

Enrolled
House Bill 3626

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of Joint Interim Committee on Ways and Means)

CHAPTER

AN ACT

Relating to public financial administration; creating new provisions; amending ORS 294.145, 294.847, 396.515, 401.280, 410.851 and 443.420 and section 2, chapter 981, Oregon Laws 2001, and section 8, chapter 690, Oregon Laws 2005; repealing ORS 401.535 and 410.125 and sections 2, 3 and 5, chapter 911, Oregon Laws 2007; appropriating money; and declaring an emergency.

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

SECTION 1. ORS 294.145 is amended to read:

294.145. In making investments pursuant to ORS 294.035, the custodial officer *[shall]* **may** not:

(1) Make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement of the purchase or sale transaction;

(2) Enter into any agreement to invest funds or sell securities for future delivery for a fee other than interest;

(3) Lend securities to any person or institution, except:

(a) On a fully collateralized basis, *and except*; **and**

(b) When *[such]* **the** lending is specifically permitted under an investment policy adopted pursuant to ORS 294.135 (1)(a);

(4) Pay for any securities purchased by the custodial officer until the officer has received sufficient evidence of title *[thereof]* **to the securities**. Evidence of title *[shall]* **must** be consistent with modern investment, banking and commercial practices and may include physical possession, book entry and automated recordation of such title. However, the custodial officer may instruct one or more *[custodian banks, as defined in ORS 295.001,]* **custodial agents or banks** to accept or release securities as that custodial officer considers advisable to be held in safekeeping for collection of principal and interest or other income; or

(5) Deliver securities to the purchaser *[thereof]* **of the securities** upon sale prior to receiving payment in full *[therefor]* **for the securities**. However, the custodial officer may deliver the securities to any *[custodian bank, defined in ORS 295.001]* **custodial agent or bank** upon instructions to hold the *[same]* **securities** pending receipt by the *[institution]* **custodial agent or bank** of full payment *[therefor]* **for the securities**.

SECTION 2. ORS 294.847 is amended to read:

294.847. In making investments pursuant to ORS 294.805 to 294.895, the investment officer *[shall]* **may** not:

(1) Make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement of the purchase or sale transaction;

(2) Enter into any agreement to invest funds or sell securities for future delivery for a fee other than interest;

(3) Lend securities to any person or institution, except on a fully collateralized basis;

(4) Pay for any securities purchased by the investment officer until the investment officer has received physical possession, or other sufficient evidence, as determined under ORS 293.751 (1), of title [thereof] **to the securities**. However, the investment officer may instruct any [custodian bank, defined in ORS 295.001,] **custodial agent or bank** to accept securities on the investment officer's behalf against payment [therefor] **for the securities** previously deposited with the [institution] **custodial agent or bank** by the investment officer; or

(5) Deliver securities to the purchaser [thereof] **of the securities** upon sale prior to receiving payment in full [therefor] **for the securities**. However, the investment officer may deliver the securities to any [custodian bank, defined in ORS 295.001,] **custodial agent or bank** upon instructions to hold the [same] **securities** pending receipt by the [institution] **custodial agent or bank** of full payment [therefor] **for the securities**.

SECTION 3. ORS 294.847, as operative until July 1, 2008, is amended to read:

294.847. In making investments pursuant to ORS 294.805 to 294.895, the investment officer [shall] **may** not:

(1) Make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement of the purchase or sale transaction;

(2) Enter into any agreement to invest funds or sell securities for future delivery for a fee other than interest;

(3) Lend securities to any person or institution, except on a fully collateralized basis;

(4) Pay for any securities purchased by the investment officer until the investment officer has received physical possession, or other sufficient evidence, as determined under ORS 293.751 (1), of title [thereof] **to the securities**. However, the investment officer may instruct any [custodian bank, defined in ORS 295.001 (2),] **custodial agent or bank** to accept securities on the investment officer's behalf against payment [therefor] **for the securities** previously deposited with the [institution] **custodial agent or bank** by the investment officer; or

(5) Deliver securities to the purchaser [thereof] **of the securities** upon sale prior to receiving payment in full [therefor] **for the securities**. However, the investment officer may deliver the securities to any [custodian bank, defined in ORS 295.001 (2),] **custodial agent or bank** upon instructions to hold the [same] **securities** pending receipt by the [institution] **custodial agent or bank** of full payment [therefor] **for the securities**.

