

Senate Bill 889

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 **as introduced**.

Creates Oregon Financing and Credit 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; 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:**

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.**

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

15 (1) **"Authority" means the Oregon Financing and Credit Authority.**

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

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

24 (4) **"Financial institution" means a banking institution, federal bank, federal savings bank**
25 **and insured institution as those terms are defined in ORS 706.008, a credit union as that term**
26 **is defined in ORS 723.006 and any other institution defined by rule of the Oregon Financing**
27 **and Credit Authority as a financial institution for purposes of section 3 of this 2011 Act.**

28 (5) **"State agency" means an officer, board, commission, department, division, institution,**

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 branch or agency in the executive or administrative branch of state government or a public
2 institution of higher education.

3 (6) "State fund" means a fund established under the control and administration of a state
4 agency that has entered into a contract with the Oregon Financing and Credit Authority for
5 investment and management of the fund.

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

11 (2) The authority shall consist of 15 members as follows:

12 (a) The Governor or the Governor's designee, who shall be the chairperson of the au-
13 thority;

14 (b) The State Treasurer or the treasurer's designee;

15 (c) The Commissioner of the Bureau of Labor and Industries or the commissioner's
16 designee;

17 (d) The Chancellor of the Oregon University System or the chancellor's designee;

18 (e) A member appointed by the President of the Senate from among members of the
19 Senate, who shall be a nonvoting, advisory member;

20 (f) A member appointed by the Speaker of the House of Representatives from among
21 members of the House of Representatives, who shall be a nonvoting, advisory member; and

22 (g) Nine members appointed by the Governor:

23 (A) Three of whom shall be from a list of candidates recommended by the State Treas-
24 urer who are qualified by training and experience in the field of venture capital, investment,
25 finance and economic development in Oregon;

26 (B) Three representatives of this state's financial institutions; and

27 (C) Three representatives of this state's business, agricultural and labor sectors.

28 (3) The Oregon Financing and Credit Authority shall formulate and implement invest-
29 ment and management policies and practices subject to the standard set forth in ORS 293.726
30 for the investment and management of state funds. In exercising its authority under this
31 subsection, the authority may approve and direct specific investments and strategies for the
32 investment of moneys in state funds and may make investments directly, without the use
33 of a management company, in any form or manner that would be lawful for a private cor-
34 poration having similar intent.

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

39 (5) The authority may:

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

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

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

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

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

3 (d) Invest and manage state funds in conformity with policies and practices formulated
4 by the authority and the investment standard stated in ORS 293.726 (1).

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

9 (6) The authority may enter into contracts with one or more management companies for
10 the provision of investment advice, to manage and invest moneys in state funds and for other
11 services that the authority deems reasonable and necessary to fulfill the duties of the au-
12 thority under this section. A management company selected under this subsection shall
13 manage moneys in state funds subject to the investment policies and practices established
14 by the authority with the care, skill and diligence that a prudent investor acting in a similar
15 capacity and familiar with such investments would use in managing and investing a similar
16 account. Contracts entered into under this subsection are not subject to the State Personnel
17 Relations Law, ORS 279.835 to 279.855 or ORS chapter 279A or 279B.

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

21 (8) The authority may assess and charge fees for services provided in the management
22 and investment of state funds that may be credited against moneys earned from investment
23 and reinvestment of the state funds.

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

26 (10) The Oregon Financing and Credit Authority shall adopt rules that specify:

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

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

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

32 (11) A member of the authority may receive reimbursement of expenses under ORS
33 292.495 (2) but may not receive compensation under ORS 292.495 (1) or otherwise for partic-
34 ipation as a member of the authority.

35 **SECTION 4.** The authority shall submit a report to the Legislative Assembly on or before
36 the date of convening of the 2013 regular session of the Legislative Assembly as specified in
37 ORS 171.010. The report required by this section shall include the policies and practices for
38 investment and management of state funds formulated by the authority, recommendations
39 for legislation and a summary of the moneys invested and managed by the authority, if any.

40 **SECTION 5.** Except as provided in ORS 293.148, as soon as possible after the end of each
41 calendar year, the Oregon Financing and Credit Authority shall determine the amount of
42 income, if any, earned by state funds invested and managed by the Oregon Financing and
43 Credit Authority in that calendar year that is in excess of amounts necessary to pay for
44 expenses of developing and administering the programs and funds under the direction of the
45 authority. The amount of the excess shall be transferred to the Oregon Rainy Day Fund es-

1 **ablished by ORS 293.144.**

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

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

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

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

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