

**PROPOSED AMENDMENTS TO
SENATE BILL 17**

1 On page 1 of the printed bill, line 2, delete “293.812” and insert “293.736,
2 293.812, 328.331 and 328.346”.

3 On page 3, after line 20, insert:

4 **“SECTION 9.** ORS 293.736 is amended to read:

5 “293.736. (1) Except as provided in ORS 293.741, in amounts available for
6 investment purposes and subject to the policies formulated by the Oregon
7 Investment Council, the investment officer shall invest and reinvest moneys
8 in the investment funds and acquire, retain, manage, including exercise of
9 any voting rights, and dispose of investments of the investment funds.

10 “(2) Subject to the direction of the council, the investment officer shall
11 perform the functions described in subsection (1) of this section with respect
12 to the investment in mutual funds of moneys in the Deferred Compensation
13 Fund. [*The council must approve all mutual funds in which Deferred Com-*
14 *penetration Fund moneys are invested.*]

15 **“SECTION 10.** ORS 328.331 is amended to read:

16 “328.331. (1) Any school district may request that the State Treasurer is-
17 sue a certificate evidencing qualification of its school bonds for the state
18 guaranty.

19 “(2) The State Treasurer may, in accordance with ORS chapter 183, adopt
20 and enforce rules that prescribe procedures for school district applications
21 to qualify for the certificate of qualification and state guaranty and rules
22 that prescribe the **conditions and** standards a school district must meet to

1 qualify and to maintain qualification. The State Treasurer, by rule, may es-
2 tablish, but shall not be limited to:

3 “(a) A requirement that a school district pay a processing fee, sufficient
4 to defray the State Treasurer’s costs in processing and verifying applications,
5 for each application and each application for annual renewal of a certificate
6 of qualification.

7 “(b) Deadlines or application periods in which school districts must sub-
8 mit applications.

9 “(c) The character, quality and currency of the information on the finan-
10 cial affairs and condition of a school district that must be submitted for a
11 school district’s application to be considered.

12 “(d) The form and character of any certifications or affidavits required
13 of officials of the applying school districts concerning the accuracy and
14 completeness of the information provided in conjunction with the district’s
15 application.

16 “(e) Any other matters necessary to making reliable assessments of the
17 fiscal and financial affairs and condition of applying school districts.

18 **“(f) Requirements related to additional conditions the school dis-**
19 **trict must meet, which may include requiring a pledge of school dis-**
20 **trict revenues or the grant of a security in other assets of the school**
21 **district, to assure the State Treasurer that the school district will be**
22 **able to fully reimburse the state for amounts transferred by the State**
23 **Treasurer and any interest or penalties applicable to the transferred**
24 **amounts.**

25 “[*f*] (g) The manner of designating the particular school bonds to which
26 the State Treasurer’s certificate of qualification and the state guaranty ap-
27 plies.

28 “[*g*] (h) Subject to Article XI-K of the Oregon Constitution, reasonable
29 limitations on:

30 “(A) The total aggregate outstanding amount of all school bonds the state

1 may guarantee; and

2 “(B) The outstanding amount of the school bonds of any single school
3 district the state may guarantee.

4 “[*h*] (i) The method of providing notice of denial of a certificate of
5 qualification.

6 “[*i*] (j) The method of providing notice of disqualification to school dis-
7 tricts that fail to qualify or for which changes in financial affairs or condi-
8 tion or failure to provide the State Treasurer current or updated information
9 warrant disqualification of the school district.

10 “[*j*] (k) Requirements for promptly reporting to the State Treasurer any
11 changes in condition or occurrences that may affect a school district’s el-
12 igibility to qualify or maintain its qualification to participate in the state
13 guaranty program.

14 “(3)(a) After reviewing the request, if the State Treasurer determines that
15 the school district is eligible, the State Treasurer shall promptly issue the
16 certificate of qualification and provide it to the requesting school district.

