

# Senate Bill 890

Sponsored by Senator WHITSETT; Senators ATKINSON, FERRIOLI, GEORGE, KRUSE, PROZANSKI, SCHRADER

## 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**.

Directs Economic and Community Development Department to establish program to provide loan or credit guarantee for loans issued by financial institutions to small businesses. Authorizes State Treasurer to issue bonds to finance credit guarantee program for small business loans.

Declares emergency, effective July 1, 2009.

## A BILL FOR AN ACT

1  
2 Relating to small business loan guarantee program; appropriating money; limiting expenditures; and  
3 declaring an emergency.

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

### **SECTION 1. (1) As used in this section:**

5  
6 (a) **"Financial institution" includes institutions listed in ORS 706.008 and any other in-**  
7 **stitution that the Economic and Community Development Department defines by rule as a**  
8 **financial institution.**

9 (b) **"Operations capital" means capital for:**

10 (A) **Day-to-day business expenses;**

11 (B) **Maintenance and repairs;**

12 (C) **Supplies and equipment that are not intrinsic to a structure; or**

13 (D) **Furnishings, unless the furnishings are acquired in connection with the acquisition,**  
14 **construction, remodeling or renovation of a structure, or in connection with the repair of a**  
15 **structure that is required because of damage or destruction of the structure.**

16 (c) **"Small business" means a corporation, partnership, sole proprietorship or other legal**  
17 **entity formed for the purpose of making a profit that is independently owned and operated**  
18 **and has 50 or fewer employees.**

19 (2) **The Economic and Community Development Department shall develop a program**  
20 **under which the department guarantees loans or other forms of credit to small businesses**  
21 **for operations capital.**

22 (3) **In administering the program created by this section, the department shall:**

23 (a) **Consult and cooperate with financial institutions in this state.**

24 (b) **Administer the program so that administrative and application procedures are:**

25 (A) **As responsive to the needs of small businesses and financial institutions as practi-**  
26 **cable; and**

27 (B) **Consistent with prudent investment and lending practices and prudent investment**  
28 **and lending criteria.**

29 (4) **The department shall prescribe by rule the loan or credit guarantee application pro-**  
30 **cedure by which a small business may obtain a loan from a financial institution that is sub-**

**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.

ject to a loan or credit guarantee under this section.

(5) The department shall set fees and establish other terms for loan or credit guarantees that are reasonably calculated to ensure that:

(a) Businesses with access to other forms of private capital will find participating in the program uneconomical.

(b) The program established under this section is self-financing.

(6) Financial institutions that issue loans subject to a loan or credit guarantee under this section shall prioritize lending on the basis of the credit rating of each applicant.

**SECTION 2.** As used in sections 2 to 6 of this 2009 Act, “bond-related costs” means:

(1) The costs and expenses of issuing and administering bonds under sections 2 to 6 of this 2009 Act;

(2) The cost of funding bond reserves;

(3) Capitalized interest for the bonds; and

(4) Rebates or penalties due to the United States in connection with the bonds.

**SECTION 3.** (1) In the biennium beginning July 1, 2009, at the request of the Director of the Economic and Community Development Department, the State Treasurer is authorized to issue revenue bonds as provided in ORS 286A.025 in the principal amount of \$\_\_\_\_\_ million to finance the program described in section 1 of this 2009 Act, plus an additional amount, estimated by the State Treasurer, for payment of bond-related costs.

(2) Net proceeds of revenue bonds issued under subsection (1) of this section, in the amount of \$\_\_\_\_\_ million, must be deposited in the Small Business Operations Capital Bond Fund established by section 4 of this 2009 Act.

(3) Neither the faith and credit nor any of the taxing power of this state is pledged or otherwise committed by sections 2 to 6 of this 2009 Act, and the commitments of this state under sections 2 to 6 of this 2009 Act do not constitute a debt or liability of this state within the meaning of section 7, Article XI of the Oregon Constitution.

(4) The provisions of this section and the provisions of a security document related to a revenue bond issued pursuant to this section are deemed to be a contract between the state and the holder of a revenue bond issued pursuant to this section. The state may not give force or effect to a statute, initiative measure or referendum measure if doing so would unconstitutionally impair existing covenants made with a holder of an existing revenue bond or unconstitutionally impair any other obligation or agreement regarding the security of a revenue bond.

