

# D R A F T

## SUMMARY

Authorizes cities and counties to incur exempt bonded indebtedness to finance capital costs.

Declares emergency, effective July 1, 2013.

## A BILL FOR AN ACT

Relating to capital costs financed with local bonded indebtedness; amending ORS 287A.001, 287A.050, 287A.100, 287A.145, 305.586, 308.807, 310.140, 327.006 and 457.010; and declaring an emergency.

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

**SECTION 1.** ORS 310.140, as amended by section 17, chapter 31, Oregon Laws 2012, is amended to read:

310.140. (1) **As used in the revenue and property tax laws of this state for purposes of bonded indebtedness incurred on or after January 1, 2011, to finance capital costs, under the authority of Article XI, section 11L, Oregon Constitution:**

(a) **“Capital costs” means costs of land and of other assets having a useful life of more than one year, including costs associated with acquisition, construction, improvement, remodeling, furnishing, equipping, maintenance or repair.**

(b) **“Capital costs” does not include costs of routine maintenance or supplies.**

(c) **“Exempt bonded indebtedness” means bonded indebtedness incurred as a general obligation of the issuing local taxing district on or after January 1, 2011, that is used to finance capital costs and that**

1 is secured by a commitment to levy ad valorem taxes outside the  
 2 limits of Article XI, sections 11 and 11b, Oregon Constitution.

3 (d) “Exempt bonded indebtedness” includes bonded indebtedness is-  
 4 sued to refund or refinance bonded indebtedness described in para-  
 5 graph (c) of this subsection.

6 (2) When a provision of the revenue and property tax laws of this  
 7 state relates to the use of net proceeds of exempt bonded indebtedness  
 8 for capital construction, capital improvement or other words desig-  
 9 nating a capital project, the net proceeds may be used to pay capital  
 10 costs if the exempt bonded indebtedness is incurred on or after Janu-  
 11 ary 1, 2011, under the authority of Article XI, section 11L, Oregon  
 12 Constitution.

13 (3) The Legislative Assembly finds that [section 11b,] Article XI [of the],  
 14 section 11b, Oregon Constitution, was drafted by citizens and placed before  
 15 the voters of the State of Oregon by initiative petition. [Section 11b,] Article  
 16 XI [of the], section 11b, Oregon Constitution, uses terms that do not have  
 17 established legal meanings and require definition by the Legislative Assem-  
 18 bly. [Section 11b,] Article XI [of the], section 11b, Oregon Constitution, was  
 19 amended by [section 11 (11),] Article XI [of the], section 11 (11), Oregon  
 20 Constitution. Subsections (3) to (7) of this section [is intended to] interpret  
 21 the terms of [section 11b,] Article XI [of the], section 11b, Oregon Constitu-  
 22 tion, as originally adopted and as amended by [section 11 (11),] Article XI  
 23 [of the], section 11 (11), Oregon Constitution, consistent with the intent of  
 24 the people in adopting these provisions, so that the provisions of [section  
 25 11b,] Article XI [of the], section 11b, Oregon Constitution, may be given ef-  
 26 fect uniformly throughout the State of Oregon, with minimal confusion and  
 27 misunderstanding by citizens and affected units of government.

28 (4) As used in the revenue and property tax laws of this state[, and] for  
 29 purposes of [section 11b,] Article XI [of the], section 11b, Oregon Constitu-  
 30 tion:

31 [(1)] (a) “Actual cost” means all direct or indirect costs incurred by a

1 government unit in order to deliver goods or services or to undertake a  
2 capital construction project. The “actual cost” of providing goods or services  
3 to a property or property owner includes the average cost or an allocated  
4 portion of the total amount of the actual cost of making a good or service  
5 available to the property or property owner, whether stated as a minimum,  
6 fixed or variable amount.

7 (b) “Actual cost” includes, but is not limited to, the costs of labor, ma-  
8 terials, supplies, equipment rental, property acquisition, permits, engineering,  
9 financing, reasonable program delinquencies, return on investment, required  
10 fees, insurance, administration, accounting, depreciation, amortization, oper-  
11 ation, maintenance, repair or replacement and debt service, including debt  
12 service payments or payments into reserve accounts for debt service and  
13 payment of amounts necessary to meet debt service coverage requirements.

14 [(2)] (c) “Assessment for local improvement” means any tax, fee, charge  
15 or assessment that does not exceed the actual cost incurred by a unit of  
16 government for design, construction and financing of a local improvement.

17 [(3)] (d) “Bonded indebtedness” means any formally executed written  
18 agreement representing a promise by a unit of government to pay to another  
19 a specified sum of money, at a specified date or dates at least one year in  
20 the future.

21 [(4)] (e) “Capital construction”[:]

22 [(a)] **means**, for bonded indebtedness issued prior to December 5, 1996,  
23 and for the proceeds of any bonded indebtedness approved by electors prior  
24 to December 5, 1996, that were spent or contractually obligated to be spent  
25 prior to June 20, 1997, [means] the construction, modification, replacement,  
26 repair, remodeling or renovation of a structure, or addition to a structure,  
27 that is expected to have a useful life of more than one year, and includes,  
28 but is not limited to:

29 (A) Acquisition of land, or a legal interest in land, in conjunction with  
30 the capital construction of a structure.

31 (B) Acquisition, installation of machinery or equipment, furnishings or

1 materials that will become an integral part of a structure.

2 (C) Activities related to the capital construction, including planning, de-  
3 sign, authorizing, issuing, carrying or repaying interim or permanent fi-  
4 nancing, research, land use and environmental impact studies, acquisition  
5 of permits or licenses or other services connected with the construction.

6 (D) Acquisition of existing structures, or legal interests in structures, in  
7 conjunction with the capital construction.

