

Senate Bill 712

Sponsored by Senator BOQUIST

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 Oregon In-State Loan Fund. Specifies purposes and contents of fund. Directs Oregon Growth Board to manage fund. Allows board to purchase, hold or sell certain loans or participation interests in loans.

Establishes January 1, 2014, operative date.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to state finance; creating new provisions; amending ORS 293.701, 293.728 and 294.035; and
3 declaring an emergency.

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

5 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS 293.701**
6 **to 293.820.**

7 **SECTION 2. The Legislative Assembly finds that:**

8 (1) **The availability of capital for Oregon small businesses that are engaged in economic**
9 **development is critical to continued job growth and development of the economy of Oregon.**

10 (2) **Currently existing state-managed funds constitute a major financial resource of the**
11 **State of Oregon. Prudent investment, management and coordination of these funds may,**
12 **together with access to capital provided in partnership with financial institutions, enhance**
13 **the availability of capital for Oregon small businesses and farms and contribute to**
14 **sustainable job growth.**

15 (3) **Establishment of an Oregon In-State Loan Fund will:**

16 (a) **Help keep Oregon moneys invested in Oregon;**

17 (b) **Strengthen the economies of local communities by keeping more loans, and the in-**
18 **terest earned on those loans, in the local communities and in Oregon; and**

19 (c) **Support local financial institutions by recognizing the importance of those institutions**
20 **in understanding the needs of local communities and in providing access to capital funding**
21 **for small businesses and farms.**

22 **SECTION 3. As used in sections 2 to 5 of this 2013 Act, unless the context requires oth-**
23 **erwise:**

24 (1) **"Business" means a corporation, partnership, proprietorship, firm, enterprise, joint**
25 **venture, franchise, association, organization, self-employed individual or other business en-**
26 **tity operating or doing business in Oregon.**

27 (2) **"Community bank" means:**

28 (a) **An insured institution that is organized under the provisions of ORS chapter 707 and**
29 **has its principal place of business in this state;**

30 (b) **An insured institution that maintains a head office or branch in this state and has**

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 assets of less than \$10 billion;

2 (c) A credit union as defined in ORS 723.006 that has its principal place of business in this
3 state;

4 (d) An interstate credit union as defined in ORS 723.001 that is chartered under ORS
5 chapter 723 and has its principal place of business in this state;

6 (e) An interstate credit union as defined in ORS 723.001 that is chartered under the au-
7 thority of the laws of another state, has its principal place of business in this state and has
8 assets of less than \$10 billion; or

9 (f) A federal credit union that has its principal place of business in this state and has
10 assets of less than \$10 billion.

11 (3) "Economic development" means development that relates to and supports the eco-
12 nomic development policy and strategy for this state outlined in ORS 285A.020, and that
13 promotes, expands or prevents the decline of a business located or to be located in Oregon.

14 (4) "Financial institution" means a community bank and any other institution defined by
15 rule of the Oregon Growth Board as a financial institution for purposes of section 5 of this
16 2013 Act.

17 (5) "State agency" means an officer, board, commission, department, division, institution,
18 branch or agency in the executive or administrative branch of state government or a public
19 institution of higher education.

20 (6) "State fund" means a fund established under the control and administration of a state
21 agency that has entered into a contract with the Oregon Growth Board for investment and
22 management of the fund.

23 **SECTION 4.** (1) The Oregon In-State Loan Fund is established in the State Treasury as
24 a commingled investment vehicle for investment funds and moneys or investment vehicles
25 described in subsection (2) of this section. The Oregon Growth Board shall administer the
26 fund. Interest earned by the Oregon In-State Loan Fund shall be credited to the participating
27 investor funds or accounts in the fund in proportion to the amount invested.