SECTION 4. (1) **The Oregon Pre-Disaster Mitigation Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys received from federal grants for pre-disaster mitigation efforts shall be deposited into the Oregon Pre-Disaster Mitigation Fund. Moneys in the fund are continuously appropriated to the Oregon Military Department to be used to:**

(a) **Help state agencies and local government units with Federal Emergency Management Agency approved mitigation plans in this state prior to the occurrence of natural disasters; and**

(b) **Ensure, to the extent possible, that state and local agencies and officials are prepared to respond to threats of human-caused disaster, including but not limited to acts of terrorism.**

(2) **The Oregon Pre-Disaster Mitigation Fund may receive gifts, grants, bequests, endowments and donations from public and private sources for purposes related to the fund.**

(3) **The Oregon Military Department shall adopt rules for the disbursement of moneys from the Oregon Pre-Disaster Mitigation Fund.**

SECTION 5. (1) **The Oregon Disaster Response Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys received from federal grants for disaster response efforts shall be deposited into the Oregon Disaster Response Fund. Moneys in the fund are continuously appropriated to the Oregon Military Department to be used to:**

(a) Help state agencies and local government units with immediate disaster response and recovery efforts related to federally declared disasters in this state; and

(b) Implement long-term hazard mitigation measures after a federally declared disaster in this state during the period of immediate recovery from the disaster.

(2) The Oregon Disaster Response Fund may receive gifts, grants, bequests, endowments and donations from public and private sources for purposes related to the fund.

(3) The Office of Emergency Management of the Oregon Military Department shall adopt rules for the disbursement of moneys from the Oregon Disaster Response Fund.

(4) If there are expenditures from the Oregon Disaster Response Fund, the Adjutant General of the Oregon Military Department shall report to the Emergency Board, or to the Legislative Assembly if it is in session, on:

(a) The nature and severity of the disaster;

(b) The actual and projected deposits into the fund;

(c) The sources of actual and projected expenditures from the fund;

(d) The nature of in-kind donations received; and

(e) The rationale for expenditures and allocation of payments to state agencies and local government units.

(5) Following the final expenditure for a particular disaster, the Adjutant General of the Oregon Military Department shall issue a final report to the Emergency Board, or to the Legislative Assembly if it is in session. The report must include an aggregate description of the factors described in subsection (4) of this section.

SECTION 6. (1) The Oregon Local Disaster Assistance Loan Account is established as an account in the Oregon Disaster Response Fund. The account consists of moneys appropriated by the Legislative Assembly and any other moneys deposited into the account pursuant to law.

(2) Moneys in the account are continuously appropriated to the Oregon Military Department for:

(a) Providing loans to local governments, as defined in ORS 174.116, and school districts to match, either in full or in part, moneys from federal programs for federally declared disaster relief that require a match; and

(b) Subject to subsection (4) of this section, paying the department's expenses for administering the account.

(3) The department shall deposit into the account any amounts repaid on loans made under this section.

(4) The department may not charge the account more than five percent of the maximum amount in the account during a biennium for administrative expenses.

(5) An applicant may apply to the department for a loan from the account. The department shall consider the application, make a recommendation and submit the application and recommendation to the Local Disaster Assistance Review Board established under subsection (6) of this section.

(6) The department shall establish a Local Disaster Assistance Review Board to:

(a) Review the recommendations of the department regarding loans from the account;

(b) Approve, by a majority vote of members, the amount of any loan; and

(c) Approve, by a majority vote of members, the terms and conditions of any loan.

