.

27 [(3)] (4) **Except as otherwise provided in this section**, limited tax bonds authorized under this
28 section must be issued in the manner prescribed by **the applicable provisions of** ORS chapters 287
29 and 288 for the issuance of limited tax bonds.

30 (5) **Unless the charter of a county provides a lower limit**, a county may [*not*] issue limited
31 [*tax bonds under this section for an amount that exceeds five percent of the real market value*] **tax**
32 **bonds to finance pension liabilities in an amount that does not exceed five percent of the real**
33 **market value** of the taxable property within the boundaries of the county.

34 [(4)] (6) Revenue bonds authorized under this section need not comply with the procedure spec-
35 ified in ORS 288.815.

36 [(5)] (7) A governmental unit that issues limited tax bonds or revenue bonds under this section
37 may also issue limited tax bonds or revenue bonds for the purpose of refunding the bonds.

38 [(6)] (8) A governmental unit may enter into indentures or other agreements with trustees or
39 escrow agents for the issuance, administration or payment of bonds authorized under this section.

40 **SECTION 3.** ORS 271.390 is amended to read:

41 271.390. (1) As used in this section:

42 (a) "Council of governments" means a council of governments or other similar entity created
43 prior to the enactment of ORS 190.010 (5) on September 29, 1991.

44 (b) [*"Municipality"*] **"Governmental unit"** has the meaning given that term in ORS [*288.515*]
45 **288.150**.

1 (c) “Real or personal property” means land, improvements to land, structures, fixtures, personal
 2 property, including furnishings, equipment and computer software purchases and licenses, and any
 3 costs that may be capitalized under generally accepted accounting principles and treated as costs
 4 of personal property.

5 (2) A [*municipality*] **governmental unit** or a council of governments may enter into contracts
 6 for the leasing, rental or financing of any real or personal property that the governing body **of the**
 7 **governmental unit or council of governments** determines is needed, including contracts for
 8 rental, long term leases under an optional contract for purchase, financing agreements with vendors,
 9 financial institutions or others, or for purchase of any property. [*Leases or*] Contracts made by a
 10 [*municipality*] **governmental unit** or a council of governments [*shall be made*] **are** subject to the
 11 terms of its charter, intergovernmental agreement or other organizing document, if applicable. If
 12 authorized by the governing body, [*such*] **the** contracts may:

13 (a) Provide that the obligations of the [*municipality*] **governmental unit** or council of govern-
 14 ments under the contract [*shall be*] **is** secured by a mortgage on or other security interest in the
 15 property to be leased, rented, purchased or financed under the contract.

16 (b) Provide that the obligations of the [*municipality*] **governmental unit** or council of govern-
 17 ments under the contract [*shall be*] **are** payable out of all or any [*designated*] portion of the lawfully
 18 available [*revenues of the municipality*] **funds, as defined in ORS 288.162, of the governmental**
 19 **unit** or council of governments, [*which revenues*] **and lawfully available funds** may be pledged to
 20 the payment of those obligations.

21 (c) If authorized by the charter, intergovernmental agreement or other organizing document of
 22 the [*municipality*] **governmental unit** or council of governments, contain a covenant on the part of
 23 the [*municipality*] **governmental unit** or council of governments to budget and appropriate in each
 24 fiscal year, in accordance with law, sums sufficient to pay when due the amounts owing under the
 25 contract.

26 (d) Provide for the issuance of certificates of participation in the payment obligations of the
 27 [*municipality*] **governmental unit** or council of governments under the contract and contain [*such*]
 28 other covenants, agreements and provisions [*as are*] determined to be necessary or appropriate in
 29 order to better secure the obligations of the [*municipality*] **governmental unit** or council of gov-
 30 ernments.

31 (3) The lien of the pledge, mortgage or security interest is valid and binding from the time of
 32 entering into the contract. The revenue or property is immediately subject to the lien without
 33 physical delivery, filing or other act, and the lien is superior to all other claims and liens of any
 34 kind whatsoever. Subject to the terms, provisions and limitations of the contract, the lien may be
 35 foreclosed by a proceeding brought in the circuit court of the county in which the [*municipality*]
 36 **governmental unit**, or the greater part thereof, or the main office of the council of governments
 37 is located, and any tangible real or personal property subject to the lien may be sold upon the order
 38 of the court. The proceeds of the sale [*shall first*] **must** be applied **first** to the payment of the costs
 39 of foreclosure and then to the amounts owing under the contract, with any balance being paid to
 40 the [*municipality*] **governmental unit** or council of governments. The authority granted by this
 41 section is in addition to, and not in lieu of, any other statutory or charter authority.

42 (4) A [*municipality*] **governmental unit** or council of governments that has entered into a lease
 43 purchase or installment purchase agreement may enter into a financing agreement to refinance the
 44 obligations of the [*municipality*] **governmental unit** or council of governments under the lease
 45 purchase or installment purchase agreement.

1 (5) The estimated weighted average life of a financing contract executed under this section may
2 not exceed the estimated dollar weighted average life of the real or personal property that is fi-
3 nanced with the contract.

4 **SECTION 4.** ORS 287.018 is amended to read:

5 287.018. *[For general obligation issues:]*

6 (1) For **general obligation** bonds *[which are sold at public competitive bid]* **offered for public**
7 **sale**, the issuer shall prepare and make available *[upon request to bidders and investors]*, **for use in**
8 **connection with the initial offering and sale**, a preliminary official statement that **discloses the**
9 **material information that the issuer determines is relevant to a potential investor in the**
10 **bonds.** *[includes the following:]*

11 *[(a) Past and current financing and estimated future financing of the issuer;]*

12 *[(b) A brief description of the financial administration and organization of the issuer;]*

13 *[(c) A brief description of the economic and social characteristics of the issuer which will permit*
14 *bidders and investors to appraise the issuer's ability to assume and service adequately the debt obli-*
15 *gation; and]*

16 *[(d) Any other information the issuer may provide or which the Oregon Municipal Debt Advisory*
17 *Commission may require by rule of any issuer other than the state.]*

18 *[(2) The preliminary official statement described in subsection (1) of this section shall be available*
19 *not fewer than 10 calendar days preceding the date of the bond sale.]*

20 *[(3) The preliminary official statement shall contain the best available information which shall be*
21 *accurate to the best knowledge of the issuer. However, any errors or omissions in the preliminary of-*
22 *ficial statement shall not affect the validity of the bond issue.]*

23 *[(4)]* (2) The **preliminary official** statement required by this section of state agencies *[shall]*
24 **must** be submitted to the State Treasurer for approval. If not approved, the State Treasurer shall
25 note the revision required. The issuer shall make the noted revisions.

26 **SECTION 5.** ORS 287.025 is amended to read:

27 287.025. (1) As used in this section:

28 (a) "Agreement for exchange of interest rates" or "agreement" means a contract, or an option
29 or forward commitment to enter into a contract, for the exchange of interest rates that provides for:

30 (A) Payments based on levels of or changes in interest rates; or

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

33 (b) "**Borrowing**" means a **bond, note, bond anticipation note, commercial paper, certif-**
34 **icate of participation or other agreement made in exercise of the borrowing power of the**
35 **issuer.**

36 (c) "**Counterparty**" means the entity with which an issuer enters into an agreement for
37 **exchange of interest rates.**

38 *[(b)]* (d) "Issuer" means a public body as defined in ORS 288.605*[, the]* **or** Oregon Health and
39 Science University *[or the Master Settlement Asset Corporation established in section 3, chapter 2,*
40 *Oregon Laws 2002 (fifth special session).]*

41 *[(c)]* "Obligation" means a **bond, note, bond anticipation note, commercial paper, certificate of par-**
42 **ticipation or other agreement made in exercise of the borrowing powers of the issuer.**

43 (e) "**Related borrowing**" means a **borrowing for which the issuer, or the State Treasurer**
44 **on behalf of a state issuer, enters into an agreement for exchange of interest rates.**

45 (f) "**Termination payment**" means the amount payable under an agreement for exchange

1 **of interest rates by one party to another party as a result of termination, in whole or in part,**
 2 **of the agreement prior to the expiration of the stated term.**

3 (2) If the issuer is a state issuer, including the State of Oregon or an agency, department, board
 4 or commission of the State of Oregon, the State Treasurer may exercise the authority granted by
 5 this section on behalf of the state issuer or the state issuer, with the approval of the State Treas-
 6 urer, may exercise that authority directly.

7 (3) Subject to subsection (2) of this section, an issuer, or the State Treasurer on behalf of a state
 8 issuer, may enter into an agreement for exchange of interest rates [*related to an obligation the issuer*
 9 *has issued or will issue*] **for one or more related borrowings that:**

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

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

13 (c) **Are identified after the agreement for exchange of interest rates is executed and**
 14 **substituted for a borrowing described in paragraph (a) or (b) of this subsection as a result**
 15 **of prepayment, refunding, conversion, ratings changes, redemption, defeasance or other**
 16 **similar event related to one or more of the borrowings described in paragraph (a) or (b) of**
 17 **this subsection. An agreement may be made to manage payment, interest rate, spread or similar**
 18 **exposure undertaken in connection with [*the obligation*] a related borrowing upon a finding by the**
 19 **issuer, or the State Treasurer on behalf of a state issuer, that the agreement benefits the issuer.**

20 (4) The issuer, or the State Treasurer on behalf of a state issuer, shall include in an agreement
 21 for exchange of interest rates provisions related to payment, term, security, collateralization, ter-
 22 mination, default and remedy that the issuer, or the State Treasurer on behalf of a state issuer,
 23 determines necessary or appropriate upon consideration of the covenants applicable to the [*obli-*
 24 *gation*] **related borrowing** and the creditworthiness of the parties.

25 (5) The issuer, or the State Treasurer on behalf of a state issuer, may enter into an agreement
 26 for exchange of interest rates only if:

27 (a) The [*long-term, senior, unsecured, unenhanced, unsubordinated debt*] **credit ratings for obli-**
 28 **gations of the [*party, or*] counterparty that are similar to the termination payment obligations**
 29 **of the counterparty, or the credit ratings for at least one of the guarantors of the [*party, with***
 30 ***whom the issuer, or the State Treasurer on behalf of a state issuer, enters the agreement are rated***
 31 **counterparty, are in one of the top three rating categories without gradation by at least two na-**
 32 **tionally recognized rating agencies and satisfy any other requirements that may be imposed**
 33 **by the Oregon Municipal Debt Advisory Commission or the State Treasurer, as applicable,**
 34 **pursuant to subsection (13) of this section; or**

35 (b) The **termination payment** obligations [*of the party, or the guarantors of the party*] **of the**
 36 **counterparty, or at least one of the guarantors of the counterparty,** with whom the issuer, or
 37 the State Treasurer on behalf of a state issuer, enters the agreement are collateralized by cash or
 38 obligations:

39 (A) **That are** rated in one of the top three rating categories without gradation by at least two
 40 nationally recognized rating agencies [*and:*] **as determined by the Oregon Municipal Debt Advi-**
 41 **sory Commission or the State Treasurer, as applicable, pursuant to subsection (13) of this**
 42 **section;**

43 [(A)] (B) [*The cash or obligations*] **That** are deposited with the issuer, or the State Treasurer
 44 on behalf of a state issuer, or with an agent of the issuer;

45 [(B)] (C) [*The cash or obligations*] **That** have a market value sufficient to [*fully collateralize*

1 *the*] **collateralize that portion of the termination payment** obligations of the party under the
 2 agreement as determined at the discretion of the issuer, or the State Treasurer on behalf of a state
 3 issuer; and

4 [(C)] **(D)** [*The collateral obligations are valued*] **That are revalued** at least quarterly.

5 (6) [*With respect to an obligation that the issuer, or the State Treasurer on behalf of a state issuer,*
 6 *has issued or will issue, the*] **An** issuer, or the State Treasurer on behalf of a state issuer, may
 7 agree, **based on the issuer's reasonable expectations when the agreement is executed:**

8 (a) If the [*obligation*] **borrowing** bears interest at one or more variable rates, to pay sums equal
 9 to interest at one or more fixed rates or one or more different variable rates determined under a
 10 formula set forth in the agreement for exchange of interest rates on an amount not to exceed the
 11 outstanding principal amount of the [*obligation*] **borrowing when the agreement is entered into**
 12 **or, if the borrowing has not been issued, the principal amount of the borrowing reasonably**
 13 **anticipated to be outstanding when payments are required to commence under the agree-**
 14 **ment** in exchange for an agreement for the issuer, or the State Treasurer on behalf of a state issuer,
 15 to be paid sums [*equal to interest*] **calculated based** on the same principal amount at a variable rate
 16 determined under a formula set forth in the agreement.

