

House Bill 3452

Sponsored by COMMITTEE ON REVENUE

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**.

Creates Oregon Finance and Credit Board to formulate and implement investment and management policies and practices for state funds controlled and administered by state agencies. Authorizes board to enter into contracts with state agencies for investment and management of state funds. Authorizes board to make, purchase, guarantee and hold loans, purchase participation interests and invest and manage state funds. Directs board to adopt rules. Requires report to Legislative Assembly on or before date of convening of 2013 regular session of Legislative Assembly.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to state finance; creating new provisions; amending ORS 293.148; and declaring an emer-
3 gency.

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

5 **SECTION 1. The Legislative Assembly finds that:**

6 (1) **The availability of venture capital for Oregon businesses that are engaged in economic**
7 **development is critical to the continued growth and development of the economy of Oregon.**

8 (2) **There exists a substantial gap between available venture capital resources and the**
9 **need of Oregon businesses that are engaged in economic development for such resources.**

10 (3) **Currently existing state-managed funds constitute a major financial resource of the**
11 **State of Oregon. Prudent investment and management of these funds may, together with**
12 **access to capital provided in partnership with financial institutions, enhance the availability**
13 **of venture capital for Oregon businesses engaged in economic development.**

14 **SECTION 2. As used in section 3 of this 2011 Act, unless the context requires otherwise:**

15 (1) **“Business” means a corporation, partnership, proprietorship, firm, enterprise, joint**
16 **venture, franchise, association, organization, self-employed individual or other business en-**
17 **tity operating or doing business in Oregon.**

18 (2) **“Economic development” means development that relates to and supports the eco-**
19 **nomic development policy and strategy for this state outlined in ORS 285A.020, that pro-**
20 **motes, expands or prevents the decline of a business located or to be located in Oregon and**
21 **that is necessary to and consistent with the policies of the Oregon Finance and Credit Board.**

22 (3) **“Financial institution” means a banking institution, federal bank, federal savings bank**
23 **and insured institution as those terms are defined in ORS 706.008, a credit union as that term**
24 **is defined in ORS 723.006 and any other institution defined by rule of the Oregon Finance and**
25 **Credit Board as a financial institution for purposes of section 3 of this 2011 Act.**

26 (4) **“State agency” means an officer, board, commission, department, division, institution,**
27 **branch or agency in the executive or administrative branch of state government or a public**
28 **institution of higher education.**

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) "State fund" means a fund established under the control and administration of a state
 2 agency that has entered into a contract with the Oregon Finance and Credit Board for in-
 3 vestment and management of the fund.

4 **SECTION 3.** (1) The Oregon Finance and Credit Board is established to formulate and
 5 implement policies and procedures, and to make recommendations, for the investment, re-
 6 investment and management of state funds to support the economic development of this
 7 state and to increase access to capital for businesses, in partnership with local financial in-
 8 stitutions, for the purpose of furthering economic development in this state.

9 (2) The board shall consist of three members as follows:

10 (a) The Governor, who shall be the chairperson of the board;

11 (b) The State Treasurer; and

12 (c) The Commissioner of the Bureau of Labor and Industries.

13 (3) The Oregon Finance and Credit Board shall formulate and implement investment and
 14 management policies and practices subject to the standard set forth in ORS 293.726 for the
 15 investment and management of state funds. In exercising its authority under this subsection,
 16 the board may approve and direct specific investments and strategies for the investment of
 17 moneys in state funds and may make investments directly, without the use of a management
 18 company, in any form or manner that would be lawful for a private corporation having sim-
 19 ilar intent.

20 (4) The board may enter into a contract with a state agency for the investment and
 21 management of state funds over which the agency has supervision and control and may enter
 22 into any other contract the board deems necessary or appropriate to carry out the board's
 23 duties, functions and powers under this section.

24 (5) The board may:

25 (a) Make, purchase, guarantee or hold loans:

26 (A) To qualified businesses engaged in economic development that are doing business in
 27 this state; or

28 (B) Originated by financial institutions doing business in this state.

29 (b) Make loans in the form of participation loans where the originator of the loan is a
 30 financial institution doing business in this state.

31 (c) Purchase participation interests in loans made or held by financial institutions doing
 32 business in this state.

33 (d) Invest and manage state funds in conformity with policies and practices formulated
 34 by the board and the investment standard stated in ORS 293.726 (1).