(7) The review board shall include:

(a) Three members of county governing bodies, with at least one member representing a county from east of the crest of the Cascade Mountains, with membership determined by the Association of Oregon Counties;

(b) Three members of city governing bodies, with at least one member representing a city from east of the crest of the Cascade Mountains, with membership determined by the League of Oregon Cities;

(c) A representative of the office of the State Treasurer;

- (d) A representative of the Oregon Military Department;
 - (e) A representative of school districts, with membership determined by the Oregon School Boards Association;
 - (f) A representative of special districts, with membership determined by the Special Districts Association of Oregon;
 - (g) A representative of the Oregon Department of Administrative Services; and
 - (h) Two additional members determined jointly by the department, the Association of Oregon Counties and the League of Oregon Cities.
- (8) The Office of Emergency Management of the Oregon Military Department shall adopt rules establishing:
- (a) A loan application process and application forms;
 - (b) Reasonable financial terms and conditions for loans, including interest and the repayment of the loans;
 - (c) Eligibility requirements for loan applicants;
 - (d) The maximum amount an applicant for a loan may receive;
 - (e) The methodology the department will use for charging the account for administrative expenses; and
 - (f) Procedures for submission of loan recommendations to the review board.
- (9) The Oregon Military Department shall provide staff support for the review board.

SECTION 7. (1) ORS 401.535 is repealed.

(2) Moneys remaining on the effective date of this 2008 Act in the Emergency Management Revolving Account created in ORS 401.535 are transferred to the General Fund and may be used for general governmental purposes.

SECTION 8. ORS 401.280 is amended to read:

401.280. (1) The Office of Emergency Management is designated as the sole agency of the State of Oregon for the purpose of negotiating agreements with the United States Department of Homeland Security or other appropriate federal agency, on behalf of the state, for the acquisition of federal funds for the purpose of providing emergency program management and emergency services. All city or county emergency management programs, emergency service agencies and state agencies applying for such funds shall coordinate with the office on development of proposals and shall submit applications to the department to be reviewed or processed, or both.

(2) The office is authorized to accept and receive on behalf of the state, counties and cities federal funds for *[purpose]* **the purposes** of emergency program management and emergency services, *to deposit such funds in the Emergency Management Revolving Account and to authorize the disbursement and distribution of these funds in accordance with the applicable agreement*.

SECTION 9. ORS 396.515 is amended to read:

396.515. (1) Subject to the restriction contained in subsection (4) of this section, the Oregon Military Department may sell, exchange or lease any military department real property that is found to have become unsuitable for military department purposes. The Adjutant General shall make a determination of the unsuitability of the property for military department purposes and the advisability or necessity of sale, exchange or lease of the property.

(2) Title to any real property sold or exchanged shall be given in the name of the State of Oregon, and the deed conveying the title shall be signed by the Adjutant General. Title to real property received in exchange of military department real property shall be taken in the name of the State of Oregon, and the control of the property shall be vested in the military department.

(3) Military department real property owned jointly by the State of Oregon and the United States, or military department real property subject to federal restrictions in conflict with ORS 396.505 to 396.545, shall, with appropriate federal authorization, be subject to the provisions of ORS 396.505 to 396.545.

(4) Prior to the sale of military department real property, the military department shall submit to the Legislative Assembly *[if in regular session]*, or to the Emergency Board when the legislature is not in *[regular]* session, the proposed sale of military department real property, for approval.

SECTION 10. (1) Not later than March 1, 2009, and March 1, 2011, the Department of Higher Education shall report to the Joint Committee on Ways and Means and to any other committee of the Legislative Assembly assigned to examine the budget of the department.

(2) Each report shall include:

(a) Current information on the finances and status of the University of Oregon new arena capital construction project and the University of Oregon athletic department budget;

(b) Current projections of arena-related revenues and expenditures; and

(c) Current information on the balance and projected balances of the athletic department Legacy Fund established within the University of Oregon Foundation.