8 [(b)] (f) **“Capital construction,”** for bonded indebtedness issued on or  
9 after December 5, 1996, except for the proceeds of any bonded indebtedness  
10 approved by electors prior to December 5, 1996, that were spent or  
11 contractually obligated to be spent before June 20, 1997, has the meaning  
12 given that term in paragraph [(a)] (e) of this subsection, except [that] **as**  
13 **provided in paragraph (g) of this subsection.**

14 (g) “Capital construction”:

15 (A) Includes public safety and law enforcement vehicles with a projected  
16 useful life of five years or more; and

17 (B) Does not include:

18 (i) Maintenance and repairs, the need for which could be reasonably an-  
19 ticipated;

20 (ii) Supplies and equipment that are not intrinsic to the structure; or

21 (iii) Furnishings, unless the furnishings are acquired in connection with  
22 the acquisition, construction, remodeling or renovation of a structure, or the  
23 repair of a structure that is required because of damage or destruction of the  
24 structure.

25 [(5)] (h) “Capital improvements”[:]

26 [(a)] **means,** for bonded indebtedness issued prior to December 5, 1996,  
27 and for the proceeds of any bonded indebtedness approved by electors before  
28 December 5, 1996, that were spent or contractually obligated to be spent be-  
29 fore June 20, 1997, [means] land, structures, facilities, personal property that  
30 is functionally related and subordinate to real property, machinery, equip-  
31 ment or furnishings having a useful life longer than one year.

1 [(b)] (i) **“Capital improvements,”** for bonded indebtedness issued on or  
2 after December 5, 1996, except for the proceeds of any bonded indebtedness  
3 approved by electors prior to December 5, 1996, that were spent or  
4 contractually obligated to be spent before June 20, 1997, has the meaning  
5 given that term in paragraph [(a)] (h) of this subsection, except [that] **as**  
6 **provided in paragraph (j) of this subsection.**

7 (j)“Capital improvements”:

8 (A) Includes public safety and law enforcement vehicles with a projected  
9 useful life of five years or more; and

10 (B) Does not include:

11 (i) Maintenance and repairs, the need for which could be reasonably an-  
12 ticipated;

13 (ii) Supplies and equipment that are not intrinsic to the structure; or

14 (iii) Furnishings, unless the furnishings are acquired in connection with  
15 the acquisition, construction, remodeling or renovation of a structure, or the  
16 repair of a structure that is required because of damage or destruction of the  
17 structure.

18 [(6)] (k) **“Direct consequence of ownership”** means that the obligation of  
19 the owner of property to pay a tax arises solely because that person is the  
20 owner of the property, and the obligation to pay the tax arises as an imme-  
21 diate and necessary result of that ownership without respect to any other  
22 intervening transaction, condition or event.

23 [(7)(a)] (L) **“Exempt bonded indebtedness”** means:

24 (A) Bonded indebtedness authorized by a specific provision of the Oregon  
25 Constitution;

26 (B) Bonded indebtedness incurred or to be incurred for capital con-  
27 struction or capital improvements that was issued as a general obligation  
28 of the issuing governmental unit on or before November 6, 1990;

29 (C) Bonded indebtedness incurred or to be incurred for capital con-  
30 struction or capital improvements that was issued as a general obligation  
31 of the issuing governmental unit after November 6, 1990, with the approval

1 of the electors of the issuing governmental unit; or

2 (D) Bonded indebtedness incurred or to be incurred for capital con-  
3 struction or capital improvements, if the issuance of the bonds is approved  
4 by voters on or after December 5, 1996, in an election that is in compliance  
5 with the voter participation requirements of [*section 11 (8),*] Article XI [*of*  
6 *the*], **section 11 (8)**, Oregon Constitution.

7 [(b)] (m) “Exempt bonded indebtedness” includes bonded indebtedness is-  
8 sued to refund or refinance any bonded indebtedness described in paragraph  
9 [(a)] (L) of this subsection.

10 [(8)(a)] (n) “Incurred charge” means a charge imposed by a unit of gov-  
11 ernment on property or upon a property owner that does not exceed the ac-  
12 tual cost of providing goods or services and that can be controlled or avoided  
13 by the property owner because:

14 (A) The charge is based on the quantity of the goods or services used, and  
15 the owner has direct control over the quantity;

16 (B) The goods or services are provided only on the specific request of the  
17 property owner; or

18 (C) The goods or services are provided by the government unit only after  
19 the individual property owner has failed to meet routine obligations of  
20 ownership of the affected property, and such action is deemed necessary by  
21 an appropriate government unit to enforce regulations pertaining to health  
22 or safety.

23 [(b) *For purposes of this subsection, an owner of property may control or*  
24 *avoid an incurred charge if the owner is capable of taking action to affect the*  
25 *amount of a charge that is or will be imposed or to avoid imposition of a*  
26 *charge even if the owner must incur expense in so doing.*]

27 [(c) *For purposes of paragraph (a)(A) of this subsection, an owner of prop-*  
28 *erty has direct control over the quantity of goods or services if the owner of*  
29 *property has the ability, whether or not that ability is exercised, to determine*  
30 *the quantity of goods or services provided or to be provided.*]

31 [(9)(a)] (o) “Local improvement” means a capital construction project, or

1 part thereof, undertaken by a local government, pursuant to ORS 223.387 to  
2 223.399, or pursuant to a local ordinance or resolution prescribing the pro-  
3 cedure to be followed in making local assessments for benefits from a local  
4 improvement upon the lots that have been benefited by all or a part of the  
5 improvement:

6 (A) That provides a special benefit only to specific properties or rectifies  
7 a problem caused by specific properties;

8 (B) The costs of which are assessed against those properties in a single  
9 assessment upon the completion of the project; and

10 (C) For which the property owner may elect to make payment of the as-  
11 sessment plus appropriate interest over a period of at least 10 years.