17 (b) If the [*obligation*] **borrowing** bears interest at one or more fixed rates, to pay sums [*equal*
 18 *to interest at*] **calculated based on** one or more variable rates or one or more different fixed rates
 19 determined under a formula set forth in the agreement for exchange of interest rates on an amount
 20 not to exceed the outstanding principal amount of the [*obligation*] **borrowing when the agreement**
 21 **is entered into or, if the borrowing has not been issued, the principal amount of the bor-**
 22 **rowing reasonably anticipated to be outstanding when payments are required to commence**
 23 **under the agreement** in exchange for an agreement for the issuer, or the State Treasurer on behalf
 24 of a state issuer, to be paid sums [*equal to interest*] **calculated based** on the same principal amount
 25 at a fixed rate or rates set forth in the agreement.

26 (7) The issuer, or the State Treasurer on behalf of a state issuer, may not enter into an agree-
 27 ment under this section that:

28 (a) Has a term that exceeds the original term of the [*obligation*] **related borrowing** for which
 29 the agreement for exchange of interest rates is made or, in the case of an option or a forward
 30 commitment, has a term that exceeds the reasonably expected term of the [*obligation*] **related bor-**
 31 **rowing** for which the agreement is made; or

32 (b) Is for a purpose other than to manage payment, interest rate, spread or similar exposure in
 33 connection with the [*obligation*] **related borrowing** of the issuer.

34 (8) The limitation on interest on an obligation in ORS 286.036, or any other similar limitation,
 35 does not apply to [*interest*] **an amount** paid under an agreement for exchange of interest rates en-
 36 tered into under this section.

37 (9) Upon entering into an agreement for exchange of interest rates under this section and con-
 38 tinuing until the agreement is satisfied, terminated or otherwise no longer in effect, as long as no
 39 payment default has occurred, the issuer, or the State Treasurer on behalf of a state issuer, shall
 40 treat the amount or rate of interest on the [*obligation related to the agreement*] **related borrowing**
 41 as the amount or rate of interest payable after giving effect to the agreement for the purpose of
 42 calculating:

43 (a) Tax levies, if any, to pay bond debt service; or

44 (b) Other amounts that are based upon the rate of interest of the [*obligation*] **borrowing.**

45 (10) Subject to covenants applicable to [*the obligation*] **a related borrowing and the limitation**

1 **described in subsection (12) of this section**, payments required *[to be made]* under the agreement
 2 by the issuer, or the State Treasurer on behalf of a state issuer, **may**:

3 **(a) Be treated as interest payments on the related borrowing;**

4 *[(a)] (b) [May]* Be made from revenues or other moneys committed to or legally available to pay
 5 the *[underlying debt obligation]* **related borrowing**; and

6 *[(b)] (c) [May]* Rank in an order of priority of payment relative to the payment of the *[underlying*
 7 *debt obligation]* **related borrowing** as the issuer, or the State Treasurer on behalf of a state issuer,
 8 determines. In connection with entering into an agreement, the issuer, or the State Treasurer on
 9 behalf of a state issuer, may enter into an agreement that enhances or supports the credit of the
 10 issuer in the agreement or enhances or supports the liquidity of the agreement.

11 (11) An agreement entered into under this section:

12 **(a)** Is not a debt or other obligation of the *[state]* issuer for purposes of any limitation upon the
 13 indebtedness of the *[state]* issuer.

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

16 **(12) A termination payment required to be paid by an issuer under an agreement for ex-**
 17 **change of interest rates may not be paid from taxes that the issuer may levy that are exempt**
 18 **from the limitations of sections 11 and 11b, Article XI of the Oregon Constitution.**

19 *[(12)(a)] (13)(a)* The Oregon Municipal Debt Advisory Commission shall promulgate administra-
 20 tive rules establishing required terms, conditions, annual or periodic reporting requirements and
 21 other requirements for an agreement for exchange of interest rates entered into by an issuer other
 22 than a state issuer **and may impose additional requirements for agreements for exchange of**
 23 **interest rates that are executed by issuers other than a state issuer, if the commission de-**
 24 **termines those requirements are desirable to protect the interests of those issuers or citi-**
 25 **zens of the State of Oregon.**

26 (b) The State Treasurer may promulgate administrative rules:

27 **(A)** Establishing required terms, conditions, annual or periodic reporting requirements and other
 28 requirements for an agreement for exchange of interest rates entered into by a state issuer acting
 29 with the approval of the State Treasurer under subsection (2) of this section;

30 **(B) Requiring a party to an agreement, the party's guarantor or the collateral securing**
 31 **the obligation of a party or the party's guarantor to meet specific credit rating standards**
 32 **or other conditions; or**

33 **(C) If the State Treasurer determines that conditions and restrictions are necessary or**
 34 **appropriate to protect the interests of issuers, requiring the agreement to contain terms and**
 35 **conditions that are more restrictive than the terms and conditions established in subsection**
 36 **(5) of this section.**

37 *[(13)(a)] (14)(a)* Before an agreement for exchange of interest rates may be entered into under
 38 this section, the issuer, or the State Treasurer on behalf of a state issuer, shall determine whether:

39 **(A)** The agreement for exchange of interest rates is being executed for a permitted purpose and
 40 benefits the issuer; and

41 **(B)** The requirements of this section have been met.

42 (b) In addition to the determinations required under paragraph (a) of this subsection, an issuer
 43 other than a state issuer shall also determine whether the issuer has complied with the requirements
 44 of the administrative rules promulgated by the Oregon Municipal Debt Advisory Commission under
 45 subsection *[(12)] (13)* of this section.

1 [(14)] (15) An issuer other than a state issuer shall notify the State Treasurer of the execution
2 by the issuer of an agreement for exchange of interest rates under this section.

3 **SECTION 6.** ORS 287.053 is amended to read:

4 287.053. (1) Except when a charter provides a lower limit upon the issuance of limited tax
5 bonded indebtedness, a county [shall] **may** not have at any one time outstanding limited tax bonded
6 indebtedness in a principal amount that exceeds one percent of the real market value of all taxable
7 property within the county, computed in accordance with ORS 308.207, after deducting from the
8 outstanding principal amount of [such] **the** indebtedness the total amount of cash funds and sinking
9 funds that are available for payment of the principal.

10 **(2) The limitation on outstanding limited tax bonded indebtedness in this section does not**
11 **apply to limited tax bonds issued under ORS 238.692 to 238.698.**

12 [(2)] (3) As used in this section:

13 (a)(A) “Bonded indebtedness” means any formally executed written agreement representing a
14 promise by a county to pay to another a specified sum of money at a specified date or dates at least
15 one year in the future. “Bonded indebtedness” includes any lease, lease purchase agreement, con-
16 tract or financing agreement authorized by ORS 271.390.

17 (B) “Bonded indebtedness” does not include a general obligation bond, as defined in ORS
18 288.150, or any obligation for which the holder’s payment recourse in any eventuality is only to a
19 specified fund from which payment of principal, premium, if any, and interest on the obligation must
20 be paid.

21 (b) “Limited tax bonded indebtedness” means a bond or other obligation [that is a] **for which**
22 **the issuer pledges its** full faith and credit [obligation] **and taxing power, as described in ORS**
23 **288.162**, and that is payable from any taxes that the issuer may levy within the limitations of section
24 11b, Article XI of the Oregon Constitution, and either within or outside the limitations of section
25 11, Article XI of the Oregon Constitution. “Limited tax bonded indebtedness” includes any bonded
26 indebtedness incurred by a county that, by the express terms of such bonded indebtedness:

27 (A) Requires the county to budget and appropriate in each fiscal year moneys sufficient to pay
28 the principal, premium, if any, and interest on the bonded indebtedness due during the fiscal year.

29 (B) Allows the holders of the bonded indebtedness, in addition to any other available remedies,
30 to bring suit to compel the county to appropriate funds to pay the principal, premium, if any, and
31 interest on the bonded indebtedness due during a fiscal year when the county governing body fails
32 or refuses to appropriate moneys for such purpose in the fiscal year.

33 **SECTION 7.** ORS 288.150 is amended to read:

34 288.150. As used in ORS 288.150 to 288.165:

35 (1) “Actual cost” has the meaning given the term under ORS 310.140.

36 (2) “Capital construction” has the meaning given the term under ORS 310.140.

37 (3) “Costs” when used with capital construction or improvements has the same meaning as
38 “actual costs” as defined under ORS 310.140.

39 (4) “Credit agreement” means a note, letter of credit, line of credit or similar agreement in
40 which a financial institution agrees to loan funds to the governmental unit, and the governmental
41 unit pledges its full faith and credit and agrees to repay the amounts loaned over time, with or
42 without interest.

43 **(5) “Credit enhancement device” means a letter of credit, line of credit, municipal bond**
44 **insurance policy, standby purchase agreement or other device or facility used to enhance the**
45 **creditworthiness or marketability of municipal bonds.**

1 [(5)] **(6)** “General obligation bond” means a bond including a credit agreement[, *which*] **that:**

2 **(a)** Is a full faith and credit obligation[, *and which*]; **and**

3 **(b)** Is payable from taxes [*which*] **that** may be levied without limitation by section 11 **or 11b**,
4 Article XI of the Oregon Constitution[, *and without limitation by section 11b, Article XI of the Oregon*
5 *Constitution*].

6 [(6)] **(7)** “Governmental unit” means a unit of local government within the State of Oregon, in-
7 cluding, but not limited to, cities, counties, school districts, special districts, public corporations and
8 intergovernmental corporations organized under the authority of ORS 190.010.

9 [(7)] **(8)** “Improvement” has the meaning given “capital improvements” under ORS 310.140.

10 [(8)] **(9)** “Limited tax bond” means a bond or other obligation [*which*] **that:**

11 **(a)** Is a full faith and credit obligation[, *and which*]; **and**

12 **(b)** Is payable from [*any taxes which*] **taxes that** the issuer may levy within the limitations of
13 [*section*] **sections 11 and 11b**, Article XI of the Oregon Constitution [*and either within or without the*
14 *limitations of section 11, Article XI of the Oregon Constitution*].

15 **(10) “Related property” includes tangible personal or real property that is part of, func-**
16 **tionally related to or used in connection with a public utility system of which the financed**
17 **property is a part.**

18 [(9)] **(11)** “Structure” has the meaning given the term under ORS 310.140.

19 **SECTION 8.** ORS 288.155 is amended to read:

20 288.155. (1) If authorized by law other than ORS 288.150 to 288.165 and in the manner provided
21 by law, a governmental unit may issue general obligation bonds when:

22 (a) The question of issuing the specific bonds has been approved by the electors of the issuing
23 governmental unit or the bonds replace outstanding general obligation bonds pursuant to ORS
24 288.160; and

25 (b) The general obligation bonded indebtedness will be incurred for capital construction or im-
26 provements.

27 (2) In addition to the authority to issue limited tax bonds provided by other provisions of law,
28 a governmental unit also is authorized to issue limited tax bonds in the following circumstances:

29 (a) When a governmental unit is authorized by a statute or charter to issue general obligation
30 bonds without submitting the question of the issuance thereof to its electors, such governmental unit
31 may exercise such statutory or charter authority to issue limited tax bonds for the same purposes
32 and subject to the same terms and conditions of such statutory or charter authority.

33 (b) When the electors of a governmental unit have authorized the issuance of general obligation
34 bonds for a particular purpose, the governing body, in its discretion and to carry out such purpose,
35 may issue all or a portion of such bonds as limited tax bonds.

36 (3) Notwithstanding this section or any other provision of law requiring bonds to be authorized
37 by ordinance, the limited tax bonds authorized by this section shall be issued pursuant to a resol-
38 ution or ordinance of the governing body of the issuing governmental unit.

39 [(4)] *For the purpose of paying all principal of and interest on any limited tax bonds authorized*
40 *by this section or by any other provision of law, the issuing governmental unit may, subject only to the*
41 *limitations of section 11b (1), Article XI of the Oregon Constitution, calculate, assess, levy and collect*
42 *each fiscal year a tax on all taxable property within its boundaries. The amount of such tax shall be*
43 *sufficient to pay all principal of and interest on such limited tax bonds which are due and payable in*
44 *that year and to replenish any debt service reserves required for such limited tax bonds. In computing*
45 *the amount of such tax, the governmental unit shall deduct from the total amount otherwise required*

1 *the amount of any other funds which are reasonably expected to be available to pay the principal and*
 2 *interest coming due on such limited tax bonds during the fiscal year in question.]*

3 [(5)] (4) A governmental unit that has outstanding general obligation or limited [*general obli-*
 4 *gation*] **tax** bonds, [*on an annual basis and*] subject to [*any*] applicable covenants or agreements
 5 [*which limit*] **limiting** payment of [*certain*] **specific** obligations to particular sources of funds, shall
 6 budget and appropriate amounts sufficient to pay in each succeeding annual period debt service on
 7 [*such*] **the** bonds. However, this subsection does not require the governmental unit to adopt a sup-
 8 plemental budget to pay the principal and interest coming due on [*such*] **the** [*bonds, or on*] **general**
 9 **obligation or** limited tax bonds[,] in the fiscal year in which [*such*] **the** bonds are authorized and
 10 issued.[, *but*] The governmental unit may pay [*such*] principal and interest **in the fiscal year in**
 11 **which the bonds are authorized and issued** from any lawfully available source of funds without
 12 adopting a supplemental budget [*therefor*].

