

House Bill 2205

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Sustainability and Economic Development for State Treasurer and Oregon Facilities Authority)

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 issuance of pass-through revenue bonds to finance projects outside this state. Defines "within this state" in relation to institutions eligible to receive pass-through financing under authority of Oregon Facilities Authority.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to revenue bonds issued under authority of the Oregon Facilities Authority; creating new
3 provisions; amending ORS 286A.140, 289.005 and 316.056; and prescribing an effective date.

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

5 **SECTION 1.** ORS 289.005, as amended by section 1, chapter 3, Oregon Laws 2010, is amended
6 to read:

7 289.005. (1) As used in this chapter, unless the context requires otherwise:

8 [(1)] (a) "Authority" means the Oregon Facilities Authority created by this chapter.

9 [(2)] (b) "Bonds" or "revenue bonds" means revenue bonds, as defined in ORS 286A.001.

10 [(3)] (c) "Cost" means the cost of:

11 [(a)] (A) Construction, acquisition, alteration, enlargement, reconstruction and remodeling of a
12 project, including all lands, structures, real or personal property, rights, rights of way, air rights,
13 franchises, easements and interests acquired or used for or in connection with a project;

14 [(b)] (B) Demolition or removal of buildings or structures on land as acquired, including the cost
15 of acquiring lands to which the buildings or structures may be moved;

16 [(c)] (C) All machinery and equipment;

17 [(d)] (D) Financing charges, interest prior to, during and for a period after completion of con-
18 struction and acquisition, reasonably required amounts to make the project operational, provisions
19 for reserves for principal and interest and for extensions, enlargements, additions, replacements,
20 renovations and improvements;

21 [(e)] (E) Architectural, actuarial engineering, financial and legal services, plans specifications,
22 studies, surveys, estimates of costs and of revenues, administrative expenses, expenses necessary or
23 incident to determining the feasibility or practicability of constructing the project;

24 [(f)] (F) Management, operation or funding of a qualified program; and

25 [(g)] (G) Other expenses that are necessary or incident to a project, the financing of the project
26 or the placing of the project in operation.

27 [(4)] (d) "Cultural institution" means a public or nonprofit institution within this state which
28 engages in the cultural, intellectual, scientific, environmental, educational or artistic enrichment of
29 the people of this state. "Cultural institution" includes, without limitation, aquaria, botanical socie-

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 ties, historical societies, land conservation organizations, libraries, museums, performing arts asso-
 2 ciations or societies, scientific societies, wildlife conservation organizations and zoological societies.
 3 “Cultural institution” does not mean any school or any institution primarily engaged in religious
 4 or sectarian activities.

5 [(5)] (e) “Health care institution” means a public or nonprofit organization within this state that
 6 provides health care and related services, including but not limited to the provision of inpatient and
 7 outpatient care, diagnostic or therapeutic services, laboratory services, medicinal drugs, nursing
 8 care, assisted living, elderly care and housing, including retirement communities, and equipment
 9 used or useful for the provision of health care and related services.

10 [(6)] (f) “Housing institution” means a public or nonprofit organization within this state that
 11 provides decent, affordable housing to low income persons.

12 [(7)] (g) “Institution” means a cultural institution, a health care institution, a housing institu-
 13 tion, an institution for higher education, an institution for prekindergarten through grade 12 edu-
 14 cation, a school for persons with disabilities or another nonprofit.

15 [(8)] (h) “Institution for higher education” means a public or nonprofit educational institution
 16 within this state authorized by law to provide a program of education beyond the high school level,
 17 including community colleges and associate degree granting institutions. “Institution for higher ed-
 18 ucation” does not mean any school or any institution primarily engaged in religious or sectarian
 19 activities.

20 [(9)] (i) “Institution for prekindergarten through grade 12 education” means an Oregon
 21 prekindergarten as defined in ORS 329.170, a public educational institution within this state au-
 22 thorized by law to provide a program of education for kindergarten through grade 12 or a nonprofit
 23 educational institution within this state registered as a private school under ORS 345.545 that pro-
 24 vides a program of education for prekindergarten through grade 12. “Institution for prekindergarten
 25 through grade 12 education” does not mean a school or institution primarily engaged in religious
 26 or sectarian activities.