12 *[(b) For purposes of paragraph (a) of this subsection, the status of a capital*  
13 *construction project as a local improvement is not affected by the accrual of a*  
14 *general benefit to property other than the property receiving the special*  
15 *benefit.]*

16 ~~[(10)]~~ (p) “Maintenance and repairs, the need for which could be reason-  
17 ably anticipated”:

18 ~~[(a)]~~ (A) Means activities, the type of which may be deducted as an ex-  
19 pense under the provisions of the federal Internal Revenue Code, as amended  
20 and in effect on December 31, 2011, that keep the property in ordinarily ef-  
21 ficient operating condition and that do not add materially to the value of the  
22 property nor appreciably prolong the life of the property;

23 ~~[(b)]~~ (B) Does not include maintenance and repair of property that is re-  
24 quired by damage, destruction or defect in design, or that was otherwise not  
25 reasonably expected at the time the property was constructed or acquired,  
26 or the addition of material that is in the nature of the replacement of prop-  
27 erty and that arrests the deterioration or appreciably prolongs the useful life  
28 of the property; and

29 ~~[(c)]~~ (C) Does not include street and highway construction, overlay and  
30 reconstruction.

31 ~~[(11)]~~ (q) “Projected useful life” means the useful life, as reasonably es-

1 timated by the unit of government undertaking the capital construction or  
2 capital improvement project, beginning with the date the property was ac-  
3 quired, constructed or reconstructed and based on the property's condition  
4 at the time the property was acquired, constructed or reconstructed.

5 [(12)] (r) "Routine obligations of ownership" means a standard of opera-  
6 tion, maintenance, use or care of property established by law, or if estab-  
7 lished by custom or common law, a standard that is reasonable for the type  
8 of property affected.

9 [(13)] (s) "Single assessment" means the complete assessment process, in-  
10 cluding preassessment, assessment or reassessment, for any local improve-  
11 ment authorized by ORS 223.387 to 223.399, or a local ordinance or resolution  
12 that provides the procedure to be followed in making local assessments for  
13 benefits from a local improvement upon lots that have been benefited by all  
14 or part of the improvement.

15 [(14)] (t) "Special benefit only to specific properties" shall have the same  
16 meaning as "special and peculiar benefit" as that term is used in ORS  
17 223.389.

18 [(15)] (u) "Specific request" means:

19 [(a)] (A) An affirmative act by a property owner to seek or obtain delivery  
20 of goods or services;

21 [(b)] (B) An affirmative act by a property owner, the legal consequence  
22 of which is to cause the delivery of goods or services to the property owner;  
23 or

24 [(c)] (C) Failure of an owner of property to change a request for goods  
25 or services made by a prior owner of the property.

26 [(16)] (v) "Structure" means any temporary or permanent building or im-  
27 provement to real property of any kind that is constructed on or attached  
28 to real property, whether above, on or beneath the surface.

29 [(17)] (w) "Supplies and equipment intrinsic to a structure" means the  
30 supplies and equipment that are necessary to permit a structure to perform  
31 the functions for which the structure was constructed, or that will, upon



1 installation, constitute fixtures considered to be part of the real property  
2 that is comprised, in whole or part, of the structure and land supporting the  
3 structure.

4 [(18)] (x) “Tax on property” means any tax, fee, charge or assessment  
5 imposed by any government unit upon property or upon a property owner as  
6 a direct consequence of ownership of that property, but does not include in-  
7 curred charges or assessments for local improvements. As used in this sub-  
8 section, “property” means real or tangible personal property, and intangible  
9 property that is part of a unit of real or tangible personal property to the  
10 extent that such intangible property is subject to a tax on property.

11 **(5) For purposes of subsection (4)(n) of this section, an owner of**  
12 **property may control or avoid an incurred charge if the owner is ca-**  
13 **pable of taking action to affect the amount of a charge that is or will**  
14 **be imposed or to avoid imposition of a charge even if the owner must**  
15 **incur expense in so doing.**

16 **(6) For purposes of subsection (4)(n)(A) of this section, an owner**  
17 **of property has direct control over the quantity of goods or services**  
18 **if the owner of property has the ability, whether or not that ability is**  
19 **exercised, to determine the quantity of goods or services provided or**  
20 **to be provided.**

21 **(7) For purposes of subsection (4)(o) of this section, the status of a**  
22 **capital construction project as a local improvement is not affected by**  
23 **the accrual of a general benefit to property other than the property**  
24 **receiving the special benefit.**

25 **SECTION 2.** ORS 287A.001 is amended to read:

26 287A.001. As used in this chapter:

27 (1) “Advance refunding bond” means a bond all or part of the proceeds  
28 of which are to be used to pay an outstanding bond one year or more after  
29 the advance refunding bond is issued.

30 (2) “Agreement for exchange of interest rates” means a contract, or an  
31 option or forward commitment to enter into a contract, for an exchange of

1 interest rates for related bonds that provides for:

2 (a) Payments based on levels or changes in interest rates; or

3 (b) Provisions to hedge payment, rate, spread or similar exposure includ-  
4 ing, but not limited to, an interest rate floor or cap or an option, put or call.

5 (3) “Bond”:

6 (a) Means a contractual undertaking or instrument of a public body to  
7 repay borrowed moneys.

8 (b) Does not mean a credit enhancement device.

9 (4) “Capital construction” has the meaning given that term in ORS  
10 310.140.

11 (5) “Capital improvements” has the meaning given that term in ORS  
12 310.140.

13 **(6) “Capital costs” has the meaning given that term in ORS 310.140.**

14 [(6)] (7) “Credit enhancement device”:

15 (a) Means a letter of credit, line of credit, standby bond purchase agree-  
16 ment, bond insurance policy, reserve surety bond or other device or facility  
17 used to enhance the creditworthiness, liquidity or marketability of bonds or  
18 agreements for exchange of interest rates.

