

HB 2519-3  
(LC 995)  
5/23/11 (BLS/ps)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2519**

1 In line 2 of the printed bill, delete the period and insert “; creating new  
2 provisions; amending ORS 295.048 and 295.101 and sections 13 and 29, chapter  
3 101, Oregon Laws 2010; and declaring an emergency.”.

4 Delete lines 4 through 10 and insert:

5 **“SECTION 1.** Section 13, chapter 101, Oregon Laws 2010, is amended to  
6 read:

7 **“Sec. 13.** (1) [*Until June 30, 2013,*] The State Treasurer may accept mon-  
8 eys from any public or private source, including a credit union or an asso-  
9 ciation of credit unions, for the purpose of paying initial **or continuing**  
10 expenses related to administering the provisions of section 12, **chapter 101,**  
11 **Oregon Laws 2010** [*of this 2010 Act*].

12 **“(2)** The State Treasurer shall deposit moneys the State Treasurer re-  
13 ceives under this section into the Miscellaneous Receipts Account estab-  
14 lished for the State Treasurer in the General Fund. Notwithstanding the  
15 provisions of ORS 295.106, moneys the State Treasurer receives under this  
16 section are continuously appropriated to the State Treasurer for the purpose  
17 of paying the State Treasurer’s initial **or continuing** expenses related to  
18 administering section 12, **chapter 101, Oregon Laws 2010** [*of this 2010*  
19 *Act*]. The State Treasurer shall expend the moneys in accordance with the  
20 terms and conditions upon which the moneys were made available.

21 **“SECTION 2.** Section 29, chapter 101, Oregon Laws 2010, is amended to  
22 read:

1       **"Sec. 29. (1) Subject to subsection (2) of this section,** sections 12, 13,  
2 13a and 13b, **chapter 101, Oregon Laws 2010,** [of this 2010 Act] and the  
3 amendments to ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015,  
4 295.018, 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071,  
5 295.073, 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by  
6 sections 1 to 10, 14 to 23 and 25 to 28, **chapter 101, Oregon Laws 2010,** [of  
7 this 2010 Act] become operative January 1, 2013.

8       **"(2) If the State Treasurer determines that the conditions described**  
9 **in section 13a (1), chapter 101, Oregon Laws 2010, have been satisfied,**  
10 **the State Treasurer shall implement sections 12 and 13b, chapter 101,**  
11 **Oregon Laws 2010, and the amendments to ORS 295.001, 295.002, 295.004,**  
12 **295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.041, 295.046,**  
13 **295.048, 295.053, 295.061, 295.071, 295.073, 295.081, 295.084, 295.091, 295.108,**  
14 **295.205, 576.375 and 711.410 by sections 1 to 10, 14 to 23 and 25 to 28,**  
15 **chapter 101, Oregon Laws 2010, not later than 180 days after the date**  
16 **the State Treasurer determines that the conditions described in sec-**  
17 **tion 13a (1), chapter 101, Oregon Laws 2010, have been satisfied.**

18       **"[(2)] (3) The State Treasurer and the Director of the Department of**  
19 **Consumer and Business Services may take any action before January 1, 2013,**  
20 **that is necessary to enable the State Treasurer and the director to exercise,**  
21 **on and after January 1, 2013, all the duties, functions and powers conferred**  
22 **on the State Treasurer and the director by sections 12, 13, 13a and 13b,**  
23 **chapter 101, Oregon Laws 2010,** [of this 2010 Act] and the amendments to  
24 ORS 295.001, 295.002, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018,  
25 295.031, 295.034, 295.041, 295.046, 295.048, 295.053, 295.061, 295.071, 295.073,  
26 295.081, 295.084, 295.091, 295.108, 295.205, 576.375 and 711.410 by sections 1 to  
27 10, 14 to 23 and 25 to 28, **chapter 101, Oregon Laws 2010** [of this 2010  
28 Act].

