STATE TREASURY AGENDA:

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SENATE BILL 13

STANDARDIZING SEMI-INDEPENDENT STATE AGENCY BORROWING AUTHORITY

BACKGROUND:

Many semi-independent state agencies are authorized by statute to borrow. Authorizing statutes provide that debt undertaken by semi-independent state agencies does not constitute an obligation by the State of Oregon, and that neither the full faith and credit of the state of Oregon nor the taxing power of the state of Oregon may be pledged to secure such obligations.

However, the statutes authorizing borrowing by semi-independent state agencies vary in their wording, and any differences in the wording of statutes may be interpreted by courts as a difference in legislative intent. These differences could form the basis for lawsuits pursued by creditors of a defaulting semi-independent state agency, arguing that the legislature intended to secure the agency's debt with revenues of the state of Oregon.

EFFECT OF LEGISLATION:

SB 13 would standardize the language in statutes authorizing borrowing by semi-independent state agencies to clarify that the state of Oregon is not obligated to secure or repay their debt. **SB13 does not intend to modify the borrowing authority of semi-independent state agencies in any way.** The legislation is intended to clarify that the obligations of semi-independent agencies should not be viewed as a State of Oregon obligation paid from revenues pledged by the State or its taxing power.

BENEFITS:

Passage of SB 13 would protect the state from lawsuits based on differences in wording of the statutes, and protect against potential court findings that the state is under an obligation to the creditors of semi-independent state agencies. The State does not oversee the financial status of semi-independent agencies as it does for other State agencies. When a regular agency issues revenue bonds, the cash flows are reviewed by the Office of the State Treasurer and agency's books have been audited by the Secretary of State. That oversight does not occur with semi-independent agencies. Therefore, the market or potential individual purchasers should not view the borrowings of such agencies in the same light as borrowings supported by revenues from agencies such as ODOT or the Housing and Community Services Department. This bill is intended to help bolster that distinction and to reduce the likelihood that such obligations would be sold in the public markets.

RECOMMENDATION:

The State Treasury recommends passage of SB 13, as amended by Treasury's proposed amendments.

MEASURE: SB 0013
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