

A-Engrossed
House Bill 2301

Ordered by the House April 12
Including House Amendments dated April 12

Sponsored by Representative READ (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.

[Establishes task force to review borrowing practices of public bodies and make recommendations about capacity and priorities for financing public property or activities.]

[Sunsets task force on date of convening of 2015 regular session of Legislative Assembly.]

Establishes 10-year capital planning process for capital projects.

Clarifies definition of "bond" to eliminate conflict with provision related to financing agreements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public borrowing; creating new provisions; amending ORS 286A.001; and declaring an
3 emergency.

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

5 **SECTION 1. The Legislative Assembly finds and declares that:**

6 **(1) Infrastructure in the State of Oregon is in need of modernization, expansion and re-**
7 **pair.**

8 **(2) Adequate public infrastructure is essential to restoring and maintaining a vibrant 21st**
9 **century economy in the State of Oregon.**

10 **(3) Oregon's economy is recovering from a recession and, as outstanding indebtedness is**
11 **paid, Oregon will have a growing capacity to invest in capital assets to improve government**
12 **efficiency, service public needs and support ongoing growth in the economy.**

13 **(4) Over the next 10 years, the State of Oregon will have the financial capacity to finance**
14 **nearly \$5 billion of capital investments in infrastructure supported by General Fund moneys**
15 **and the net proceeds of the Oregon State Lottery while protecting Oregon's bond rating.**

16 **(5) To achieve the objectives of making strategic investments in our future through a**
17 **process that leads to optimal investments with the greatest return for its residents, the**
18 **State of Oregon must:**

19 **(a) Develop a greater capacity to identify the benefits of capital projects that support our**
20 **future;**

21 **(b) Develop new methods for selecting and financing projects that optimize capital in-**
22 **vestment opportunities, control future costs and reduce the risk of excessive borrowing; and**

23 **(c) Increase our capacity to institute best practices for capital project identification and**
24 **screening, analysis of returns, procurement and optimization of design, use and financing.**

25 **SECTION 2. (1) The Oregon Department of Administrative Services shall create and**

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 maintain a capital planning process for financing capital projects to be paid from General
2 Fund moneys and from the net proceeds of the Oregon State Lottery. The Capital
3 Infrastructure and Investment Plan must prioritize the utilization of debt capacity over a
4 10-year period for executive branch planning and for the purposes of assisting:

5 (a) The Governor in recommending, after consultation with the State Treasurer, the
6 prudent maximum amount of bonds to be issued for each bond program under ORS 286A.035;
7 and

8 (b) The Legislative Assembly in determining the total amount of bonds the State Treas-
9 urer may issue for each related agency under ORS 286A.035.

10 (2) The 10-year plan required by this section must:

11 (a) Direct the development of a capital planning process that identifies Oregon's highest
12 value capital investments and provides a sustained and consistent process for financing
13 projects that align with the achievement of statewide strategic outcomes identified in the
14 plan.

15 (b) Be based upon projected sustainable financial resources and within prudent financial
16 requirements and conventions to protect the state's credit rating based on the advice of the
17 State Debt Policy Advisory Commission pursuant to ORS 286A.255.

18 (c) Establish a smoothing methodology that ensures sustained available debt capacity on
19 an ongoing basis over the 10-year planning period that:

20 (A) Accounts for cyclical fluctuations related to volatile income tax collections; and

21 (B) Establishes prudent strategic reserve recommendations that reserve debt capacity
22 to support emergent economic opportunities and other immediate opportunities that leverage
23 capital investment.

24 (d) Be developed in conjunction with capital planning processes for:

25 (A) Projects financed with moneys in the State Highway Fund and other transportation
26 planning processes; and

27 (B) Any other state infrastructure planning.

28 (3) Subject to periodic review and adjustment by the department pursuant to strategies
29 adopted in the 10-year plan, the allocation of planned debt capacity must be distributed
30 among:

31 (a) Education infrastructure;

32 (b) State infrastructure;

33 (c) Regional and community economic development and infrastructure; and

34 (d) Reserves for innovative or emergent economic opportunities.

35 (4) Among the criteria for prioritization of debt capacity for infrastructure to be planned
36 and financed:

37 (a) Education infrastructure must advance identified goals to improve access to educa-
38 tion, increase capacity to provide education and make other improvements in this state's
39 ability to deliver education to Oregonians.

40 (b) State infrastructure must assist the State of Oregon to deliver government services
41 to Oregonians in an efficient and cost-effective manner.