13 [(6)] (5) When issuing limited tax bonds, a governmental unit may:

14 (a) Establish the maturity schedule, interest rates, including variable or adjustable rates of in-
 15 terest, redemption provisions and other terms of the limited tax bonds. Notwithstanding this sub-
 16 section, the governing body, in the ordinance or resolution authorizing the issuance of [*such*] **the**
 17 bonds or notes, may delegate to any elected or appointed official or employee of the governmental
 18 unit the authority to determine the maturity dates, principal amounts, redemption provisions, inter-
 19 est rates or the method of determining a variable or adjustable interest rate, denominations and
 20 other terms and conditions of [*such*] **the** bonds [*which*] **that** are not appropriately determined at the
 21 time of enactment of the authorizing ordinance or resolution. [, *which delegated authority shall*] **The**
 22 **authority delegated under this subsection must** be exercised subject to the applicable require-
 23 ments of law and [*such*] **the** limitations and criteria [*as may be*] set forth in [*such*] **the** ordinance
 24 or resolution;

25 (b) Pledge as additional security for the limited tax bonds all or any portion of its revenues **or**
 26 **other funds** of whatever kind or nature and from whatever source derived [*which, under applicable*
 27 *law,*] **that** are not specifically restricted, **under applicable law**, to uses other than the payment of
 28 the amounts owing on [*such*] **the** bonds[, *including but not limited to excise taxes, property taxes and*
 29 *other taxes of whatever kind or nature, revenues derived from any*] **including, but not limited to,**
 30 **taxes, fees or income derived from** public utilities or other [*revenue*] **income**-producing enter-
 31 prises operated by the governmental unit, or agencies or instrumentalities thereof, [*user charges,*
 32 *business and license fees,*] **or** fines and penalties, and make and enter into covenants with the owners
 33 of [*such*] **the** bonds to pay all or any portion of the amounts owing thereon out of all or any portion
 34 of [*such*] **the** revenues **or other funds**;

35 (c) Grant mortgages, trust deeds or security interests in property [*which*] **that** is financed with
 36 the limited tax bonds and related property, in order to enhance the security of limited tax bonds or
 37 the obligations of the governmental unit under [*or with respect to any*] **a** related credit enhancement
 38 device[. *For purposes of this subsection, "related property" shall include any tangible personal or real*
 39 *property comprising a part of a system such as a water, sewer or other public utility system of which*
 40 *the financed property is a part, and shall also include any tangible personal or real property which is*
 41 *functionally related to or used in connection with the property financed*];

42 (d) Obtain a credit enhancement device providing additional security for the payment of all or
 43 any portion of the amounts owing under [*such*] **the** bonds or for the purpose of funding, in lieu of
 44 cash, all or any portion of any debt service reserve established with respect to [*such*] **the** bonds.
 45 The governmental unit may pledge as security for its obligations arising under [*or with respect to*

1 any] a credit enhancement device any revenues pledged to the payment of the related bonds, and
2 [such] the obligations [shall in any event be] are payable from the same sources from which [such]
3 the bonds are payable. For purposes of this subsection, "credit enhancement device" means a letter
4 of credit, line of credit, municipal bond insurance policy, standby purchase agreement or other device
5 or facility used to enhance the creditworthiness or marketability of municipal bonds];

6 (e) Enter into agreements with bond trustees and deposit funds with trustees for the benefit of
7 bond owners and the providers of credit enhancement devices for bonds;

8 (f) Enter into covenants for the benefit of bond owners or the providers of credit enhancement
9 devices for bonds [which] that are intended to improve the security of bond owners or providers of
10 credit enhancement devices, or to maintain the tax exempt status of interest payable on bonds or
11 credit enhancement agreements. [Such] Covenants may include, but are not limited to, covenants
12 regarding the issuance of additional bonds and other financial obligations, the imposition and col-
13 lection of any revenues [which] that secure the bonds, and the priority of payment of bonds and
14 other financial obligations of the governmental unit; and

15 (g) Establish a debt service reserve for the purpose of paying when due all amounts owing on
16 [such] the bonds[, which] and fund the debt service reserve [may be funded out of the] with proceeds
17 derived from the issuance and sale of [such] the bonds or from [such] other sources [as] determined
18 by the governing body of the governmental unit [may determine].

19 [(7)] (6) A security interest granted by a governmental unit under authority of ORS 288.150 to
20 288.165 [shall attach and be] attaches and is perfected on the date the security interest is granted
21 or the date the governmental unit takes possession of the property in which the security interest is
22 granted, whichever is later. A security interest authorized by ORS 288.150 to 288.165 [shall have]
23 has priority over all other liens and claims.

24 **SECTION 9.** ORS 288.515 is amended to read:

25 288.515. As used in ORS 288.515 to 288.600:

26 (1) "Bonds" means general obligation, revenue or tax increment bonds, [or] notes, **lease pur-**
27 **chase, financing or loan agreements, land sale contracts or other borrowings** of a public body.

28 (2) "Public body" means the State of Oregon, its agencies, institutions or any municipality au-
29 thorized by law to issue bonds.

30 (3) "Municipality" means a political subdivision of this state and municipal, quasi-municipal and
31 public corporations and intergovernmental entities organized under ORS chapter 190 authorized by
32 law to issue bonds.

33 **SECTION 10.** ORS 288.605 is amended to read:

34 288.605. As used in ORS 288.605 to 288.695, unless the context requires otherwise:

35 (1) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first
36 subject to redemption or maturing one year or more from the date of the advance refunding bonds.

37 (2) "Bond" means any revenue bond, general obligation bond or certificate of participation.

38 (3) "Certificate of participation" means:

39 (a) Any financing agreement entered into by the State of Oregon, an agency or institution of the
40 State of Oregon under ORS 283.085 to 283.092 or a public corporation under ORS chapter 353, or
41 any certificate of participation issued under such financing agreement.

42 (b) Any financing agreement entered into by a local public body authorized by law to enter into
43 financing agreements, or any certificate of participation issued under such financing agreements.

44 (4) "Financing agreement" means a lease purchase agreement, an installment sale agreement, a
45 loan agreement or any other agreement to finance real or personal property that is or will be owned

1 and operated by a public body, or to refinance previously executed financing agreements.

2 (5) "Forward current refunding" means execution and delivery of a forward delivery bond pur-
3 chase agreement or similar instrument under which a public body contracts to sell current refunding
4 bonds at a specified future date.

5 (6) "General obligation bond" means any bond, note, warrant, certificate of indebtedness or
6 other obligation of a public body which constitutes an indebtedness within the meaning of the con-
7 stitutional or statutory debt limitation and which is secured by the unlimited taxing power of the
8 public body.

9 (7) "Governing body" means the council, commission, board or other legislative body of the
10 public body designated in ORS 288.605 to 288.695 in which body the legislative powers of the public
11 body are vested, provided that with respect to the state it shall mean the State Treasurer.

12 (8) "Government obligations" means any of the following:

13 (a) Direct obligations of or obligations the principal of and interest on which are unconditionally
14 guaranteed by the United States of America and bank certificates of deposit secured by [*such*] **the**
15 obligations;

16 (b) Bonds, debentures, notes, **certificates of participation** [*certificates*] or other obligations is-
17 sued by a **federal agency or other instrumentality of the United States Government; or**

18 (c) **Other debt obligations determined by administrative rule of the State Treasurer or**
19 **the Oregon Municipal Debt Advisory Commission to be highly secured and widely accepted**
20 **in the marketplace as obligations for a defeasance escrow.**[*the banks for cooperatives, the federal*
21 *intermediate credit bank, the federal home loan bank system, the export-import bank of the United*
22 *States, federal land banks or the federal national mortgage association;*]

23 [*(c) Public housing bonds and project notes fully secured by contracts with the United States;*]

24 [*(d) Obligations of financial institutions insured by the Federal Deposit Insurance Corporation to*
25 *the extent insured or to the extent guaranteed as permitted under any other state law; or]*

26 [*(e) General obligation bonds of the State of Oregon bearing a rating from a nationally recognized*
27 *rating service at least equal in quality to the rating assigned by such service to the bonds being re-*
28 *funded.*]

29 (9) "Issuer" means the public body issuing any bond or bonds.

30 (10) "Ordinance" means an ordinance of a public body or resolution or other instrument by
31 which the governing body of the public body exercising any power takes formal action and adopts
32 legislative provisions and matters of some permanency.

33 (11) "Public body" means the State of Oregon, its agencies, institutions, political subdivisions,
34 municipal, quasi-municipal and public corporations and intergovernmental entities created by inter-
35 governmental agreements under ORS chapter 190 authorized by law to issue general obligation
36 bonds or revenue bonds or to enter into financing agreements and cause certificates of participation
37 to be issued under such financing agreements.

38 (12) "Revenue bond" means any bond, note, warrant, certificate of indebtedness or other obli-
39 gation for the payment of money issued by a public body or any predecessor of any public body and
40 which is payable from designated revenues or a special fund but excluding any obligation consti-
41 tuting an indebtedness within the meaning of the constitutional or statutory debt limitations and any
42 obligation payable solely from special assessments or special assessments and a guaranty fund.

43 (13) "Special revenue bond" means any bond, note, warrant, certificate of indebtedness or other
44 obligation for the payment of money issued by a public body or any predecessor of any public body
45 which is payable from designated revenues or a special fund and which is subject to statutory debt

1 limitations.

2 **SECTION 11.** ORS 288.645 is amended to read:

3 288.645. (1) Advance refunding bonds *[shall]* **may** not be issued in a principal amount in excess
4 of the minimum principal amount **estimated to be** necessary:

5 [(1) (a) To purchase a principal amount of government securities *[which]* **that is**, together with
6 the interest earnings thereon, *[will be]* sufficient to pay all installments of principal, interest and
7 redemption premiums, if any, on the bonds being refunded when they fall due in accordance with the
8 advance refunding plan; and

9 [(2) (b) To pay any amounts charged to the issuer as administrative costs, expenses or fees, in
10 connection with the advance refunding transaction, **that** *[which]* can be paid from the proceeds of
11 the advance refunding bond issue.

12 **(2) If the issuer of advance refunding bonds receives an amount of proceeds that exceeds**
13 **the actual amount required under subsection (1) of this section, the excess amount of pro-**
14 **ceeds must be used to pay interest on the advance refunding bonds.**

15 **SECTION 12.** ORS 288.865 is amended to read:

16 288.865. [(1) If revenue bonds are issued by a municipality, the municipality shall prepare and
17 make available *[to bidders and investors]*, **for use in connection with the initial offering and sale**
18 **of the revenue bonds**, a preliminary official statement that *[includes the following:]*

19 [(a) *Past and current financing and estimated future financing of the issuer;*]

20 [(b) *Brief description of the financial administration and organization of the issuer;*]

21 [(c) *Brief description of the economic and social characteristics of the issuer;*]

22 [(d) *A detailed description of the project being financed, the sources of revenue to repay the debt*
23 *and an analysis of the economic feasibility of the project;*]

24 [(e) **discloses the material information that the issuer determines is relevant to a po-**
25 **tential investor and** any information the Oregon Municipal Debt Advisory Commission may by rule
26 require; *and*].

27 [(f) *Any other information the issuer may provide.*]

28 [(2) *The preliminary official statement described in subsection (1) of this section shall be available*
29 *not fewer than 10 calendar days preceding the date of the revenue bond sale.*]

30 [(3) *The preliminary official statement described in subsection (1) of this section shall contain the*
31 *best available information, shall be accurate to the best knowledge of the issuer, and shall be specif-*
32 *ically approved by the municipality.*]

33 [(4) *The requirement for the preliminary official statement described in subsections (1) to (3) of this*
34 *section, at the request of the purchaser, may be waived if the revenue bonds are not being bought with*
35 *the intent to resell them.*]

36 [(5) *If circumstances warrant, and if the revenue bonds are to be issued at a private negotiated sale,*
37 *the State Treasurer may on an individual sale basis approve a shorter period than 10 days for the*
38 *availability of the preliminary official statement required by subsection (2) of this section.*]

39 **SECTION 13.** ORS 294.035 is amended to read:

40 294.035. (1) Subject to ORS 294.040 and 294.135 to 294.155, the custodial officer may, *after hav-*
41 *ing obtained a written order from the governing body of the county, municipality, political subdivision*
42 *or school district, which order shall be spread upon the minutes or journal of the governing body,*
43 invest any sinking fund, bond fund or surplus funds in the custody of the custodial officer in the
44 bank accounts, classes of securities at current market prices, insurance contracts and other invest-
45 ments listed in this section, **but only after obtaining from the governing body of the county,**

1 **municipality, political subdivision or school district a written order that has been entered in**
2 **the minutes or journal of the governing body.** [*However, the custodial officer of any county shall*
3 *make no such investment of funds belonging to any municipality, political subdivision or school district,*
4 *unless and until the custodial officer has received a written order from the governing body of the*
5 *municipality, political subdivision or school district to which the funds belong, which order authorizes*
6 *the custodial officer to invest the funds, and which order has been spread upon the minutes or journal*
7 *of the governing body.*]

8 (2) This section[, *however, shall*] **does not:**

9 (a) Limit the authority of the custodial officer to invest surplus funds in other investments when
10 the investment is specifically authorized by another statute.