28 (2) Unless a federal law, court order, settlement or similar agreement or business prac-
29 tice requires otherwise, the following moneys may be deposited in the Oregon In-State Loan
30 Fund:

31 (a) Moneys received by the State Treasurer that may not be discretely invested as pro-
32 vided in ORS 293.723;

33 (b) Moneys received by the State Treasurer that may be discretely invested as provided
34 in ORS 293.723;

35 (c) Moneys transferred from the Oregon Short Term Fund established under ORS 293.728;

36 (d) Moneys invested by a county, municipality, political subdivision or school district
37 under ORS 294.035; and

38 (e) Moneys invested by private individuals and foundations.

39 (3) Pursuant to ORS 293.723, moneys in the Oregon In-State Loan Fund may be discretely
40 invested.

41 (4) Moneys in the fund may be transferred as provided in ORS 293.205 to 293.225. The
42 Oregon Growth Board is the board in charge of the fund for purposes of ORS 293.220 and
43 shall determine the interest rate to be charged until the moneys are retransferred to the
44 fund. The interest rate may not be less than the rate specified in ORS 293.220.

45 **SECTION 5.** (1) The Oregon Growth Board shall formulate and implement investment and

1 management policies and practices subject to the standard set forth in ORS 293.726 for the
2 investment, reinvestment and management of moneys in the Oregon In-State Loan Fund. In
3 exercising its authority under this subsection, the board may approve and direct specific in-
4 vestments and strategies for the investment of moneys in the fund and may make invest-
5 ments directly, without the use of a management company, in any form or manner that
6 would be lawful for a private corporation having similar intent.

7 (2) The board may enter into a contract with a state agency, county, municipality, poli-
8 tical subdivision or school district for the investment and management of moneys over which
9 the agency, county, municipality, political subdivision or school district has supervision and
10 control and may enter into any other contract the board deems necessary or appropriate to
11 carry out the board's duties, functions and powers under this section.

12 (3) The board may:

13 (a) Purchase, guarantee, hold or sell loans or participation interests in loans originated
14 by financial institutions doing business in this state to:

15 (A) Qualified businesses engaged in economic development that are doing business in this
16 state;

17 (B) Public economic development agencies in this state; and

18 (C) Individuals who are residents of this state.

19 (b) Engage a Federal Home Loan Bank, or a Federal Reserve Bank or another financial
20 institution to maintain the liquidity of moneys deposited in the fund from the Oregon Short
21 Term Fund or under ORS 294.035.

22 (c) Perform all acts and do all things necessary, convenient, advisable or desirable to
23 carry out the powers expressly granted or necessarily implied in this section through its
24 chairperson, officers, agents and representatives or by contracts with any person, state
25 agency, county, municipality, political subdivision, school district or financial institution.

26 (4) The board shall purchase, guarantee, hold or sell loans and invest and manage moneys
27 deposited in the fund in conformity with policies and practices formulated by the board and
28 the investment standard stated in ORS 293.726 (1).

29 (5) The board shall invest in loans or participation interests in loans according to the
30 following order of priority:

31 (a) Commercial and industrial;

32 (b) Commercial real estate;

33 (c) Agriculture;

34 (d) Affordable housing;

35 (e) Government guaranteed residential loans;

36 (f) Government insured portions of United States Small Business Administration loans;

37 (g) Student loans;

38 (h) Bank stock loans to financial institutions; and

39 (i) Letters of credit to financial institutions.

40 (6) The board may enter into contracts with a fund manager or one or more management
41 companies for the provision of investment advice, to manage the loan portfolio and set ap-
42 propriate and balanced loan portfolio targets for the fund and for other services that the
43 board deems reasonable and necessary to fulfill the duties of the board under this section.
44 A manager or management company selected under this subsection shall manage moneys in
45 the fund subject to the investment policies and practices established by the board with the

1 care, skill and diligence that a prudent investor acting in a similar capacity and familiar with
 2 such investments would use in managing and investing a similar account. Contracts entered
 3 into under this subsection are not subject to the State Personnel Relations Law, ORS 279.835
 4 to 279.855 or ORS chapter 279A or 279B.