29       **"SECTION 3. ORS 295.048 is amended to read:**

30       **"295.048. (1) Notwithstanding ORS 295.046, a bank depository may not**

1 permit the aggregate of public funds deposits on deposit with the bank de-  
2 pository from all public officials to exceed at any time:

3 “(a) 100 percent of the value of the bank depository’s net worth, if the  
4 bank depository is an undercapitalized bank depository;

5 “(b) 150 percent of the value of the bank depository’s net worth, if the  
6 bank depository is an adequately capitalized bank depository;

7 “(c) 200 percent of the value of the bank depository’s net worth, if the  
8 bank depository is a well capitalized bank depository; or

9 “(d) 30 percent of the total aggregate uninsured public funds deposits of  
10 all public officials in all bank depositories as reported in the most recent  
11 notice received by the bank depository from the State Treasurer.

12 “(2) The State Treasurer shall notify each bank depository and its custo-  
13 dian of the total aggregate uninsured public funds deposits of all public of-  
14 ficials in all bank depositories, based on the most recently submitted  
15 treasurer reports. The treasurer shall give the notification required by this  
16 subsection by the last day of the month in which bank depositories are re-  
17 quired to submit a treasurer report.

18 “(3) If a bank depository’s aggregate of uninsured public funds deposits  
19 exceeds the amount set forth in subsection (1) of this section, the bank de-  
20 pository shall, within three business days after receipt of notice from the  
21 State Treasurer, cease accepting deposits of uninsured public funds.

22 “(4) Notwithstanding subsections (1) and (3) of this section:

23 “(a) A bank depository may accept and hold uninsured public funds de-  
24 posits in excess of the limits provided in subsection (1) of this section if the  
25 State Treasurer, upon good cause shown, approves the request of the bank  
26 depository to hold uninsured public funds in excess of the limits provided in  
27 subsection (1) of this section for a period not exceeding 90 days and eligible  
28 securities are deposited with the bank depository’s custodian as collateral in  
29 an amount at least equal to the amount of the uninsured public funds de-  
30 posits in excess of the limits provided in subsection (1) of this section. **Upon**

1 the expiration of the 90-day period, if the bank depository does not  
2 comply with the limits specified in subsection (1) of this section, the  
3 bank depository shall, within three business days after receiving notice  
4 from the State Treasurer, cease accepting deposits of uninsured public  
5 funds.

6 “(b) The limits of subsection (1) of this section do not apply to public  
7 funds deposits held by a bank depository in a certificate of deposit or time  
8 deposit under ORS 295.004.

9 “(c) A well capitalized bank depository or an adequately capitalized bank  
10 depository may accept and hold public funds deposits in excess of the limit  
11 provided in subsection (1)(d) of this section if eligible securities are deposited  
12 with the bank depository’s custodian as collateral in an amount at least  
13 equal to the amount of the public funds deposits in excess of the limit pre-  
14 scribed in subsection (1)(d) of this section.

15 “(5) If the State Treasurer notifies a bank depository that it must  
16 cease accepting deposits of uninsured public funds under subsection  
17 (3) or (4) of this section, the State Treasurer may also notify public  
18 officials who have deposited uninsured public funds in the bank de-  
19 pository that within 15 business days after the public official receives  
20 the notice from the State Treasurer, the public official must withdraw  
21 from the bank depository to which the notice applies all uninsured  
22 public funds deposits that exceed the limit specified in subsection (1)(d)  
23 of this section. A public official who is notified by the State Treasurer  
24 under this subsection must begin to withdraw funds as specified in the  
25 notice. Except as required by any applicable law or regulation, a bank  
26 depository may not impose an early withdrawal penalty or a forfeiture  
27 of interest with respect to a withdrawal made pursuant to this sub-  
28 section.

29 “**SECTION 4.** ORS 295.048, as amended by section 16, chapter 101, Oregon  
30 Laws 2010, is amended to read:

1       “295.048. (1) Notwithstanding ORS 295.046, a depository may not permit  
2 the aggregate of public funds deposits on deposit with the depository from  
3 all public officials to exceed at any time the lesser of:

4       “(a) 100 percent of the value of the depository’s net worth, if the deposi-  
5 tory is an undercapitalized depository;

6       “(b) 150 percent of the value of the depository’s net worth, if the deposi-  
7 tory is an adequately capitalized depository;

8       “(c) 200 percent of the value of the depository’s net worth, if the deposi-  
9 tory is a well capitalized depository;

10       “(d) For a bank depository, 30 percent of the total aggregate public funds  
11 deposits of all public officials in all bank depositories as reported in the most  
12 recent notice the bank depository received from the State Treasurer; or

13       “(e) For a credit union depository, 30 percent of the total aggregate public  
14 funds deposits of all public officials in all credit union depositories as re-  
15 ported in the most recent notice the credit union depository received from  
16 the State Treasurer.