11 (b) **Apply to a sinking fund or a bond fund established in connection with conduit revenue**
12 **bonds issued by a county, municipality, political subdivision or school district for private**
13 **business entities or nonprofit corporations.**

14 (3) Investments authorized by this section are:

15 [(1)] (a) Lawfully issued general obligations of the United States, the agencies and instrument-
16 alities of the United States or enterprises sponsored by the United States Government.

17 [(2)] (b) Lawfully issued debt obligations of the agencies and instrumentalities of the State of
18 Oregon and its political subdivisions that have a long-term rating of A or an equivalent rating or
19 better or are rated on the settlement date in the highest category for short-term municipal debt by
20 a nationally recognized statistical rating organization.

21 [(3)] (c) Lawfully issued debt obligations of the States of California, Idaho and Washington and
22 political subdivisions of those states if the obligations have a long-term rating of AA or an equiv-
23 alent rating or better or are rated on the settlement date in the highest category for short-term
24 municipal debt by a nationally recognized statistical rating organization.

25 [(4)] (d) Time deposit open accounts, certificates of deposit and savings accounts in insured in-
26 stitutions as defined in ORS 706.008, in credit unions as defined in ORS 723.006 or in federal credit
27 unions, if the institution or credit union maintains a head office or a branch in this state.

28 [(5)] (e) Share accounts and savings accounts in credit unions in the name of, or for the benefit
29 of, a member of the credit union pursuant to a plan of deferred compensation.

30 [(6)] (f) Fixed or variable life insurance or annuity contracts as defined by ORS 731.170 and
31 guaranteed investment contracts issued by life insurance companies authorized to do business in this
32 state.

33 [(7)] (g) Trusts in which deferred compensation funds from other public employers are pooled,
34 if:

35 [(a)] (A) The purpose is to establish a deferred compensation plan;

36 [(b)] (B) The trust is a public instrumentality of such public employers and described in section
37 (2)(b) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(b), as amended, in effect on September
38 20, 1985, or the trust is a common trust fund described in ORS 709.170;

39 [(c)] (C) Under the terms of the plan the net income from or gain or loss due to fluctuation in
40 value of the underlying assets of the trust, or other change in such assets, is reflected in an equal
41 increase or decrease in the amount distributable to the employee or the beneficiary thereof and,
42 therefore, does not ultimately result in a net increase or decrease in the worth of the public em-
43 ployer or the state; and

44 [(d)] (D) The fidelity of the trustees and others with access to such assets, other than a trust
45 company, as defined in ORS 706.008, is insured by a surety bond that is satisfactory to the public

1 employer, issued by a company authorized to do a surety business in this state and in an amount
2 that is not less than 10 percent of the value of such assets.

3 [(8)(a)] **(h)(A)** Banker’s acceptances, if the banker’s acceptances are:

4 [(A)] **(i)** Guaranteed by, and carried on the books of, a qualified financial institution;

5 [(B)] **(ii)** Eligible for discount by the Federal Reserve System; and

6 [(C)] **(iii)** Issued by a qualified financial institution whose short-term letter of credit rating is
7 rated in the highest category by one or more nationally recognized statistical rating organizations.

8 [(b)] **(B)** For the purposes of this [subsection] **paragraph**, “qualified financial institution” means:

9 [(A)] **(i)** A financial institution that is located and licensed to do banking business in the State
10 of Oregon; or

11 [(B)] **(ii)** A financial institution that is wholly owned by a financial holding company or a bank
12 holding company that owns a financial institution that is located and licensed to do banking busi-
13 ness in the State of Oregon.

14 [(c)] **(C)** A custodial officer shall not permit more than 25 percent of the moneys of a local
15 government that are available for investment, as determined on the settlement date, to be invested
16 in banker’s acceptances of any qualified financial institution.

17 [(9)(a)] **(i)(A)** Corporate indebtedness subject to a valid registration statement on file with the
18 Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the
19 Securities Act of 1933, as amended. Corporate indebtedness described in this [subsection] **paragraph**
20 does not include banker’s acceptances. The corporate indebtedness must be issued by a commercial,
21 industrial or utility business enterprise, or by or on behalf of a financial institution, including a
22 holding company owning a majority interest in a qualified financial institution.

23 [(b)] **(B)** Corporate indebtedness must be rated on the settlement date P-1 or Aa or better by
24 Moody’s Investors Service or A-1 or AA or better by Standard & Poor’s Corporation or equivalent
25 rating by any nationally recognized statistical rating organization.

26 [(c)] **(C)** Notwithstanding [paragraph (b) of this subsection] **subparagraph (B) of this**
27 **paragraph**, the corporate indebtedness must be rated on the settlement date P-2 or A or better by
28 Moody’s Investors Service or A-2 or A or better by Standard & Poor’s Corporation or equivalent
29 rating by any nationally recognized statistical rating organization when the corporate indebtedness
30 is:

31 [(A)] **(i)** Issued by a business enterprise that has its headquarters in Oregon, employs more than
32 50 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets
33 in Oregon; or

34 [(B)] **(ii)** Issued by a holding company owning not less than a majority interest in a qualified
35 financial institution, as defined in [subsection (8) of this section] **paragraph (h) of this subsection**,
36 located and licensed to do banking business in Oregon or by a holding company owning not less than
37 a majority interest in a business enterprise described in [subparagraph (A) of this paragraph] **sub-**
38 **subparagraph (i) of this subparagraph**.

39 [(d)] **(D)** A custodial officer [shall] **may** not permit more than 35 percent of the moneys of a
40 local government that are available for investment, as determined on the settlement date, to be in-
41 vested in corporate indebtedness, and [shall] **may** not permit more than five percent of the moneys
42 of a local government that are available for investment to be invested in corporate indebtedness of
43 any single corporate entity and its affiliates or subsidiaries.

44 [(10)] **(j)** Securities of any open-end or closed-end management investment company or invest-
45 ment trust, if the securities are of the types specified in [subsections (1) to (3), (8) and (9) of this

1 *section*] **paragraphs (a) to (c), (h) and (i) of this subsection** and if the investment does not cause
 2 the county, municipality, political subdivision or school district to become a stockholder in a joint
 3 company, corporation or association. A trust company or trust department of a national bank while
 4 acting as indenture trustee may invest funds held by it as indenture trustee in any open-end or
 5 closed-end management investment company or investment trust for which the trust company or
 6 trust department of a national bank or an affiliate of the trust company or trust department of a
 7 national bank acts as investment adviser or custodian or provides other services. However, the se-
 8 curities of the investment company or investment trust in which [*such*] **the** funds are invested must
 9 be of the types specified in [*subsections (1) to (3), (8) and (9) of this section*] **paragraphs (a) to (c),**
 10 **(h) and (i) of this subsection** and the investment must not cause the county, municipality, political
 11 subdivision or school district whose funds are invested to become a stockholder in a joint company,
 12 corporation or association. For purposes of this [*subsection*] **paragraph**, companies are affiliated if
 13 they are members of the same affiliated group under section 1504 of the Internal Revenue Code of
 14 1986 (26 U.S.C. 1504).

15 [(11)] **(k)** Repurchase agreements whereby the custodial officer purchases securities from a fi-
 16 nancial institution or securities dealer subject to an agreement by the seller to repurchase the se-
 17 curities. The repurchase agreement must be in writing and executed in advance of the initial
 18 purchase of the securities that are the subject of the repurchase agreement. Only securities de-
 19 scribed in [*subsection (1) of this section shall*] **paragraph (a) of this subsection may** be used in
 20 conjunction with a repurchase agreement and such securities shall have a maturity of not longer
 21 than three years. The price paid by the custodial officer for such securities may not exceed amounts
 22 or percentages prescribed by written policy of the Oregon Investment Council or the Oregon Short
 23 Term Fund Board created by ORS 294.885.

24 **SECTION 13a. If House Bill 2395 becomes law, section 2, chapter 91, Oregon Laws 2005**
 25 **(Enrolled House Bill 2395) (amending ORS 294.035), is repealed and ORS 294.035, as amended**
 26 **by section 13 of this 2005 Act, is amended to read:**

27 294.035. (1) Subject to ORS 294.040 and 294.135 to 294.155, the custodial officer may invest any
 28 sinking fund, bond fund or surplus funds in the custody of the custodial officer in the bank accounts,
 29 classes of securities at current market prices, insurance contracts and other investments listed in
 30 this section, but only after obtaining from the governing body of the county, municipality, political
 31 subdivision or school district a written order that has been entered in the minutes or journal of the
 32 governing body.

33 (2) This section does not:

34 (a) Limit the authority of the custodial officer to invest surplus funds in other investments when
 35 the investment is specifically authorized by another statute.

36 (b) Apply to a sinking fund or a bond fund established in connection with conduit revenue bonds
 37 issued by a county, municipality, political subdivision or school district for private business entities
 38 or nonprofit corporations.

39 (3) Investments authorized by this section are:

40 (a) Lawfully issued general obligations of the United States, the agencies and instrumentalities
 41 of the United States or enterprises sponsored by the United States Government.

42 (b) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon
 43 and its political subdivisions that have a long-term rating of A or an equivalent rating or better or
 44 are rated on the settlement date in the highest category for short-term municipal debt by a na-
 45 tionally recognized statistical rating organization.

1 (c) Lawfully issued debt obligations of the States of California, Idaho and Washington and poli-
2 tical subdivisions of those states if the obligations have a long-term rating of AA or an equivalent
3 rating or better or are rated on the settlement date in the highest category for short-term municipal
4 debt by a nationally recognized statistical rating organization.

5 (d) Time deposit open accounts, certificates of deposit and savings accounts in insured insti-
6 tutions as defined in ORS 706.008, in credit unions as defined in ORS 723.006 or in federal credit
7 unions, if the institution or credit union maintains a head office or a branch in this state.

8 (e) Share accounts and savings accounts in credit unions in the name of, or for the benefit of,
9 a member of the credit union pursuant to a plan of deferred compensation.

10 (f) Fixed or variable life insurance or annuity contracts as defined by ORS 731.170 and guaran-
11 teed investment contracts issued by life insurance companies authorized to do business in this state.

12 (g) Trusts in which deferred compensation funds from other public employers are pooled, if:

13 (A) The purpose is to establish a deferred compensation plan;

14 (B) The trust is a public instrumentality of such public employers and described in section (2)(b)
15 of the Investment Company Act of 1940, 15 U.S.C. 80a-2(b), as amended, in effect on September 20,
16 1985, or the trust is a common trust fund described in ORS 709.170;

17 (C) Under the terms of the plan the net income from or gain or loss due to fluctuation in value
18 of the underlying assets of the trust, or other change in such assets, is reflected in an equal increase
19 or decrease in the amount distributable to the employee or the beneficiary thereof and, therefore,
20 does not ultimately result in a net increase or decrease in the worth of the public employer or the
21 state; and

22 (D) The fidelity of the trustees and others with access to such assets, other than a trust com-
23 pany, as defined in ORS 706.008, is insured by a surety bond that is satisfactory to the public em-
24 ployer, issued by a company authorized to do a surety business in this state and in an amount that
25 is not less than 10 percent of the value of such assets.

26 (h)(A) Banker's acceptances, if the banker's acceptances are:

27 (i) Guaranteed by, and carried on the books of, a qualified financial institution;

28 (ii) Eligible for discount by the Federal Reserve System; and

29 (iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated
30 in the highest category by one or more nationally recognized statistical rating organizations.

31 (B) For the purposes of this paragraph, "qualified financial institution" means:

32 (i) A financial institution that is located and licensed to do banking business in the State of
33 Oregon; or

34 (ii) A financial institution that is wholly owned by a financial holding company or a bank hold-
35 ing company that owns a financial institution that is located and licensed to do banking business in
36 the State of Oregon.

37 (C) A custodial officer shall not permit more than 25 percent of the moneys of a local govern-
38 ment that are available for investment, as determined on the settlement date, to be invested in
39 banker's acceptances of any qualified financial institution.

40 (i)(A) Corporate indebtedness subject to a valid registration statement on file with the Securities
41 and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities
42 Act of 1933, as amended. Corporate indebtedness described in this paragraph does not include
43 banker's acceptances. The corporate indebtedness must be issued by a commercial, industrial or
44 utility business enterprise, or by or on behalf of a financial institution, including a holding company
45 owning a majority interest in a qualified financial institution.

1 (B) Corporate indebtedness must be rated on the settlement date P-1 or Aa or better by Moody's
2 Investors Service or A-1 or AA or better by Standard & Poor's Corporation or equivalent rating by
3 any nationally recognized statistical rating organization.

