

**CHAPTER 1**

AN ACT [Vetoed SB 1022]  
 [2002 Third Special Session]  
 [Repassed at 2002 Fourth Special Session]

Relating to school finance; creating new provisions; amending ORS 288.165, 294.100 and 327.095; and declaring an emergency.

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

**SECTION 1.** ORS 327.095, as amended by section 1, chapter 4, Oregon Laws 2002 (Enrolled House Bill 4011), is amended to read:

327.095. (1) Funds due school districts under ORS 327.008 and 327.013 shall be paid **approximately 16-2/3 percent on July 15**, approximately eight and one-third percent on the 15th day of each of the months of *[July,]* August, September, October, November, December, January, February, March, *]* **and April and the balance on May 15** *[May and the balance on June 15]*. An equitable apportionment based on the most recent data available shall be made on the installment dates prior to *[June]* **May 15**. If such payments are too high or too low, appropriate adjustments shall be made in the *[June]* **May 15** payments. However, if the reports required by ORS 327.133 have not been received from any district when due, no further apportionments shall be made to such district until such reports are filed.

(2) If the combined estimated level of ADMw under ORS 327.013 (7) of all school districts is less than the statewide projected level of ADMw, the Department of Education may:

(a) Adjust the distributions to school districts on the installment dates to reflect the difference; and

(b) Set aside an amount of the funds appropriated to the State School Fund for the fiscal year until the *[June]* **May 15** distribution.

**SECTION 2.** The amendments to ORS 327.095 by section 1 of this 2002 third special session Act become operative on July 1, 2003.

**SECTION 2a.** (1) Notwithstanding ORS 327.095, for the 2002-2003 fiscal year, the payments specified for funds due school districts under ORS 327.095 in August, September, October, November, December, January, February, March and April shall be made based on a total amount of \$2,439,744,142 being available for distribution to school districts. The Superintendent of Public Instruction shall adjust the payment made on May 15, 2003, based on the most recent data available and the actual amount available for distribution to school districts from the State School Fund.

(2)(a) The superintendent shall calculate for each school district the amount that was expected for the May 15, 2003, payment that is based on a total amount of \$2,439,744,142 being

available to school districts for the 2002-2003 school year.

(b) Then, the superintendent shall calculate for each school district an amount that the school district will receive as part of the July 15, 2003, payment that is equal to the difference between the expected amount calculated under paragraph (a) of this subsection and the amount the school district actually received for the May 15, 2003, payment under subsection (1) of this section.

(3) The superintendent shall notify each school district of the amount calculated in subsection (2)(b) of this section.

**SECTION 2b.** (1)(a) Notwithstanding ORS 341.626, for the 2002-2003 fiscal year, the Commissioner for Community College Services shall as nearly as practicable distribute all of the funds in the Community College Support Fund to community college districts and community college service districts in three payments in August, October and January. The commissioner may make an additional payment in April for purposes of adjusting amounts received by the districts based on any changes made after the effective date of this 2002 third special session Act to the amount appropriated or allocated to the Community College Support Fund, based on the most recent data available or based on other factors that may change the amount distributed to districts.

(b) This subsection does not apply to distributions of funds to community college districts and community college service districts from the Community College Support Fund for contracted out-of-district programs, contracted corrections programs and distributed learning activities, as those programs and activities are defined by rule of the State Board of Education.

(2) For the 2002-2003 fiscal year, the commissioner shall calculate for each community college district and community college service district an amount that is equal to one-third of the amount the district received for the 2002-2003 fiscal year from the Community College Support Fund. Prior to June 30, 2003, the commissioner shall notify each district of the amount calculated under this section that the district may expect to receive as part of a July 2003 payment from the fund.

(3) Notwithstanding section 5 (2) of this 2002 third special session Act, for the 2002-2003 fiscal year, a community college district or community college service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the community college district or community college service district, for the 2002-2003 fiscal year, an amount from the 2003-2004 fiscal year that is to be received in the 2003-2004 fiscal year. The amount accrued under this subsection may not be greater than one-

**third of the amount the community college district or community college service district received as a Community College Support Fund grant for the 2002-2003 fiscal year.**

**(4) ORS 294.100 does not apply to the expenditure of revenues that are allowed to be accrued from the 2003-2004 fiscal year to the 2002-2003 fiscal year under subsection (3) of this section.**

**SECTION 3. Sections 5 and 6 of this 2002 third special session Act are added to and made a part of ORS 294.305 to 294.565.**

**SECTION 4.** ORS 288.165, as amended by section 1, chapter 1, Oregon Laws 2002 (Enrolled Senate Bill 1002), 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, chapter 1, Oregon Laws 2002 (Enrolled Senate Bill 1002), 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 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 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 provide interim financing for capital assets shall mature not later than one year from the estimated completion or acquisition of the capital assets.