SECTION 11. ORS 410.851 is amended to read:

410.851. (1) The Legislative Assembly finds and declares that patients admitted to and cared for by long term care facilities in Oregon are more impaired than in the past. In keeping with the traditional commitment of the State of Oregon to the care and protection of its citizens who are frail or elderly or who have disabilities, as expressed in ORS 410.020 (1) to (6), the Legislative Assembly declares that a patient-based reimbursement system emphasizing quality incentives is appropriate for long term care facilities. Such a system would reward long term care facilities for outcomes, such as maintaining or improving a patient's condition, and meet the legitimate costs of caring for patients.

(2) As used in this section, "patient-based reimbursement" means reimbursement for direct patient care according to the needs of the patient, based on multiple levels of patient health, functioning and impairment.

(3) [Notwithstanding the above,] A patient-based reimbursement system does not require the Department of Human Services to assess each patient and reimburse long term care facilities according to the constantly changing conditions of the patients except for changes between skilled and intermediate levels of care which shall result in prompt readjustment of rates.

[3] (4) The department [of Human Services] shall establish by rule definitions of levels of care and the payment rates for the patient-based reimbursement system. The rates shall be designed to maintain and enhance access to community-based care services.

(5) Notwithstanding ORS 410.555, the department, in cooperation with representatives of community-based care providers, shall implement policies that offer incentives to providers for entering into Medicaid contracts with the department and that enable a patient, to the greatest extent possible, to remain in the residential setting offering the scope of services that best meets the patient's needs.

SECTION 12. ORS 443.420 is amended to read:

443.420. (1) A person applying for a license under ORS 443.415 must, in the judgment of the Director of Human Services, be a person:

(a) Who demonstrates an understanding and acceptance of the rules governing residential facilities;

(b) Mentally and physically capable of caring for such residents; and

(c) Who employs or utilizes only individuals whose presence does not jeopardize the health, safety or welfare of residents.

(2) A residential facility shall not be operated or maintained in combination with a nursing home or hospital unless licensed, maintained and operated as a separate and distinct part.

(3) All physical residential facilities used for residents shall meet applicable requirements of the State Fire Marshal.

(4) Prior to licensure, a residential facility must be in substantial compliance with applicable state and local laws, rules, codes, ordinances and permit requirements.

(5) Prior to licensure, a residential facility that proposes to house persons under the age of 21 years shall submit written proof of compliance with ORS 336.575 to the Department of Human Services.

(6) Prior to an initial licensure of a residential care facility, the department shall consider:

- (a) The license applicant's history of regulatory compliance and operational experience;
- (b) The need in the local community for the services offered by the license applicant, as demonstrated by a market study produced by the license applicant;
- (c) The willingness of the license applicant to serve underserved populations; and
- (d) The willingness of the license applicant to contract with the department to provide services through the state medical assistance program.

SECTION 13. Section 2, chapter 981, Oregon Laws 2001, as amended by section 2, chapter 308, Oregon Laws 2003, and section 2, chapter 690, Oregon Laws 2005, is amended to read:

Sec. 2. Section 1, chapter 981, Oregon Laws 2001, is repealed on [June 30, 2009] **December 31, 2008.**

SECTION 14. Section 8, chapter 690, Oregon Laws 2005, is amended to read:

Sec. 8. Sections 1, 3, 4, 5 and 6, **chapter 690, Oregon Laws 2005**, [of this 2005 Act] are repealed on [June 30, 2009] **December 31, 2008.**

SECTION 15. (1) **The Department of Human Services, in cooperation with representatives of residential facilities and adult foster homes, shall:**

(a) Assess the capacity on January 1, 2008, of residential facilities and adult foster homes to serve residents who qualify for state medical assistance;

(b) Establish targets for expansion of the capacity assessed in paragraph (a) of this subsection in each area of the state; and

(c) Issue a report on changes in capacity on a quarterly basis.