4 (C) Notwithstanding subparagraph (B) of this paragraph, the corporate indebtedness must be
5 rated on the settlement date P-2 or A or better by Moody's Investors Service or A-2 or A or better
6 by Standard & Poor's Corporation or equivalent rating by any nationally recognized statistical rat-
7 ing organization when the corporate indebtedness is:

8 (i) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50
9 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in
10 Oregon; or

11 (ii) Issued by a holding company owning not less than a majority interest in a qualified financial
12 institution, as defined in paragraph (h) of this subsection, located and licensed to do banking busi-
13 ness in Oregon or by a holding company owning not less than a majority interest in a business en-
14 terprise described in sub-subparagraph (i) of this subparagraph.

15 (D) A custodial officer may not permit more than 35 percent of the moneys of a local govern-
16 ment that are available for investment, as determined on the settlement date, to be invested in
17 corporate indebtedness, and may not permit more than five percent of the moneys of a local gov-
18 ernment that are available for investment to be invested in corporate indebtedness of any single
19 corporate entity and its affiliates or subsidiaries.

20 (j) Securities of any open-end or closed-end management investment company or investment
21 trust, if the securities are of the types specified in paragraphs (a) to (c), (h) and (i) of this subsection
22 and if the investment does not cause the county, municipality, political subdivision or school district
23 to become a stockholder in a joint company, corporation or association. A trust company or trust
24 department of a national bank while acting as indenture trustee may invest funds held by it as
25 indenture trustee in any open-end or closed-end management investment company or investment
26 trust for which the trust company or trust department of a national bank or an affiliate of the trust
27 company or trust department of a national bank acts as investment adviser or custodian or provides
28 other services. However, the securities of the investment company or investment trust in which the
29 funds are invested must be of the types specified in paragraphs (a) to (c), (h) and (i) of this sub-
30 section and the investment must not cause the county, municipality, political subdivision or school
31 district whose funds are invested to become a stockholder in a joint company, corporation or asso-
32 ciation. For purposes of this paragraph, companies are affiliated if they are members of the same
33 affiliated group under section 1504 of the Internal Revenue Code of 1986 (26 U.S.C. 1504).

34 (k) Repurchase agreements whereby the custodial officer purchases securities from a financial
35 institution or securities dealer subject to an agreement by the seller to repurchase the securities.
36 The repurchase agreement must be in writing and executed in advance of the initial purchase of the
37 securities that are the subject of the repurchase agreement. Only securities described in paragraph
38 (a) of this subsection may be used in conjunction with a repurchase agreement and such securities
39 shall have a maturity of not longer than three years. The price paid by the custodial officer for such
40 securities may not exceed amounts or percentages prescribed by written policy of the Oregon In-
41 vestment Council or the Oregon Short Term Fund Board created by ORS 294.885.

42 **(L) Shares of stock of any company, association or corporation, including but not limited**
43 **to shares of a mutual fund, but only if the moneys being invested are funds set aside pur-**
44 **suant to a local government deferred compensation plan and are held in trust for the exclu-**
45 **sive benefit of participants and their beneficiaries.**

1 **SECTION 13b.** The amendments to ORS 294.035 by section 13a of this 2005 Act become
2 operative on January 1, 2006.

3 **SECTION 14.** ORS 294.326 is amended to read:

4 294.326. (1) Except as provided in subsections (3) to (11) of this section, it is unlawful for any
5 municipal corporation to expend money or to certify to the assessor an ad valorem tax rate or es-
6 timated amount of ad valorem taxes to be imposed in any year unless the municipal corporation has
7 complied with ORS 294.305 to 294.565.

8 (2) To the extent that any of subsections (3) to (11) of this section apply in a given case, the
9 municipal corporation need not comply with ORS 294.305 to 294.565.

10 (3) Subsection (1) of this section [*shall*] **does** not apply to the expenditure in the year of receipt
11 of grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific pur-
12 poses or to other special purpose trust funds at the disposal of municipal corporations. However,
13 subsection (1) of this section [*shall*] **does** apply to the expenditure of grants, gifts, bequests or de-
14 vises transferred to a municipal corporation for undesignated general purposes or to the expenditure
15 of grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific pur-
16 poses which were received in a prior year. Expenditure of grants, gifts, bequests and devises exempt
17 from subsection (1) of this section by this subsection [*shall be*] **is** lawful only after enactment by the
18 governing body of the municipal corporation of appropriation ordinances or resolutions authorizing
19 the expenditure.

20 (4) Subsection (1) of this section [*shall*] **does** not apply whenever the governing body of a mu-
21 nicipal corporation has declared the existence of an unforeseen occurrence or condition which could
22 not have been foreseen at the time of the preparation of the budget for the current year or current
23 budget period or could not have foreseen a pressing necessity for the expenditure or has received
24 a request for services or facilities, the cost of which [*shall be*] **is** supplied by a private individual,
25 corporation or company or by another governmental unit necessitating a greater expenditure of
26 public money for any specific purpose or purposes than the amount budgeted [*therefor*] in order to
27 provide the services for which [*it*] **the governing body of the municipal corporation** was respon-
28 sible. [*Such*] **The** governing body may make excess expenditures for [*such*] **the** specific purpose or
29 purposes beyond the amount budgeted and appropriated [*therefor*] to the extent that maintenance,
30 repair or self-insurance reserves authorized by ORS 294.366 or nontax funds are available or may
31 be made available. [*Such*] **The** expenditures [*shall be*] **are** lawful only after the enactment of appro-
32 priate appropriation ordinances or resolutions authorizing the expenditures. The ordinance or re-
33 solution [*shall*] **must** state the need for the expenditure, the purpose for the expenditure and the
34 amount appropriated.

35 (5) Subsection (1) of this section [*shall*] **does** not apply to the expenditure during the current
36 year or current budget period of the proceeds of the sale of the following bonds or other obligations,
37 or to the expenditure during the current year or current budget period of other funds to pay debt
38 service on the following bonds or other obligations:

39 (a) Bonds that are issued under the Uniform Revenue Bond Act, ORS 288.805 to 288.945, for
40 which the referral period described in ORS 288.815 ended after the preparation of the budget of the
41 current year or current budget period;

42 (b) Bonds or other obligations that were approved by the electors during the current year or
43 current budget period; or

44 (c) Bonds or other obligations issued during the current year or current budget period to refund
45 previously issued bonds or obligations.

1 (6) [Notwithstanding subsection (5) of this section,] Subsection (1) of this section [shall] **does** not
2 apply to:

3 (a) Expenditures of funds received from the sale of conduit revenue bonds **or other borrowings**
4 issued for private business **entities** or nonprofit corporations by cities, counties, county service
5 districts, port districts, special districts, the Port of Portland or the State of Oregon or to pay debt
6 service on [such] **the** bonds;

7 (b) Expenditures of funds that have been irrevocably placed in escrow for the purpose of
8 defeasing and paying bonds **or other borrowings**; [or]

9 (c) Expenditures of assessments or other revenues to redeem bonds or other obligations that are
10 payable from [such] **the** assessments or other revenues, when [such] **the** assessments or other re-
11 venues are received as a result of prepayments or other unforeseen circumstances[.]; **or**

12 **(d) Expenditures of funds that are held as debt service reserves for bonds or other bor-**
13 **rowings if the expenditures are made to:**

14 **(A) Pay debt service on the bonds or other borrowings;**

15 **(B) Redeem the bonds or other borrowings; or**

16 **(C) Fund an escrow or trust account to defease or pay the bonds or other borrowings.**

17 (7) Subsection (1) of this section [shall] **does** not apply to expenditures of funds received from
18 assessments against benefited property for local improvements as defined in ORS 223.001 to the ex-
19 tent that the cost of [such] **the** improvements is to be paid by owners of benefited property.

20 (8) Subsection (1) of this section [shall] **does** not apply to the expenditure of funds accumulated
21 to pay deferred employee compensation.

22 (9) Subsection (1) of this section [shall] **does** not apply to refunds or the interest on [them] **re-**
23 **funds** granted by counties under ORS 311.806.

24 (10) Subsection (1) of this section [shall] **does** not apply to refunds[,] received by a municipal
25 corporation when purchased items are returned after an expenditure has been made. Expenditure
26 of refunded amounts to which this subsection applies [shall be] **is** lawful only after the governing
27 body of the municipal corporation has enacted, after public hearing, appropriate appropriation or-
28 dinances or resolutions authorizing [such] **the** expenditure.

29 (11) Subsection (1) of this section [shall] **does** not apply to a newly formed municipal corporation
30 during the fiscal year in which it was formed. If a new municipal corporation is formed between
31 March 1 and June 30, subsection (1) of this section [shall] **does** not apply to the municipal corpo-
32 ration during the fiscal year immediately following the fiscal year in which it was formed.

33 **SECTION 15.** ORS 297.405 is amended to read:

34 297.405. As used in ORS 297.020, 297.230, 297.405 to 297.740 and 297.990:

35 (1) "Accountants" means [and indicates] all accountants whose names are included in the roster
36 prepared and maintained by the Oregon Board of Accountancy as required by ORS 297.670.

37 (2) "Accounts" means [and includes] all books, papers, files, letters and records of any nature
38 or in any form used in conducting the affairs of the municipal corporation or in recording the
39 transactions thereof.

40 (3) "Board" means the Oregon Board of Accountancy.

41 (4) "Fiscal affairs" means and includes all activities of any nature giving rise to or resulting
42 from financial transactions, including compliance with legal requirements applicable to the operation
43 of a municipal corporation.

44 (5) "Municipal corporation" means a [county, city, district or other]:

45 **(a) City;**

1 **(b) County;**

2 **(c) Special district;**

3 **(d) Corporation, except a municipal corporation established pursuant to ORS 441.525 to**
4 **441.595, upon which is conferred powers of the state for the purpose of local government; or**

5 **(e) [a] Public corporation, including a cooperative body formed between municipal**
6 **corporations[, except in a city which by charter establishes a board or commission with responsibility**
7 **for operating a water and electric utility of the city, which is governed by a board elected by the people,**
8 **both the city and the board or commission shall be separate municipal corporations within the meaning**
9 **of ORS 297.405 to 297.555 and 297.990].**

10 (6) “Public corporation” means a corporation the operation of which is subject to control by
11 local government or its officers and which, at least in part, is organized to serve a public purpose
12 of, and receives public funds or other support having monetary value from, such government.

13 **SECTION 16. Section 17 of this 2005 Act is added to and made a part of ORS 297.405 to**
14 **297.740.**

15 **SECTION 17. When a city, by charter, establishes a board or commission that is elected**
16 **by the people to operate a water utility or an electric utility of the city, the city and the**
17 **water utility or the electric utility are separate municipal corporations for the purposes of**
18 **ORS 297.405 to 297.555 and 297.990.**

19 **SECTION 18.** ORS 305.583 is amended to read:

20 305.583. (1) An interested taxpayer may petition the regular division of the Oregon Tax Court
21 to determine a question described in ORS 305.580.

22 **(2)(a)** For purposes of this section and a question described in ORS 305.580 (1)(a), “interested
23 taxpayer” means a person that is subject to the tax, fee, charge or assessment in question.

24 **(b)** For purposes of this section and a question described in ORS 305.580 (1)(b), “interested tax-
25 payer” means a person that is subject to a tax, fee, charge or assessment that is pledged to secure
26 or available for payment of bonded indebtedness described in section 11 (11)(d), Article XI of the
27 Oregon Constitution.

28 [(2)] **(3)** The petition shall be filed and perfected in the following manner only:

29 (a) The petitioner shall file an original and two certified copies of a petition with the clerk of
30 the tax court at its principal office in Salem, Oregon. The petition shall name as respondent the
31 government unit that imposes the tax, fee, charge or assessment, that issues the bonded indebtedness
32 or, in the case of an urban renewal agency, that receives the taxes. The filing in the tax court shall
33 constitute the perfection of the petition. The clerk of the tax court shall serve the government unit
34 by mailing a certified copy of the petition to the recording officer or chief administrative officer of
35 the local government unit or to the Attorney General if the tax, fee, charge or assessment in ques-
36 tion is imposed by the State of Oregon. The clerk also shall serve a copy of any petition naming a
37 local government unit as respondent upon the Oregon Department of Justice.

38 (b) The petition shall state the facts and grounds upon which the petitioner contends that the
39 tax, fee, charge or assessment is affected by section 11 or 11b, Article XI of the Oregon Constitution,
40 or that a use of the proceeds of bonded indebtedness is not authorized. The case shall proceed
41 thereafter in the manner provided for appeals concerning ad valorem property tax assessments. ORS
42 305.405 to 305.494 shall apply to such actions.

43 [(3)(a)] **(4)(a)** Except as provided in subsections [(4) to (7)] **(5) to (8)** of this section, in the case
44 of a question regarding the effect of the limits of section 11b, Article XI of the Oregon Constitution,
45 on any tax, fee, charge or assessment that is imposed under a resolution or ordinance approved by

1 the governing body of a local government unit, the petition shall be filed within 60 days after the
 2 action of the governing body approving the ordinance or resolution, adopting a new ordinance or
 3 resolution or changing an existing ordinance or resolution under which the tax, fee, charge or as-
 4 sessment is imposed, if the resolution or ordinance includes a classification of the tax, fee, charge
 5 or assessment as subject to or not subject to section 11 or 11b, Article XI of the Oregon Constitu-
 6 tion. If the local government unit has not classified the tax, fee, charge or assessment, the petition
 7 shall be filed within 60 days after the later of:

8 (A) The last date, but no later than November 15, that the tax statements were mailed for the
 9 tax year in which the tax, fee, charge or assessment was imposed; or

10 (B) The date of imposition of the tax, fee, charge or assessment on the petitioner.

