

House Bill 2973

Sponsored by Representative WHISNANT, Senator TELFER; Representatives BENTZ, CAMERON, FREEMAN, GARRARD, HANNA, HUFFMAN, KRIEGER, OLSON

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**.

Modifies authority for issuance of bonds by public bodies. Requires voter approval for public body to issue general obligation debt. Specifies that school district may not pledge full faith and credit and taxing power of state. Specifies bonds of school district for which State Treasurer may issue certificate of qualification for state guaranty.

A BILL FOR AN ACT

1
2 Relating to public borrowing; creating new provisions; amending ORS 287A.315, 328.295 and 328.321;
3 and repealing ORS 328.230.

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

5 **SECTION 1.** ORS 287A.315 is amended to read:

6 287A.315. (1) A public body **that has authority to issue general obligation bonds may, upon**
7 **approval of the voters of the public body**, pledge its full faith and credit and taxing power [*when*
8 *the public body issues*:]

9 [*(a) A general obligation bond; or*]

10 [*(b) An obligation that is secured by all lawfully available funds of the public body*].

11 (2) When a public body pledges its full faith and credit and taxing power to pay an obligation,
12 the pledge constitutes an enforceable promise or contract by the public body:

13 (a) To pay the obligation out of lawfully available funds of the public body; and

14 (b) If lawfully available funds are insufficient to pay when due the amounts owing on the obli-
15 gation, to levy, impose and collect a tax that is within the authority of the public body to levy, im-
16 pose and collect in an amount sufficient to pay the amounts owing under the obligation, including
17 past due amounts and penalties.

18 (3) If a public body fails to pay when due an amount owing under an obligation secured by a
19 pledge of the full faith and credit and taxing power of the public body, the owner of the obligation,
20 or the trustee appointed to act on behalf of the owner, may bring an action in the circuit court of
21 the county in which the principal offices of the public body are located to compel the public body:

22 (a) To appropriate and expend sufficient lawfully available funds to pay the amounts owing on
23 the obligation; or

24 (b) If lawfully available funds are insufficient to pay when due the amounts owing on the obli-
25 gation, to levy, impose and collect a tax that is within the authority of the public body to levy, im-
26 pose and collect in an amount sufficient to pay the amounts owing under the obligation, including
27 past due amounts and penalties.

28 (4) An owner of the obligation, or a trustee appointed to act on behalf of the owner, may initiate
29 a proceeding to impose remedial sanctions under ORS 33.055 against members of the governing body
30 of a public body for failure to comply with an order of the court under this section.

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 (5) A pledge of the full faith and credit and taxing power authorized by this section does not,
2 by itself, create a lien on the revenues or property of the public body.

3 **SECTION 2. Section 3 of this 2009 Act is added to and made a part of ORS 328.205 to**
4 **328.304.**

5 **SECTION 3. As used in ORS 328.205 to 328.304, “bond” means a bond issued by a common**
6 **or union high school district under ORS 328.205 to 328.304.**

7 **SECTION 4.** ORS 328.295 is amended to read:

8 328.295. All school bonds, including funding and refunding bonds, notes and negotiable interest-
9 bearing warrants which have been specifically authorized by vote of the electors, shall be issued as
10 prescribed in ORS [*chapter 287A*] **287A.300 to 287A.380.**

11 **SECTION 5.** ORS 328.321 is amended to read:

12 328.321. As used in ORS 328.321 to 328.356:

13 (1) “Common School Fund” means the state school fund described in section 2, Article VIII,
14 Oregon Constitution.

15 (2) “General obligation bond” has the meaning given that term in ORS 287A.001.

16 (3) “Paying agent” means the corporate paying agent selected by the school district board for
17 a school bond issue who is:

18 (a) Duly qualified; and

19 (b) Acceptable to the State Treasurer.

20 (4) “School bond” means any general obligation bond issued by a school district **under ORS**
21 **328.205 to 328.304.**

22 (5) “School district” means a common or union high school district, an education service district
23 or a community college district.

24 (6) “State bonds” means those general obligation bonds issued by the State of Oregon to meet
25 its obligations under the state guaranty as described in ORS 328.351.

26 (7) “State guaranty” means the pledge of the full faith and credit and taxing power of the State
27 of Oregon to guarantee payment of eligible school bonds as set forth in ORS 328.321 to 328.356.

28 **SECTION 6. ORS 328.230 is repealed.**

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