

# Senate Bill 934

Sponsored by Senator VERGER; Senators MORRISETTE, PROZANSKI, Representatives BEYER, BOONE, BUCKLEY, HOLVEY, KRIEGER, ROBLAN, SCHAUFLEER, SHIELDS

## 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**.

Changes timing of issuance and distribution of second and third installments of lottery bonds to pay costs of Coos Bay channel deepening project.

## A BILL FOR AN ACT

1  
2 Relating to public borrowing for Coos Bay channel deepening; amending sections 13 and 14, chapter  
3 746, Oregon Laws 2007.

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

5 **SECTION 1.** Section 13, chapter 746, Oregon Laws 2007, is amended to read:

6 **Sec. 13.** (1) In addition to amounts authorized under ORS 286.505 to 286.545 (**2005 Edition**) or  
7 **pursuant to ORS 286A.035**, the State Treasurer, at the request of the Director of the Economic and  
8 Community Development Department, may issue lottery bonds pursuant to ORS [286.560 to 286.580]  
9 **286A.560 to 286A.585:**

10 (a) In an amount of up to \$60 million for payment of the expenses of the Coos Bay Channel  
11 Project in increments described in subsection (2) of this section; and

12 (b) In an additional amount to be estimated by the State Treasurer for payment of bond-related  
13 costs of the Oregon Department of Administrative Services, the Economic and Community Develop-  
14 ment Department and the State Treasurer.

15 (2) The director shall request the State Treasurer to issue the amount of bonds described in  
16 subsection (1)(a) of this section in increments that allow the director, at the request of the primary  
17 sponsor, to transfer:

18 (a) In the biennium beginning July 1, 2007, up to \$5 million in net proceeds of lottery bonds to  
19 the Coos Bay Channel Fund established in section 15 [*of this 2007 Act*], **chapter 746, Oregon Laws**  
20 **2007**, for distribution to the primary sponsor after the director finds that the primary sponsor has  
21 taken action pursuant to the grant agreement required in section 14 [*of this 2007 Act*], **chapter 746,**  
22 **Oregon Laws 2007**, that triggers the distribution of bond proceeds described in this paragraph.

23 (b) In the biennium beginning July 1, [2009] **2011**, up to \$15 million in net proceeds of lottery  
24 bonds to the Coos Bay Channel Fund established in section 15 [*of this 2007 Act*], **chapter 746,**  
25 **Oregon Laws 2007**, for distribution to the primary sponsor after the director finds that the primary  
26 sponsor has taken action pursuant to the grant agreement required in section 14 [*of this 2007 Act*],  
27 **chapter 746, Oregon Laws 2007**, that triggers the distribution of bond proceeds described in this  
28 paragraph.

29 (c) In the biennium beginning July 1, [2011] **2013**, up to \$40 million in net proceeds of lottery  
30 bonds to the Coos Bay Channel Fund established in section 15 [*of this 2007 Act*], **chapter 746,**  
31 **Oregon Laws 2007**, for distribution to the primary sponsor after the director finds that the primary

**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 sponsor has taken action pursuant to the grant agreement required in section 14 [of this 2007 Act],  
2 **chapter 746, Oregon Laws 2007**, that triggers the distribution of bond proceeds described in this  
3 paragraph.

4 [(3) Lottery bonds authorized under this section may not be issued after June 30, 2013].

5 **SECTION 2.** Section 14, chapter 746, Oregon Laws 2007, is amended to read:

6 **Sec. 14.** (1) The Director of the Economic and Community Development Department shall enter  
7 into one or more grant agreements with the primary sponsor that require the Economic and Com-  
8 munity Development Department to disburse, over the course of the project, an aggregate principal  
9 amount of \$60 million for payment of the expenses of the Coos Bay Channel Project, in the incre-  
10 ments described in section 13 (2) [of this 2007 Act], **chapter 746, Oregon Laws 2007**, from the Coos  
11 Bay Channel Fund established pursuant to section 15 [of this 2007 Act], **chapter 746, Oregon Laws**  
12 **2007**, to the primary sponsor. The department shall make disbursements from the fund as soon as  
13 bond proceeds are deposited in the fund.

14 (2) The one or more grant agreements must:

15 (a) Subject to subsection (4) of this section, establish appropriate triggers for the incremental  
16 biennial distribution of bond proceeds described in section 13 (2) [of this 2007 Act], **chapter 746,**  
17 **Oregon Laws 2007**, based on appropriate measures of progress in completion of the project that are  
18 satisfactory to the director and consistent with prudent financial practices that reflect sound  
19 stewardship of public resources.