17 “(b)(A) Unless the certificate of qualification is revoked by the State
18 Treasurer, and subject to the fulfillment of any conditions or requirements
19 imposed by the State Treasurer, the school district receiving the certificate
20 and all other persons may rely on the certificate as evidencing eligibility for
21 the state guaranty for one year from and after the date of the certificate.

22 “(B) [*No*] **A** revocation of a certificate of qualification [*shall*] **does not**
23 affect the state guaranty of any outstanding school bonds previously issued
24 under a valid certificate.

25 “(4) Any qualified school district that chooses to forgo the benefits of the
26 state guaranty for a particular issue of school bonds may do so by not re-
27 ferring to ORS 328.321 to 328.356 on the face of its school bonds.

28 “(5) [*No*] **A** school district that has school bonds, the principal of or in-
29 terest on which has been paid in whole or in part by the state under ORS
30 328.341, [*may be*] **is not** eligible to issue any additional school bonds with

1 the state guaranty until:

2 “(a) All payment obligations of the school district to the state under ORS
3 328.346 are satisfied; and

4 “(b) The State Treasurer certifies in a writing, to be kept on file by the
5 State Treasurer, that the school district is fiscally solvent.

6 **“SECTION 11.** ORS 328.346 is amended to read:

7 “328.346. (1)(a) If one or more payments on school bonds are made by the
8 State Treasurer as provided in ORS 328.341, the State Treasurer shall pursue
9 recovery from the school district of all moneys necessary to reimburse the
10 state for all amounts paid by the treasurer to the paying agent, as well as
11 interest, penalties and any additional costs incurred by the treasurer as de-
12 scribed in this section. In seeking recovery, the State Treasurer may:

13 “(A) Intercept any payments from the General Fund, the State School
14 Fund, the income of the Common School Fund and any other source of op-
15 erating moneys provided by or through the state to the school district that
16 issued the school bonds that would otherwise be paid to the school district
17 by the state; [*and*]

18 **“(B) Exercise the rights of a secured creditor in any moneys or as-**
19 **sets pledged by the school district to secure the district’s reimburse-**
20 **ment obligation to the state; and**

21 **“[(B)] (C) Apply any intercepted payments and pledged moneys or as-**
22 **sets to reimburse the state for payments made pursuant to the state guar-**
23 **anty until all obligations of the school district to the state arising from**
24 **those payments, including interest and penalties, and any additional costs**
25 **incurred by the treasurer as described in this section are paid in full.**

26 “(b) The state has no obligation to the school district or to any person
27 or entity to replace any moneys **or assets** intercepted **or pledged** under au-
28 thority of this section.

29 “(c) The authority of the State Treasurer to intercept payments **and the**
30 **lien in any pledged moneys** under this subsection [*has*] **have** priority over

1 all claims against money provided by the state to a school district, including
2 a claim that is based on a funds diversion agreement under ORS 238.698. A
3 funds diversion agreement under ORS 238.698 has priority over all other
4 claims against money provided by the state to a school district.

5 “(2) The school district that issued school bonds for which the state has
6 made all or part of a debt service payment shall:

7 “(a) Reimburse all moneys drawn or paid by the State Treasurer on its
8 behalf;

9 “(b) Pay interest to the state on all moneys paid by the state from the
10 date the moneys were drawn to the date they are repaid at a rate to be de-
11 termined by the State Treasurer, in the State Treasurer’s discretion, to be
12 sufficient to cover the costs of funds to the state plus the costs of adminis-
13 tration of the state guaranty obligation and of collection of reimbursement;
14 and

15 “(c) Pay any applicable penalties as described in subsection (3) of this
16 section.

17 “(3)(a) The State Treasurer shall establish the reimbursement interest rate
18 after considering the circumstances of any prior draws by the school district
19 on the state, market interest and penalty rates and the cost of funds, if any,
20 that were required to be used or borrowed by the state to make payment on
21 the school bonds. The State Treasurer shall have authority to establish, by
22 negotiations with the school district or otherwise, any plan of reimbursement
23 by the school district that will result in full and complete reimbursement to
24 the state. Subject to the requirement for full and complete reimbursement,
25 the State Treasurer may consider incorporating into the reimbursement plan
26 the means and methods to allow the school district to continue its operations
27 during the time the reimbursement plan is in effect.

