

A-Engrossed
Senate Bill 889

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Sponsored by COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS PROTECTION

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.

Creates Oregon [*Financing and Credit*] **Economic Development Finance** Authority to formulate and implement investment and management policies and practices for state funds controlled and administered by state agencies. Authorizes authority to enter into contracts with state agencies for investment and management of state funds. [*Authorizes authority to make, purchase, guarantee and hold loans, purchase participation interests and invest and manage state funds.*] Directs authority 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; and declaring an emergency.

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

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

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

7 (2) **Currently existing state-managed funds constitute a major financial resource of the**
8 **State of Oregon. Prudent investment, management and coordination of these funds may,**
9 **together with access to capital provided in partnership with financial institutions, enhance**
10 **the availability of capital for Oregon small businesses and farms and contribute to**
11 **sustainable job growth.**

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

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

17 (2) **"Economic development" means development that relates to and supports the eco-**
18 **nomical development policy and strategy for this state outlined in ORS 285A.020, that pro-**
19 **motes, expands or prevents the decline of a business located or to be located in Oregon, that**
20 **creates jobs or prevents the loss of jobs and that is necessary to and consistent with the**
21 **policies of the Oregon Economic Development Finance Authority.**

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 defined**
24 **in ORS 723.008 and any other institution defined by rule of the Oregon Economic Develop-**
25 **ment Finance Authority as a financial institution for purposes of section 3 of this 2011 Act.**

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 (4) "State agency" means an officer, board, commission, department, division, institution,
2 branch or agency in the executive or administrative branch of state government or a public
3 institution of higher education.

4 (5) "State fund" means a fund established under the supervision and control of a state
5 agency that has entered into a contract with the Oregon Economic Development Finance
6 Authority for investment and management of the fund.

7 **SECTION 3.** (1) The Oregon Economic Development Finance Authority is established to
8 formulate and implement policies and procedures, and to make recommendations, for the
9 investment, reinvestment, management and coordination of state funds to support the eco-
10 nomic development of this state and to increase access to capital for small businesses, in
11 partnership with local financial institutions, for the purpose of furthering economic devel-
12 opment in this state. The authority shall coordinate the economic development resources
13 available to the State of Oregon and facilitate the use of resources that create jobs and
14 provide economic opportunity through existing agency programs.

15 (2) Further purposes of the authority are to:

16 (a) Support the economic development of this state by increasing access to capital for
17 small businesses and farms in this state in partnership with local financial institutions
18 through existing state agency programs and infrastructure.

19 (b) Support Oregon employment by encouraging and coordinating investments that can
20 result in job creation and retention in a sustainable and efficient manner.

21 (c) Assist in providing stability to the local financial sector but not to compete in any
22 way with community banks, credit unions or other financial institutions.

23 (d) Fund related governmental operations with a portion of the authority's earnings,
24 when practical.

25 (3) The authority shall consist of three members as follows:

26 (a) The Governor, or the designee of the Governor, who shall be the chairperson of the
27 authority;

28 (b) The State Treasurer, or the designee of the State Treasurer; and

29 (c) A member selected by the two members described in paragraphs (a) and (b) of this
30 subsection, who shall serve a term of two years that begins on March 1 of an odd-numbered
31 year.

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

36 (5) The authority may perform all acts and do all things necessary to carry out the
37 powers expressly granted in this section through its chairperson, officers, agents and repre-
38 sentatives or by contracts with any person, state agency or financial institution.

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

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

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

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

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

11 (10) The authority may appoint an executive director of the authority. The person ap-
12 pointed as executive director must have extensive experience in banking. The authority may
13 appoint and employ subordinate officers, employees and agents as the authority considers
14 necessary and shall define the duties of, designate the titles of and fix the compensation for
15 the persons the authority appoints and employs. The authority may designate the executive
16 director or another officer or employee as an agent of the authority for the purpose of im-
17 plementing the authority's functions, subject to the authority's supervision, limitation and
18 control.

19 (11) The authority shall adopt rules that specify:

20 (a) The authority's powers, permissible investments and activities and services that the
21 authority may provide.

22 (b) Limits for loans and other obligations the authority makes, authorizes or undertakes.

23 (c) Other requirements that the authority considers necessary for the exercise of the
24 authority's powers and functions under this section.

25 (12) A member of the authority may receive reimbursement of expenses under ORS
26 292.495 (2) but may not receive compensation under ORS 292.495 (1) or otherwise for partic-
27 ipation as a member of the authority.

28 **SECTION 4.** (1) The Oregon Economic Development Finance Authority shall appoint an
29 advisory council that consists of seven members.

30 (2) Members of the advisory council must include representatives of this state's financial
31 sectors, small businesses, building trades and small farms. At least two members must be
32 officers of banks that have at least 75 percent of their offices in this state, and at least two
33 members must be officers of credit unions that have at least 75 percent of their offices in
34 this state.

35 (3) The authority shall appoint a chairperson, vice chairperson and secretary of the ad-
36 visory council.

37 (4) The advisory council shall:

38 (a) Meet regularly with the authority or the executive director of the authority to review
39 the authority's operations and finances and to determine whether the advisory council
40 should make recommendations to the authority to improve the authority's management,
41 interagency relations and internal methods, procedures and operating policies;

42 (b) Meet regularly with the authority to discuss the advisory council's recommendations
43 and to provide other advice, expertise or information at the request of the authority; and

44 (c) If necessary, recommend additional objectives for the authority's operations.

45 **SECTION 5.** The Oregon Economic Development Finance Authority shall submit a report

1 to the Legislative Assembly on or before the date of the convening of the 2013 regular session
2 of the Legislative Assembly as specified in ORS 171.010. The report required by this section
3 shall include the policies and practices for investment and management of state funds, as
4 defined in section 2 of this 2011 Act, formulated by the authority, recommendations for leg-
5 islation and a summary of the moneys invested and managed by the authority, if any.

6 SECTION 6. This 2011 Act being necessary for the immediate preservation of the public
7 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
8 on its passage.

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