42 (c) Regional and community economic development and infrastructure must support and
43 advance statewide economic development policy and stimulate the growth of regional and
44 local economies throughout Oregon.

45 (5) The department:

1 (a) May assign a coordinator for the capital planning process and may assign specific
2 state agencies to take the lead in planning for specific categories established in subsection
3 (3) of this section; and

4 (b) Shall facilitate regional and local development projects by providing technical assist-
5 ance to public bodies, as defined in ORS 174.109, and coordination for capital projects fi-
6 nanced, in whole or in part, with public moneys.

7 (6) The department is not required to take action under this section in biennia in which
8 moneys are not appropriated for the purpose in the legislatively approved budget for the de-
9 partment.

10 **SECTION 3.** ORS 286A.001 is amended to read:

11 286A.001. As used in this chapter:

12 (1) "Agreement for exchange of interest rates" means a contract, or an option or forward com-
13 mitment to enter into a contract, for the exchange of interest rates that provides for:

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

15 (b) Provisions to hedge payment, rate, spread or similar exposure including, but not limited to,
16 an interest rate floor or cap or an option, put or call.

17 (2) "Bond":

18 (a) Means a contractual undertaking or instrument of the State of Oregon to repay borrowed
19 moneys.

20 *[(b) Does not mean a financing agreement, as defined in ORS 283.085, if the principal amount of*
21 *the agreement is \$100,000 or less, or a credit enhancement device.]*

22 (b) Does not mean:

23 (A) A credit enhancement device; or

24 (B) An agreement that satisfies the definition of a financing agreement under ORS
25 283.085 but is authorized by a provision of law other than ORS 283.085 to 283.092, when the
26 principal amount of the agreement is \$100,000 or less.

27 (3) "Counterparty" means an entity with whom the State of Oregon enters into an agreement for
28 exchange of interest rates.

29 (4) "Credit enhancement device":

30 (a) Means a letter of credit, line of credit, standby bond purchase agreement, bond insurance
31 policy, reserve surety bond or other device or facility used to enhance the creditworthiness, liquidity
32 or marketability of bonds or agreements for the exchange of interest rates; and

33 (b) Does not mean a bond.

34 (5) "Credit enhancement device fee" means a payment required to be made to the provider of a
35 credit enhancement device securing a bond or securing an agreement for the exchange of interest
36 rates.

37 (6) "General obligation bond" means a bond that constitutes indebtedness of the state under
38 [section 7,] Article XI, **section 7**, of the Oregon Constitution, and that is exempt from the \$50,000
39 limitation on indebtedness set forth in that section.

40 (7) "Operative document" means a bond declaration, trust agreement, indenture, security
41 agreement or other document in which the State of Oregon pledges property as security for an ob-
42 ligation, as defined in ORS 286A.100.

43 (8) "Refunding bond" means a bond of the State of Oregon that is issued to refund another bond,
44 regardless of whether the refunding is on a current, advance, forward delivery, synthetic or other
45 basis.

1 (9) "Related agency" means the state agency that requests the State Treasurer to issue bonds
2 pursuant to ORS 286A.025 or for which the State Treasurer has issued bonds.

3 (10) "Related bond" means a bond for which the State of Oregon enters into an agreement for
4 exchange of interest rates.

5 (11) "Revenue" means all fees, tolls, excise taxes, assessments, property taxes and other taxes,
6 rates, charges, rentals and other income or receipts derived by a state agency or to which a state
7 agency is entitled.

8 (12) "Revenue bond" means a bond of the State of Oregon that is not a general obligation bond.

9 (13) "State agency":

10 (a) Includes a statewide elected officer, board, commission, department, division, authority or
11 other entity, without regard to the designation given to the entity, that is within state government,
12 as defined in ORS 174.111; and

13 (b) Does not include:

14 (A) A statewide elected judge;

15 (B) The State Treasurer;

16 (C) A local government, as defined in ORS 174.116;

17 (D) The Oregon Health and Science University;

18 (E) A special government body, as defined in ORS 174.117, except to the extent a special gov-
19 ernment body must be considered a state agency in order to achieve the purposes of Article XI-K
20 of the Oregon Constitution; or

21 (F) A semi-independent state agency listed in ORS 182.454, 377.835 or 674.305, or any other state
22 agency denominated by statute as a semi-independent state agency.

23 (14) "Termination payment" means the amount payable under an agreement for exchange of in-
24 terest rates by one party to another party as a result of the termination, in whole or part, of the
25 agreement prior to the expiration of the stated term.

26 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
28 **on its passage.**

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