

CHAPTER 1

AN ACT SB 1002
[2002 First Special Session]

Relating to finance; creating new provisions; amending ORS 288.165; appropriating money; and declaring an emergency.

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

SECTION 1. ORS 288.165 is amended to read:

288.165. (1) Subject to any applicable limitations imposed by the Constitution or laws of the State of Oregon or the charter, ordinance or resolution of a governmental unit, a governmental unit or the State of Oregon, acting through the State Treasurer **pursuant to section 3 of this 2002 Act**, may borrow money by entering into a credit agreement, or issuing notes, warrants, short-term promissory notes, commercial paper or other obligations:

(a) In anticipation of taxes, grants or other revenues for purposes that include, but are not limited to, the payment of current expenses;

(b) To provide interim financing for capital assets to be undertaken by the governmental unit; or

(c) To refund outstanding obligations.

(2) To secure obligations authorized under this section, a governmental unit or the State Treasurer may:

(a) Pledge its anticipated taxes, grants, other revenues, the proceeds of any bonds or other permanent financing, or any combination thereof;

(b) Segregate any pledged funds in separate accounts which may be held by the governmental unit, the State Treasurer or third parties;

(c) Enter into contracts with third parties to obtain standby lines of credit or other financial commitments designated to provide additional security for obligations authorized by this section;

(d) Establish any reserves deemed necessary for the payment of the obligations; and

(e) Adopt resolutions and enter into agreements containing covenants and provisions for protection and security of the owners of obligations, which shall constitute enforceable contracts with such owners.

(3) Obligations authorized by this section which are issued in anticipation of taxes or other revenues, and any obligations authorized by this section which are issued to refund them, shall not be issued prior to the beginning of, and shall mature not later than, the end of the fiscal [year] **period** in which the taxes or other revenues are expected to be received. Obligations issued **by a governmental unit** in anticipation of taxes or other revenues shall not be issued in an amount greater than 80 percent of the amount budgeted to be received in the fiscal [year] **period** in which the obligations are issued.

(4) Obligations authorized by this section which are issued in anticipation of a grant shall mature not later than one year after the date the grant is estimated to be received. Obligations issued to pro-

vide interim financing for capital assets shall mature not later than one year from the estimated completion or acquisition of the capital assets.

(5) Refunding obligations issued pursuant to subsection (1)(c) of this section shall mature as soon as the issuer deems practicable and no later than 18 months after the refunding obligations are issued.

(6) The debt limitations imposed by law or the charter of any governmental unit shall not affect the right of any governmental unit to issue obligations under authority of this section, nor shall any of the obligations be taken into consideration in determining the percentage or extent to which the governmental unit is indebted under the debt limitation. Obligations issued to refund outstanding obligations shall not be considered to be within any of such debt limitations.

(7) Except as provided in this section, obligations authorized by this section may be in any form and contain any terms, including provisions for redemption at the option of the owner and provisions for the varying of interest rates in accordance with any index, banker's loan rate or other standard.

(8) The governing body of an issuing governmental unit, in the ordinance or resolution authorizing the issuance of obligations under this section, may delegate to any elected or appointed official or employee of the governmental unit the authority to determine maturity dates, principal amounts, redemption provisions, interest rates or the method for determining a variable or adjustable interest rate, denominations and other terms and conditions of such obligations which are not appropriately determined at the time of enactment or adoption of the authorizing ordinance or resolution, which delegated authority shall be exercised subject to applicable requirements of law and such limitations and criteria as may be set forth in such ordinance or resolution. Except to the extent of any such delegation, the governmental unit or the State Treasurer shall determine:

(a) The maximum effective rate of interest the obligations shall bear;

(b) The manner of sale;

(c) The discount, if any, the governmental unit may allow;

(d) The terms and conditions by which the obligations may be redeemed prior to maturity;

(e) The maturities of the obligations;

(f) The form and denominations of the notes or other obligations; and

(g) All other terms and conditions related to the sale of the obligations.

(9) The governmental unit or the State Treasurer may contract with third parties to serve as issuing, paying and authenticating agents for any obligations authorized by this section.

(10) Obligations authorized by this section may be sold at public or private sale upon such terms as the governmental unit or the State Treasurer finds advantageous, with such disclosure as the governmental unit or State Treasurer deems appropriate.

ORS 287.040 applies to obligations issued by governmental units under this section.

(11) As used in this section, "fiscal period" means:

(a) In the case of a governmental unit, a fiscal year.

(b) In the case of the State of Oregon, a biennium.

SECTION 2. Sections 3 to 5 of this 2002 Act are added to and made a part of ORS chapter 293.

SECTION 3. (1) The State Treasurer may issue obligations under ORS 288.165 to finance current expenses of this state. The amount of the obligations issued at any time may not exceed the State Treasurer's estimate of the cash flow deficit of the state, plus amounts for reasonable reserves and costs.

