
MEMORANDUM

Legislative Fiscal Office
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To: *General Movement Subcommittee*

From: *John Borden, Legislative Fiscal Office*
(503) 986-1842

Date: April 16, 2013

Subject: *HB 2140*
Work Session Recommendation

House Bill 2140 relates to discrete investment of local government funds. The measure has an emergency clause and is effective on passage.

The measure, preliminary Joint Committee on Ways and Means (JWM) staff measure summary, the policy committee's staff measure summary, revenue impact statement, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The measure previously had a public hearing in the JWM General Government Subcommittee on April 2, 2013.

The measure has an indeterminate fiscal and revenue on local government and the State Treasurer.

There is no proposed amendment to the measure.

Measure

The measure is recommended to be moved to the full Committee on Joint Ways and Means.

Motion: Move HB 2140 to the full committee with a "do pass" recommendation.

Assignment of Carriers

Full: _____
2nd Chamber: _____

Joint Committee on Ways and Means

Carrier – House: Rep.
Carrier – Senate: Sen.

Revenue: Revenue Impact Issued

Fiscal: Fiscal Impact Issued

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: John F. Borden, Legislative Fiscal Office

Meeting Date: [Full Committee Meeting Date]

WHAT THE MEASURE DOES: The measure provides express legal authority for local governments (cities, counties, school districts, community colleges, and special districts) to invest in the Oregon Short Term Fund (OSTF) through the Local Government Investment Pool (LGIP). The measure also allows local governments to invest in "...any other commingled investment pool established by the State Treasurer." For example, this would include the Oregon Intermediate Term Pool (OITP), which is a non-statutory account. By allowing local governments to invest in these additional Treasury products, the local governments would be able to invest amounts beyond the statutory limit provided by ORS 294.810.

ISSUES DISCUSSED:

- Current state agency participation in "other commingled investment pool"
- Interest by local governments to participate in "other commingled investment pool"
- Rates of return for OSTF/LGIP vs. "other commingled investment pool"
- Risk related to local government investment in "other commingled investment pool"
- Lack of a statutory account for an intermediate term investment pool
- Need to clarify and simplify statutes related to OSTF, LGIP, and "other commingled investment pool"
- ORS 294.810 statutory limit

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 293.728 establishes the Oregon Short Term Fund, a pool of state and local government funds, as the investment vehicle for funds not authorized for discrete investment. The State and Local Government Efficiency Task Force, established by House Bill 2855 in 2011, recommends allowing local governments the option to invest in the Intermediate Term Pool, a separate investment pool managed by the State Treasurer's office but currently limited to funds of state agencies and state-sponsored entities.

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2140

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Matt Stayner
Reviewed by: John Borden
Date: 2/5/13

Measure Description:

Authorizes discrete investment of funds of political subdivisions in any commingled investment pool established by State Treasurer for investment of funds of state agencies or local governments.

Government Unit(s) Affected:

Cities, Counties, Oregon State Treasurer

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

The introduced version of the measure provides express legal authority for local governments (cities, counties, school districts, community colleges, and special districts) to invest in the Oregon Short Term Fund (OSTF) through the Local Government Investment Pool (LGIP). Approximately 900 entities currently participate in the LGIP. The OSTF is a statutory account.

The measure also allows local governments to invest in "...any other commingled investment pool established by the State Treasurer." For example, this would include the Oregon Intermediate Term Pool (OITP), which is a non-statutory account. The Oregon State Treasurer (OST) believes that there is significant interest from local governments to participate in the other investment pools.

By allowing local governments to invest in these additional Treasury products, the local governments would be able to invest amounts beyond the statutory limit provided by ORS 294.810.

Local governments would be required to pay administrative and transactional fees to OST for participation in an investment pool. Custodial accounting fees would be charged as a percentage of total assets and are included in the administrative fees paid by participants to OST.

The measure would have a fiscal impact on the State Treasurer, according to the agency. However, that fiscal impact is indeterminate as OST has yet to develop an estimate of expenditures, including staffing, third-party investment management contracting, and information technology needs. OST also has yet to develop an estimate of the administrative, transactional, and account maintenance fees that could be charged pool participants to fund State Treasurer expenses.

