

Enrolled
House Bill 2492

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of State Treasurer Ted Wheeler)

CHAPTER

AN ACT

Relating to revenue bonds issued under authority of the Oregon Facilities Authority; creating new provisions; amending ORS 286A.140, 289.005 and 316.056; and prescribing an effective date.

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

SECTION 1. ORS 289.005 is amended to read:

289.005. (1) As used in this chapter, unless the context requires otherwise:

[(1)] (a) "Authority" means the Oregon Facilities Authority created by this chapter.

[(2)] (b) "Bonds" or "revenue bonds" means revenue bonds, as defined in ORS 286A.001.

[(3)] (c) "Cost" means the cost of:

[(a)] (A) Construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project, including all lands, structures, real or personal property, rights, rights of way, air rights, franchises, easements and interests acquired or used for or in connection with a project;

[(b)] (B) Demolition or removal of buildings or structures on land as acquired, including the cost of acquiring lands to which the buildings or structures may be moved;

[(c)] (C) All machinery and equipment;

[(d)] (D) Financing charges, interest prior to, during and for a period after completion of construction and acquisition, reasonably required amounts to make the project operational, provisions for reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements;

[(e)] (E) Architectural, actuarial engineering, financial and legal services, plans specifications, studies, surveys, estimates of costs and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project;

[(f)] (F) Management, operation or funding of a qualified program; and

[(g)] (G) Other expenses that are necessary or incident to a project, the financing of the project or the placing of the project in operation.

[(4)] (d) "Cultural institution" means a public or nonprofit institution within this state which engages in the cultural, intellectual, scientific, environmental, educational or artistic enrichment of the people of this state. "Cultural institution" includes, without limitation, aquaria, botanical societies, historical societies, land conservation organizations, libraries, museums, performing arts associations or societies, scientific societies, wildlife conservation organizations and zoological societies. "Cultural institution" does not mean any school or any institution primarily engaged in religious or sectarian activities.

[(5)] (e) "Health care institution" means a public or nonprofit organization within this state that provides health care and related services, including but not limited to the provision of inpatient and

outpatient care, diagnostic or therapeutic services, laboratory services, medicinal drugs, nursing care, assisted living, elderly care and housing, including retirement communities, and equipment used or useful for the provision of health care and related services.

[(6)] (f) "Housing institution" means a public or nonprofit organization within this state that provides decent, affordable housing to low income persons.

[(7)] (g) "Institution" means a cultural institution, a health care institution, a housing institution, an institution for higher education, an institution for prekindergarten through grade 12 education, a school for persons with disabilities or another nonprofit.

[(8)] (h) "Institution for higher education" means a public or nonprofit educational institution within this state authorized by law to provide a program of education beyond the high school level, including community colleges and associate degree granting institutions. "Institution for higher education" does not mean any school or any institution primarily engaged in religious or sectarian activities.

[(9)] (i) "Institution for prekindergarten through grade 12 education" means an Oregon prekindergarten as defined in ORS 329.170, a public educational institution within this state authorized by law to provide a program of education for kindergarten through grade 12 or a nonprofit educational institution within this state that provides a program of education for prekindergarten through grade 12 as a private school. "Institution for prekindergarten through grade 12 education" does not mean a school or institution primarily engaged in religious or sectarian activities.

[(10)] (j) "Nonprofit" means an institution, organization or entity within this state exempt from taxation under section 501(c)(3) of the Internal Revenue Code as defined in ORS 314.011.

[(11)(a)] (k)(A) "Project" means the financing or refinancing of the costs, including, without limitation, acquisition, construction, enlargement, remodeling, renovation, improvement, furnishing and equipping, of the following:

[(A)] (i) In the case of a participating institution that is an institution for higher education, an institution for prekindergarten through grade 12 education or a school for persons with disabilities, a structure [*or structures*], **within this state or outside this state, that is** suitable for use as a dormitory or other multiunit housing facility for students, faculty, officers or employees, or a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities, **within this state or outside this state, that are** related to any of the structures required or used for the instruction of students, the conducting of research or the operation of an institution for higher education, an institution for prekindergarten through grade 12 education or a school for persons with disabilities. [*It shall also include*] **A project defined in this sub-subparagraph includes** landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and [*shall further include*] **also includes** any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of an institution of higher education, an institution for prekindergarten through grade 12 education or a school for persons with disabilities, whether or not [*such*] **the** items are related to a particular facility or structure financed under this chapter.

[(B)] (ii) In the case of a participating institution that is a housing institution, a structure [*or structures*], **within this state or outside this state, that is** suitable for use as housing, including residences or multiunit housing facilities, administration buildings, maintenance, storage or utility facilities and other structures or facilities, **within this state or outside this state, that are** related to any of the structures required or used for the operation of the housing, including parking and other facilities or structures essential or convenient for the orderly provision of [*such*] **the** housing. [*It shall also include*] **A project defined in this sub-subparagraph includes** landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the particular housing facility or structure in the manner for which its use is intended and [*shall further include*] **also includes** any furnishings, equipment, machinery and other similar items

necessary or convenient for the provision of housing, whether or not [such] **the** items are related to a particular facility or structure financed under this chapter.