**(5) Notwithstanding subsections (3) and (4) of this section, a school district, education service district, community college district or community college service district may issue obligations that are issued in anticipation of taxes, grants or other revenues to mature not later than 13 months after the date the obligations were issued.**

[(5)] (6) 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)] (7) 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)] (8) 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)] (9) 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)] (10) 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)] (11) 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)] (12) 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 4a.** The amendments to ORS 288.165 by section 4 of this 2002 third special session Act first apply to obligations issued on or after the effective date of this 2002 third special session Act.

**SECTION 5.** (1) Notwithstanding ORS 294.445, a school district or education service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the school district or education service district, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal year. The amount accrued under this section may not be greater than 9.1 percent of the amount the school district or education service district received as a State School Fund grant for the fiscal year for which the revenues are to be accrued.

(2) Notwithstanding ORS 294.445, a community college district or community college service district that uses the accrual basis method of accounting may include as accrued revenues in the budget and financial statement of the community college district or community college service district, for any fiscal year, an amount from the next fiscal year that is to be received in the next fiscal year. The amount accrued under this section may not be greater than 25 percent of the amount the community college district or community college service district received as a Community College Support Fund grant for the fiscal year for which the revenues are to be accrued.

**SECTION 6.** (1) Notwithstanding ORS 294.445, a school district or education service district that uses the cash basis method of accounting may show a negative ending fund balance at the end of a fiscal year. The amount of

the negative ending fund balance may not be greater than 9.1 percent:

(a) Of the sum of the amount for the fiscal year that the school district received as a State School Fund grant and as local revenues as described in ORS 327.013; or

(b) Of the sum of the amount for the fiscal year that the education service district received as a State School Fund grant and as local revenues as defined in section 2, chapter 695, Oregon Laws 2001.

(2) This section only applies to those school districts and education service districts that used the cash basis method of accounting on June 30, 2002.

**SECTION 7.** Section 6 of this 2002 third special session Act is repealed on January 1, 2006.

**SECTION 8.** Sections 5 and 6 of this 2002 third special session Act first apply to the 2002-2003 fiscal year.

**SECTION 9.** ORS 294.100 is amended to read:  
294.100. (1) It is unlawful for any public official to expend any moneys in excess of the amounts provided by law, or for any other or different purpose than provided by law.

(2) Any public official who expends any public moneys in excess of the amounts or for any other or different purpose than authorized by law shall be civilly liable for the return of the money by suit of the district attorney of the district in which the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty.

(3) On the demand in writing of 10 taxpayers of any municipal corporation with a population exceeding 100,000 inhabitants, filed with the tax supervising and conservation commission in the county in which the municipal corporation is situated, which demand sets forth that a public official has unlawfully expended public moneys in excess of the amount or for any other or different purpose than provided by law and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the tax supervising and conservation commission shall make an investigation of the facts as to the expenditure. If the tax supervising and conservation commission finds that public moneys have been unlawfully expended and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the commission shall proceed at law in the courts against the public official who has unlawfully expended the moneys for the return of the moneys unlawfully expended to the treasury of the municipal corporation. A right of action hereby is granted to the tax supervising and conservation commission for the purposes of this section.

(4) This section does not apply to the expenditure of revenues that:

**(a) Are allowed to be accrued from a fiscal year to the prior fiscal year under section 5 of this 2002 third special session Act; or**

**(b) Result in a negative ending fund balance that is allowed under section 6 of this 2002 third special session Act.**

**SECTION 10.** ORS 294.100, as amended by section 9 of this 2002 third special session Act, is amended to read:

294.100. (1) It is unlawful for any public official to expend any moneys in excess of the amounts provided by law, or for any other or different purpose than provided by law.

(2) Any public official who expends any public moneys in excess of the amounts or for any other or different purpose than authorized by law shall be civilly liable for the return of the money by suit of the district attorney of the district in which the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty.

(3) On the demand in writing of 10 taxpayers of any municipal corporation with a population exceeding 100,000 inhabitants, filed with the tax supervising and conservation commission in the county in which the municipal corporation is situated, which demand sets forth that a public official has unlawfully expended public moneys in excess of the amount or for any other or different purpose than provided by law and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the tax supervising and conservation commission shall make an investigation of the facts

as to the expenditure. If the tax supervising and conservation commission finds that public moneys have been unlawfully expended and that the expenditure constitutes malfeasance in office or willful or wanton neglect of duty, the commission shall proceed at law in the courts against the public official who has unlawfully expended the moneys for the return of the moneys unlawfully expended to the treasury of the municipal corporation. A right of action hereby is granted to the tax supervising and conservation commission for the purposes of this section.

(4) This section does not apply to the expenditure of revenues that[:]

[(a)] are allowed to be accrued from a fiscal year to the prior fiscal year under section 5 of this 2002 third special session Act. [; or]

[(b) *Result in a negative ending fund balance that is allowed under section 6 of this 2002 third special session Act.*]

**SECTION 11.** The amendments to ORS 294.100 by section 10 of this 2002 third special session Act become operative on January 1, 2006.

**SECTION 12.** This 2002 third special session Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2002 third special session Act takes effect on its passage.

Filed in the office of Secretary of State August 22, 2002  
Effective date August 20, 2002