(2) To estimate the amount of cash flow deficit, the State Treasurer shall take into account the most recent cash flow forecast developed by the Oregon Department of Administrative Services and any other information the State Treasurer determines is reliable and relevant.

(3) When the State Treasurer issues obligations under ORS 288.165:

(a) The Oregon Department of Administrative Services shall account for and administer the proceeds of the obligations and the repayment of the obligations. The State Treasurer shall notify the Director of the Oregon Department of Administrative Services, the Legislative Fiscal Officer and the Legislative Revenue Officer before issuing obligations under ORS 288.165.

(b) The State Treasurer may pledge the tax revenues and full faith and credit of the State of Oregon to pay obligations issued under ORS 288.165 if the obligations are payable from the Short Term Borrowing Account established under section 4 of this 2002 Act and if the obligations mature not later than the end of the fiscal period in which the obligations are issued.

(c) The proceeds of the obligations may be used for any purpose for which the taxes and other revenues that are pledged to pay the obligations may be used and may also be used to pay principal, interest and any premium on the obligations, any rebate or penalty due to the United States in connection with the obligations, the cost of credit enhancement and the cost to the State Treasury and the Oregon Department of Administrative Services of issuing, administering or maintaining the obligations, including but not limited to the cost of a consultant or adviser retained by the State Treasurer or the Oregon Department of Administrative Services.

(d) The State Treasurer may determine maturity dates, principal amounts, redemption provisions, interest rates or methods for determining variable or adjustable interest rates, de-

nominations and any other term or condition of the obligations.

(e) The obligations shall be executed on behalf of the State of Oregon by the facsimile signatures of the Governor and the Secretary of State, and the manual or facsimile signature of the State Treasurer or Deputy State Treasurer.

(4) This section and ORS 288.165 constitute complete and independent authority for the State Treasurer to issue obligations under ORS 288.165. Obligations issued by the State Treasurer under ORS 288.165 are bonds for purposes of ORS 286.036 (3), 286.038, 286.071, 286.078, 288.517, 288.523, 288.594 and 288.600, but may not otherwise be treated as bonds and may not be subject to a restriction or limitation under ORS chapter 286 or 288.

(5) In addition to or in lieu of issuing certificates of indebtedness under ORS 293.165, the State Treasurer may borrow money by issuing obligations under ORS 288.165. The requirements and limitations that apply to certificates of indebtedness issued under ORS 293.165 do not apply to obligations issued by the State Treasurer under ORS 288.165.

(6) Obligations issued by the State Treasurer under ORS 288.165 may be issued only to pay expenses for which the Legislative Assembly has made appropriations. The appropriations to pay those expenses shall be treated as appropriations that authorize the expenditure of the pledged taxes and revenues to pay the obligations, and as appropriations that authorize the expenditure of the proceeds of the obligations to pay the otherwise appropriated expenses.

(7) As used in this section, "fiscal period" has the meaning given that term in ORS 288.165.

SECTION 4. (1) The Short Term Borrowing Account is created in the General Fund.

(2) The State Treasurer shall credit the proceeds of obligations issued by the State Treasurer under ORS 288.165 to the Short Term Borrowing Account. The State Treasurer shall, in addition, transfer to the Short Term Borrowing Account any amounts that are pledged to pay obligations issued by the State Treasurer under ORS 288.165 and that are required to pay those obligations.

(3) Amounts in the Short Term Borrowing Account are continuously appropriated for the purposes described in section 3 (3)(c) of this 2002 Act.

(4) This section and section 3 of this 2002 Act constitute complete authorization by the Legislative Assembly for the use and expenditure of the proceeds of the obligations and the taxes and revenues pledged to pay those obligations for the purposes described in section 3 (3)(c) of this 2002 Act. No additional appropriation or authorization is necessary. The authorization contained in this section and section 3 of this

2002 Act to spend moneys for the purposes described in section 3 (3)(c) of this 2002 Act does not constitute an appropriation for purposes of ORS 291.357. The proceeds of obligations issued by the State Treasurer under ORS 288.165 do not constitute revenues received by the General Fund for purposes of section 14, Article IX of the Oregon Constitution, and ORS 291.349.

SECTION 5. Within 90 days following the end of a biennium, the State Treasurer shall report in writing to the Legislative Fiscal Officer and the Legislative Revenue Officer on the amount of obligations issued by the State Treasurer un-

der ORS 288.165, the amount spent in repayment of those obligations, the issuance costs and interest costs of those obligations and the interest revenues earned by the proceeds of those obligations.

SECTION 6. This 2002 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2002 Act takes effect on its passage.

Approved by the Governor February 19, 2002

Filed in the office of Secretary of State February 19, 2002

Effective date February 19, 2002