17       “(2) The State Treasurer shall notify each bank depository or credit union  
18 depository and the depository’s custodian of the total aggregate public funds  
19 deposits of all public officials in all bank depositories or credit union de-  
20 positaries, as appropriate, based on the most recently submitted treasurer  
21 reports. The State Treasurer shall give the notification required by this  
22 subsection by the last day of the month in which the depositories are re-  
23 quired to submit a treasurer report.

24       “(3) If a depository’s aggregate of public funds deposits exceeds the  
25 amount set forth in subsection (1) of this section, the depository shall, within  
26 three business days after receiving notice from the State Treasurer, cease  
27 accepting deposits of public funds.

28       “(4) Notwithstanding subsections (1) and (3) of this section:

29       “(a) A depository may accept and hold public funds deposits in excess of  
30 the limits specified in subsection (1) of this section if the State Treasurer,

1 upon good cause shown, approves the depository's request to hold public  
2 funds in excess of the limits specified in subsection (1) of this section for a  
3 period not exceeding 90 days and eligible securities are deposited with the  
4 depository's custodian as collateral in an amount at least equal to the  
5 amount of the uninsured public funds deposits that exceeds the limits speci-  
6 fied in subsection (1) of this section. **Upon the expiration of the 90-day**  
7 **period, if the depository does not comply with the limits specified in**  
8 **subsection (1) of this section, the depository shall, within three busi-**  
9 **ness days after receiving notice from the State Treasurer, cease ac-**  
10 **cepting deposits of public funds.**

11 (b) The limits specified in subsection (1) of this section do not apply to  
12 public funds deposits a depository holds in a certificate of deposit or time  
13 deposit under ORS 295.004.

14 (c) A well capitalized depository or an adequately capitalized depository  
15 may accept and hold public funds deposits that exceed the limit specified in  
16 subsection (1)(d) or (e) of this section if eligible securities are deposited with  
17 the depository's custodian as collateral in an amount at least equal to the  
18 amount of the uninsured public funds deposits that exceed the limit specified  
19 in subsection (1)(d) or (e) of this section.

20 (5) **If the State Treasurer notifies a depository that it must cease**  
21 **accepting deposits of public funds under subsection (3) or (4) of this**  
22 **section, the State Treasurer may also notify public officials who have**  
23 **deposited public funds in the depository that within 15 business days**  
24 **after the public official receives the notice from the State Treasurer,**  
25 **the public official must withdraw from the depository to which the**  
26 **notice applies all public funds deposits that exceed the limit specified**  
27 **in subsection (1)(d) or (e) of this section. A public official who is no-**  
28 **tified by the State Treasurer under this subsection must begin to**  
29 **withdraw funds as specified in the notice. Except as required by any**  
30 **applicable law or regulation, a depository may not impose an early**

1 **withdrawal penalty or a forfeiture of interest with respect to a with-**  
2 **drawal made pursuant to this subsection.**

3 **“SECTION 5.** ORS 295.101 is amended to read:

4 “295.101. (1) The following public funds are not subject to the provisions  
5 of ORS 295.001 to 295.108:

6 “(a) Funds that are deposited for the purpose of paying principal, interest  
7 or premium, if any, on bonds, as defined in ORS 286A.001 and 287A.001, and  
8 related costs or securing a borrowing related to an agreement for exchange  
9 of interest rates entered into under ORS 286A.110 or 287A.335.

10 “(b) Funds that are invested in authorized investments under provisions  
11 of law other than ORS 295.001 to 295.108. Funds invested under ORS 293.701  
12 to 293.820 are invested in authorized investments for purposes of this sub-  
13 section from the time the funds are transferred by the State Treasurer to a  
14 third party under the terms of a contract for investment or administration  
15 of the funds that requires such a transfer until the time the funds are re-  
16 turned to the treasurer or paid to another party under the terms of the  
17 contract.