35 (e) Perform all acts and do all things necessary, convenient, advisable or desirable to
 36 carry out the powers expressly granted or necessarily implied in this section through its
 37 chairperson, officers, agents and representatives or by contracts with any person, state
 38 agency or financial institution.

39 (6) The board may enter into contracts with one or more management companies for the
 40 provision of investment advice, to manage and invest moneys in state funds and for other
 41 services that the board deems reasonable and necessary to fulfill the duties of the board
 42 under this section. A management company selected under this subsection shall manage
 43 moneys in state funds subject to the investment policies and practices established by the
 44 board with the care, skill and diligence that a prudent investor acting in a similar capacity
 45 and familiar with such investments would use in managing and investing a similar account.

1 **Contracts entered into under this subsection are not subject to the State Personnel Relations**
 2 **Law, ORS 279.835 to 279.855 or ORS chapter 279A or 279B.**

3 (7) **The board shall keep a separate fund or account for each state fund it has contracted**
 4 **with a state agency to invest and manage for the purpose of recording individual amounts**
 5 **and totals of all investments of moneys in the state fund.**

6 (8) **The board may assess and charge fees for services provided in the management and**
 7 **investment of state funds that may be credited against moneys earned from investment and**
 8 **reinvestment of the state funds.**

9 (9) **The Oregon Business Development Department shall provide staff to the board as**
 10 **necessary to allow the board to carry out its responsibilities under this section.**

11 (10) **The Oregon Finance and Credit Board shall adopt rules that specify:**

12 (a) **The board's powers, permissible investments and activities and services that the**
 13 **board may provide.**

14 (b) **Limits for loans and other obligations the board makes, authorizes or undertakes.**

15 (c) **Other requirements that the board considers necessary for the exercise of the board's**
 16 **powers and functions under this section.**

17 (11) **A member of the board may receive reimbursement of expenses under ORS 292.495**
 18 **(2) but may not receive compensation under ORS 292.495 (1) or otherwise for participation**
 19 **as a member of the board.**

20 **SECTION 4. The Oregon Finance and Credit Board shall submit a report to the Legisla-**
 21 **tive Assembly on or before the date of convening of the 2013 regular session of the Legisla-**
 22 **tive Assembly as specified in ORS 171.010. The report required by this section shall include**
 23 **the policies and practices for investment and management of state funds formulated by the**
 24 **board, recommendations for legislation and a summary of the moneys invested and managed**
 25 **by the board, if any.**

26 **SECTION 5. Except as provided in ORS 293.148, as soon as possible after the end of each**
 27 **calendar year, the Oregon Finance and Credit Board shall determine the amount of income,**
 28 **if any, earned by state funds invested and managed by the Oregon Finance and Credit Board**
 29 **in that calendar year that is in excess of amounts necessary to pay for expenses of develop-**
 30 **ing and administering the programs and funds under the direction of the board. The amount**
 31 **of the excess shall be transferred to the Oregon Rainy Day Fund established by ORS 293.144.**

32 **SECTION 6. ORS 293.148 is amended to read:**

33 293.148. (1) **If the moneys in the Oregon Rainy Day Fund established by ORS 293.144 just prior**
 34 **to the time of a transfer scheduled under ORS 293.144 (3) or 293.146 or section 5 of this 2011 Act**
 35 **equal at least 7-1/2 percent of the amount of General Fund revenues collected during the prior**
 36 **biennium, moneys that would otherwise be transferred to the Oregon Rainy Day Fund shall be de-**
 37 **posited in the General Fund.**

38 (2) **If the moneys in the Oregon Rainy Day Fund just prior to the time of a transfer scheduled**
 39 **under ORS 293.144 (3) or 293.146 or section 5 of this 2011 Act do not equal at least 7-1/2 percent**
 40 **of the amount of General Fund revenues collected during the prior biennium, the transfer to the**
 41 **Oregon Rainy Day Fund shall be made regardless of whether that transfer increases the amount in**
 42 **the Oregon Rainy Day Fund to at least 7-1/2 percent of the amount of General Fund revenues col-**
 43 **lected during the prior biennium.**

44 **SECTION 7. This 2011 Act being necessary for the immediate preservation of the public**
 45 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**

1 **on its passage.**

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