11 (b) If the local government unit adopts an ordinance or resolution classifying all or any of the
 12 taxes, fees, charges or assessments it imposes as subject to or not subject to section 11 or 11b, Ar-
 13 ticle XI of the Oregon Constitution, as described in ORS 310.145, the petition shall be filed within
 14 60 days after the governing body adopts the ordinance or resolution.

15 [(4)] (5) In the case of a question concerning any tax, fee, charge or assessment that is charac-
 16 terized by the local government unit as an assessment for local improvements, the petition shall be
 17 filed within 60 days after the local government unit gives notice of its intention to characterize the
 18 charge as an assessment for local improvements. Notice may be given to affected property owners
 19 by the local government unit either when a local improvement district is formed, in a notice of in-
 20 tent to assess given by the local government unit or by other individual notice prior to assessment.
 21 Notice shall be given no later than the date the assessment is imposed. Notice given as provided
 22 under this subsection is in lieu of the notice required under subsection [(8)] (9) of this section.

23 [(5)] (6) In the case of a question concerning any taxes levied to pay principal and interest on
 24 bonded indebtedness approved by the governing body of a local government unit, the petition shall
 25 be filed within 60 days after the date the issuance of the bonded indebtedness was approved by the
 26 governing body of the local government unit if the resolution or ordinance of the governing body
 27 authorizing issuance of the bonded indebtedness includes a classification of the bonded indebtedness
 28 as subject to or not subject to the limits of section 11 or 11b, Article XI of the Oregon Constitution.
 29 If the local government unit has not classified the bonded indebtedness, the petition shall be filed
 30 within 60 days after the date specified in subsection [(3)(a)] (4)(a) of this section.

31 [(6)] (7) In the case of a question concerning any taxes levied to pay principal and interest on
 32 bonded indebtedness not subject to the limits of section 11 or 11b, Article XI of the Oregon Consti-
 33 tution, that was approved by the electors of the local government unit at an election held on or after
 34 September 29, 1991, the petition shall be filed within 60 days after the date of the election at which
 35 the question of issuing the bonded indebtedness was approved by the electors of the local govern-
 36 ment unit.

37 [(7)] (8) In the case of a question concerning the effect of section 11 or 11b, Article XI of the
 38 Oregon Constitution, on any tax, fee, charge or assessment imposed by the state, the petition shall
 39 be filed within 60 days after the first imposition of the tax, fee, charge or assessment by a state
 40 agency. For purposes of this subsection, a tax, fee, charge or assessment shall be considered imposed
 41 when it is due as provided by statute or when the state agency notifies a person that the tax, fee,
 42 charge or assessment is due.

43 [(8)] (9) A local government unit:

44 (a) Shall give notice of its adoption of an ordinance or resolution classifying any of its taxes,
 45 fees, charges or assessments as not being subject to the limits of section 11 or 11b, Article XI of the

1 Oregon Constitution, by publishing, within 15 days after adoption of the ordinance or resolution, an
2 advertisement in a newspaper of general circulation in the county in which the local government
3 unit is located or, if there is no newspaper of general circulation, in a newspaper of general circu-
4 lation in a contiguous county.

5 (b) May give notice of its adoption of an ordinance or resolution specifying the authorized uses
6 of the proceeds of bonded indebtedness by publishing, within 15 days after adoption of the ordinance
7 or resolution, an advertisement in a newspaper of general circulation in the county in which the
8 local government unit is located or, if there is no newspaper of general circulation, in a newspaper
9 of general circulation in a contiguous county.

10 [(9)] (10) A notice described in subsection [(8)] (9) of this section shall:

11 (a) Appear in the general news section of the newspaper, not in the classified advertisements;

12 (b) Measure at least three inches square;

13 (c) Be printed in a type size at least equal to 8-point type; and

14 (d) State that the local government unit has adopted a resolution or ordinance:

15 (A) Classifying one or more of its taxes, fees, charges or assessments as not being subject to the
16 limits of section 11 or 11b, Article XI of the Oregon Constitution, that the reader may contact a
17 designated individual within the local government unit to obtain a copy of the ordinance or resol-
18 ution and that judicial review of the classification of the taxes, fees, charges or assessments may
19 be sought within 60 days of the date of the resolution or ordinance; or

20 (B) Specifying the authorized uses of the proceeds of bonded indebtedness, that the reader may
21 contact a designated individual within the local government unit to obtain a copy of the ordinance
22 or resolution and that judicial review of the specification of authorized uses may be sought within
23 60 days of the date of the resolution or ordinance.

24 [(10)] (11) An ordinance or resolution that results in a mere change in the amount of a tax, fee,
25 charge or assessment and does not result in a change in the characteristics or attributes of the tax,
26 fee, charge or assessment, or contain a change in purpose to which the revenue is applied, may not
27 be considered a change that may result in a proceeding commenced under subsection [(3)] (4) of this
28 section.

29 [(11)] (12) In the case of a question concerning the authorized uses of the proceeds of bonded
30 indebtedness, **the petition must be filed within 60 days after publication of the notice described**
31 **in subsection (9)(b) of this section or**, if the governing body has not published the notice de-
32 scribed in subsection [(8)(b)] (9)(b) of this section, the petition [*shall*] **must** be filed within 180 days
33 after the questioned use of the proceeds is made.

34 **SECTION 19.** ORS 284.365 is amended to read:

35 284.365. (1) All moneys collected, received or appropriated to the Oregon Film and Video Office
36 shall be deposited in an account established in a depository bank insured by the Federal Deposit
37 Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent
38 with the requirements of ORS chapter 295, the chairperson of the Film and Video Board shall insure
39 that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the cov-
40 erage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance
41 Fund. Subject to approval by the chairperson, the board may invest moneys collected or received
42 by the office. Investments made by the board are limited to the types of investments listed in ORS
43 294.035 [(1) to (9)] (3)(a) to (i). Interest earned from any amounts invested [*shall*] **must** be made
44 available to the office in a manner consistent with the biennial budget approved by the board.

45 (2) Subject to the approval of the director of the office, all necessary expenses of the office and

1 the board *[shall]* **must** be paid from the moneys collected, appropriated or earned by the office.

2 (3) The office shall adopt a budget on a biennial basis using the classifications of expenditures
3 and revenues required by ORS 291.206 (1). The budget *[shall not be]* **is not** subject to review and
4 approval by the Legislative Assembly or to modification by the Emergency Board or the Legislative
5 Assembly. However, the budget *[shall]* **must** be included in the biennial report required by ORS
6 284.335 (5).

7 (4) The board shall adopt a budget only after holding a public hearing on the proposed budget.
8 At least 15 days prior to any public hearing on the proposed budget, the board shall give notice of
9 the hearing to all persons known to be interested in the proceedings of the board and to any person
10 who requests notice.

11 (5) All expenditures from the account established for the office under subsection (1) of this sec-
12 tion are exempt from any state expenditure limitation. The office shall follow generally accepted
13 accounting principles and keep such financial and statistical information that is necessary to com-
14 pletely and accurately disclose the financial condition and financial operations of the office as may
15 be required by the Secretary of State.

16 (6) As used in this section, “depository bank” has the meaning given that term in ORS 295.005.

17 **SECTION 20.** ORS 285A.274 is amended to read:

18 285A.274. (1) All moneys collected, received by or appropriated to the Oregon Tourism Com-
19 mission *[shall]* **must** be deposited into an account established by the commission in a depository
20 bank insured by the Federal Deposit Insurance Corporation. In a manner consistent with the re-
21 quirements of ORS chapter 295, the chair of the commission shall ensure that sufficient collateral
22 secures any amount of funds on deposit that exceeds the limits of the Federal Deposit Insurance
23 Corporation’s coverage.

24 (2) Subject to the approval of the chair, the commission may invest moneys collected or received
25 by the commission. Investments made by the commission *[shall]* **must** be limited to investments de-
26 scribed in ORS 294.035 [(1) to (9)] **(3)(a) to (i)**.

27 (3) Interest earned on any moneys invested under subsection (2) of this section *[shall]* **must** be
28 made available to the commission in a manner consistent with the biennial budget of the commis-
29 sion.

30 (4) **The commission shall spend** state transient lodging tax moneys appropriated to the com-
31 mission under ORS 320.335 *[shall be spent by the commission]* as follows:

32 (a) At least 80 percent *[shall]* **must** be used to fund state tourism marketing programs.

33 (b) As much as 15 percent *[shall]* **must** be used to implement a regional cooperative tourism
34 marketing program. *The program shall* **that**:

35 (A) *[Require that]* **Requires** fund allocations **to** focus on creating new business from out-of-state
36 and international markets;

37 (B) *[Utilize]* **Utilizes** a regional allocation formula that distributes revenue to regions, the
38 boundaries of which are established by the commission, in proportion to the amount of transient
39 lodging tax revenues collected in each region;

40 (C) *[Distribute]* **Distributes** revenue to recipients that are selected by the commission as or-
41 ganizations able to conduct tourism-related marketing for each region;

42 (D) *[Require that all]* **Requires** advertising, publications, CD-ROMs, websites, videos and other
43 tourism promotion materials funded through the regional cooperative tourism marketing program
44 **to** carry the Oregon Tourism Commission logo and marketing tag line; and

45 (E) *[Encourage]* **Encourages** funding recipients to incorporate design elements from commission

1 advertising and promotional campaigns, such as fonts, images and other design elements.

2 (5) All moneys in the account that are not state transient lodging tax revenues are continuously
3 appropriated to the commission for the purposes of carrying out the functions of the commission.

4 (6) All expenditures from the account are exempt from any state expenditure limitation.

5 **SECTION 21.** ORS 294.040 is amended to read:

6 294.040. The bonds listed in ORS 294.035 [(1) to (3)] **(3)(a) to (c)** may be purchased only if there
7 has been no default in payment of either the principal of or the interest on the obligations of the
8 issuing county, port, school district or city, for a period of five years next preceding the date of the
9 investment.

10 **SECTION 22.** ORS 294.046 is amended to read:

11 294.046. The State Treasurer shall prepare and keep current a list of agencies and instrument-
12 alities of the United States with available obligations that any county, municipality, political subdivi-
13 sion or school district may invest in under ORS 294.035 [(1)] **(3)(a)** and 294.040. The list shall be
14 distributed, upon request, to any county, municipality, political subdivision or school district.

15 **SECTION 23.** ORS 294.048 is amended to read:

16 294.048. When funds invested under ORS 294.035 [(4)] **(3)(d)** are required to meet current cash
17 demands and when withdrawal or liquidation of such investments at the time would cause a loss
18 because the investment would be withdrawn or liquidated prior to maturity, the custodial officer
19 may, after receiving the approval of the governing body, borrow funds on short-term promissory
20 notes that shall be secured by pledging or assigning the investments held under ORS 294.035 [(4)]
21 **(3)(d)**. The notes shall mature in not more than six months after date of issue. If a lender demands
22 physical possession of the certificates of deposit or other evidence of an investment pledged or as-
23 signed under this section, the custodial officer shall deliver the certificate or other evidence to the
24 lender.

25 **SECTION 24.** ORS 294.135 is amended to read:

26 294.135. (1) An investment made by a custodial officer under ORS 294.035 [(1) to (6) and (8) to
27 (10)] **(3)(a) to (f) and (h) to (j)** or 294.125 may not exceed a maturity of 18 months or the date of
28 anticipated use of the funds by the county, municipality, school district or other political subdivision
29 to which the funds belong, whichever period is shorter. However:

30 (a) The custodial officer may make investments having a maturity longer than 18 months when
31 the governing body of the county, municipality, school district or other political subdivision to which
32 the funds belong has adopted a written investment policy that, prior to adoption, was submitted to
33 the Oregon Short Term Fund Board for review and comment to the governing body, that includes
34 guidelines concerning maximum investment maturity dates and that provides by its terms for rea-
35 doption not less than annually; or

36 (b) When the funds in question are being accumulated for an anticipated use that will occur
37 more than 18 months after the funds are invested, then, upon the approval of the governing body
38 of the county, municipality, school district or other political subdivision, the maturity of the in-
39 vestment or investments made with the funds may occur when the funds are expected to be used.

40 (2) The maximum term of any repurchase agreement transaction may not exceed 90 days.

41 **SECTION 25.** ORS 441.590 is amended to read:

42 441.590. ORS 441.525 to 441.595 are complete authority for the organization of authorities and
43 for the issuance and sale of revenue bonds and refunding revenue bonds. Any restrictions, limita-
44 tions, conditions or procedures provided by other statutes, including but not limited to the pro-
45 visions of ORS chapter 198 and ORS [288.320 and] 440.305 to 440.410, do not apply to the

1 organization of authorities and the issuance and sale of revenue bonds pursuant to ORS 441.525 to
 2 441.595. However, nothing contained in ORS 441.525 to 441.595 shall be construed as a restriction
 3 or limitation upon any powers which an authority might otherwise have under any law of this state
 4 or the charter of any municipality.