18 “(c) Negotiable certificates of deposit purchased by the State Treasurer  
19 under ORS 293.736 or by an investment manager under ORS 293.741.

20 **“(d) Funds that are held by a public official and are required by**  
21 **federal law or contractual provisions to be collateralized at 100 per-**  
22 **cent, if the funds are deposited in an account that is separate from**  
23 **other accounts of the public official in a depository, and the public**  
24 **official and the depository have entered into a written agreement that**  
25 **provides a perfected security interest to the public official in collateral**  
26 **valued at an amount at least equal to the amount of funds in the ac-**  
27 **count in a manner substantially similar to a pledge agreement de-**  
28 **scribed in ORS 295.001 (15).**

29 “(2) Notwithstanding subsection (1) of this section, funds deposited by a  
30 custodial officer under ORS 294.035 (3)(d) are subject to the provisions of

1 ORS 295.001 to 295.108.

2 **“SECTION 6. The Legislative Assembly finds that:**

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

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

12 **“SECTION 7. As used in this section and section 8 of this 2011 Act,**  
13 **unless the context requires otherwise:**

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

18 **“(2) ‘Economic development’ means development that relates to and**  
19 **supports the economic development policy and strategy for this state**  
20 **outlined in ORS 285A.020, that promotes, expands or prevents the de-**  
21 **cline of a business located or to be located in Oregon, that creates jobs**  
22 **or prevents the loss of jobs and that is necessary to and consistent**  
23 **with the policies of the Oregon Economic Development Finance Au-**  
24 **thority.**

25 **“(3) ‘Financial institution’ means a banking institution, a federal**  
26 **bank, a federal savings bank and an insured institution, as those**  
27 **terms are defined in ORS 706.008, and a credit union as defined in ORS**  
28 **723.008.**

29 **“(4) ‘State agency’ means an officer, board, commission, depart-**  
30 **ment, division, institution, branch or agency in the executive or ad-**



1 ministrative branch of state government or a public institution of  
2 higher education.

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

7 **“SECTION 8. (1) The Oregon Economic Development Finance Au-**  
8 **thority is established to formulate and implement policies and proce-**  
9 **dures, and to make recommendations, for the investment,**  
10 **reinvestment, management and coordination of state funds to support**  
11 **the economic development of this state and to increase access to cap-**  
12 **ital for small businesses, in partnership with local financial insti-**  
13 **tutions, for the purpose of furthering economic development in this**  
14 **state. The authority shall coordinate the economic development re-**  
15 **sources available to the State of Oregon and facilitate the use of re-**  
16 **sources that create jobs and provide economic opportunity through**  
17 **existing agency programs.**

18 “(2) Further purposes of the authority are to:

19 “(a) Support the economic development of this state by increasing  
20 access to capital for small businesses and farms in this state in part-  
21 nership with local financial institutions through existing state agency  
22 programs and infrastructure.

23 “(b) Support Oregon employment by encouraging and coordinating  
24 investments that can result in job creation and retention in a  
25 sustainable and efficient manner.

26 “(c) Assist in providing stability to the local financial sector but  
27 not to compete in any way with banks, credit unions or other financial  
28 institutions.

29 “(3)(a) The authority shall consist of three members as follows:

30 “(A) The Governor, or the designee of the Governor, who shall be

1 the chairperson of the authority;

2 “(B) The State Treasurer, or the designee of the State Treasurer;  
3 and

4 “(C) A member selected by the two members described in subpara-  
5 graphs (A) and (B) of this paragraph, provided that no more than two  
6 members of the authority may belong to the same political party.

7 “(b) In selecting the member under paragraph (a)(C) of this sub-  
8 section, an attempt must be made to make the selection so as to re-  
9 flect the composition of the Legislative Assembly by party affiliation.

10 “(c) The member selected under paragraph (a)(C) of this subsection  
11 shall serve for a term of two years that begins on March 1 of an odd-  
12 numbered year.

13 “(d) Party affiliation under this subsection shall be determined by  
14 the appropriate entry on official election registration cards.