19 (b) Does not mean a bond.

20 [(7)] (8) “Current refunding bond” means a bond the proceeds of which  
21 are to be used to pay or purchase an outstanding bond less than one year  
22 after the current refunding bond is issued.

23 [(8)] (9) “Forward current refunding” means execution and delivery of a  
24 purchase agreement or similar instrument under which a public body con-  
25 tracts to sell current refunding bonds for delivery at a future date that is  
26 one year or more after execution of the purchase agreement or similar in-  
27 strument.

28 [(9)] (10) “General obligation bond” means:

29 (a) Exempt bonded indebtedness, as defined in ORS 310.140 (4), that is  
30 **authorized under Article XI, section 11b, Oregon Constitution, and** is  
31 secured by a commitment to levy ad valorem taxes outside the limits of

1 [sections 11 and 11b,] Article XI [of the], **sections 11 and 11b**, Oregon Con-  
2 stitution.

3 **(b) Exempt bonded indebtedness, as defined in ORS 310.140 (1), that**  
4 **is authorized under Article XI, section 11L, Oregon Constitution, and**  
5 **is incurred as a general obligation of the issuing local taxing district**  
6 **on or after January 1, 2011, to finance capital costs, as defined in ORS**  
7 **310.140 (1) and that is secured by a commitment to levy ad valorem**  
8 **taxes outside the limits of Article XI, sections 11 and 11b, Oregon**  
9 **Constitution.**

10 [(10)] **(11)** “Lawfully available funds” means revenues or other moneys of  
11 a public body including, but not limited to, moneys credited to the general  
12 fund of the public body, revenues from an ad valorem tax and revenues de-  
13 rived from other taxes levied by the public body that are not dedicated, re-  
14 stricted or obligated by law or contract to an inconsistent expenditure or  
15 use.

16 [(11)] **(12)** “Operative document” means a bond declaration, trust agree-  
17 ment, indenture, security agreement or other document in which a public  
18 body pledges revenue or property as security for a bond.

19 [(12)] **(13)** “Pledge” means:

20 (a) To create a lien on property pursuant to ORS 287A.310.

21 (b) A lien created on property pursuant to ORS 287A.310.

22 [(13)] **(14)** “Public body” means:

23 (a) A county of this state;

24 (b) A city of this state;

25 (c) A local service district as defined in ORS 174.116 (2);

26 (d) A special government body as defined in ORS 174.117;

27 (e) Oregon Health and Science University; or

28 (f) Any other political subdivision of this state that is authorized by the  
29 Legislative Assembly to issue bonds.

30 [(14)] **(15)** “Refunding bond” means an advance refunding bond, a current  
31 refunding bond or a forward current refunding bond.

1 [(15)] (16) “Related bond” means a bond for which the public body enters  
2 into an agreement for exchange of interest rates or obtains a credit en-  
3 hancement device.

4 [(16)] (17) “Revenue” means all fees, tolls, excise taxes, assessments,  
5 property taxes and other taxes, rates, charges, rentals and other income or  
6 receipts derived by a public body or to which a public body is entitled.

7 [(17)] (18) “Revenue bond” means a bond that is not a general obligation  
8 bond.

9 [(18)] (19) “Termination payment” means the amount payable under an  
10 agreement for exchange of interest rates by one party to another party as a  
11 result of the termination, in whole or part, of the agreement prior to the  
12 expiration of the stated term.

13 **SECTION 3.** ORS 287A.050 is amended to read:

14 287A.050. [(1) A city may issue general obligation bonds to finance capital  
15 construction or capital improvements upon approval of the electors of the  
16 city.]

17 (1) **Upon approval of the electors of a city, the city may issue gen-  
18 eral obligation bonds to finance:**

19 (a) **Capital construction or capital improvements under the au-  
20 thority of Article XI, section 11b, Oregon Constitution.**

21 (b) **Capital costs under the authority of Article XI, section 11L,  
22 Oregon Constitution.**

23 (2) Unless the city charter provides a lesser limitation, a city may not  
24 issue or have outstanding at the time of issuance general obligation bonds  
25 in a principal amount that exceeds three percent of the real market value  
26 of the taxable property within its boundaries, calculated as provided in ORS  
27 308.207.

28 (3) The limitation described in subsection (2) of this section does not ap-  
29 ply to general obligation bonds issued:

30 (a) To finance the costs of local improvements assessed and paid for in  
31 installments under statutory or charter authority [*or*].

1 (b) To finance capital construction or capital improvements **under the**  
2 **authority of Article XI, section 11b, Oregon Constitution, or to finance**  
3 **capital costs under the authority of Article XI, section 11L, Oregon**  
4 **Constitution, for:**

5 [(a)] (A) Water supply, treatment or distribution;

6 [(b)] (B) Sanitary or storm sewage collection or treatment;

7 [(c)] (C) Hospitals or infirmaries;

8 [(d)] (D) Gas, power or lighting; or

9 [(e)] (E) Off-street motor vehicle parking facilities.

10 **SECTION 4.** ORS 287A.100 is amended to read:

11 287A.100. *[(1) Unless the county charter expressly provides otherwise, a*  
12 *county may issue general obligation bonds to finance capital construction or*  
13 *capital improvements upon approval of the electors of the county.]*

14 (1) **Unless the county charter expressly provides otherwise, upon**  
15 **approval of the electors of a county, the county may issue general**  
16 **obligation bonds to finance:**

17 (a) **Capital construction or capital improvements under the au-**  
18 **thority of Article XI, section 11b, Oregon Constitution.**

19 (b) **Capital costs under the authority of Article XI, section 11L,**  
20 **Oregon Constitution.**

21 (2) Unless the county charter provides a lesser limitation, a county may  
22 not issue or have outstanding at the time of issuance general obligation  
23 bonds in a principal amount that exceeds two percent of the real market  
24 value of the taxable property in the county, calculated as provided in ORS  
25 308.207.

