

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 3265

By COMMITTEE ON FINANCE AND REVENUE

June 14

1 On page 1 of the printed A-engrossed bill, line 3, after “238.698,” insert “261.355,”.

2 On page 131, after line 21, insert:

3 “**SECTION 232b.** If Senate Bill 812 becomes law and Senate Bill 838 does not become law, ORS
4 261.355, as amended by section 12, chapter ___, Oregon Laws 2007 (Enrolled Senate Bill 812), is
5 amended to read:

6 “261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any
7 district may issue and sell revenue bonds, when authorized by a majority of its electors voting at
8 any primary election, general election or special election.

9 “(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid
10 solely from that portion of the revenues derived by the district from the sale of water, waterpower
11 and electricity, or any of them, or any other service, commodity or facility which may be produced,
12 used or furnished in connection therewith, remaining after paying from those revenues all expenses
13 of operation and maintenance, including taxes.

14 “(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section,
15 any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the
16 purpose of financing betterments and extensions of the district, including renewable energy facilities
17 or the purchase or sale of electricity, electrical capacity or renewable energy certificates, but the
18 amount of revenue bonds so issued shall be limited to the reasonable value of the betterments and
19 extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue
20 bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring
21 property or facilities owned by another entity that provides electric utility service unless:

22 “(a) The acquisition is a voluntary transaction between the district and the other entity that
23 provides electric utility service; or

24 “(b) The electors within the district have approved issuance of the bonds by a vote.

25 “(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution
26 under subsection (3) of this section will be considered, the district shall:

27 “(a) Provide for and give public notice, reasonably calculated to give actual notice to interested
28 persons including news media which have requested notice, of the time and place of the meeting and
29 of the intent of the board to consider and possibly adopt the resolution; and

30 “(b) Mail to its customers notice of the time and place of the meeting and of the intent of the
31 board to consider and possibly adopt the resolution.

32 “(5) Except as otherwise provided in this section, any authorizing resolution adopted for the
33 purposes of subsection (3) of this section shall provide that electors residing within the district may
34 file a petition with the district asking to have the question of whether to issue such bonds referred
35 to a vote.

1 “(6) If within 60 days after adoption of a resolution under subsection (3) of this section the dis-
2 trict receives petitions containing valid signatures of not fewer than five percent of the electors of
3 the district, the question of issuing the bonds shall be placed on the ballot at the next date on which
4 a district election may be held under ORS 255.345 (1).

5 “(7) When petitions containing the number of signatures required under subsection (6) of this
6 section are filed with the district within 60 days after adoption of a resolution under subsection (3)
7 of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the
8 electors of the district voting on the resolution.

9 “(8) Any district issuing revenue bonds may pledge that part of the revenue which the district
10 may derive from its operations as security for payment of principal and interest thereon remaining
11 after payment from such revenues of all expenses of operation and maintenance, including taxes, and
12 consistent with the other provisions of this chapter.

13 “(9) Prior to any district board taking formal action to issue and sell any revenue bonds under
14 this section, the board shall have on file with the secretary of the district a certificate executed by
15 a qualified engineer that the net annual revenues of the district, including the property to be ac-
16 quired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount
17 that will be due in any one fiscal year for both principal of and interest on both the bonds then
18 proposed to be issued and all bonds of the district then outstanding.

19 “(10) Except as otherwise provided in this section, the district shall order an election for the
20 authorization of revenue bonds to finance the acquisition or construction of an initial utility system,
21 including the replacement value of the unreimbursed investment of an investor owned utility in en-
22 ergy efficiency measures and installations within the proposed district, as early as practicable under
23 ORS 255.345 after filing the certificate required under subsection (9) of this section. An election for
24 the authorization of revenue bonds to finance the acquisition or construction of an initial utility
25 system shall be held no more than twice in any one calendar year for any district. In even-numbered
26 years no election shall be held on any other date than the date of the primary election or general
27 election.

28 “(11) A district may issue revenue bonds under [*ORS 288.805 to 288.945*] **section 46 of this 2007**
29 **Act** without an election authorizing the issuance, except that revenue bonds shall not be issued
30 under [*ORS 288.805 to 288.945*] **section 46 of this 2007 Act** for the purpose of acquiring an initial
31 utility system or acquiring property or facilities owned by another entity that provides electric
32 utility service unless:

33 “(a) The acquisition is a voluntary transaction between the district and the other entity that
34 provides electric utility service; or

35 “(b) The electors within the district have approved issuance of the bonds by a vote.

