

House Bill 2105

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes state agencies and public bodies to purchase and hold bonds issued by state agency or public body, respectively, without causing automatic cancellation or extinguishment of bonds.

Authorizes State Treasurer to buy state government bonds as investment.

Authorizes state agencies and public bodies to use bond proceeds or moneys available for debt service to purchase bonds of state agency or public body.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to purchase of bonds; creating new provisions; amending ORS 287A.001 and 456.680; and
3 declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 286A.**

6 **SECTION 2. (1) A related agency, with the approval of the State Treasurer, or the State
7 Treasurer, on behalf of a related agency, may bid for, purchase, hold, cause to be held in
8 trust and remarket bonds issued by the State Treasurer on behalf of the related agency.**

9 **(2) Except as otherwise provided in the operative documents, the purchase or acquisition
10 of bonds under subsection (1) of this section does not cancel or extinguish the bonds unless
11 the related agency elects in writing to cancel or extinguish the bonds.**

12 **(3) In addition to other uses authorized by law, a related agency, or the State Treasurer
13 on behalf of a related agency, may purchase bonds under subsection (1) of this section using
14 moneys that are:**

15 **(a) Deposited in a fund or account in the State Treasury or with a trustee; and**

16 **(b) Appropriated or otherwise legally available for repayment of the bonds or for payment
17 of the costs of the related agency to administer the program under which the bonds were
18 sold, including bond proceeds and reserves established for the bonds.**

19 **(4) The State Treasurer, acting as investment officer under ORS 293.701 to 293.820, or a
20 trustee, investing moneys for a related agency, may purchase or acquire bonds issued by
21 state government, as defined in ORS 174.111.**

22 **(5) The purchase or acquisition of bonds under subsection (4) of this section does not
23 cancel or extinguish the bonds.**

24 **SECTION 3. Section 4 of this 2009 Act is added to and made a part of ORS chapter 287A.**

25 **SECTION 4. (1) Notwithstanding any limitation in a local charter, a public body may bid
26 for, purchase, hold, cause to be held in trust and remarket bonds issued by the public body.**

27 **(2) Except as otherwise provided in the operative documents, the purchase or acquisition
28 of bonds under this section does not cancel or extinguish the bonds unless the public body**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **elects in writing to cancel or extinguish the bonds.**

2 **SECTION 5.** ORS 287A.001 is amended to read:

3 287A.001. As used in this chapter:

4 (1) "Advance refunding bond" means a bond all or part of the proceeds of which are to be used
5 to pay an outstanding bond one year or more after the advance refunding bond is issued.

6 (2) "Agreement for exchange of interest rates" means a contract, or an option or forward com-
7 mitment to enter into a contract, for an exchange of interest rates for related bonds that provides
8 for:

9 (a) Payments based on levels or changes in interest rates; or

10 (b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to,
11 an interest rate floor or cap or an option, put or call.

12 (3) "Bond":

13 (a) Means a contractual undertaking or instrument of a public body to repay borrowed moneys.

14 (b) Does not mean a credit enhancement device.

15 (4) "Capital construction" has the meaning given that term in ORS 310.140.

16 (5) "Capital improvements" has the meaning given that term in ORS 310.140.

17 (6) "Credit enhancement device":

18 (a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance
19 policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity
20 or marketability of bonds or agreements for exchange of interest rates.

21 (b) Does not mean a bond.

22 (7) "Current refunding bond" means a bond the proceeds of which are to be used to pay **or**
23 **purchase** an outstanding bond less than one year after the current refunding bond is issued.

24 (8) "Forward current refunding" means execution and delivery of a purchase agreement or sim-
25 ilar instrument under which a public body contracts to sell current refunding bonds for delivery at
26 a future date that is one year or more after execution of the purchase agreement or similar instru-
27 ment.

28 (9) "General obligation bond" means exempt bonded indebtedness, as defined in ORS 310.140,
29 that is secured by a commitment to levy ad valorem taxes outside the limits of sections 11 and 11b,
30 Article XI of the Oregon Constitution.