26 **SECTION 5.** ORS 287A.145 is amended to read:

27 287A.145. (1) If a court of competent jurisdiction determines that the  
28 proceeds of an issue of general obligation bonds have been used by a public  
29 body for expenditures that are not **capital costs, if issued under the au-**  
30 **thority of Article XI, section 11L, Oregon Constitution, or that are not**  
31 **costs of capital construction or capital improvements, if issued under the**

1 **authority of Article XI, section 11b, Oregon Constitution**, the court may  
2 order the public body to:

3 (a) Replace the misspent proceeds with interest, on a reasonable schedule  
4 determined by the court, from moneys other than the tax revenues that the  
5 public body levies to pay the debt service; and

6 (b) Use the replaced moneys, **as appropriate**, for **capital costs**, capital  
7 construction or capital improvement expenditures or to pay the debt service.

8 (2) If the public body fails to comply with an order to replace the mis-  
9 spent proceeds or acknowledges that the public body is unable to replace the  
10 misspent proceeds, the court may determine that a portion of the future  
11 levies to pay the debt service is subject to the limits of [*sections 11 and*  
12 *11b,*] Article XI [*of the*], **sections 11 and 11b**, Oregon Constitution, by cal-  
13 culating the amount of the tax revenues that are necessary to pay the prin-  
14 cipal and interest on the bonds that is allocable to the misspent proceeds.

15 (3) An action may not be filed or maintained against a public body be-  
16 cause of an alleged expenditure of the bond proceeds of general obligation  
17 bonds for purposes other than **capital costs**, capital construction or capital  
18 improvements, if the misspent moneys are less than \$5,000.

19 **SECTION 6.** ORS 305.586 is amended to read:

20 305.586. (1) **As used in this section:**

21 (a) **“Capital construction” has the meaning given that term in ORS**  
22 **310.140.**

23 (b) **“Capital costs” has the meaning given that term in ORS 310.140.**

24 (c) **“Capital improvements” has the meaning given that term in**  
25 **ORS 310.140.**

26 (2) The Legislative Assembly finds that, when general obligation bonds  
27 are issued by a government unit to finance **capital costs or to finance** the  
28 cost of capital construction or **capital** improvements, subjecting the taxes  
29 imposed to pay the principal and interest on that bonded indebtedness to the  
30 limits of [*section 11b (1),*] Article XI [*of the*], **section 11b (1)**, Oregon Con-  
31 stitution, reduces the credit quality of the bonds, injures bondholders and

1 increases the cost of borrowing for all local governments in Oregon. The  
2 Legislative Assembly also finds that it is in the best interests of the State  
3 of Oregon and local governments in Oregon to ensure that, if a local gov-  
4 ernment body expends proceeds from [*such*] **the** bonds for other than **capital**  
5 **costs**, capital construction or **capital** improvements, **whichever is an au-**  
6 **thorized use of proceeds of the bonds**, the holders of the bonds, who are  
7 innocent with regard to [*such*] **the** expenditure, will not suffer impairment  
8 of their security and interest in the bonds as a result.

9 [(2)] (3) It is the policy of the State of Oregon and a matter of statewide  
10 concern that, notwithstanding ORS 305.587 (1) and 305.589 (8), if in a pro-  
11 ceeding commenced under ORS 305.583 or 305.589, the Oregon Tax Court  
12 finds that the proceeds of general obligation bonds issued for capital con-  
13 struction or **capital** improvements under [*section 11b (3)(b)*,] Article XI [*of*  
14 *the*], **section 11b (3)(b)**, Oregon Constitution, **or general obligation bonds**  
15 **issued for capital costs under Article XI, section 11L, Oregon Consti-**  
16 **tution**, have been expended for purposes other than **capital costs or the**  
17 **costs of** capital construction or **capital** improvements, the court shall en-  
18 deavor, to the fullest extent practicable and consistent with equitable prin-  
19 ciples, to fashion a remedy that does not impair the security or value of the  
20 bonds to the bondholders and does not prejudice the ability of the local  
21 government body to satisfy its obligations under the bonds.

22 [(3)] (4) In addition, the court shall fashion any remedy in a manner that  
23 takes into account the financial capacity and practical alternatives available  
24 to the local government body, and shall ensure that the remedy is propor-  
25 tional to, and restricted to correcting the amount of, any unlawful expendi-  
26 ture of bond proceeds. To the fullest extent possible, the court shall avoid  
27 any remedy that either invalidates, in whole or in part, the bonds or taxes  
28 levied or to be levied for payment of the bonds, or that makes any amount  
29 of the bonds for which the proceeds lawfully were expended subject to the  
30 limits of [*section 11b (1)*,] Article XI [*of the*], **section 11b (1)**, Oregon Con-  
31 stitution.

1        **SECTION 7.** ORS 308.807 is amended to read:

2        308.807. For payments due July 1, 1992, and each July 1 thereafter, the  
3 amount of the tax imposed by ORS 308.805 shall be the lesser of:

4        (1) Four percent of all gross revenue derived from the use or operation  
5 of transmission and distribution lines (exclusive of revenues from the leasing  
6 of lines to governmental agencies) minus the cost of power to the associ-  
7 ation, or;

8        (2) The sum of:

9        (a) An amount obtained by multiplying the real market value of the  
10 transmission and distribution lines for the current fiscal year by the maxi-  
11 mum school tax rate allowable under ORS 310.150, plus;

12        (b) An amount obtained by multiplying the real market value of the  
13 transmission and distribution lines for the current fiscal year by \$10 per  
14 \$1,000 of real market value, plus;

15        (c) An amount obtained by multiplying the real market value of the  
16 transmission and distribution lines by the tax rate of the county for exempt  
17 bonded indebtedness as defined in ORS 310.140 **(1) and (4)**.