36 “**SECTION 232c.** If both Senate Bill 812 and Senate Bill 838 become law, ORS 261.355, as
37 amended by section 41, chapter 301, Oregon Laws 2007 (Enrolled Senate Bill 838), and section 12a,
38 chapter ___, Oregon Laws 2007 (Enrolled Senate Bill 812), is amended to read:

39 “261.355. (1) For the purpose of carrying into effect the powers granted in this chapter, any
40 district may issue and sell revenue bonds, when authorized by a majority of its electors voting at
41 any primary election, general election or special election.

42 “(2) All revenue bonds issued and sold under this chapter shall be so conditioned as to be paid
43 solely from that portion of the revenues derived by the district from the sale of water, waterpower
44 and electricity, or any of them, or any other service, commodity or facility which may be produced,
45 used or furnished in connection therewith, remaining after paying from those revenues all expenses

1 of operation and maintenance, including taxes.

2 “(3) Notwithstanding subsection (1) of this section and subject to subsection (4) of this section,
3 any district may, by a duly adopted resolution of its board, issue and sell revenue bonds for the
4 purpose of financing betterments and extensions of the district, including renewable energy facilities
5 or the purchase or sale of electricity, electrical capacity or renewable energy certificates, but the
6 amount of revenue bonds so issued shall be limited to the reasonable value of the betterments and
7 extensions plus an amount not to exceed 10 percent thereof for administrative purposes. Revenue
8 bonds shall not be issued and sold for the purpose of acquiring an initial utility system or acquiring
9 property or facilities owned by another entity that provides electric utility service unless:

10 “(a) The acquisition is a voluntary transaction between the district and the other entity that
11 provides electric utility service; or

12 “(b) The electors within the district have approved issuance of the bonds by a vote.

13 “(4) Not later than the 30th day prior to a board meeting at which adoption of a resolution
14 under subsection (3) of this section will be considered, the district shall:

15 “(a) Provide for and give public notice, reasonably calculated to give actual notice to interested
16 persons including news media which have requested notice, of the time and place of the meeting and
17 of the intent of the board to consider and possibly adopt the resolution; and

18 “(b) Mail to its customers notice of the time and place of the meeting and of the intent of the
19 board to consider and possibly adopt the resolution.

20 “(5) Except as otherwise provided in this section, any authorizing resolution adopted for the
21 purposes of subsection (3) of this section shall provide that electors residing within the district may
22 file a petition with the district asking to have the question of whether to issue such bonds referred
23 to a vote.

24 “(6) If within 60 days after adoption of a resolution under subsection (3) of this section the dis-
25 trict receives petitions containing valid signatures of not fewer than five percent of the electors of
26 the district, the question of issuing the bonds shall be placed on the ballot at the next date on which
27 a district election may be held under ORS 255.345 (1).

28 “(7) When petitions containing the number of signatures required under subsection (6) of this
29 section are filed with the district within 60 days after adoption of a resolution under subsection (3)
30 of this section, revenue bonds shall not be sold until the resolution is approved by a majority of the
31 electors of the district voting on the resolution.

32 “(8) Any district issuing revenue bonds may pledge that part of the revenue which the district
33 may derive from its operations as security for payment of principal and interest thereon remaining
34 after payment from such revenues of all expenses of operation and maintenance, including taxes, and
35 consistent with the other provisions of this chapter.

36 “(9) Prior to any district board taking formal action to issue and sell any revenue bonds under
37 this section, the board shall have on file with the secretary of the district a certificate executed by
38 a qualified engineer that the net annual revenues of the district, including the property to be ac-
39 quired or constructed with the proceeds of the bonds, shall be sufficient to pay the maximum amount
40 that will be due in any one fiscal year for both principal of and interest on both the bonds then
41 proposed to be issued and all bonds of the district then outstanding.