28 “(b) The State Treasurer may, after considering the circumstances giving
29 rise to the failure of the school district to make payment on its school bonds
30 in a timely manner, impose on the school district a penalty of not more than

1 five percent of the amount paid by the state pursuant to the state guaranty
2 for each instance in which a payment by the state is made.

3 “(4)(a) If the State Treasurer determines that amounts obtained under this
4 section will not reimburse the state in full within the time determined by the
5 State Treasurer or incorporated in the reimbursement plan from the state’s
6 payment of a school district’s debt service payment, the State Treasurer shall
7 pursue any legal action, including but not limited to mandamus, against the
8 school district or school district board to compel the school district to:

9 “(A) Levy and provide property tax revenues to pay debt service on its
10 school bonds and other obligations when due; and

11 “(B) Meet its repayment obligations to the state.

12 “(b) With respect to any school bonds for which the State Treasurer has
13 made payment under the state guaranty, and in addition to any other rights
14 or remedies available at law or in equity, the state shall have the same
15 substantive and procedural rights as would a holder of the school bonds of
16 a school district.

17 “(c) The Attorney General shall assist the State Treasurer in the dis-
18 charge of the duties under this section.

19 “(d) The school district shall pay the attorney fees, expenses and costs
20 of the State Treasurer and the Attorney General.

21 “(5)(a) Except as provided in paragraph (c) of this subsection, any school
22 district whose funds were intercepted **or otherwise paid to the State**
23 **Treasurer** under this section may replace those funds from other school
24 district moneys or from ad valorem property taxes, subject to the limitations
25 provided in this subsection.

26 “(b) A school district may use ad valorem property taxes or other moneys
27 to replace intercepted funds **or other funds paid to the State Treasurer**
28 only if the ad valorem property taxes or other moneys were derived from:

29 “(A) Taxes originally levied to make the payment, but which were not
30 timely received by the school district;

1 “(B) Taxes from a special levy imposed to make up the missed payment
2 or to replace the intercepted [*moneys*] **funds or funds otherwise paid to**
3 **the State Treasurer;**

4 “(C) Moneys transferred from any lawfully available funds of the school
5 district or the undistributed reserves, if any, of the school district; or

6 “(D) Any other source of moneys on hand and legally available.

7 “(c) Notwithstanding paragraphs (a) and (b) of this subsection, a school
8 district may not replace operating funds intercepted by the state **or other-**
9 **wise paid to the State Treasurer** with moneys collected and held to make
10 payments on school bonds if that replacement would divert moneys from the
11 payment of future debt service on the school bonds and increase the risk that
12 the state guaranty would be called upon a second time.

13 **“SECTION 12. Section 13 of this 2013 Act is added to and made a**
14 **part of ORS 328.321 to 328.356.**

15 **“SECTION 13. (1) Except for moneys subject to the intercept pro-**
16 **vided in ORS 328.346 (1)(a), a school district may pledge as security for**
17 **its obligation to reimburse the state under ORS 328.346 (2) any:**

18 **“(a) Revenues received or held by the school district; or**

19 **“(b) Real or personal property held by the school district.**

20 **“(2) The lien of any pledge, mortgage or security interest granted**
21 **by a school district under this section is valid and binding from the**
22 **time the pledge is granted. The revenue or property is immediately**
23 **subject to the lien without physical delivery, filing or other act, and**
24 **the lien is superior to all other claims and liens of any kind whatso-**
25 **ever.**

26 **“(3) The lien may be foreclosed by a proceeding brought in the cir-**
27 **cuit courts of the state and any tangible real or personal property**
28 **subject to the lien may be sold upon an order of the court. The pro-**
29 **ceeds of the sale must be applied first to the payment of the costs of**
30 **foreclosure and then to the amounts owing under ORS 328.346 (2), with**

1 **any remaining balance paid to the school district.”.**

2 In line 21, delete “9” and insert “14”.

3 In line 22, delete “10” and insert “15”.

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