

Senate Bill 265

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Education and Workforce Development for Oregon University System)

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 issuance of higher education revenue bonds in addition to bonds authorized pursuant to biennial budget process for bond authorization.

A BILL FOR AN ACT

1
2 Relating to higher education revenue bonds; creating new provisions; and amending ORS 286A.035
3 and 351.476.

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

5 **SECTION 1.** ORS 286A.035 is amended to read:

6 286A.035. (1) Each related agency shall report the plans of the related agency for the issuance
7 of bonds during the next biennium. The related agency shall submit the related agency's report to
8 the Governor by a date determined by the Governor and shall include in the report a description
9 of bonds that the related agency intends to retire or defease during the next biennium.

10 (2) On or before a date determined by the Governor, the State Treasurer shall advise the Gov-
11 ernor on the prudent maximum amount of bonds to be issued for each bond program. The State
12 Treasurer shall consider available economic and financial data in preparing advice to be given to
13 the Governor.

14 (3) As part of the Governor's budget report described in ORS 291.216, the Governor shall:

15 (a) Consider the prudent maximum amounts advised by the State Treasurer pursuant to sub-
16 section (2) of this section to determine the Governor's total recommended amount; and

17 (b) Recommend to the Legislative Assembly the total amount of bonds the State Treasurer may
18 issue for each bond program for a biennium.

19 (4) **Except as otherwise provided in ORS 351.476**, the Legislative Assembly shall determine
20 the amount of bonds the State Treasurer may issue for each state agency for a biennium. If the
21 Legislative Assembly fails to make the determination described in this subsection by the first day
22 of the biennium, the unused portion of the authorization the Legislative Assembly made for the
23 preceding biennium is deemed to carry forward for the current biennium at the amount authorized
24 for the preceding biennium until the earlier of:

25 (a) The date on which legislation authorizing the amount of bonds for the current biennium is
26 enacted; or

27 (b) The date on which the Legislative Assembly adjourns sine die.

28 (5) **Except as otherwise provided in ORS 351.476**, the amount of bonds that may be issued
29 under bond programs may be modified by the Governor. However, the Governor may not modify the
30 amount of bonds that may be issued under bond programs in a way that would cause the maximum

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 amount established by the Legislative Assembly for a category of bond programs to be exceeded if
2 the Legislative Assembly:

3 (a) Has categorized the bonds that may be issued under bond programs as general obligation,
4 direct revenue and pass-through revenue bonds; and

5 (b) Assigned a maximum amount to each category.

6 (6) This section applies to bonds:

7 (a) Unless the bonds are expressly exempted from the requirements of this section.

8 (b) Except refunding bonds.

9 **SECTION 2.** ORS 351.476 is amended to read:

10 351.476. (1) **In addition to and not in lieu of bonds authorized pursuant to ORS 286A.035,**
11 at the request of the Chancellor of the Oregon University System, the State Treasurer may issue,
12 as provided in ORS chapter 286A, higher education revenue bonds [*from time to time*], the net pro-
13 ceeds of which must be used to:

14 (a) Finance projects that the State Board of Higher Education determines will assist the Oregon
15 University System in carrying out its statutory powers;

16 (b) Refund bonds issued for the projects; and

17 (c) Pay bond-related costs.

18 (2)(a) Before pledging all or a portion of higher education revenues, pursuant to ORS 286A.102,
19 to secure higher education revenue bonds, higher education credit enhancement devices or agree-
20 ments for exchange of interest rates related to such revenue bonds or credit enhancement devices,
21 the chancellor shall reserve sufficient funds each biennium to satisfy any payment or reserve re-
22 quirements relating to:

23 (A) General obligation bonds or certificates of participation issued for the benefit of the Oregon
24 University System;

25 (B) Credit enhancement devices or agreements for exchange of interest rates entered into in
26 connection with obligations related to general obligation bonds or certificates of participation issued
27 for the benefit of the Oregon University System; and

28 (C) Loans to the Oregon University System funded by state general obligation bonds.

29 (b) Pursuant to ORS 286A.010, the Oregon University System shall provide cash flow projections
30 and other information requested by the State Treasurer to determine the sufficiency of higher edu-
31 cation revenues to satisfy the requirements of paragraph (a) of this subsection and any proposed
32 revenue bonds.