42 “(10) Except as otherwise provided in this section, the district shall order an election for the
43 authorization of revenue bonds to finance the acquisition or construction of an initial utility system,
44 including the replacement value of the unreimbursed investment of an investor owned utility in en-
45 ergy efficiency measures and installations within the proposed district, as early as practicable under

1 ORS 255.345 after filing the certificate required under subsection (9) of this section. An election for
2 the authorization of revenue bonds to finance the acquisition or construction of an initial utility
3 system shall be held no more than twice in any one calendar year for any district. In even-numbered
4 years no election shall be held on any other date than the date of the primary election or general
5 election.

6 “(11) A district may issue revenue bonds under [ORS 288.805 to 288.945] **section 46 of this 2007**
7 **Act** without an election authorizing the issuance, except that revenue bonds shall not be issued
8 under [ORS 288.805 to 288.945] **section 46 of this 2007 Act** for the purpose of acquiring an initial
9 utility system or acquiring property or facilities owned by another entity that provides electric
10 utility service unless:

11 “(a) The acquisition is a voluntary transaction between the district and the other entity that
12 provides electric utility service; or

13 “(b) The electors within the district have approved issuance of the bonds by a vote.

14 “**SECTION 232d.** If Senate Bill 812 becomes law, ORS 383.027, as amended by section 178 of this
15 2007 Act, is amended to read:

16 “383.027. (1) A public body, as defined in section 42 of this 2007 Act, [*but not including a people’s*
17 *utility district organized under ORS chapter 261,*] may issue revenue bonds for the purpose of fi-
18 nancing a tollway project.

19 “(2) A nonprofit corporation organized under Oregon law may issue revenue bonds for the pur-
20 pose of financing a tollway project.

21 “(3) Revenue bonds authorized by this section shall be issued as prescribed in ORS chapter 287.

22 “**SECTION 232e.** If House Bill 2096 becomes law, **section 198 of this 2007 Act (amending**
23 **ORS 456.615) is repealed and ORS 456.615, as amended by section 17, chapter __, Oregon**
24 **Laws 2007 (Enrolled House Bill 2096), is amended to read:**

25 “456.615. As used in ORS 456.550 to 456.725, unless the context requires otherwise:

26 “(1) ‘Bonds’ means any bonds, [*notes or*] **as defined in section 2 of this 2007 Act, or any** other
27 evidence of indebtedness, [*including notes or other evidence of indebtedness issued in anticipation of*
28 *the issuance of bonds and payable from the proceeds of bonds issued,*] issued under ORS 456.515 to
29 456.725 **or issued in anticipation of bonds and payable from the proceeds of bonds issued.**

30 “(2) ‘Capital reserve account’ or ‘capital reserve accounts’ means one or more of the special
31 trust accounts that may be established by the Housing and Community Services Department within
32 the Housing Finance Fund.

33 “(3) ‘Consumer housing cooperative’ means a cooperative corporation formed under ORS chapter
34 62 and whose articles of incorporation provide, in addition to the other requirements of ORS chapter
35 62, that:

36 “(a) The consumer housing cooperative has been organized exclusively to provide housing facil-
37 ities for persons and families of lower income and such social, recreational, commercial and com-
38 munal facilities as may be incidental to such housing facilities.

39 “(b) All income and earnings of the consumer housing cooperative shall be used exclusively for
40 consumer housing cooperative purposes and that no unreasonable part of the net income or net
41 earnings of the cooperative shall inure to the benefit or profit of any private individual, firm, cor-
42 poration, partnership or association.

43 “(c) The consumer housing cooperative is in no manner controlled or under the direction of or
44 acting in the substantial interest of any private individual, firm, corporation, partnership or associ-
45 ation seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any

1 transaction therewith, except that such limitation shall apply to the members of the cooperative only
2 to the extent provided by rules of the department.

3 “(d) The operations of the consumer housing cooperative may be supervised by the department
4 and that the consumer housing cooperative shall enter into such agreements with the department
5 as the department may require to provide regulation by the department of the planning, development
6 and management of any housing project undertaken by the cooperative and the disposition of the
7 property and other interests of the cooperative.