(2) The department shall report semiannually to the Legislative Assembly or the Emergency Board the findings in subsection (1) of this section and any recommendations for legislative action.

SECTION 16. ORS 410.125 is repealed.

SECTION 17. The repeal of ORS 410.125 by section 16 of this 2008 Act becomes operative on June 30, 2009.

SECTION 18. The amendments to ORS 443.420 by section 12 of this 2008 Act do not apply to a license applicant who, as of September 30, 2008:

(1) Has submitted schematic plans or construction drawings pursuant to section 3, chapter 690, Oregon Laws 2005;

(2) Is current in fees paid pursuant to sections 3 and 4, chapter 690, Oregon Laws 2005; and

(3) Has submitted copies of necessary permits in accordance with section 5, chapter 690, Oregon Laws 2005.

SECTION 19. (1) As used in this section:

(a) "Deployment" means an act in which a person was ordered to active duty and was deployed outside the United States.

(b) "Mobilization" means an act in which a person left the person's home station and was transferred to a mobilization site for federal service.

(c) "Small business" means a business that:

(A) Is a corporation, partnership, sole proprietorship or other legal entity licensed and located in Oregon and formed for the purpose of making a profit, and that is independently owned and operated from all other businesses; and

(B) Employs 50 or fewer persons.

(d) "Veteran" means a person who owns a controlling interest in a small business and who, at the time of the person's mobilization or deployment, is:

(A) A member of the Oregon National Guard; or

(B) A member of the reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States and a resident of Oregon.

(2) There is established in the Department of Veterans' Affairs the Veterans' Small Business Repair Loan Program. The purpose of the program is to assist any veteran whose small business, due to the veteran's absence, incurred a setback during the veteran's

mobilization or deployment by providing an interest-free loan to the veteran upon the veteran's return from mobilization or deployment. The loan shall be used by the veteran to restore the veteran's small business, to the extent feasible, to the condition the small business was in prior to the veteran's mobilization or deployment.

(3) A veteran may receive a maximum of two loans under the program. Each loan may not exceed \$20,000. Application for a loan must be made within 12 months after demobilization.

(4) The department shall adopt by rule:

(a) Criteria that a small business must meet to qualify as having incurred a business setback while the veteran was mobilized or deployed;

(b) The application process and any necessary forms;

(c) Terms of loan repayment; and

(d) Other criteria and processes necessary to carry out the purposes of the program.

(5) If a veteran is deceased as a result of the veteran's mobilization or deployment, the unmarried surviving spouse of the deceased veteran is eligible to apply for and receive a loan to continue the veteran's small business.

(6) If a veteran is at the time of the loan application no longer a member of the Oregon National Guard or the reserves, the veteran must have been discharged under honorable conditions.

(7) The Department of Veterans' Affairs, in consultation with the Economic and Community Development Department, shall review and reject or approve loan applications submitted by veterans.

(8) Repayments of loans made under this section shall be deposited in the Veterans' Small Business Repair Loan Fund established under section 20 of this 2008 Act.

SECTION 20. The Veterans' Small Business Repair Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Veterans' Small Business Repair Loan Fund shall be credited to the fund. Moneys received from legislative appropriations and repayments of loans shall be credited to the fund. Moneys in the fund are continuously appropriated to the Department of Veterans' Affairs for the purposes of funding loans under section 19 of this 2008 Act.

SECTION 21. (1) There is established a grant program to improve access to and the effectiveness of health care delivery for families.

(2) The goals of the program are to:

(a) Improve preventive health services;

(b) Increase access to appropriate, affordable and efficiently delivered primary care for families;

(c) Provide new access to health care for children;

(d) Explore alternative models for reimbursement of health care services; and

(e) Collect information to allow for an evaluation of each grant-funded project.

(3) The Department of Human Services shall award grants for two projects. One of the grants shall be awarded for a project that predominantly serves a rural area as defined by the Office of Rural Health.

