

# 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.

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

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.**

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