8 “(4) ‘Development costs’ means the costs that have been approved by the department as appro-
9 priate expenditures and includes, but is not limited to:

10 “(a) Payments for options to purchase property for the proposed housing project site, deposits
11 on contracts of purchase, payments for the purchase of property as approved by the department,
12 legal, organizational and marketing expenses including payment of attorney fees, managerial and
13 clerical staff salaries, office rent and other incidental expenses, payment of fees for preliminary
14 feasibility studies, advances for planning, engineering and architectural work;

15 “(b) Expenses for surveys as to need and market analyses; and

16 “(c) Such other expenses incurred by the qualified housing sponsor as the department may deem
17 necessary under ORS 456.550 to 456.725.

18 “(5) ‘Federally insured security’ means an evidence of indebtedness insured or guaranteed as to
19 repayment of principal and interest by the United States or an agency or instrumentality thereof.

20 “(6) ‘Housing development’ means a development that contains housing units for persons or
21 families of lower income and such other incidental elements of residential, commercial, recreational,
22 industrial, communal or educational facilities as the department determines improve the quality of
23 the development as it relates to housing for persons or families of lower income and the financial
24 feasibility of the development.

25 “(7) ‘Housing finance bond declaration’ means a written instrument signed by the Director of the
26 Housing and Community Services Department and on file with and bearing the certificate of ap-
27 proval of the State Treasurer **or the designee of the State Treasurer**, and all housing finance
28 bond declarations supplemental to that instrument.

29 “(8) ‘Housing Finance Fund’ means the Housing Finance Fund established in ORS 456.720 (1).

30 “(9) ‘Lending institution’ means any bank, mortgage banking company, trust company, savings
31 bank, savings and loan association, credit union, national banking association, federal savings and
32 loan association or federal credit unit maintaining an office in this state, or any insurance company
33 authorized to do business in this state.

34 “(10) ‘Limited dividend housing sponsor’ means a corporation, trust, partnership, association or
35 other entity, or an individual that is a mortgagor.

36 “(11) ‘Manufactured dwelling park nonprofit cooperative’ has the meaning given that term in
37 section 3 [of this 2007 Act], **chapter __, Oregon Laws 2007 (Enrolled House Bill 2096)**.

38 “(12) ‘Manufactured housing’ means a dwelling unit manufactured off-site having a minimum
39 width of 10 feet and a minimum area of 400 square feet built on a permanent chassis and designed
40 to be used for permanent residential occupancy whether or not on a permanent foundation, and that
41 contains permanent eating, cooking, sleeping and sanitary facilities and meets such standards as the
42 department determines, by rule, are reasonable to maintain the quality, safety and durability of the
43 dwelling, the sanitary requirements of the communities in which they are located and the security
44 of the loans that the department may finance for the purchase of the dwellings.

45 “(13) ‘Nonprofit housing corporation’ means an organization formed under ORS chapter 65 and

1 whose articles of incorporation provide, in addition to the other requirements of ORS chapter 65,
2 that:

3 “(a) The corporation has been organized exclusively to provide housing facilities for persons and
4 families of lower income and such other social, recreational, commercial and communal facilities as
5 may be incidental to such housing facilities.

6 “(b) All the income and earnings of the corporation shall be used exclusively for corporation
7 purposes and that no part of the net income or net earnings of the corporation may inure to the
8 benefit of any private individual, firm, corporation, partnership or association.

9 “(c) The corporation is in no manner controlled or under the direction or acting in the sub-
10 stantial interest of any private individual, firm, partnership or association seeking to derive profit
11 or gain therefrom or seeking to eliminate or minimize losses in transactions therewith.

12 “(d) The operations of the corporation may be supervised by the department and that the cor-
13 poration shall enter into such agreements with the department as the department may require to
14 regulate the planning, development and management of any housing project undertaken by the cor-
15 poration and the disposition of the property and other interests of the corporation.

16 “(14) ‘Person of lower income’ or ‘family of lower income’ means:

17 “(a) A person or family residing in this state whose income is not more than 80 percent of area
18 median income, adjusted for family size, as determined by the State Housing Council based upon
19 information from the United States Department of Housing and Urban Development;

20 “(b) A person or family residing in this state whose income, adjusted for family size, is below
21 the level the Housing and Community Services Department has determined to be necessary in order
22 to obtain in the open market decent, safe and sanitary housing, including the cost of utilities and
23 taxes, for not more than 25 percent of the gross income of the person or family; or

24 “(c) Any person or family the department determines is appropriate to treat as a person of lower
25 income or a family of lower income incidental to the accomplishment of department programs for
26 persons and families of lower income described in paragraphs (a) and (b) of this subsection.

