

CHAPTER 8

AN ACT SB 1003
[2002 First Special Session]

Relating to state finance; creating new provisions; amending ORS 777.284; and declaring an emergency.

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

SECTION 1. Section 2 of this 2002 Act is added to and made a part of ORS 286.560 to 286.580.

SECTION 2. (1) Lottery bonds may be issued pursuant to ORS 286.580 without regard to any litigation challenging the legality of the Oregon State Lottery. Lottery bonds issued pursuant to ORS 286.580 are valid and binding obligations of the State of Oregon that are payable only from amounts pledged under ORS 286.580 (7) or from appropriated funds, even if the Oregon State Lottery is partially or wholly invalidated. In the event the lottery is invalidated, the Oregon Department of Administrative Services shall request the Legislative Assembly or, if the Legislative Assembly is not in session, the Emergency Board to provide appropriated funds pursuant to ORS 286.580 (6).

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

SECTION 3. ORS 777.284 is amended to read:

777.284. (1) Within six months after July 25, 1997, the Director of the Economic and Community Development Department shall enter into a grant agreement with the primary sponsor that commits the state to make the deposits specified in ORS 777.282 and commits the Economic and Community Development Department to pay those deposits, plus earnings, to the primary sponsor as soon as funds are available in the Channel Deepening Account and are required by the primary sponsor for payment of the Oregon nonfederal share. Notwithstanding ORS 777.267 or any other provision of law, this commitment of this state and the department shall be conditioned solely on federal authorization of the channel deepening project under the federal Water Resources Development Act or a similar federal Act, signing of a project cooperation agreement with the appropriate federal agencies and receipt by this state of unobligated net lottery proceeds sufficient to make the deposits specified in ORS 777.282.

(2) The total amount paid to the primary sponsor pursuant to the grant agreement [shall] **may** not exceed the lesser of the amount of the Oregon non-

federal share or [*\$10 million plus any interest earnings on the amounts*] **the total amount deposited** in the Channel Deepening Account. The grant agreement shall:

(a) Specify a method for determining the total amount of the Oregon nonfederal share;

(b) Pledge the unobligated net lottery proceeds required to be deposited in the Channel Deepening Account pursuant to ORS 777.282 (2) to pay the amounts due to the primary sponsor under the grant agreement;

(c) Specify the administrative procedures for making payments to the primary sponsor of **amounts deposited from time to time, including earnings, in the Channel Deepening Account;**

(d) Provide for notification to the director if the primary sponsor determines that it is unable to undertake the channel deepening project;

(e) Allow assignment of the right to receive amounts payable under the grant agreement to third parties;

(f) Obligate the primary sponsor to remit any unexpended grant funds and any earnings thereon to the State of Oregon after the channel deepening project is complete and all its costs have been paid; and

(g) Contain such additional terms and conditions as the director considers necessary or appropriate to ensure that the moneys paid under the grant agreement are expended solely on the channel deepening project.

(3) The grant agreement, when executed by the director and accepted by the primary sponsor, shall be a valid, binding and irrevocable contractual obligation of the State of Oregon in accordance with its terms. However, amounts due under the grant agreement shall be payable solely from the [*unobligated net lottery proceeds required by ORS 777.282 to be*] **amounts deposited from time to time, including earnings,** in the Channel Deepening Account.

(4) The primary sponsor may pledge the unobligated net lottery proceeds required to be deposited in the Channel Deepening Account pursuant to ORS 777.282 (2) and assign its right to receive amounts due under the grant agreement as security for any contractual obligation the primary sponsor undertakes to pay or finance costs of the channel deepening project. Any pledge or assignment authorized by this subsection shall be valid and binding upon the primary sponsor, the department, the State of Oregon and all other persons from the date it is made. The unobligated net lottery proceeds so pledged shall be immediately subject to the lien of the pledge without physical delivery, filing or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever. Upon notice from the primary sponsor that it has pledged the unobligated net lottery proceeds or assigned the right to receive amounts due under the grant agreement, the department shall fully cooperate with the primary sponsor and the pledgee or assignee to give effect to the pledge or assignment, including but not limited to acknowledging in writ-

ing to the primary sponsor and the pledgee or assignee the existence and validity of the pledge or assignment and agreeing that amounts due under the grant agreement shall be paid to the pledgee or assignee or into the custodial accounts established for the benefit of the pledgee or assignee. However, a pledge or assignment shall not require the State of Oregon to pay any greater amounts than specified in the grant agreement.

(5) The grant agreement shall not contain provisions or be construed or enforced in any manner that would cause the grant agreement to constitute

a debt or liability of the state that violates section 7, Article XI of the Oregon Constitution.

SECTION 4. 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 25, 2002

Filed in the office of Secretary of State February 25, 2002

Effective date February 25, 2002
