

House Bill 2301

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 **as introduced**.

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.

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. (1) The Task Force on Bonds and Borrowing is established, consisting of nine**
6 **members appointed as follows:**

7 (a) **The President of the Senate shall appoint:**

8 (A) **Two members from among members of the Senate.**

9 (B) **One member of the public.**

10 (b) **The Speaker of the House of Representatives shall appoint:**

11 (A) **Two members from among members of the House of Representatives.**

12 (B) **One member of the public.**

13 (c) **The Governor shall appoint two representatives to serve as members of the task**
14 **force, including at least one member of the public.**

15 (d) **The State Treasurer shall appoint one representative to serve as a member of the**
16 **task force.**

17 (2) **The task force shall:**

18 (a) **Review the existing processes for public bodies, as defined in ORS 174.109, to incur**
19 **indebtedness by general obligations and revenue obligations; and**

20 (b) **Develop recommendations for a long-term strategy for the use of general obligations**
21 **and revenue obligations to finance public property or activities that includes:**

22 (A) **A determination of, or method of calculating, the bonding capacity in any given**
23 **biennium and the prudent maximum amount of outstanding obligations that can be managed**
24 **at any one time by public bodies; and**

25 (B) **Goals and priorities to guide the financing decisions of public bodies.**

26 (3) **A majority of the members of the task force constitutes a quorum for the transaction**
27 **of business.**

28 (4) **Official action by the task force requires the approval of a majority of the members**
29 **of the task force.**

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 (5) The task force shall elect one of its members to serve as chairperson.

2 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
3 ment to become immediately effective.

4 (7) The task force shall meet at times and places specified by the call of the chairperson
5 or of a majority of the members of the task force.

6 (8) The task force may adopt rules necessary for the operation of the task force.

7 (9) The task force shall submit a report in the manner provided by ORS 192.245, and may
8 include recommendations for legislation, to the Joint Committee on Ways and Means estab-
9 lished under ORS 171.555 on or before October 1, 2014.

10 (10) The State Treasurer shall provide staff support to the task force.

11 (11) Members of the task force who are not members of the Legislative Assembly are not
12 entitled to compensation, but may be reimbursed for actual and necessary travel and other
13 expenses incurred by them in the performance of their official duties in the manner and
14 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions
15 of the task force shall be paid out of funds appropriated to the State Treasurer for purposes
16 of the task force.

17 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
18 the task force in the performance of its duties and, to the extent permitted by laws relating
19 to confidentiality, to furnish information and advice that the members of the task force
20 consider necessary to perform their duties.

21 **SECTION 2.** ORS 286A.001 is amended to read:

22 286A.001. As used in this chapter:

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

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

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

28 (2) "Bond":

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

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

33 **(b) Does not mean:**

34 **(A) A credit enhancement device; or**

35 **(B) An agreement that satisfies the definition of a financing agreement under ORS**
36 **283.085 but is authorized by a provision of law other than ORS 283.085 to 283.092, when the**
37 **principal amount of the agreement is \$100,000 or less.**

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

40 (4) "Credit enhancement device":

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

44 (b) Does not mean a bond.

45 (5) "Credit enhancement device fee" means a payment required to be made to the provider of a

1 credit enhancement device securing a bond or securing an agreement for the exchange of interest
 2 rates.

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

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

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

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

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

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

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

20 (13) "State agency":

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

24 (b) Does not include:

25 (A) A statewide elected judge;

26 (B) The State Treasurer;

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

28 (D) The Oregon Health and Science University;

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

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

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

37 **SECTION 3. Section 1 of this 2013 Act is repealed on the date of the convening of the 2015**
 38 **regular session of the Legislative Assembly as specified in ORS 171.010.**

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