31 (10) "Lawfully available funds" means revenues or other moneys of a public body including, but
32 not limited to, moneys credited to the general fund of the public body, revenues from an ad valorem
33 tax and revenues derived from other taxes levied by the public body that are not dedicated, re-
34 stricted or obligated by law or contract to an inconsistent expenditure or use.

35 (11) "Operative document" means a bond declaration, trust agreement, indenture, security
36 agreement or other document in which a public body pledges revenue or property as security for a
37 bond.

38 (12) "Pledge" means:

39 (a) To create a lien on property pursuant to ORS 287A.310.

40 (b) A lien created on property pursuant to ORS 287A.310.

41 (13) "Public body" means:

42 (a) A county of this state;

43 (b) A city of this state;

44 (c) A local service district as defined in ORS 174.116 (2);

45 (d) A special government body as defined in ORS 174.117;

1 (e) Oregon Health and Science University; or

2 (f) Any other political subdivision of this state that is authorized by the Legislative Assembly
3 to issue bonds.

4 (14) "Refunding bond" means an advance refunding bond, a current refunding bond or a forward
5 current refunding bond.

6 (15) "Related bond" means a bond for which the public body enters into an agreement for ex-
7 change of interest rates or obtains a credit enhancement device.

8 (16) "Revenue" means all fees, tolls, excise taxes, assessments, property taxes and other taxes,
9 rates, charges, rentals and other income or receipts derived by a public body or to which a public
10 body is entitled.

11 (17) "Revenue bond" means a bond that is not a general obligation bond.

12 (18) "Termination payment" means the amount payable under an agreement for exchange of in-
13 terest rates by one party to another party as a result of the termination, in whole or part, of the
14 agreement prior to the expiration of the stated term.

15 **SECTION 6.** ORS 456.680 is amended to read:

16 456.680. *[The Housing and Community Services Department, subject to any existing agreements*
17 *with its bondholders, may purchase bonds then outstanding out of any funds of the department avail-*
18 *able therefor under ORS 456.515 to 456.725. Any bonds of the department so purchased shall be can-*
19 *celed. The department may purchase such bonds whether or not such bonds are redeemable at the time*
20 *of such purchase. If the bonds are then redeemable, the department shall purchase such bonds at a*
21 *reasonable price not exceeding the redemption price then applicable plus accrued interest to the date*
22 *of redemption.] **Except as otherwise provided in the operative documents, the Housing and***
23 **Community Services Department may acquire outstanding bonds issued on behalf of the de-**
24 **partment, as provided in section 2 (1) of this 2009 Act, out of moneys described in section 2**
25 **(3) of this 2009 Act or other moneys of the department legally available for the purpose under**
26 **ORS 456.515 to 456.725. If the outstanding bonds are redeemable at the time of acquisition,**
27 **the department must pay a reasonable price that does not exceed the applicable redemption**
28 **price plus accrued interest to the date of redemption.**

29 **SECTION 7.** (1) Section 2 (1) to (3) of this 2009 Act applies to bonds purchased by a re-
30 lated agency or the State Treasurer:

31 (a) On or after the effective date of this 2009 Act; and

32 (b) Before the effective date of this 2009 Act if the related agency or the State Treasurer
33 purchased the bonds and the related agency did not elect in writing to cancel or extinguish
34 the bonds.

35 (2) Section 2 (4) and (5) of this 2009 Act applies to bonds purchased by the State Treas-
36 urer or a trustee on or after the effective date of this 2009 Act.

37 (3) Section 4 of this 2009 Act applies to bonds purchased by a public body:

38 (a) On or after the effective date of this 2009 Act; and

39 (b) Before the effective date of this 2009 Act if the public body acted within its authority
40 to purchase the bonds and did not elect in writing to cancel or extinguish the bonds.

41 **SECTION 8.** This 2009 Act being necessary for the immediate preservation of the public
42 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
43 on its passage.