5 **SECTION 26.** ORS 468.272 is amended to read:

6 468.272. Any restrictions, limitations, conditions or procedures provided by other statutes relat-
 7 ing to the issuance and sale of bonds or other obligations [*including, but not limited to, any re-*
 8 *strictions, limitations, conditions or procedures set forth in ORS 288.320,*] do not apply to the issuance
 9 and sale of bonds authorized by ORS 468.263 to 468.272.

10 **SECTION 27.** ORS 777.590 is amended to read:

11 777.590. (1) ORS 777.560 to 777.590 are complete authority for the issuance and sale of revenue
 12 bonds and refunding revenue bonds. Any restrictions, limitations, conditions or procedure provided
 13 by other statutes relating to issuance and sale of bonds or other obligations [*including, but not lim-*
 14 *ited to, any restrictions, limitations, conditions or procedures set forth in ORS 288.320,*] do not apply
 15 to the issuance and sale of revenue bonds and refunding revenue bonds under ORS 777.560 to
 16 777.590.

17 (2) The lease of any property of the port and the pledging of revenues therefrom to the payment
 18 of the costs and expenses enumerated by ORS 777.560, and to the payment of principal and interest
 19 on bonds issued and sold under ORS 777.560 to 777.590, shall be considered to further the public
 20 interest within the meaning of ORS 271.310.

21 **SECTION 28.** ORS 294.483 is amended to read:

22 294.483. (1) A municipal corporation that has outstanding limited [*general obligation*] **tax**
 23 **bonds, as defined in ORS 288.150,** that were issued pursuant to ORS 287.049 shall budget and ap-
 24 propriate, subject to any applicable covenants or agreements [*which*] **that** limit payment of certain
 25 obligations to particular sources of funds, amounts sufficient to pay, in each succeeding fiscal year
 26 or budget period, debt service on [*such*] **the** bonds. However, this section does not require the
 27 municipal corporation to adopt a supplemental budget to pay the principal and interest coming due
 28 on limited tax bonds[, *as defined in ORS 288.150,*] in the fiscal year or budget period in which
 29 [*such*] **the** bonds are authorized and issued.

30 (2) A municipal corporation [*shall not be*] **is not** required to adopt a supplemental budget to:

31 (a) Expend during the current year or current budget period proceeds of the sale of the follow-
 32 ing bonds or other obligations:

33 (A) Bonds that are issued under the Uniform Revenue Bond Act, ORS 288.805 to 288.945, for
 34 which the referral period described in ORS 288.815 ended after the preparation of the budget for the
 35 current year or current budget period.

36 (B) Bonds or other obligations that were approved by the electors during the current year or
 37 current budget period.

38 (C) Bonds or other obligations issued during the current year or current budget period to refund
 39 previously issued bonds or obligations.

40 (b) Expend during the current year or current budget period other funds to pay the principal
 41 and interest coming due on bonds or other obligations listed in paragraph (a) of this subsection.

42 (c) Expend assessments or other revenues to redeem bonds or other obligations that are payable
 43 from [*such*] **the** assessments or other revenues, when [*such*] **the** assessments or other revenues are
 44 received as a result of prepayments or other unforeseen circumstances.

45 **SECTION 29.** ORS 310.651 is amended to read:

1 310.651. For purposes of ORS 310.652:

2 (1) "Evidence of debt" means all bonds, notes, demands, claims, deposits or investments however
3 evidenced and whether secured by mortgage, deed of trust, judgment or otherwise or not so secured,
4 and includes but is not limited to:

5 (a) Personal and business notes receivable.

6 (b) Mortgage notes receivable.

7 (c) Commercial paper.

8 (d) Conditional sales contracts (written agreements whereby title to the property remains with
9 the seller until the goods are paid for).

10 (e) Notes and other receivables, evidenced by written agreement, due from affiliated companies.

11 (f) [*Participation*] Certificates **of participation**.

12 (g) Bonds and debentures of both domestic and foreign corporations.

13 (h) Bonds and evidence of debt of other states and their political subdivisions.

14 (i) Bonds, debentures and capital notes (not certificates of deposit) issued by banks and other
15 organizations in direct competition with banks.

16 (j) Cashiers' checks, treasurers' checks, certified checks, purchase drafts and similar instruments
17 drawn for the benefit or convenience of any party or parties other than banks.

18 (k) Investment contracts and accumulation plans issued by investment syndicates, investment
19 brokers and other similar companies.

20 (L) Loans, advances, demands, claims and other receivables which are evidenced by written
21 agreement.

22 (2) "Funds on deposit" means all funds accrued or accruing by virtue of the death of the insured
23 or the original maturity of a policy contract where the party or parties entitled to receive such
24 funds might withdraw same at their option upon stipulated notice.

25 (3) "Money on deposit" means money, whether actually within or without this state, having a
26 business, commercial or taxable situs in this state, without deduction for any indebtedness or li-
27 abilities of the taxpayer, and includes but is not limited to:

28 (a) Amounts in checking and savings accounts.

29 (b) Certificates of deposit.

30 (c) Payroll and escrow accounts.

31 (d) Deposits as of any one or more of the four quarterly valuation dates.

32 (e) Deposits of trustees, executors, administrators and other fiduciaries.

33 (f) Social Security and withholding tax accounts.

34 (g) Accommodation loan accounts.

35 (h) Deposits of savings and loan or building and loan associations.

36 (i) Deposits of insurance companies.

37 (4) "Money on hand" includes but is not limited to:

38 (a) Currency and bills of exchange.

39 (b) Money in cash registers.

40 (c) Petty cash.

41 (d) Deposits in transit.

42 (e) Money in safe deposit boxes.

43 (5) "Shares of stock" includes but is not limited to:

44 (a) Capital stock, common stock and preferred stock of both domestic and foreign corporations.

45 (b) Shares of stock held in brokerage accounts, including shares purchased on margin.

1 (c) Unregistered stock, restricted stock, letter stock and stocks owned in “closed” corporations.

2 (d) Shares in mutual funds and investment trusts.

3 (e) Shares of stock in banks (including national banks).

4 (f) Shares of stock in holding companies, including financial holding companies, bank holding
5 companies and insurance holding companies.

6 (g) Stocks held by trustees or guardians which should be reported under the names of the ben-
7 eficiary.

8 (h) Stocks held by executors or administrators of estates which should be reported in the name
9 of the estate.

10 (i) Stocks owned by minor children which should be reported under the minor’s name, in care
11 of the parent or guardian.

12 (j) Stocks owned by investment clubs which should be reported in the name of the investment
13 club.

14 (k) Stocks acquired by purchase, gift, inheritance or any other means, even if the stock certif-
15 icates have not been received and are not in the taxpayer’s possession as of the asset determination
16 date.

17 (L) Shares of stock owned by or registered to residents of this state even though the stock
18 certificates may be physically located in another state.

19 **SECTION 30.** ORS 478.390 is amended to read:

20 478.390. In addition to the investments authorized by ORS 294.035, the board of directors of a
21 rural fire protection district organized under ORS chapter 478 may invest or cause to be invested
22 any surplus funds of the district in contracts described in ORS 294.035 [(6)] (3)(f) for the purpose
23 of funding length of service awards for the volunteer firefighters of the district.

24 **SECTION 31.** ORS 294.381 is amended to read:

25 294.381. (1) Each municipal corporation that has the power to levy an ad valorem property tax
26 shall estimate, in the manner provided in this section, the amount of revenues that will be received
27 in the ensuing year or ensuing budget period through the imposition of taxes upon the taxable
28 property within the municipal corporation.

29 (2) Subject to the additional adjustments required under subsection (3) of this section, the esti-
30 mated ad valorem taxes that will be received in the ensuing year or ensuing budget period is the
31 sum of the following:

32 (a) The amount derived by multiplying the estimated assessed value for the ensuing year or each
33 fiscal year of the ensuing budget period of the taxable property within the municipal corporation,
34 after boundary changes have been filed in final approved form with the county assessor and the
35 Department of Revenue as provided in ORS 308.225, by whichever of the following is applicable to
36 the municipal corporation:

37 (A) The municipal corporation’s permanent rate limit on operating taxes, as defined in ORS
38 310.202 (7), or such lesser rate as the municipal corporation may determine to use for purposes of
39 levying such ad valorem taxes; or

40 (B) The municipal corporation’s statutory rate limit on operating taxes, as defined in ORS
41 310.202 (10), or such lesser rate as the municipal corporation may determine to use for purposes of
42 levying such ad valorem taxes.

43 (b) If the municipal corporation is authorized to levy a local option tax that was authorized by
44 the electors as a dollar amount, the dollar amount of such local option tax that is authorized to be
45 levied in the ensuing year or ensuing budget period.

1 (c) If the municipal corporation is authorized to levy a local option tax that was authorized by
2 the electors as a tax rate, the amount derived by multiplying the authorized rate of such local option
3 tax for the ensuing year or ensuing budget period by the estimated assessed value for the ensuing
4 year or each fiscal year of the ensuing budget period of the taxable property within the municipal
5 corporation.

6 (d) *[An amount equal to]* **The municipal corporation's estimate of the amount required to**
7 **pay** the principal and interest on *[all bonded indebtedness of the municipal corporation that is due*
8 *and payable in the ensuing year or ensuing budget period]* **the amounts described in ORS 310.060**
9 **(2)(d) and (e)**, divided by the annual average percentage of taxes collected in the county in which
10 the taxable property of the municipal corporation is located. **The estimate may include amounts**
11 **to reimburse the municipal corporation for the payment of principal and interest on exempt**
12 **bonded indebtedness that the municipal corporation made from other moneys because col-**
13 **lections of taxes levied for exempt bonded indebtedness were not sufficient to pay that ex-**
14 **empt bonded indebtedness.**

15 (3) The sum of the amounts determined under subsection (2)(a), (b) and (c) of this section shall
16 be reduced by an amount equal to the estimated amount of such taxes that will not be collected as
17 a result of:

18 (a) The discounts allowed under ORS 311.505;

19 (b) The limits imposed under ORS 310.150 (3); and

20 (c) The failure of taxpayers to pay such taxes in the year for which they are levied.

21 (4) The estimated ad valorem taxes determined in accordance with subsections (2) and (3) of this
22 section shall be used by the municipal corporation for purposes of complying with the requirements
23 of ORS 310.060 (1).

24 **SECTION 32.** ORS 295.005 is amended to read:

25 295.005. As used in ORS 295.005 to 295.165, unless the context requires otherwise:

26 (1) "Certificate of participation" or "certificate" means a nonnegotiable document issued by a
27 pool manager to a public official.

28 (2) "Custodian bank" or "custodian" means the following institutions designated by the deposi-
29 tory bank for its own account:

30 (a) The Federal Reserve Bank designated to serve this state, or any branch of that bank;

31 (b) The Federal Home Loan Bank designated to serve this state, or any branch of that bank;

32 (c) Any insured institution or trust company, as those terms are defined in ORS 706.008, that is
33 authorized to accept deposits or transact trust business in this state, provided, however, that no
34 insured institution or trust company may be a custodian bank unless it certifies in writing to the
35 State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the
36 Department of Consumer and Business Services. With the approval of the State Treasurer, a deposi-
37 tory bank may be a custodian bank with respect to its own securities; and

38 (d) The fiscal agency of the State of Oregon, duly appointed and acting as such agency pursuant
39 to ORS 288.010 to 288.110.

40 (3) "Custodian's receipt" or "receipt" means a document issued by a custodian bank to a pool
41 manager describing the securities deposited with it by a depository bank to secure public fund de-
42 posits.

43 (4) "Depository bank" or "depository" means any insured institution or trust company, as those
44 terms are defined in ORS 706.008, a credit union, as defined in ORS 723.006, the shares and deposits
45 of which are insured by the National Credit Union Share Insurance Fund, or a federal credit union,

1 if the institution, trust company or credit union maintains a head office or a branch in this state in
2 the capacity of an insured institution, trust company, credit union or federal credit union. However,
3 an insured institution, trust company, credit union or federal credit union is not a depository bank
4 unless it has:

5 (a) Certified in writing to the State Treasurer that it will furnish the reports required under
6 ORS 714.075 to the Director of the Department of Consumer and Business Services; and

7 (b) Entered into a written agreement with the State Treasurer and a custodian that pledges the
8 securities deposited by the insured institution, trust company, credit union or federal credit union
9 with the custodian as collateral for deposits of public funds held by the insured institution, trust
10 company, credit union or federal credit union. The agreement shall be approved by the board of di-
11 rectors or loan committee of the insured institution, trust company, credit union or federal credit
12 union and shall be continuously maintained as a written record of the institution, company, credit
13 union or federal credit union.