5 (7) The board shall:

6 (a) Set a reasonable and prudent leverage ratio of investment funds to be used as equity
 7 or loan loss reserves from which to leverage moneys in the fund;

8 (b) Establish a maximum participation ratio of loans depending on the asset category and
 9 risk profile of the loan; and

10 (c) Give preference when selling loans and participation interests in loans to financial
 11 institutions to loans in the following order of preference:

12 (A) Loans of less than \$250,000,000.

13 (B) Loans of \$250,000,000 to \$499,999,999.

14 (C) Loans of \$500,000,000 to \$999,999,999.

15 (D) Loans of \$1 billion to \$4,999,999,999.

16 (E) Loans of \$5 billion or more.

17 (8) The board may assess and charge fees for services provided in the management and
 18 investment of state funds that may be credited against moneys earned from investment and
 19 reinvestment of the state funds.

20 (9) The board shall adopt rules that specify:

21 (a) The board's powers, permissible investments and activities and services that the
 22 board may provide.

23 (b) Limits for loans and other obligations the board makes, authorizes or undertakes.

24 (c) Other requirements that the board considers necessary for the exercise of the board's
 25 powers and functions under this section.

26 **SECTION 6.** ORS 294.035 is amended to read:

27 294.035. (1) Subject to ORS 294.040 and 294.135 to 294.155, the custodial officer may invest any
 28 sinking fund, bond fund or surplus funds in the custody of the custodial officer in the bank accounts,
 29 classes of securities at current market prices, insurance contracts and other investments listed in
 30 this section, but only after obtaining from the governing body of the county, municipality, political
 31 subdivision or school district a written order that has been entered in the minutes or journal of the
 32 governing body.

33 (2) This section does not:

34 (a) Limit the authority of the custodial officer to invest surplus funds in other investments when
 35 the investment is specifically authorized by another statute.

36 (b) Apply to a sinking fund or a bond fund established in connection with conduit revenue bonds
 37 issued by a county, municipality, political subdivision or school district for private business entities
 38 or nonprofit corporations.

39 (3) Investments authorized by this section are:

40 (a) Lawfully issued general obligations of the United States, the agencies and instrumentalities
 41 of the United States or enterprises sponsored by the United States Government and obligations
 42 whose payment is guaranteed by the United States, the agencies and instrumentalities of the United
 43 States or enterprises sponsored by the United States Government.

44 (b) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon
 45 and its political subdivisions that have a long-term rating of A or an equivalent rating or better or

1 are rated on the settlement date in the highest category for short-term municipal debt by a na-
2 tionally recognized statistical rating organization.

3 (c) Lawfully issued debt obligations of the States of California, Idaho and Washington and poli-
4 tical subdivisions of those states if the obligations have a long-term rating of AA or an equivalent
5 rating or better or are rated on the settlement date in the highest category for short-term municipal
6 debt by a nationally recognized statistical rating organization.

7 (d) Time deposit open accounts, certificates of deposit and savings accounts in insured insti-
8 tutions as defined in ORS 706.008, in credit unions as defined in ORS 723.006 or in federal credit
9 unions, if the institution or credit union maintains a head office or a branch in this state.

10 (e) Share accounts and savings accounts in credit unions in the name of, or for the benefit of,
11 a member of the credit union pursuant to a plan of deferred compensation.

12 (f) Fixed or variable life insurance or annuity contracts as defined by ORS 731.170 and guaran-
13 teed investment contracts issued by life insurance companies authorized to do business in this state.

14 (g) Trusts in which deferred compensation funds from other public employers are pooled, if:

15 (A) The purpose is to establish a deferred compensation plan;

16 (B) The trust is a public instrumentality of such public employers and described in section (2)(b)
17 of the Investment Company Act of 1940, 15 U.S.C. 80a-2(b), as amended, in effect on September 20,
18 1985, or the trust is a common trust fund described in ORS 709.170;

19 (C) Under the terms of the plan the net income from or gain or loss due to fluctuation in value
20 of the underlying assets of the trust, or other change in such assets, is reflected in an equal increase
21 or decrease in the amount distributable to the employee or the beneficiary thereof and, therefore,
22 does not ultimately result in a net increase or decrease in the worth of the public employer or the
23 state; and

24 (D) The fidelity of the trustees and others with access to such assets, other than a trust com-
25 pany, as defined in ORS 706.008, is insured by a surety bond that is satisfactory to the public em-
26 ployer, issued by a company authorized to do a surety business in this state and in an amount that
27 is not less than 10 percent of the value of such assets.