(4) The department shall adopt rules in accordance with ORS 183.333 to:

(a) Establish criteria for awarding grants based on the goals of the program.

(b) Determine the amount of each grant.

(c) Administer the program.

(5) The department shall award grants under this section for projects that:

(a) Create incentives for collaborative, community-based organizations to bring diverse stakeholders together to coordinate, communicate and improve access to health care for local residents of the community; and

(b) Improve health care delivery in the community by providing:

(A) Patient-centered care in which there is a sustained relationship between a patient and a culturally competent provider team and that utilizes patient-driven goals and evidence-based practices;

(B) Team-based care that takes advantage of nursing services, including care coordination, school-based health services, home visits, telephone triage and clinical case management, and that maximizes services during each patient visit;

(C) Coordinated care that links patients to comprehensive services in the community, including specialty care, mental health care, dental care, vision care and social services;

(D) Provider accessibility through the use of telephone and electronic mail, and the removal of transportation, language, cultural and other barriers to timely care; and

(E) Collaboration with the community that ensures that health-related interests and services are coordinated, psychosocial services are incorporated, resources are leveraged and maximized and assessments are conducted on health status, disparities and effectiveness of services.

(6) To be awarded grants, applicants must demonstrate the ability to leverage nonstate resources given the strengths and limitations of their geographic locations.

(7) Each project must include an evaluation component that accurately monitors and measures:

(a) The impact of the project on the cost and quality of and access to health care; and

(b) How the structure and operation of the organization reflects the interests of and is accountable to the diverse needs of the local community.

SECTION 22. Section 21 of this 2008 Act is repealed January 2, 2012.

SECTION 23. (1) During the 2007-2009 biennium, the Department of Human Services shall conduct an assessment and evaluation of the community mental health care component of the mental health care delivery system in Oregon.

(2) The assessment conducted under subsection (1) of this section shall include but is not limited to:

(a) An assessment of the gap between the number of Oregonians in need of community mental health care and the number who receive community mental health care;

(b) An assessment of the investment that the Department of Human Services, the Department of Corrections and local governments make in community mental health care, including an examination of the amount spent on community mental health care;

(c) An assessment of the community mental health needs of particularly vulnerable populations in this state; and

(d) A catalog of the information that agencies and local governments use to evaluate the performance of providers of community mental health care, including the data collected and the performance measures and outcomes that are tracked by each agency and local government.

(3) The assessment conducted under subsection (2)(a) of this section must include a separate analysis of the gap between the demand for community mental health care by veterans returning from tours in Iraq, Afghanistan and other hostile fire areas and the community mental health care that is provided at United States Department of Veterans Affairs facilities.

(4) The evaluation conducted under subsection (1) of this section must contain:

(a) An analysis of the strengths and weaknesses in the state community mental health care delivery system;

(b) An overview of future community mental health care delivery system needs; and

(c) Recommendations from the Department of Human Services for improving the quality, effectiveness and efficiency of the community mental health care delivery system.

(5) The department shall provide a written report of the results of the assessment and evaluation conducted under subsection (1) of this section to the Senate Interim Committee

on Health and Human Services and the House Interim Committee on Health Care no later than October 1, 2008.

(6) The department may contract with a private entity or individual to conduct the assessment and evaluation and to produce the report required by this section.

SECTION 24. Section 23 of this 2008 Act is repealed January 2, 2009.

SECTION 25. Sections 2, 3 and 5, chapter 911, Oregon Laws 2007, are repealed.

SECTION 26. This 2008 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect on its passage.

Passed by House February 22, 2008

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Chief Clerk of House

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Speaker of House

Passed by Senate February 22, 2008

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President of Senate

Received by Governor:

.....M,....., 2008

Approved:

.....M,....., 2008

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Governor

Filed in Office of Secretary of State:

.....M,....., 2008

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Secretary of State