18        **SECTION 8.** ORS 327.006 is amended to read:

19        327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

20        (1) "Aggregate days membership" means the sum of days present and ab-  
21 sent, according to the rules of the State Board of Education, of all resident  
22 pupils when school is actually in session during a certain period. The ag-  
23 gregate days membership of kindergarten pupils shall be calculated on the  
24 basis of a half-day program.

25        (2)(a) "Approved transportation costs" means those costs as defined by  
26 rule of the State Board of Education and is limited to those costs attribut-  
27 able to transporting or room and board provided in lieu of transporting:

28        (A) Elementary school students who live at least one mile from school;

29        (B) Secondary school students who live at least 1.5 miles from school;

30        (C) Any student required to be transported for health or safety reasons,  
31 according to supplemental plans from districts that have been approved by



1 the state board identifying students who are required to be transported for  
2 health or safety reasons, including special education;

3 (D) Preschool children with disabilities requiring transportation for early  
4 intervention services provided pursuant to ORS 343.224 and 343.533;

5 (E) Students who require payment of room and board in lieu of transpor-  
6 tation;

7 (F) A student transported from one school or facility to another school  
8 or facility when the student attends both schools or facilities during the day  
9 or week; and

10 (G) Students participating in school-sponsored field trips that are exten-  
11 sions of classroom learning experiences.

12 (b) "Approved transportation costs" does not include the cost of con-  
13 structing boarding school facilities.

14 (3) "Average daily membership" or "ADM" means the aggregate days  
15 membership of a school during a certain period divided by the number of  
16 days the school was actually in session during the same period. However, if  
17 a district school board adopts a class schedule that operates throughout the  
18 year for all or any schools in the district, average daily membership shall  
19 be computed by the Department of Education so that the resulting average  
20 daily membership will not be higher or lower than if the board had not  
21 adopted such schedule.

22 (4) "Consumer Price Index" means the Consumer Price Index for All Ur-  
23 ban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as  
24 compiled by the United States Department of Labor, Bureau of Labor Sta-  
25 tistics.

26 (5) "Kindergarten" means a kindergarten program that conforms to the  
27 standards and rules adopted by the State Board of Education.

28 (6) "Net operating expenditures" means the sum of expenditures of a  
29 school district in kindergarten through grade 12 for administration, instruc-  
30 tion, attendance and health services, operation of plant, maintenance of  
31 plant, fixed charges and tuition for resident students attending in another

1 district, as determined in accordance with the rules of the State Board of  
2 Education, but net operating expenditures does not include transportation,  
3 food service, student body activities, community services, capital outlay, debt  
4 service or expenses incurred for nonresident students.

5 (7)(a) "Resident pupil" means any pupil:

6 (A) Whose legal school residence is within the boundaries of a school  
7 district reporting the pupil, if the district is legally responsible for the edu-  
8 cation of the pupil, except that "resident pupil" does not include a pupil who  
9 pays tuition or for whom the parent pays tuition or for whom the district  
10 does not pay tuition for placement outside the district; or

11 (B) Whose legal residence is not within the boundaries of the district re-  
12 porting the pupil but who attends school in the district with the written  
13 consent of the district school board where the school is located as provided  
14 by ORS 339.133 (5).

15 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A)  
16 of this subsection if the pupil is attending school in another school district  
17 pursuant to a contract under ORS 339.125 and in the prior year was consid-  
18 ered to be a resident pupil in another school district under paragraph (a)(B)  
19 of this subsection. The pupil shall continue to be considered a resident of  
20 another school district under paragraph (a)(B) of this subsection.

21 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B)  
22 of this subsection if the pupil is attending school in a school district pursu-  
23 ant to ORS 339.133 (5) and in the prior year was considered to be a resident  
24 pupil under paragraph (a)(A) of this subsection because the pupil was at-  
25 tending school in another school district pursuant to a contract under ORS  
26 339.125. The pupil shall continue to be considered a resident pupil under  
27 paragraph (a)(A) of this subsection.

28 (d) "Resident pupil" includes a pupil admitted to a school district under  
29 ORS 339.115 (7).

30 (8) "Standard school" means a school meeting the standards set by the  
31 rules of the State Board of Education.

1 (9) "Tax" and "taxes" includes all taxes on property, excluding exempt  
2 bonded indebtedness, as those terms are defined in ORS 310.140 (1) and (4).

3 **SECTION 9.** ORS 327.006, as amended by section 7, chapter 704, Oregon  
4 Laws 2011, is amended to read:

5 327.006. As used in ORS 327.006 to 327.133, 327.348 and 327.731:

6 (1) "Aggregate days membership" means the sum of days present and ab-  
7 sent, according to the rules of the State Board of Education, of all resident  
8 pupils when school is actually in session during a certain period. The ag-  
9 gregate days membership of kindergarten pupils shall be calculated on the  
10 basis of a half-day program for half-day kindergarten and on the basis of a  
11 full-day program for full-day kindergarten.