33 (c) For purposes of the issuance of bonds and ORS chapter 286A, the Oregon University System
34 shall be considered a related agency as defined in ORS 286A.001 (9).

35 (d) The chancellor shall identify the specific higher education revenues that will be pledged to
36 secure each series of higher education revenue bonds and specify the status of the lien of each
37 pledge.

38 (3) The chancellor may enter into covenants, pursuant to ORS 286A.025 (4)(c), on behalf of the
39 State of Oregon for the benefit of holders of higher education revenue bonds, providers of credit
40 enhancement for higher education revenue bonds and counterparties to agreements for exchange of
41 interest rates to:

42 (a) Adjust the rates, charges or fees that produce higher education revenues so that higher ed-
43 ucation revenues equal or exceed specified levels during specified periods.

44 (b) Create only those pledges or liens on higher education revenues that are permitted by the
45 covenants authorized by this section.

1 (c) Budget and apply higher education revenues, or otherwise allow higher education revenues
 2 to be applied, in amounts that, when added to other moneys lawfully available for the purpose, will
 3 be sufficient:

4 (A) To pay in full and when due the principal, interest and premium on outstanding higher ed-
 5 ucation revenue bonds;

6 (B) To pay amounts due in connection with agreements for exchange of interest rates and credit
 7 enhancement devices for higher education revenue bonds; and

8 (C) To maintain the balance required by covenants in any debt service reserves established for
 9 the higher education revenue bonds.

10 (4) The chancellor shall operate the properties of the Oregon University System in compliance
 11 with the higher education revenue bond covenants until all higher education revenue bonds are paid
 12 or defeased.

13 (5) Higher education revenue bonds are not a general obligation of the State of Oregon, and
 14 neither the full faith and credit nor the taxing power of the State of Oregon may be pledged to se-
 15 cure or pay the higher education revenue bonds.

16 (6) The State Treasurer and the Oregon University System do not have an obligation to pay
 17 bond-related costs except as provided in ORS 351.473 to 351.485. A holder of higher education re-
 18 venue bonds issued under this section does not have the right to compel the exercise of the taxing
 19 power of the State of Oregon to pay bond-related costs.

20 (7) As long as any higher education revenue bonds issued under this section are outstanding,
 21 covenants related to the higher education revenue bonds are deemed to be contracts between the
 22 State of Oregon and holders of the higher education revenue bonds. The State of Oregon may not
 23 give force or effect to a statute or initiative or referendum measure approved by the electors of this
 24 state if doing so would unconstitutionally impair existing covenants made with the holders of exist-
 25 ing higher education revenue bonds or would unconstitutionally impair other obligations or agree-
 26 ments regarding the security of higher education revenue bonds to which the moneys deposited in
 27 the accounts established by ORS 351.479, 351.482 and 351.485 are pledged and assigned.

28 (8) The principal, interest and any premium and any issuance costs on a financing agreement
 29 under ORS 283.085 to 283.092, any general obligation bond, any revenue bond and any related credit
 30 enhancement device or interest rate exchange agreement shall be paid from the sources specified in
 31 the laws and documents authorizing the financing agreement, bond, credit enhancement device or
 32 interest rate exchange agreement. The Oregon University System shall pay any other expenses and
 33 liabilities, including but not limited to legal expenses, costs of settling claims, judgments, federal
 34 arbitrage rebates and penalties and expenses arising from an inquiry, audit or other action by a
 35 federal or state regulatory body, unless the expense or liability results solely from the negligence
 36 or willful misconduct of a state agency.

37 (9) Pursuant to ORS chapter 180, on behalf of the State Treasurer or any other state agency,
 38 the Attorney General shall appear, commence, prosecute or defend any action, suit, matter, cause
 39 or proceeding arising from any financing agreement under ORS 283.085 to 283.092, any bond issued
 40 for the benefit of the Oregon University System and any related credit enhancement device or in-
 41 terest rate exchange agreement.

42 **SECTION 3. The amendments to ORS 286A.035 and 351.476 by sections 1 and 2 of this 2013**
 43 **Act apply to bonds issued in or after the biennium beginning July 1, 2013.**