28 (h)(A) Banker's acceptances, if the banker's acceptances are:

29 (i) Guaranteed by, and carried on the books of, a qualified financial institution;

30 (ii) Eligible for discount by the Federal Reserve System; and

31 (iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated
32 in the highest category by one or more nationally recognized statistical rating organizations.

33 (B) For the purposes of this paragraph, "qualified financial institution" means:

34 (i) A financial institution that is located and licensed to do banking business in the State of
35 Oregon; or

36 (ii) A financial institution that is wholly owned by a financial holding company or a bank hold-
37 ing company that owns a financial institution that is located and licensed to do banking business in
38 the State of Oregon.

39 (C) A custodial officer shall not permit more than 25 percent of the moneys of a local govern-
40 ment that are available for investment, as determined on the settlement date, to be invested in
41 banker's acceptances of any qualified financial institution.

42 (i)(A) Corporate indebtedness subject to a valid registration statement on file with the Securities
43 and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities
44 Act of 1933, as amended. Corporate indebtedness described in this paragraph does not include
45 banker's acceptances. The corporate indebtedness must be issued by a commercial, industrial or

1 utility business enterprise, or by or on behalf of a financial institution, including a holding company
2 owning a majority interest in a qualified financial institution.

3 (B) Corporate indebtedness must be rated on the settlement date P-1 or Aa or better by Moody's
4 Investors Service or A-1 or AA or better by Standard & Poor's Corporation or equivalent rating by
5 any nationally recognized statistical rating organization.

6 (C) Notwithstanding subparagraph (B) of this paragraph, the corporate indebtedness must be
7 rated on the settlement date P-2 or A or better by Moody's Investors Service or A-2 or A or better
8 by Standard & Poor's Corporation or equivalent rating by any nationally recognized statistical rat-
9 ing organization when the corporate indebtedness is:

10 (i) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50
11 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in
12 Oregon; or

13 (ii) Issued by a holding company owning not less than a majority interest in a qualified financial
14 institution, as defined in paragraph (h) of this subsection, located and licensed to do banking busi-
15 ness in Oregon or by a holding company owning not less than a majority interest in a business en-
16 terprise described in sub-subparagraph (i) of this subparagraph.

17 (D) A custodial officer may not permit more than 35 percent of the moneys of a local govern-
18 ment that are available for investment, as determined on the settlement date, to be invested in
19 corporate indebtedness, and may not permit more than five percent of the moneys of a local gov-
20 ernment that are available for investment to be invested in corporate indebtedness of any single
21 corporate entity and its affiliates or subsidiaries.

22 (j) Repurchase agreements whereby the custodial officer purchases securities from a financial
23 institution or securities dealer subject to an agreement by the seller to repurchase the securities.
24 The repurchase agreement must be in writing and executed in advance of the initial purchase of the
25 securities that are the subject of the repurchase agreement. Only securities described in paragraph
26 (a) of this subsection may be used in conjunction with a repurchase agreement and such securities
27 shall have a maturity of not longer than three years. The price paid by the custodial officer for such
28 securities may not exceed amounts or percentages prescribed by written policy of the Oregon In-
29 vestment Council or the Oregon Short Term Fund Board created by ORS 294.885.

30 (k) Shares of stock of any company, association or corporation, including but not limited to
31 shares of a mutual fund, but only if the moneys being invested are funds set aside pursuant to a
32 local government deferred compensation plan and are held in trust for the exclusive benefit of par-
33 ticipants and their beneficiaries.

34 **(L) The Oregon In-State Loan Fund.**

35 **SECTION 7.** ORS 293.701 is amended to read:

36 293.701. As used in ORS 293.701 to 293.820, unless the context requires otherwise:

37 (1) "Council" means the Oregon Investment Council.