12 (2)(a) "Approved transportation costs" means those costs as defined by  
13 rule of the State Board of Education and is limited to those costs attribut-  
14 able to transporting or room and board provided in lieu of transporting:

15 (A) Elementary school students who live at least one mile from school;

16 (B) Secondary school students who live at least 1.5 miles from school;

17 (C) Any student required to be transported for health or safety reasons,  
18 according to supplemental plans from districts that have been approved by  
19 the state board identifying students who are required to be transported for  
20 health or safety reasons, including special education;

21 (D) Preschool children with disabilities requiring transportation for early  
22 intervention services provided pursuant to ORS 343.224 and 343.533;

23 (E) Students who require payment of room and board in lieu of transpor-  
24 tation;

25 (F) A student transported from one school or facility to another school  
26 or facility when the student attends both schools or facilities during the day  
27 or week; and

28 (G) Students participating in school-sponsored field trips that are exten-  
29 sions of classroom learning experiences.

30 (b) "Approved transportation costs" does not include the cost of con-  
31 structing boarding school facilities.

1 (3) "Average daily membership" or "ADM" means the aggregate days  
2 membership of a school during a certain period divided by the number of  
3 days the school was actually in session during the same period. However, if  
4 a district school board adopts a class schedule that operates throughout the  
5 year for all or any schools in the district, average daily membership shall  
6 be computed by the Department of Education so that the resulting average  
7 daily membership will not be higher or lower than if the board had not  
8 adopted such schedule.

9 (4) "Consumer Price Index" means the Consumer Price Index for All Ur-  
10 ban Consumers of the Portland, Oregon, Metropolitan Statistical Area, as  
11 compiled by the United States Department of Labor, Bureau of Labor Sta-  
12 tistics.

13 (5) "Kindergarten" means a kindergarten program that conforms to the  
14 standards and rules adopted by the State Board of Education.

15 (6) "Net operating expenditures" means the sum of expenditures of a  
16 school district in kindergarten through grade 12 for administration, instruc-  
17 tion, attendance and health services, operation of plant, maintenance of  
18 plant, fixed charges and tuition for resident students attending in another  
19 district, as determined in accordance with the rules of the State Board of  
20 Education, but net operating expenditures does not include transportation,  
21 food service, student body activities, community services, capital outlay, debt  
22 service or expenses incurred for nonresident students.

23 (7)(a) "Resident pupil" means any pupil:

24 (A) Whose legal school residence is within the boundaries of a school  
25 district reporting the pupil, if the district is legally responsible for the edu-  
26 cation of the pupil, except that "resident pupil" does not include a pupil who  
27 pays tuition or for whom the parent pays tuition or for whom the district  
28 does not pay tuition for placement outside the district; or

29 (B) Whose legal residence is not within the boundaries of the district re-  
30 porting the pupil but who attends school in the district with the written  
31 consent of the district school board where the school is located as provided

1 by ORS 339.133 (5).

2 (b) A pupil is not considered to be a resident pupil under paragraph (a)(A)  
3 of this subsection if the pupil is attending school in another school district  
4 pursuant to a contract under ORS 339.125 and in the prior year was consid-  
5 ered to be a resident pupil in another school district under paragraph (a)(B)  
6 of this subsection. The pupil shall continue to be considered a resident of  
7 another school district under paragraph (a)(B) of this subsection.

8 (c) A pupil is not considered to be a resident pupil under paragraph (a)(B)  
9 of this subsection if the pupil is attending school in a school district pursu-  
10 ant to ORS 339.133 (5) and in the prior year was considered to be a resident  
11 pupil under paragraph (a)(A) of this subsection because the pupil was at-  
12 tending school in another school district pursuant to a contract under ORS  
13 339.125. The pupil shall continue to be considered a resident pupil under  
14 paragraph (a)(A) of this subsection.

15 (d) "Resident pupil" includes a pupil admitted to a school district under  
16 ORS 339.115 (7).

17 (8) "Standard school" means a school meeting the standards set by the  
18 rules of the State Board of Education.

19 (9) "Tax" and "taxes" includes all taxes on property, excluding exempt  
20 bonded indebtedness, as those terms are defined in ORS 310.140 (1) and (4).

21 **SECTION 10.** ORS 457.010 is amended to read:

22 457.010. As used in this chapter, unless the context requires otherwise:

23 (1) "Blighted areas" means areas that, by reason of deterioration, faulty  
24 planning, inadequate or improper facilities, deleterious land use or the ex-  
25 istence of unsafe structures, or any combination of these factors, are detri-  
26 mental to the safety, health or welfare of the community. A blighted area is  
27 characterized by the existence of one or more of the following conditions:

28 (a) The existence of buildings and structures, used or intended to be used  
29 for living, commercial, industrial or other purposes, or any combination of  
30 those uses, that are unfit or unsafe to occupy for those purposes because of  
31 any one or a combination of the following conditions:

- 1 (A) Defective design and quality of physical construction;  
2 (B) Faulty interior arrangement and exterior spacing;  
3 (C) Overcrowding and a high density of population;  
4 (D) Inadequate provision for ventilation, light, sanitation, open spaces  
5 and recreation facilities; or  
6 (E) Obsolescence, deterioration, dilapidation, mixed character or shifting  
7 of uses;
- 8 (b) An economic dislocation, deterioration or disuse of property resulting  
9 from faulty planning;
- 10 (c) The division or subdivision and sale of property or lots of irregular  
11 form and shape and inadequate size or dimensions for property usefulness  
12 and development;
- 13 (d) The laying out of property or lots in disregard of contours, drainage  
14 and other physical characteristics of the terrain and surrounding conditions;
- 15 (e) The existence of inadequate streets and other rights of way, open  
16 spaces and utilities;
- 17 (f) The existence of property or lots or other areas that are subject to  
18 inundation by water;
- 19 (g) A prevalence of depreciated values, impaired investments and social  
20 and economic maladjustments to such an extent that the capacity to pay  
21 taxes is reduced and tax receipts are inadequate for the cost of public ser-  
22 vices rendered;
- 23 (h) A growing or total lack of proper utilization of areas, resulting in a  
24 stagnant and unproductive condition of land potentially useful and valuable  
25 for contributing to the public health, safety and welfare; or
- 26 (i) A loss of population and reduction of proper utilization of the area,  
27 resulting in its further deterioration and added costs to the taxpayer for the  
28 creation of new public facilities and services elsewhere.
- 29 (2) "Certified statement" means the statement prepared and filed pursuant  
30 to ORS 457.430 or an amendment to the certified statement prepared and filed  
31 pursuant to ORS 457.430.