**SECTION 4.** (1) The Small Business Operations Capital Bond Fund is established in the State Treasury, separate and distinct from the General Fund. The Small Business Operations Capital Bond Fund consists of:

(a) Net proceeds credited to the fund by the State Treasurer pursuant to section 3 of this 2009 Act;

(b) Any funds appropriated or allocated to the fund; and

(c) Investment earnings received on moneys in the fund.

(2) Moneys in the fund are continuously appropriated to the Economic and Community Development Department to finance the loan guarantee program described in section 1 of this 2009 Act.

**SECTION 5.** (1) The Small Business Operations Capital Bond Debt Service Fund is established in the State Treasury, separate and distinct from the General Fund. The Small

1 **Business Operations Capital Bond Debt Service Fund consists of:**

- 2 (a) Any funds appropriated or allocated to the fund; and
- 3 (b) Investment earnings received on moneys in the fund.

4 (2) Moneys in the fund are continuously appropriated to the Economic and Community  
5 Development Department.

6 (3) The department, in consultation with the State Treasurer, shall use amounts in the  
7 fund to:

- 8 (a) Pay the bond-related costs on outstanding revenue bonds;
- 9 (b) Fund revenue bond reserves; and
- 10 (c) Pay amounts due in connection with any instrument authorized by the State Treas-  
11 urer under ORS 268A.120.

12 **SECTION 6.** (1) The Small Business Operations Capital Bond Administration Fund is es-  
13 tablished in the State Treasury, separate and distinct from the General Fund. The Small  
14 Business Operations Capital Bond Administration Fund consists of:

- 15 (a) The amount of revenue bond proceeds remaining after depositing the net proceeds in  
16 the Small Business Operations Capital Bond Fund;
- 17 (b) The proceeds of revenue bonds issued to pay bond-related costs;
- 18 (c) Any funds appropriated or allocated to the Small Business Operations Capital Bond  
19 Administration Fund; and
- 20 (d) Investment earnings received on moneys in the Small Business Operations Capital  
21 Bond Administration Fund.

22 (2) Moneys in the Small Business Operations Capital Bond Administration Fund are  
23 continuously appropriated to the Economic and Community Development Department.

24 (3) The department, in consultation with the State Treasurer, may use amounts in the  
25 Small Business Operations Capital Bond Administration Fund to pay bond-related costs dur-  
26 ing the term of revenue bonds issued under section 3 of this 2009 Act. The State Treasurer  
27 shall disburse amounts in the fund upon the written request of the Director of the Economic  
28 and Community Development Department.

29 **SECTION 7.** Notwithstanding any other law limiting expenditures, the amount of  
30 \$\_\_\_\_\_ is established for the biennium beginning July 1, 2009, as the maximum limit for  
31 payment of expenses by the Economic and Community Development Department for the  
32 program described in section 1 of this 2009 Act.

33 **SECTION 8.** Notwithstanding any other law limiting expenditures, the amount of \$1 is  
34 established for the biennium beginning July 1, 2009, as the maximum limit for payment of  
35 expenses by the Economic and Community Development Department from the Small Busi-  
36 ness Operations Capital Bond Debt Service Fund established in section 5 of this 2009 Act,  
37 which expenses are for payments of the bond-related costs on outstanding revenue bonds, for  
38 funding revenue bond reserves and for paying amounts due in connection with any instru-  
39 ment authorized by the State Treasurer under ORS 286A.120.

40 **SECTION 9.** Notwithstanding any other law limiting expenditures, the amount of \$1 is  
41 established for the biennium beginning July 1, 2009, as the maximum limit for payment of  
42 expenses by the Economic and Community Development Department from the Small Busi-  
43 ness Operations Capital Bond Administration Fund established in section 6 of this 2009 Act,  
44 which expenses are for bond-related costs associated with revenue bonds issued under sec-  
45 tion 3 of this 2009 Act.

1        **SECTION 10. This 2009 Act being necessary for the immediate preservation of the public**  
2        **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
3        **on July 1, 2009.**

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