27 “(15) ‘Project cost’ or ‘costs of the project’ means the sum of all reasonable expenses incurred
28 by a qualified housing sponsor in undertaking and completing a housing project approved by the
29 department. ‘Project costs’ or ‘costs of the project’ include but are not limited to the expenses in-
30 curred by a qualified housing sponsor for:

31 “(a) Studies and surveys;

32 “(b) Plans, specifications, architectural and engineering services;

33 “(c) Legal, organizational and other special services;

34 “(d) Financing, acquisition, demolition, construction, equipment and site development of new and
35 rehabilitated housing units;

36 “(e) Movement of existing buildings to new sites; the cost of acquisition, or estimated fair mar-
37 ket value, of land and other interests in real estate;

38 “(f) Rehabilitation, reconstruction, repair or remodeling of existing buildings;

39 “(g) Estimated carrying charges during construction and for a reasonable period thereafter;

40 “(h) Placement of tenants or occupants and relocation services in connection with the housing
41 project;

42 “(i) Reasonable builder’s or sponsor’s profit and risk allowance; and

43 “(j) Development costs not otherwise included in this subsection.

44 “(16) ‘Qualified housing sponsor’ includes, subject to the approval of the department:

45 “(a) A consumer housing cooperative;

- 1 “(b) A limited dividend housing sponsor;
2 “(c) A nonprofit housing corporation;
3 “(d) A for-profit housing sponsor including, but not limited to, an individual operating in com-
4 pliance with the criteria adopted by the department under ORS 456.620 (1);
5 “(e) A housing authority created by ORS 456.075;
6 “(f) An urban renewal agency created by ORS 457.035; and
7 “(g) Any city or county governing body or agency or department designated by the governing
8 body.

9 “(17) ‘Residential housing’ means a specific work or improvement within this state undertaken
10 primarily to provide dwelling accommodations, including land development and acquisition, con-
11 struction or rehabilitation of buildings and improvements thereto, for residential housing, and such
12 other nonhousing facilities as may be incidental or appurtenant thereto and as the department de-
13 termines improve the quality of the development as it relates to housing for persons or families of
14 lower income and the financial feasibility of the development. ‘Residential housing’ includes, but is
15 not limited to, a specific work or improvement within this state undertaken to provide mobile home
16 or manufactured dwelling parks as defined in ORS 446.003. As used in this subsection, ‘land devel-
17 opment’ includes, but is not limited to, the improvement of streets and alleys and the construction
18 of surface drains, sewers, curbing and sidewalks.

19 “(18) ‘Residential loan’ means any of the following:

20 “(a) A loan that is for the acquisition, construction, improvement or rehabilitation of residential
21 housing and, if the loan is for acquisition or construction of residential housing, that is secured by
22 a first lien on real property located in the state and:

23 “(A) Improved by a newly constructed, existing or rehabilitated residential structure for persons
24 or families of lower income; or

25 “(B) Unimproved if the proceeds of such loan shall be used for the erection of a residential
26 structure thereon, whether or not such loan is insured or guaranteed by the United States or any
27 instrumentality or agency thereof.

28 “(b) An insured or guaranteed loan for the acquisition of manufactured housing or for the ac-
29 quisition of a lot described in ORS 92.840 by a manufactured dwelling park tenant.

30 “(c) A loan for the purchase of a proprietary lease and related cooperative shares in a housing
31 cooperative formed under ORS chapter 62 secured by a security interest of first priority and a
32 pledge or an assignment of proprietary leases and related cooperative shares.

33 “(19) ‘Revolving account’ means the Housing and Community Services Department Revolving
34 Account created in ORS 456.574.”.

35 In line 35, delete “232a” and insert “232e”.

36 In line 41, before “ORS” insert “(1)”.

37 On page 132, after line 13, insert:

38 “(2) Notwithstanding section 17, chapter ___, Oregon Laws 2007 (Enrolled Senate Bill 812)
39 (amending ORS 288.805), if Senate Bill 812 becomes law, ORS 288.805 is repealed.”.

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