[(C)] (iii) In the case of a participating institution that is a cultural institution, a structure [or structures], **within this state or outside this state, that is** suitable for [its] **the institution's** purposes, whether or not to be used to provide educational services, or research resources, including use as or in connection with an administrative facility, aquarium, assembly hall, auditorium, botanical garden, exhibition hall, gallery, greenhouse, library, museum, scientific laboratory, theater or zoological facility. [It shall also include] **A project defined in this sub-subparagraph includes** supporting facilities, landscaping, site preparation, furniture, equipment, machinery and other similar items necessary or convenient for the operation of a cultural institution, whether or not [such] **the** items are related to a particular facility or structure financed under this chapter, including books, works of art or other items for display or exhibition.

[(D)] (iv) In the case of a participating institution that is a health care institution, a structure [or structures], **within this state or outside this state, that is** suitable for [its] **the institution's** purposes, including hospital facilities, inpatient and outpatient clinics, doctors' offices, administration buildings, parking, maintenance, storage or utility facilities, nursing care or assisted living facilities, elderly care and housing facilities, including retirement communities, and other structures or facilities, **within this state or outside this state, that are** related to any of the structures required or used for the operation of the health care institution, including other facilities or structures essential or convenient for the orderly provision of [such] **the** health care. [It shall also include] **A project defined in this sub-subparagraph includes** landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the particular health care facility or structure in the manner for which its use is intended and [shall further include] **also includes** any working capital, furnishings, equipment, machinery and other similar items necessary or convenient for the provision of health care, whether or not [such] **the** items are related to a particular facility or structure financed under this chapter.

[(E)] (v) In the case of a participating institution that is a nonprofit not otherwise specified in this [subsection] **paragraph**, a structure [or structures], **within this state or outside this state, that is** suitable for [its] **the institution's** purposes, including facilities or structures essential or convenient for the orderly operations of the nonprofit. [It shall also include] **A project defined in this sub-subparagraph includes** acquisition of interests in land, landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the nonprofit, whether or not the items are related to a particular facility or structure financed under this chapter, including borrowings needed to alleviate interim cash flow deficits of the nonprofit.

[(F)] (vi) In the case of a participating institution, costs to manage, operate or fund a qualified program or costs to alleviate interim cash flow deficits of the institution.

[(b)] (B) "Project" also includes any combination of one or more of the projects undertaken jointly by one or more participating institutions with each other or with other parties.

[(c)] (C) "Project" does not include the financing or refinancing of the costs of a facility used or to be used for sectarian instruction or as a place of religious worship or any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

[(12)] (L) "Qualified program" means a financing program, or other activities, of a participating institution that is eligible for financing through the issuance of revenue bonds the interest on which is:

[(a)] (A) Excluded from gross income for federal income tax purposes; or

[(b)] (B) Eligible for a federal tax credit or subsidy under the Internal Revenue Code.

[(13)] (m) "School for persons with disabilities" means a public or nonprofit primary, secondary or post-secondary school within **this state or outside** this state that serves students at least 70 percent of whom are persons with disabilities as determined by one or more appropriate education, rehabilitation, medical or mental health authorities[;], is accredited by a recognized accrediting body[;] and is determined by the authority to be a major resource of benefit to persons with disa-

bilities. "School for persons with disabilities" does not mean any school or any institution primarily engaged in religious or sectarian activities.

(2) As used in subsection (1) of this section in relation to an institution, "within this state" means that the institution:

(a) Maintains its headquarters, principal office or primary place of business in the State of Oregon;

(b) Owns or operates one or more facilities in the State of Oregon at which it conducts operations in furtherance of its institutional mission; or

(c) Is owned or controlled by, or affiliated under common ownership with, an institution described in paragraph (a) or (b) of this subsection.

(3) As used in subsection (1) of this section in relation to a project, "within this state" means that:

(a) A structure to be financed will be located in the State of Oregon; or

(b) A structure to be financed will be financed for the primary benefit of an institution within this state.

SECTION 1a. The removal of the words "or structures" from the phrase "structure or structures" by the amendments to ORS 289.005 by section 1 of this 2015 Act:

(1) Does not prohibit the financing of more than one structure;

(2) Does not limit the effect of, and is subject to construction under, ORS 174.127, under which the singular may include the plural and the plural may include the singular; and

(3) Conforms the language to the form and style requirements of the Legislative Administration Committee.

SECTION 2. Section 3 of this 2015 Act is added to and made a part of ORS chapter 289.

SECTION 3. (1) As used in this section, "within the State of Oregon" has the meaning given the term "within this state" in ORS 289.005.

(2) Interest on revenue bonds issued by the State Treasurer under the authority of this chapter is exempt from personal income tax under ORS chapter 316 only to the extent that the structure financed with the proceeds of the revenue bonds is located within the State of Oregon.

SECTION 4. ORS 286A.140 is amended to read:

286A.140. **Except as provided in section 3 of this 2015 Act,** interest on all bonds of the State of Oregon is exempt from personal income tax under ORS chapter 316.

SECTION 5. ORS 316.056 is amended to read:

316.056. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income, **to the extent includable in gross income for federal income tax purposes,** the interest or dividends on obligations of:

(a) The State of Oregon [or] **pursuant to ORS 286A.140.**

(b) A public body, as defined in ORS 287A.001, *[to the extent includable in gross income for federal income tax purposes. However,]*

(2) The amount subtracted under this section *[shall]* **must** be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this section, and by any expenses incurred in the production of interest or dividend income described in this section.

SECTION 6. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House May 20, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 16, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

.....
Jeanne P. Atkins, Secretary of State