

A-Engrossed
House Bill 2492

Ordered by the House April 15
Including House Amendments dated April 15

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

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.

Authorizes issuance of pass-through revenue bonds for projects outside this state. Defines "within this state" in relation to construction of structures by institutions eligible to receive pass-through financing under authority of Oregon Facilities Authority.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to revenue bonds issued under authority of the Oregon Facilities Authority; creating new
3 provisions; amending ORS 286A.140, 289.005 and 316.056; and prescribing an effective date.

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

5 **SECTION 1.** ORS 289.005 is amended to read:

6 289.005. (1) As used in this chapter, unless the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

26 [(4)] (d) "Cultural institution" means a public or nonprofit institution within this state which

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 engages in the cultural, intellectual, scientific, environmental, educational or artistic enrichment of
 2 the people of this state. “Cultural institution” includes, without limitation, aquaria, botanical socie-
 3 ties, historical societies, land conservation organizations, libraries, museums, performing arts asso-
 4 ciations or societies, scientific societies, wildlife conservation organizations and zoological societies.
 5 “Cultural institution” does not mean any school or any institution primarily engaged in religious
 6 or sectarian activities.

7 [(5)] (e) “Health care institution” means a public or nonprofit organization within this state that
 8 provides health care and related services, including but not limited to the provision of inpatient and
 9 outpatient care, diagnostic or therapeutic services, laboratory services, medicinal drugs, nursing
 10 care, assisted living, elderly care and housing, including retirement communities, and equipment
 11 used or useful for the provision of health care and related services.

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

14 [(7)] (g) “Institution” means a cultural institution, a health care institution, a housing institu-
 15 tion, an institution for higher education, an institution for prekindergarten through grade 12 edu-
 16 cation, a school for persons with disabilities or another nonprofit.

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

22 [(9)] (i) “Institution for prekindergarten through grade 12 education” means an Oregon
 23 prekindergarten as defined in ORS 329.170, a public educational institution within this state au-
 24 thorized by law to provide a program of education for kindergarten through grade 12 or a nonprofit
 25 educational institution within this state that provides a program of education for prekindergarten
 26 through grade 12 as a private school. “Institution for prekindergarten through grade 12
 27 education” does not mean a school or institution primarily engaged in religious or sectarian activ-
 28 ities.

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

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

34 [(A)] (i) In the case of a participating institution that is an institution for higher education, an
 35 institution for prekindergarten through grade 12 education or a school for persons with disabilities,
 36 a structure [*or structures*], **within this state or outside this state, that is** suitable for use as a
 37 dormitory or other multiunit housing facility for students, faculty, officers or employees, or a dining
 38 hall, student union, administration building, academic building, library, laboratory, research facility,
 39 classroom, athletic facility, health care facility, maintenance, storage or utility facility and other
 40 structures or facilities, **within this state or outside this state, that are** related to any of the
 41 structures required or used for the instruction of students, the conducting of research or the oper-
 42 ation of an institution for higher education, an institution for prekindergarten through grade 12
 43 education or a school for persons with disabilities. [*It shall also include*] **A project defined in this**
 44 **sub-subparagraph includes** landscaping, site preparation, furniture, equipment and machinery and
 45 other similar items necessary or convenient for the operation of a particular facility or structure in

1 the manner for which its use is intended and *[shall further include]* **also includes** any furnishings,
 2 equipment, machinery and other similar items necessary or convenient for the operation of an in-
 3 stitution of higher education, an institution for prekindergarten through grade 12 education or a
 4 school for persons with disabilities, whether or not *[such]* **the** items are related to a particular fa-
 5 cility or structure financed under this chapter.

6 *[(B)]* **(ii)** In the case of a participating institution that is a housing institution, a structure *[or*
 7 *structures]*, **within this state or outside this state, that is** suitable for use as housing, including
 8 residences or multiunit housing facilities, administration buildings, maintenance, storage or utility
 9 facilities and other structures or facilities, **within this state or outside this state, that are** re-
 10 lated to any of the structures required or used for the operation of the housing, including parking
 11 and other facilities or structures essential or convenient for the orderly provision of *[such]* **the**
 12 housing. *[It shall also include]* **A project defined in this sub-subparagraph includes** landscaping,
 13 site preparation, furniture, equipment and machinery and other similar items necessary or conven-
 14 ient for the particular housing facility or structure in the manner for which its use is intended and
 15 *[shall further include]* **also includes** any furnishings, equipment, machinery and other similar items
 16 necessary or convenient for the provision of housing, whether or not *[such]* **the** items are related
 17 to a particular facility or structure financed under this chapter.

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

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

42 *[(E)]* **(v)** In the case of a participating institution that is a nonprofit not otherwise specified in
 43 this *[subsection]* **paragraph**, a structure *[or structures]*, **within this state or outside this state,**
 44 **that is** suitable for *[its]* **the institution's** purposes, including facilities or structures essential or
 45 convenient for the orderly operations of the nonprofit. *[It shall also include]* **A project defined in**

1 **this sub-subparagraph includes** acquisition of interests in land, landscaping, site preparation, fur-
2 niture, equipment and machinery and other similar items necessary or convenient for the nonprofit,
3 whether or not the items are related to a particular facility or structure financed under this chapter,
4 including borrowings needed to alleviate interim cash flow deficits of the nonprofit.

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

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

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

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

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

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

18 [(13)] (m) "School for persons with disabilities" means a public or nonprofit primary, secondary
19 or post-secondary school within **this state or outside** this state that serves students at least 70
20 percent of whom are persons with disabilities as determined by one or more appropriate education,
21 rehabilitation, medical or mental health authorities[;], is accredited by a recognized accrediting
22 body[;] and is determined by the authority to be a major resource of benefit to persons with disa-
23 bilities. "School for persons with disabilities" does not mean any school or any institution primarily
24 engaged in religious or sectarian activities.

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

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

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

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

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

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

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

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

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

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

43 **(3) Conforms the language to the form and style requirements of the Legislative Admin-**
44 **istration Committee.**

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

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

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

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

8 286A.140. **Except as provided in section 3 of this 2015 Act,** interest on all bonds of the State
9 of Oregon is exempt from personal income tax under ORS chapter 316.

10 **SECTION 5.** ORS 316.056 is amended to read:

11 316.056. (1) In addition to the modifications to federal taxable income contained in this chapter,
12 there shall be subtracted from federal taxable income, **to the extent includable in gross income**
13 **for federal income tax purposes,** the interest or dividends on obligations of:

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

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

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

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

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