27 [(10)] (j) “Nonprofit” means an institution, organization or entity within this state exempt from
 28 taxation under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

29 [(11)(a)] (k)(A) “Project” means the financing or refinancing of the costs, including, without
 30 limitation, acquisition, construction, enlargement, remodeling, renovation, improvement, furnishing
 31 and equipping, of the following:

32 [(A)] (i) In the case of a participating institution that is an institution for higher education, an
 33 institution for prekindergarten through grade 12 education or a school for persons with disabilities,
 34 [*a structure or*] structures, **within or outside this state**, suitable for use as a dormitory or other
 35 multiunit housing facility for students, faculty, officers or employees, or a dining hall, student union,
 36 administration building, academic building, library, laboratory, research facility, classroom, athletic
 37 facility, health care facility, maintenance, storage or utility facility and other structures or facilities
 38 related to any of the structures required or used for the instruction of students, the conducting of
 39 research or the operation of an institution for higher education, an institution for prekindergarten
 40 through grade 12 education or a school for persons with disabilities. It shall also include landscap-
 41 ing, site preparation, furniture, equipment and machinery and other similar items necessary or con-
 42 venient for the operation of a particular facility or structure in the manner for which its use is
 43 intended and shall further include any furnishings, equipment, machinery and other similar items
 44 necessary or convenient for the operation of an institution of higher education, an institution for
 45 prekindergarten through grade 12 education or a school for persons with disabilities, whether or not

1 such items are related to a particular facility or structure financed under this chapter.

2 [(B)] (ii) In the case of a participating institution that is a housing institution, [*a structure or*
 3 structures, **within or outside this state**, suitable for use as housing, including residences or
 4 multiunit housing facilities, administration buildings, maintenance, storage or utility facilities and
 5 other structures or facilities related to any of the structures required or used for the operation of
 6 the housing, including parking and other facilities or structures essential or convenient for the or-
 7 derly provision of such housing. It shall also include landscaping, site preparation, furniture, equip-
 8 ment and machinery and other similar items necessary or convenient for the particular housing
 9 facility or structure in the manner for which its use is intended and shall further include any fur-
 10 nishings, equipment, machinery and other similar items necessary or convenient for the provision
 11 of housing, whether or not such items are related to a particular facility or structure financed under
 12 this chapter.

13 [(C)] (iii) In the case of a participating institution that is a cultural institution, [*a structure or*]
 14 structures, **within or outside this state**, suitable for [*its*] **the institution's** purposes, whether or
 15 not to be used to provide educational services, or research resources, including use as or in con-
 16 nection with an administrative facility, aquarium, assembly hall, auditorium, botanical garden, ex-
 17 hibition hall, gallery, greenhouse, library, museum, scientific laboratory, theater or zoological
 18 facility. It shall also include supporting facilities, landscaping, site preparation, furniture, equipment,
 19 machinery and other similar items necessary or convenient for the operation of a cultural institu-
 20 tion, whether or not such items are related to a particular facility or structure financed under this
 21 chapter, including books, works of art or other items for display or exhibition.

22 [(D)] (iv) In the case of a participating institution that is a health care institution, [*a structure*
 23 *or*] structures, **within or outside this state**, suitable for [*its*] **the institution's** purposes, including
 24 hospital facilities, inpatient and outpatient clinics, doctors' offices, administration buildings, parking,
 25 maintenance, storage or utility facilities, nursing care or assisted living facilities, elderly care and
 26 housing facilities, including retirement communities, and other structures or facilities related to any
 27 of the structures required or used for the operation of the health care institution, including other
 28 facilities or structures essential or convenient for the orderly provision of such health care. It shall
 29 also include landscaping, site preparation, furniture, equipment and machinery and other similar
 30 items necessary or convenient for the particular health care facility or structure in the manner for
 31 which its use is intended and shall further include any working capital, furnishings, equipment,
 32 machinery and other similar items necessary or convenient for the provision of health care, whether
 33 or not such items are related to a particular facility or structure financed under this chapter.

