

Senate Bill 303

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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**.

Requires approval of State Treasurer before school district or community college district may enter into funds diversion agreement related to payment of debt service on bonds.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to funds diversion agreements for bond payments; creating new provisions; amending ORS 238.698 and 328.284; and declaring an emergency.

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

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 328.321 to 328.356.

SECTION 2. For any school district that holds a certificate evidencing qualification of the school district's school bonds for state guaranty under ORS 328.321 to 328.356, the State Treasurer by rule may:

(1) Require the school district to submit a proposed funds diversion agreement related to bonds issued by, or on behalf of, the school district to the State Treasurer for review and approval; and

(2) Prohibit the school district from entering into a funds diversion agreement that has not been approved by the State Treasurer.

SECTION 3. ORS 238.698 is amended to read:

238.698. (1) **Subject to subsection (3) of this section**, a public body, or a group of public bodies that enter into an intergovernmental agreement under ORS 238.695, that receives funds from any state agency may enter into a funds diversion agreement with the state agency for the purpose of paying the principal and interest on bonds issued under ORS 238.692 to 238.698, and any premium on those bonds. A diversion agreement entered into under this section must provide that:

(a) Moneys payable to the public body or group of public bodies by the state agency from appropriations from the General Fund or any other source of moneys will be paid directly to a debt service trust fund established under ORS 238.696 in amounts equal to the debt service owed by the public body or group of public bodies;

(b) The state agency must pay the amounts required under the funds diversion agreement to the debt service trust fund established under ORS 238.696 pursuant to the schedule specified in the agreement before paying any other amounts to the public body or group of public bodies;

(c) The agreement is irrevocable; and

(d) The agreement will remain in effect until all the bonds issued by the public body or under the intergovernmental agreement are mature or redeemed.

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 (2) If for any reason a state agency that has entered into a funds diversion agreement is not able
 2 to pay moneys to a debt service trust fund as contemplated by the agreement, the state agency shall
 3 give notice to the public body or group of public bodies within 30 days after the state agency is
 4 aware that the moneys will not be paid.

5 **(3) When the public body is, or a group of public bodies includes, a school district, as**
 6 **defined in ORS 328.321, the public body or group of public bodies:**

7 **(a) Must submit a proposed funds diversion agreement under this section to the State**
 8 **Treasurer for review and approval; and**

9 **(b) May not enter into the funds diversion agreement unless the agreement is approved**
 10 **by the State Treasurer.**

11 [(3)] (4) Nothing in this section, or in any funds diversion agreement entered into by a state
 12 agency under this section, [*may in any manner obligate*] **obligates** the state or any state agency:

13 (a) To pay any amount that a public body is not otherwise entitled to receive under law; or

14 (b) To pay any principal or interest on bonds issued under ORS 238.692 to 238.698.

15 **SECTION 4.** ORS 328.284 is amended to read:

16 328.284. (1) As used in this section, “qualified revenue bonds” means revenue bonds, as defined
 17 in ORS 287A.001, that:

18 (a) Meet the definition of “qualified school construction bonds,” as defined in section 1521 of the
 19 federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5) or the description of “qualified
 20 zone academy bonds,” in section 54E(a) of the Internal Revenue Code of 1986, as amended; and

21 (b) Are sold with other revenue bonds under a program that is facilitated by a statewide or-
 22 ganization that represents school boards.

23 (2) **Subject to subsection (5) of this section,** a school district or an education service district
 24 may enter into a funds diversion agreement with the Department of Education for the purpose of
 25 making debt service payments on qualified revenue bonds.

26 (3) A funds diversion agreement entered into under this section must contain all of the following
 27 provisions:

28 (a) Moneys payable to the school district or education service district by the department from
 29 the State School Fund will be paid directly to a debt service account in amounts equal to the lesser
 30 of:

31 (A) The amount available to the district for disbursement from the fund; or

32 (B) The amount of the debt service owed by the school district or education service district.

33 (b) The department must pay the amounts required under the funds diversion agreement to the
 34 debt service account specified by the school district or education service district.

35 (c) The department must pay the amounts required under the funds diversion agreement pursu-
 36 ant to the schedule specified in the agreement prior to paying any other amounts to the school
 37 district or education service district, except for any funds claimed pursuant to ORS 238.698 or
 38 328.346.

39 (d) The agreement may not be revoked by the school district or education service district.

40 (e) The agreement will remain in effect until all payments for the qualified revenue bonds have
 41 been made.

42 (4) If the department is not able to pay moneys to a debt service account as required by a funds
 43 diversion agreement, the department shall give notice to the school district or education service
 44 district within 30 days after becoming aware that the moneys will not be paid according to the
 45 agreement. The department is not liable to any holder of qualified revenue bonds, or any trustee of

1 a holder, or any other party for a failure to pay moneys as required under the funds diversion
2 agreement.

3 **(5) A school district or an education service district:**

4 **(a) Must submit a proposed funds diversion agreement under this section to the State**
5 **Treasurer for review and approval; and**

6 **(b) May not enter into the funds diversion agreement unless the agreement is approved**
7 **by the State Treasurer.**

8 [(5)] (6) Nothing in this section or in a funds diversion agreement entered into under this section
9 obligates the state or the department to pay an amount to a school district or education service
10 district that is more than amounts the school district or education service district is otherwise en-
11 titled to receive from the State School Fund or to pay debt service on qualified revenue bonds issued
12 by the school district or education service district.

13 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
15 **on its passage.**

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