1 (3) "City" means any incorporated city.

2 (4) "Consolidated billing tax rate" means:

3 (a) If the urban renewal plan is an existing urban renewal plan (other  
4 than an existing urban renewal plan designated as an Option Three plan  
5 under ORS 457.435 (2)(c)), an urban renewal plan that was an existing urban  
6 renewal plan on October 6, 2001, (other than an existing urban renewal plan  
7 designated as an Option Three plan under ORS 457.435 (2)(c)) and that was  
8 substantially amended as described in ORS 457.085 (2)(i)(A) or (B) on or after  
9 October 6, 2001, or an urban renewal plan adopted on or after October 6,  
10 2001, the total of all district tax rates used to extend taxes after any ad-  
11 justment to reflect tax offsets under ORS 310.105, but does not include any  
12 rate derived from:

13 (A) Any urban renewal special levy under ORS 457.435.

14 (B) A local option tax, as defined in ORS 280.040, that is approved by  
15 taxing district electors after October 6, 2001.

16 (C) A tax pledged to repay exempt bonded indebtedness (other than ex-  
17 empt bonded indebtedness used to fund local government pension and disa-  
18 bility plan obligations that, until funded by the exempt bonded indebtedness,  
19 were described in section 11 (5), Article XI of the Oregon Constitution), as  
20 defined in ORS 310.140 (1) **and** (4), that is approved by taxing district elec-  
21 tors after October 6, 2001.

22 (D) The increase in the rate of ad valorem property tax allowable under  
23 section 11 (5)(d), Article XI of the Oregon Constitution, for a school district  
24 with a statutory rate limit on July 1, 2003, that is greater than \$4.50 per  
25 \$1,000 of assessed value, to the extent that the increase is excluded from lo-  
26 cal revenues, as that term is used in ORS chapter 327, and provided that the  
27 school district notifies the county assessor of the rate to be excluded for the  
28 current fiscal year not later than July 15.

29 (b) In the case of all other urban renewal plans, the total of all district  
30 ad valorem property tax rates used to extend taxes after any adjustments to  
31 reflect tax offsets under ORS 310.105, except that "consolidated billing tax

1 rate” does not include any urban renewal special levy rate under ORS  
2 457.435.

3 (5)(a) “Existing urban renewal plan” means an urban renewal plan that  
4 provides for a division of ad valorem property taxes as described under ORS  
5 457.420 to 457.460 adopted by ordinance before December 6, 1996, that:

6 (A) Except for an amendment made on account of ORS 457.190 (3) and  
7 subject to paragraph (b) of this subsection, is not changed by substantial  
8 amendment, as described in ORS 457.085 (2)(i)(A) or (B), on or after December  
9 6, 1996; and

10 (B) For tax years beginning on or after July 1, 1998, includes the limit  
11 on indebtedness as described in ORS 457.190 (3).

12 (b) If, on or after July 1, 1998, the maximum limit on indebtedness  
13 (adopted by ordinance before July 1, 1998, pursuant to ORS 457.190) of an  
14 existing urban renewal plan is changed by substantial amendment, then  
15 “indebtedness issued or incurred to carry out the existing urban renewal  
16 plan” for purposes of ORS 457.435 includes only the indebtedness within the  
17 indebtedness limit adopted by ordinance under ORS 457.190 (3)(c) before July  
18 1, 1998.

19 (6) “Fiscal year” means the fiscal year commencing on July 1 and closing  
20 on June 30.

21 (7) “Governing body of a municipality” means, in the case of a city, the  
22 common council or other legislative body thereof, and, in the case of a  
23 county, the board of county commissioners or other legislative body thereof.

24 (8) “Housing authority” or “authority” means any housing authority es-  
25 tablished pursuant to the Housing Authorities Law.

26 (9) “Increment” means that part of the assessed value of a taxing district  
27 attributable to any increase in the assessed value of the property located in  
28 an urban renewal area, or portion thereof, over the assessed value specified  
29 in the certified statement.

30 (10) “Maximum indebtedness” means the amount of the principal of  
31 indebtedness included in a plan pursuant to ORS 457.190 and does not in-



1 clude indebtedness incurred to refund or refinance existing indebtedness.

2 (11) "Municipality" means any county or any city in this state. "The  
3 municipality" means the municipality for which a particular urban renewal  
4 agency is created.

5 (12) "Taxing body" or "taxing district" means the state, city, county or  
6 any other taxing unit which has the power to levy a tax.

7 (13) "Urban renewal agency" or "agency" means an urban renewal agency  
8 created under ORS 457.035 and 457.045.

9 (14) "Urban renewal area" means a blighted area included in an urban  
10 renewal plan or an area included in an urban renewal plan under ORS  
11 457.160.

12 (15) "Urban renewal project" or "project" means any work or undertaking  
13 carried out under ORS 457.170 in an urban renewal area.

14 (16) "Urban renewal plan" or "plan" means a plan, as it exists or is  
15 changed or modified from time to time for one or more urban renewal areas,  
16 as provided in ORS 457.085, 457.095, 457.105, 457.115, 457.120, 457.125, 457.135  
17 and 457.220.

18 **SECTION 11. This 2013 Act being necessary for the immediate**  
19 **preservation of the public peace, health and safety, an emergency is**  
20 **declared to exist, and this 2013 Act takes effect July 1, 2013.**

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