20 (b) Require the primary sponsor to:

21 (A) Return bond proceeds distributed and reimburse the State of Oregon for expenditures made  
22 pursuant to sections 11 to 15 [of this 2007 Act], **chapter 746, Oregon Laws 2007**, if the director  
23 determines that the project is not substantially completed by July 1, [2019] **2021**, unless the project  
24 is not substantially completed:

25 (i) Due to an act of God; or

26 (ii) Because the State of Oregon fails to distribute one or more of the increments of bond pro-  
27 ceeds described in section 13 (2) [of this 2007 Act], **chapter 746, Oregon Laws 2007**, and required  
28 to substantially complete the project, for a reason other than a failure of the primary sponsor to  
29 take action to trigger the distribution or a failure of the project to meet federal or state environ-  
30 mental permitting standards necessary to complete the project.

31 (B) Provide evidence satisfactory to the director that the primary sponsor has obtained a letter  
32 of credit, entered into a surety bond agreement or provided other similar financial assurance to  
33 guarantee the return of bond proceeds and reimbursement for expenditures required by this para-  
34 graph.

35 (3) Notwithstanding subsection (2)(b)(B) of this section, the primary sponsor may choose to  
36 guarantee the bond proceeds distributed and the state expenditures made in the biennium beginning  
37 July 1, 2007, by converting the amount into a loan subject to an agreement that allows the primary  
38 sponsor to repay the amount over time at terms provided for in the grant agreement.

39 (4)(a) Prior to the distribution of bond proceeds described in section 13 (2)(a) [of this 2007 Act],  
40 **chapter 746, Oregon Laws 2007**, the primary sponsor shall provide to the director a budget docu-  
41 ment outlining expenditures for the Coos Bay Channel Project and verify and certify to the director  
42 that:

43 (A) The primary sponsor has entered into a commercially reasonable agreement with a cargo  
44 terminal developer to construct and operate cargo terminal facilities on the Coos Bay channel;

45 (B) The Secretary of the Army has authorized the performance of environmental studies on the

1 channel pursuant to section 203 of the Water Resources Development Act of 1986 (P.L. 99-662); and  
 2 (C) The cargo terminal developer has entered into, or made appropriate progress in negotiations  
 3 toward, a contract with rail service providers to ensure adequate rail infrastructure and service  
 4 capacity to serve the cargo terminal facilities to be developed as part of the Coos Bay Channel  
 5 Project.

6 (b) Prior to the distribution of bond proceeds described in section 13 (2)(b) [*of this 2007 Act*],  
 7 **chapter 746, Oregon Laws 2007**, the primary sponsor shall provide an updated budget document  
 8 outlining expenditures for the Coos Bay Channel Project and verify and certify to the director that:

9 (A) The Secretary of the Army has provided a favorable recommendation to Congress to proceed  
 10 with the Coos Bay Channel Project; and

11 (B) The primary sponsor has obtained, or has reasonable assurance of obtaining, adequate  
 12 funding to complete permitting and engineering work on the Coos Bay Channel Project.

13 (c) Prior to the distribution of bond proceeds described in section 13 (2)(c) [*of this 2007 Act*],  
 14 **chapter 746, Oregon Laws 2007**, the primary sponsor shall provide an updated budget outlining  
 15 expenditures for the completion of the Coos Bay Channel Project and verify and certify to the di-  
 16 rector that:

17 (A) The sponsor has received the necessary approvals and permits under ORS 196.600 to 196.905  
 18 and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to allow the Coos  
 19 Bay Channel Project to be completed; and

20 (B) The primary sponsor has obtained, or has reasonable assurance of obtaining, adequate  
 21 funding to complete the Coos Bay Channel Project.

22 (5) The State of Oregon and its agencies and departments are not liable to the lenders, vendors  
 23 or contractors of the Oregon sponsors for any action or omission under sections 11 to 15 [*of this*  
 24 *2007 Act*], **chapter 746, Oregon Laws 2007**.

25 (6) By receipt of any part of net proceeds of lottery bonds described in section 13 [*of this 2007*  
 26 *Act*], **chapter 746, Oregon Laws 2007**, the primary sponsor agrees to indemnify the state and its  
 27 agencies and departments to the fullest extent permitted by law for liability the state or its agencies  
 28 and departments might incur in connection with any borrowing by the primary sponsor for the  
 29 project.

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