**REVENUE IMPACT OF
PROPOSED LEGISLATION
Seventy-Seventh Oregon Legislative
Assembly
2013 Regular Session
Legislative Revenue Office**

Bill Number:	HB 2140
Revenue Area:	Local Gov. Finance
Economist:	Christine Broniak
Date:	2/6/2013

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Versions are Considered Official*

NOTICE OF INDETERMINATE REVENUE IMPACT

Impact Explanation: Local government sinking funds, bond funds, and surplus funds are currently authorized to be invested in a number of vehicles. Only local government funds not authorized for discrete investment may be invested in the Oregon Short Term Fund. The measure would extend the opportunity for funds to be invested in any fund managed by the State Treasurer, including the Short Term Fund and the Intermediate Term Fund. While it may create the opportunity for higher yields, the amount of local funds to be invested into the new funds is not known. It is also unknown how much these investments will yield relative to current investments. In the period ending September 30, 2011, the rate of return of the Short Term Fund was 0.11%. The Oregon Intermediate Term Pool, which is also managed by the State Treasurer, had a rate of return of 1.96% in the same period.

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REVENUE: Revenue statement issued

FISCAL: Fiscal statement issued

Action:	Do Pass and Be Referred to the Committee on Ways and Means by prior reference
Vote:	8 - 0 - 1
Yeas:	Doherty, Johnson, Keny-Guyer, Lively, Richardson, Smith, Vega Pederson, Holvey
Nays:	0
Exc.:	Thatcher
Prepared By:	Bob Estabrook, Administrator
Meeting Dates:	2/7, 2/12

WHAT THE MEASURE DOES: Allows investment of local government sinking funds, bond funds or surplus funds in commingled investment pool established by State Treasurer for investment of funds of state agency or local government. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Anticipated local government and political subdivision participation in Oregon Intermediate Term Pool (OITP)
- Longevity and risk of OITP
- Limits on liquidity of OITP

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 293.728 establishes the Oregon Short Term Fund, a pool of state and local government funds, as the investment vehicle for funds not authorized for discrete investment. The State and Local Government Efficiency Task Force, established by House Bill 2855 in 2011, recommends allowing local governments the option to invest in the Intermediate Term Pool, a separate investment pool managed by the State Treasurer's office but currently limited to funds of state agencies and state-sponsored entities. For calendar 2012, the rate of return on the Short Term Fund was 1.65 percent, while the Intermediate Term Pool had a rate of return of 5.72 percent in the same period. House Bill 2140 adds commingled investment pools established by the State Treasurer, such as the Intermediate Term Pool, to the list of authorized investments for local governments.

77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

House Bill 2140

Sponsored by Representative NATHANSON; Representatives DOHERTY, GARRETT, GELSER (at the request of State and Local Government Efficiency Task Force) (Pre-session filed.)

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 discrete investment of funds of political subdivisions in any commingled investment pool established by State Treasurer for investment of funds of state agencies or local governments. Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to discrete investment of local government funds; amending ORS 294.035; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 294.035 is amended to read:

6 294.035. (1) Subject to ORS 294.040 and 294.135 to 294.155, the custodial officer may invest any
7 sinking fund, bond fund or surplus funds in the custody of the custodial officer in the bank accounts,
8 classes of securities at current market prices, insurance contracts and other investments listed in
9 this section, but only after obtaining from the governing body of the county, municipality, political
10 subdivision or school district a written order that has been entered in the minutes or journal of the
11 governing body.

12 (2) This section does not:

13 (a) Limit the authority of the custodial officer to invest surplus funds in other investments when
14 the investment is specifically authorized by another statute.

15 (b) Apply to a sinking fund or a bond fund established in connection with conduit revenue bonds
16 issued by a county, municipality, political subdivision or school district for private business entities
17 or nonprofit corporations.

18 (3) Investments authorized by this section are:

19 (a) Lawfully issued general obligations of the United States, the agencies and instrumentalities
20 of the United States or enterprises sponsored by the United States Government and obligations
21 whose payment is guaranteed by the United States, the agencies and instrumentalities of the United
22 States or enterprises sponsored by the United States Government.

23 (b) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon
24 and its political subdivisions that have a long-term rating of A or an equivalent rating or better or
25 are rated on the settlement date in the highest category for short-term municipal debt by a na-
26 tionally recognized statistical rating organization.

27 (c) Lawfully issued debt obligations of the States of California, Idaho and Washington and poli-
28 tical subdivisions of those states if the obligations have a long-term rating of AA or an equivalent
29 rating or better or are rated on the settlement date in the highest category for short-term municipal
30 debt by a nationally recognized statistical rating organization.

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.

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1 (d) Time deposit open accounts, certificates of deposit and savings accounts in insured insti-
2 tutions as defined in ORS 706.008, in credit unions as defined in ORS 723.006 or in federal credit
3 unions, if the institution or credit union maintains a head office or a branch in this state.

4 (e) Share accounts and savings accounts in credit unions in the name of, or for the benefit of,
5 a member of the credit union pursuant to a plan of deferred compensation.

6 (f) Fixed or variable life insurance or annuity contracts as defined by ORS 731.170 and guaran-
7 teed investment contracts issued by life insurance companies authorized to do business in this state.