38 (2) "Investment funds" means:

39 (a) Public Employees Retirement Fund referred to in ORS 238.660;

40 (b) Industrial Accident Fund referred to in ORS 656.632;

41 (c) Consumer and Business Services Fund referred to in ORS 705.145;

42 (d) Employment Department Special Administrative Fund referred to in ORS 657.822;

43 (e) Insurance Fund referred to in ORS 278.425;

44 (f) Funds under the control and administration of the Department of State Lands;

45 (g) Oregon Student Assistance Fund referred to in ORS 348.570;

1 (h) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.540 or
2 rules adopted thereunder;

3 (i) Forest Development Revenue Bond Fund referred to in ORS 530.147 and State Forestry
4 General Obligation Bond Fund referred to in ORS 530.280;

5 (j) Oregon War Veterans' Fund referred to in ORS 407.495;

6 (k) Oregon War Veterans' Bond Sinking Account referred to in ORS 407.515;

7 (L) World War II Veterans' Compensation Fund;

8 (m) World War II Veterans' Bond Sinking Fund;

9 (n) Funds in the hands of the State Treasurer that are not required to meet current demands
10 and that are invested in the Oregon Short Term Fund established under ORS 293.728, **in the Oregon**
11 **In-State Loan Fund established under section 4 of this 2013 Act** or in another commingled in-
12 vestment vehicle;

13 (o) State funds that are not subject to the control and administration of officers or bodies spe-
14 cifically designated by law;

15 (p) Funds derived from the sale of state bonds;

16 (q) Social Security Revolving Account referred to in ORS 237.490;

17 (r) Oregon University System Fund established by ORS 351.506 and the Higher Education Do-
18 nation Fund established by ORS 351.130;

19 (s) Local Government Employer Benefit Trust Fund referred to in ORS 657.513;

20 (t) Elderly and Disabled Special Transportation Fund established by ORS 391.800;

21 (u) Education Stability Fund established by ORS 348.696;

22 (v) Deferred Compensation Fund established under ORS 243.411; and

23 (w) Trust for Cultural Development Account established under ORS 359.405.

24 (3) "Investment officer" means the State Treasurer in the capacity as investment officer for the
25 council.

26 **SECTION 8.** ORS 293.728 is amended to read:

27 293.728. (1) The Oregon Short Term Fund is established in the State Treasury as a commingled
28 investment vehicle for investment funds and the moneys described in subsection (2) of this section.
29 Interest earned by the Oregon Short Term Fund shall be credited to the participating investor funds
30 or accounts in the fund in proportion to the amount invested.

31 (2) Unless a federal law, court order, settlement or similar agreement or business practice re-
32 quires otherwise, **and except as provided in section 4 of this 2013 Act**, moneys received by the
33 State Treasurer that may not be discretely invested as provided in ORS 293.723 shall be deposited
34 in the fund. Moneys that may be discretely invested as provided in ORS 293.723 may be deposited
35 in the fund.

36 (3) Moneys in the fund may be transferred as provided in ORS 293.205 to 293.225. The State
37 Treasurer is the officer in charge of the fund for purposes of ORS 293.220 and shall determine the
38 interest rate to be charged until the moneys are retransferred to the fund. The interest rate may
39 not be less than the rate specified in ORS 293.220.

40 **SECTION 9.** (1) **Sections 1 to 5 of this 2013 Act and the amendments to ORS 293.701,**
41 **293.728 and 294.035 by sections 6 to 8 of this 2013 Act become operative January 1, 2014.**

42 (2) **The Oregon Growth Board and the State Treasurer may take any action prior to the**
43 **operative date specified in subsection (1) of this section that is necessary to allow the board**
44 **or State Treasurer to carry out sections 1 to 5 of this 2013 Act and the amendments to ORS**
45 **293.701, 293.728 and 294.035 by sections 6 to 8 of this 2013 Act on and after the operative date**

1 specified in subsection (1) of this section.

2 **SECTION 10. This 2013 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
4 **on its passage.**

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