14 (5) "Pool manager" means:

15 (a) The State Treasurer;

16 (b) Any insured institution or trust company, as those terms are defined in ORS 706.008, a credit
17 union, as defined in ORS 723.006, the shares and deposits of which are insured by the National
18 Credit Union Share Insurance Fund, or a federal credit union, if the institution, trust company or
19 credit union is authorized to accept deposits or transact trust business in this state. A depository
20 bank may not be a pool manager with respect to securities that it deposits with its custodians as
21 collateral for the security of public fund deposits and an insured institution, trust company, credit
22 union or federal credit union may not be a pool manager unless it certifies in writing to the State
23 Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the De-
24 partment of Consumer and Business Services;

25 (c) The Federal Reserve Bank designated to serve this state, or any branch of that bank; or

26 (d) The Federal Home Loan Bank designated to serve this state, or any branch of that bank.

27 (6) "Public funds" or "funds" means the funds under the control or in the custody of a public
28 official by virtue of office, other than those that, under law other than ORS 295.005 to 295.165, are:

29 (a) Deposited for the purpose of paying principal, interest or premium, if any, on bonds, like
30 [obligations] **borrowings** and related costs or securing [an obligation] **a borrowing** related to an
31 agreement for exchange of interest rates entered into under ORS 287.025; or

32 (b) Invested in authorized investments. Funds invested under ORS 293.701 to 293.820 are in-
33 vested in authorized investments for purposes of this paragraph when the funds are transferred by
34 the State Treasurer to a third party under the terms of a contract for investment of funds that re-
35 quires such a transfer.

36 (7) "Security" or "securities" means:

37 (a) Obligations of the United States, including those of its agencies and instrumentalities;

38 (b) Obligations of the International Bank for Reconstruction and Development;

39 (c) Bonds of any state of the United States (A) that are rated in one of the four highest grades
40 by a recognized investment service organization that has been engaged regularly and continuously
41 for a period of not less than 10 years in rating state and municipal bonds or, (B) having once been
42 so rated are ruled to be eligible securities for the purposes of ORS 295.005 to 295.165,
43 notwithstanding the loss of such rating;

44 (d) Bonds of any county, city, school district, port district or other public body in the United
45 States payable from ad valorem taxes levied generally on substantially all property within the issu-

1 ing body and that meet the rating requirement or are ruled to be eligible securities as provided in
2 paragraph (c) of this subsection;

3 (e) Bonds of any county, city, school district, port district or other public body issued pursuant
4 to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county
5 or city within the State of Oregon, if the issuing body has not been in default with respect to the
6 payment of principal or interest on any of its bonds within the preceding 10 years or during the
7 period of its existence if that is less than 10 years;

8 (f) Bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

9 (g) One-family to four-family housing mortgage loan notes related to property situated in the
10 State of Oregon, which are owned by a depository bank, no payment on which is more than 90 days
11 past due, and which are eligible collateral for loans from the Federal Reserve Bank of San Francisco
12 under section 10(b) of the Federal Reserve Act and regulations thereunder;

13 (h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the
14 direct and general obligation of a federal home loan bank or Federal Reserve bank;

15 (i) Debt obligations of domestic corporations that are rated in one of the three highest grades
16 by a recognized investment service organization that has been engaged regularly and continuously
17 for a period of not less than 10 years in rating corporate debt obligations;

18 (j) Collateralized mortgage obligations and real estate mortgage investment conduits that are
19 rated in one of the two highest grades by a recognized investment service organization that has been
20 engaged regularly and continuously for a period of not less than 10 years in rating corporate debt
21 obligations; and

22 (k) One-family to four-family housing mortgages that have been secured by means of a guarantee
23 as to full repayment of principal and interest by an agency of the United States Government, in-
24 cluding the Government National Mortgage Association, the Federal National Mortgage Association
25 and the Federal Home Loan Mortgage Corporation.

26 (8) "Public official" means each officer or employee of this state or any agency, political subdivi-
27 sion or public or municipal corporation thereof who by law is made the custodian of or has control
28 of any public funds.

29 (9) "Value" means the current market value of securities.

30 **SECTION 32a. If House Bill 2033 becomes law, section 1, chapter 112, Oregon Laws 2005**
31 **(Enrolled House Bill 2033) (amending ORS 295.005), is repealed and ORS 295.005, as amended**
32 **by section 32 of this 2005 Act, is amended to read:**

33 295.005. As used in ORS 295.005 to 295.165, unless the context requires otherwise:

34 (1) "Certificate of participation" or "certificate" means a nonnegotiable document issued by a
35 pool manager to a public official.

36 (2) "Custodian bank" or "custodian" means the following institutions designated by the deposi-
37 tory bank for its own account:

38 (a) The Federal Reserve Bank designated to serve this state, or any branch of that bank;

39 (b) The Federal Home Loan Bank designated to serve this state, or any branch of that bank;

40 (c) Any insured institution or trust company, as those terms are defined in ORS 706.008, that is
41 authorized to accept deposits or transact trust business in this state **and that complies with sec-**
42 **tion 3, chapter 112, Oregon Laws 2005 (Enrolled House Bill 2033); and** [*provided, however, that*
43 *no insured institution or trust company may be a custodian bank unless it certifies in writing to the*
44 *State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the De-*
45 *partment of Consumer and Business Services. With the approval of the State Treasurer, a depository*

1 *bank may be a custodian bank with respect to its own securities; and]*

2 (d) The fiscal agency of the State of Oregon, duly appointed and acting as such agency pursuant
3 to ORS 288.010 to 288.110.

4 (3) “Custodian’s receipt” or “receipt” means a document issued by a custodian bank to a pool
5 manager describing the securities deposited with it by a depository bank to secure public fund de-
6 posits.

7 (4) “Depository bank” or “depository” means *[any]* **an** insured institution or trust company, as
8 those terms are defined in ORS 706.008, a credit union, as defined in ORS 723.006, the shares and
9 deposits of which are insured by the National Credit Union Share Insurance Fund, or a federal
10 credit union, if the institution, trust company or credit union:

11 (a) Maintains a head office or a branch in this state in the capacity of an insured institution,
12 trust company, credit union or federal credit union; **and**

13 (b) **In the case of an insured institution or trust company, complies with section 3,**
14 **chapter 112, Oregon Laws 2005 (Enrolled House Bill 2033).** *[However, an insured institution, trust*
15 *company, credit union or federal credit union is not a depository bank unless it has:]*

16 *[(a) Certified in writing to the State Treasurer that it will furnish the reports required under ORS*
17 *714.075 to the Director of the Department of Consumer and Business Services; and]*

18 *[(b) Entered into a written agreement with the State Treasurer and a custodian that pledges the*
19 *securities deposited by the insured institution, trust company, credit union or federal credit union with*
20 *the custodian as collateral for deposits of public funds held by the insured institution, trust company,*
21 *credit union or federal credit union. The agreement shall be approved by the board of directors or loan*
22 *committee of the insured institution, trust company, credit union or federal credit union and shall be*
23 *continuously maintained as a written record of the institution, company, credit union or federal credit*
24 *union.]*

25 (5) “Pool manager” means:

26 (a) The State Treasurer;

27 (b) Any insured institution or trust company, as those terms are defined in ORS 706.008, a credit
28 union, as defined in ORS 723.006, the shares and deposits of which are insured by the National
29 Credit Union Share Insurance Fund, or a federal credit union, if the institution, trust company or
30 credit union:

31 (A) Is authorized to accept deposits or transact trust business in this state; **and**

32 (B) **In the case of an insured institution or trust company, complies with section 3,**
33 **chapter 112, Oregon Laws 2005 (Enrolled House Bill 2033);** *[. A depository bank may not be a pool*
34 *manager with respect to securities that it deposits with its custodians as collateral for the security of*
35 *public fund deposits and an insured institution, trust company, credit union or federal credit union*
36 *may not be a pool manager unless it certifies in writing to the State Treasurer that it will furnish the*
37 *reports required under ORS 714.075 to the Director of the Department of Consumer and Business*
38 *Services;]*

39 (c) The Federal Reserve Bank designated to serve this state, or any branch of that bank; or

40 (d) The Federal Home Loan Bank designated to serve this state, or any branch of that bank.

41 (6) “Public funds” or “funds” means *[the]* funds under the control or in the custody of a public
42 official by virtue of office.*[, other than those that, under law other than ORS 295.005 to 295.165,*
43 *are:]*

44 *[(a) Deposited for the purpose of paying principal, interest or premium, if any, on bonds, like bor-*
45 *rowings and related costs or securing a borrowing related to an agreement for exchange of interest*

1 *rates entered into under ORS 287.025; or]*

2 *[(b) Invested in authorized investments. Funds invested under ORS 293.701 to 293.820 are invested*
3 *in authorized investments for purposes of this paragraph when the funds are transferred by the State*
4 *Treasurer to a third party under the terms of a contract for investment of funds that requires such a*
5 *transfer.]*

6 (7) “Security” or “securities” means:

7 (a) Obligations of the United States, including those of its agencies and instrumentalities;

8 (b) Obligations of the International Bank for Reconstruction and Development;

9 (c) Bonds of any state of the United States:

10 (A) That are rated in one of the four highest grades by a recognized investment service organ-
11 ization that has been engaged regularly and continuously for a period of not less than 10 years in
12 rating state and municipal bonds; or[,]

13 (B) Having once been so rated are ruled to be eligible securities for the purposes of ORS 295.005
14 to 295.165, notwithstanding the loss of such rating;

15 (d) Bonds of any county, city, school district, port district or other public body in the United
16 States payable from ad valorem taxes levied generally on substantially all property within the issu-
17 ing body and that meet the rating requirement or are ruled to be eligible securities as provided in
18 paragraph (c) of this subsection;

19 (e) Bonds of any county, city, school district, port district or other public body issued pursuant
20 to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county
21 or city within the State of Oregon, if the issuing body has not been in default with respect to the
22 payment of principal or interest on any of its bonds within the preceding 10 years or during the
23 period of its existence if that is less than 10 years;

24 (f) Bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

25 (g) One-family to four-family housing mortgage loan notes related to property situated in the
26 State of Oregon, which are owned by a depository bank, no payment on which is more than 90 days
27 past due, and which are eligible collateral for loans from the Federal Reserve Bank of San Francisco
28 under section 10(b) of the Federal Reserve Act and regulations thereunder;

29 (h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the
30 direct and general obligation of a federal home loan bank or Federal Reserve bank;

31 (i) Debt obligations of domestic corporations that are rated in one of the three highest grades
32 by a recognized investment service organization that has been engaged regularly and continuously
33 for a period of not less than 10 years in rating corporate debt obligations;

34 (j) Collateralized mortgage obligations and real estate mortgage investment conduits that are
35 rated in one of the two highest grades by a recognized investment service organization that has been
36 engaged regularly and continuously for a period of not less than 10 years in rating corporate debt
37 obligations; and

38 (k) One-family to four-family housing mortgages that have been secured by means of a guarantee
39 as to full repayment of principal and interest by an agency of the United States Government, in-
40 cluding the Government National Mortgage Association, the Federal National Mortgage Association
41 and the Federal Home Loan Mortgage Corporation.

42 (8) “Public official” means each officer or employee of this state or any agency, political subdivi-
43 sion or public or municipal corporation thereof who by law is made the custodian of or has control
44 of any public funds.

45 (9) “Value” means the current market value of securities.

1 **SECTION 32b.** The amendments to ORS 295.005 by section 32a of this 2005 Act become
2 operative on January 1, 2006.

3 **SECTION 32c.** If House Bill 2033 becomes law, section 4, chapter 112, Oregon Laws 2005 (En-
4 rolled House Bill 2033), is amended to read:

5 **Sec. 4.** (1) The following public funds are not subject to the provisions of ORS 295.005 to
6 295.165:

7 (a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on
8 bonds, like [*obligations*] **borrowings** and related costs or securing [*an obligation*] **a borrowing** re-
9 lated to an agreement for exchange of interest rates entered into under ORS 287.025.

10 (b) Funds that are invested in authorized investments under provisions of law other than ORS
11 295.005 to 295.165. Funds invested under ORS 293.701 to 293.820 are invested in authorized invest-
12 ments for purposes of this subsection from the time the funds are transferred by the State Treasurer
13 to a third party under the terms of a contract for investment or administration of the funds that
14 requires such a transfer until the time the funds are returned to the treasurer or paid to another
15 party under the terms of the contract.

16 (c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or
17 by an investment manager under ORS 293.741.

18 (2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under
19 ORS 294.035 [(4)] **(3)(d)** are subject to the provisions of ORS 295.005 to 295.165.

20 **SECTION 33.** For limited tax bonded indebtedness issued under ORS 287.052 to 287.074
21 prior to August 9, 2001, to finance pension liabilities, the limited tax bonded indebtedness:

22 (1) Is subject to the limitation on indebtedness in ORS 238.694.

23 (2) Is not subject to the limitation on indebtedness in ORS 287.054.

24 **SECTION 34.** ORS 288.310 and 288.320 are repealed.

25 **SECTION 35.** This 2005 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
27 on its passage.
28