8 (g) Trusts in which deferred compensation funds from other public employers are pooled, if:

9 (A) The purpose is to establish a deferred compensation plan;

10 (B) The trust is a public instrumentality of such public employers and described in section (2)(b)
11 of the Investment Company Act of 1940, 15 U.S.C. 80a-2(b), as amended, in effect on September 20,
12 1985, or the trust is a common trust fund described in ORS 709.170;

13 (C) Under the terms of the plan the net income from or gain or loss due to fluctuation in value
14 of the underlying assets of the trust, or other change in such assets, is reflected in an equal increase
15 or decrease in the amount distributable to the employee or the beneficiary thereof and, therefore,
16 does not ultimately result in a net increase or decrease in the worth of the public employer or the
17 state; and

18 (D) The fidelity of the trustees and others with access to such assets, other than a trust com-
19 pany, as defined in ORS 706.008, is insured by a surety bond that is satisfactory to the public em-
20 ployer, issued by a company authorized to do a surety business in this state and in an amount that
21 is not less than 10 percent of the value of such assets.

22 (h)(A) Banker's acceptances, if the banker's acceptances are:

23 (i) Guaranteed by, and carried on the books of, a qualified financial institution;

24 (ii) Eligible for discount by the Federal Reserve System; and

25 (iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated
26 in the highest category by one or more nationally recognized statistical rating organizations.

27 (B) For the purposes of this paragraph, "qualified financial institution" means:

28 (i) A financial institution that is located and licensed to do banking business in the State of
29 Oregon; or

30 (ii) A financial institution that is wholly owned by a financial holding company or a bank hold-
31 ing company that owns a financial institution that is located and licensed to do banking business in
32 the State of Oregon.

33 (C) A custodial officer shall not permit more than 25 percent of the moneys of a local govern-
34 ment that are available for investment, as determined on the settlement date, to be invested in
35 banker's acceptances of any qualified financial institution.

36 (i)(A) Corporate indebtedness subject to a valid registration statement on file with the Securities
37 and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities
38 Act of 1933, as amended. Corporate indebtedness described in this paragraph does not include
39 banker's acceptances. The corporate indebtedness must be issued by a commercial, industrial or
40 utility business enterprise, or by or on behalf of a financial institution, including a holding company
41 owning a majority interest in a qualified financial institution.

42 (B) Corporate indebtedness must be rated on the settlement date P-1 or Aa or better by Moody's
43 Investors Service or A-1 or AA or better by Standard & Poor's Corporation or equivalent rating by
44 any nationally recognized statistical rating organization.

45 (C) Notwithstanding subparagraph (B) of this paragraph, the corporate indebtedness must be

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1 rated on the settlement date P-2 or A or better by Moody's Investors Service or A-2 or A or better
2 by Standard & Poor's Corporation or equivalent rating by any nationally recognized statistical rat-
3 ing organization when the corporate indebtedness is:

4 (i) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50
5 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in
6 Oregon; or

7 (ii) Issued by a holding company owning not less than a majority interest in a qualified financial
8 institution, as defined in paragraph (h) of this subsection, located and licensed to do banking busi-
9 ness in Oregon or by a holding company owning not less than a majority interest in a business en-
10 terprise described in sub-subparagraph (i) of this subparagraph.

11 (D) A custodial officer may not permit more than 35 percent of the moneys of a local govern-
12 ment that are available for investment, as determined on the settlement date, to be invested in
13 corporate indebtedness, and may not permit more than five percent of the moneys of a local gov-
14 ernment that are available for investment to be invested in corporate indebtedness of any single
15 corporate entity and its affiliates or subsidiaries.

16 (j) Repurchase agreements whereby the custodial officer purchases securities from a financial
17 institution or securities dealer subject to an agreement by the seller to repurchase the securities.
18 The repurchase agreement must be in writing and executed in advance of the initial purchase of the
19 securities that are the subject of the repurchase agreement. Only securities described in paragraph
20 (a) of this subsection may be used in conjunction with a repurchase agreement and such securities
21 shall have a maturity of not longer than three years. The price paid by the custodial officer for such
22 securities may not exceed amounts or percentages prescribed by written policy of the Oregon In-
23 vestment Council or the Oregon Short Term Fund Board created by ORS 294.885.

24 (k) Shares of stock of any company, association or corporation, including but not limited to
25 shares of a mutual fund, but only if the moneys being invested are funds set aside pursuant to a
26 local government deferred compensation plan and are held in trust for the exclusive benefit of par-
27 ticipants and their beneficiaries.

28 (L) The Oregon Short Term Fund or any other commingled investment pool established
29 by the State Treasurer for investment of the funds of state agencies or local governments.

30 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
32 **on its passage.**

33