34 [(E)] (v) In the case of a participating institution that is a nonprofit not otherwise specified in
 35 this subsection, [*a structure or*] structures suitable for [*its*] **the institution's** purposes, including fa-
 36 cilities or structures, **within or outside this state**, essential or convenient for the orderly oper-
 37 ations of the nonprofit. It shall also include acquisition of interests in land, landscaping, site
 38 preparation, furniture, equipment and machinery and other similar items necessary or convenient for
 39 the nonprofit, whether or not the items are related to a particular facility or structure financed
 40 under this chapter, including borrowings needed to alleviate interim cash flow deficits of the
 41 nonprofit.

42 [(F)] (vi) In the case of a participating institution, costs to manage, operate or fund a qualified
 43 program or costs to alleviate interim cash flow deficits of the institution.

44 [(b)] (B) "Project" also includes any combination of one or more of the projects undertaken
 45 jointly by one or more participating institutions with each other or with other parties.

1 [(c)] (C) "Project" does not include the financing or refinancing of the costs of a facility used
 2 or to be used for sectarian instruction or as a place of religious worship or any facility which is
 3 used or to be used primarily in connection with any part of the program of a school or department
 4 of divinity for any religious denomination.

5 [(12)] (L) "Qualified program" means a financing program, or other activities, of a participating
 6 institution that is eligible for financing through the issuance of revenue bonds the interest on which
 7 is:

8 [(a)] (A) Excluded from gross income for federal income tax purposes; or

9 [(b)] (B) Eligible for a federal tax credit or subsidy under the Internal Revenue Code.

10 [(13)] (m) "School for persons with disabilities" means a public or nonprofit primary, secondary
 11 or post-secondary school within this state that serves students at least 70 percent of whom are
 12 persons with disabilities as determined by one or more appropriate education, rehabilitation, medical
 13 or mental health authorities; is accredited by a recognized accrediting body; and is determined by
 14 the authority to be a major resource of benefit to persons with disabilities. "School for persons with
 15 disabilities" does not mean any school or any institution primarily engaged in religious or sectarian
 16 activities.

17 (2) As used in subsection (1) of this section in relation to institutions eligible to partic-
 18 ipate, "within this state" means that the institution:

19 (a) Seeks to finance a project located in the State of Oregon;

20 (b) Has its primary place of business in the State of Oregon or conducts a substantial
 21 portion of its operations in the State of Oregon; or

22 (c) Is owned by or affiliated under common ownership with an institution described in
 23 paragraph (b) of this subsection.

24 **SECTION 2.** Section 3 of this 2011 Act is added to and made a part of ORS chapter 289.

25 **SECTION 3.** Interest on revenue bonds issued by the State Treasurer under the authority
 26 of this chapter is exempt from personal income tax under ORS chapter 316 only to the extent
 27 that the bond proceeds generating the interest are used to finance eligible projects located
 28 in the State of Oregon.

29 **SECTION 4.** ORS 286A.140 is amended to read:

30 286A.140. **Except as provided in section 3 of this 2011 Act,** interest on all bonds of the State
 31 of Oregon is exempt from personal income tax under ORS chapter 316.

32 **SECTION 5.** ORS 316.056 is amended to read:

33 316.056. (1) In addition to the modifications to federal taxable income contained in this chapter,
 34 there shall be subtracted from federal taxable income, **to the extent includable in gross income**
 35 **for federal income tax purposes,** the interest or dividends on obligations of:

36 (a) The State of Oregon [*or*], **pursuant to ORS 286A.140.**

37 (b) A public body, as defined in ORS 287A.001. [*to the extent includable in gross income for*
 38 *federal income tax purposes. However,*]

39 (2) The amount subtracted under this section shall be reduced by any interest on indebtedness
 40 incurred to carry the obligations or securities described in this section[,] and by any expenses in-
 41 curred in the production of interest or dividend income described in this section.

42 **SECTION 6.** This 2011 Act takes effect on the 91st day after the date on which the 2011
 43 session of the Seventy-sixth Legislative Assembly adjourns sine die.