15 “(4) The authority may enter into a contract with a state agency  
16 for the investment and management of state funds over which the  
17 agency has supervision and control and may enter into any other  
18 contract the authority deems necessary or appropriate to carry out the  
19 authority’s duties, functions and powers under this section.

20 “(5) The authority may perform all acts and do all things necessary  
21 to carry out the powers expressly granted in this section through its  
22 chairperson, officers, agents and representatives or by contracts with  
23 any person, state agency or financial institution.

24 “(6) The authority may enter into contracts with one or more  
25 management companies for the provision of investment advice, to  
26 manage and invest moneys in state funds and for other services that  
27 the authority deems reasonable and necessary to fulfill the duties of  
28 the authority under this section. A management company selected  
29 under this subsection shall manage moneys in state funds subject to  
30 the investment policies and practices established by the authority with

1 the care, skill and diligence that a prudent investor acting in a similar  
2 capacity and familiar with such investments would use in managing  
3 and investing a similar account. Contracts entered into under this  
4 subsection are not subject to the State Personnel Relations Law, ORS  
5 279.835 to 279.855 or ORS chapter 279A or 279B.

6 “(7) The authority shall keep a separate fund or account for each  
7 state fund it has contracted with a state agency to invest and manage  
8 for the purpose of recording individual amounts and totals of all in-  
9 vestments of moneys in the state fund.

10 “(8) The authority may assess and charge fees for services provided  
11 in the management and investment of state funds that may be de-  
12 ducted from moneys earned from investment and reinvestment of the  
13 state funds.

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

17 “(10) The authority may appoint an executive director of the au-  
18 thority. The person appointed as executive director must have exten-  
19 sive experience in banking. The authority may appoint and employ  
20 subordinate officers, employees and agents as the authority considers  
21 necessary and shall define the duties of, designate the titles of and fix  
22 the compensation for the persons the authority appoints and employs.  
23 The authority may designate the executive director or another officer  
24 or employee as an agent of the authority for the purpose of imple-  
25 menting the authority’s functions, subject to the authority’s super-  
26 vision, limitation and control.

27 “(11) The authority shall adopt rules that specify:

28 “(a) The authority’s powers, permissible investments and activities  
29 and services that the authority may provide.

30 “(b) Other requirements that the authority considers necessary for

1 the exercise of the authority's powers and functions under this sec-  
2 tion.

3 "(12) A member of the authority may receive reimbursement of ex-  
4 penses under ORS 292.495 (2) but may not receive compensation under  
5 ORS 292.495 (1) or otherwise for participation as a member of the au-  
6 thority.

7 "SECTION 9. (1) The Oregon Economic Development Finance Au-  
8 thority shall appoint an advisory council that consists of seven mem-  
9 bers.

10 "(2) Members of the advisory council must include representatives  
11 of this state's financial sectors, small businesses, building trades and  
12 small farms. At least two members must be officers of banks and at  
13 least two members must be officers of credit unions.

14 "(3) The authority shall appoint a chairperson, vice chairperson and  
15 secretary of the advisory council.

16 "(4) The advisory council shall:

17 "(a) Meet regularly with the authority or the executive director of  
18 the authority to review the authority's operations and finances and to  
19 determine whether the advisory council should make recommen-  
20 dations to the authority to improve the authority's management,  
21 interagency relations and internal methods, procedures and operating  
22 policies;

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

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

28 "SECTION 10. The Oregon Economic Development Finance Au-  
29 thority shall submit a report to the Legislative Assembly on or before  
30 the date of the convening of the 2013 regular session of the Legislative

1 Assembly as specified in ORS 171.010. The report required by this sec-  
2 tion shall include:

3 “(1) The policies and practices for investment and management of  
4 state funds formulated by the authority;

5 “(2) Recommendations for legislation that are related to the duties  
6 and policies of the authority, including a recommendation as to  
7 whether the authority should continue to exist beyond 2015; and

8 “(3) A summary of the moneys invested and managed by the au-  
9 thority, if any.

10 “SECTION 11. This 2011 Act being necessary for the immediate  
11 preservation of the public peace, health and safety, an emergency is  
12 declared to exist, and this 2011 Act takes effect on its passage.”.

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