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OREGON STATE TREASURY

March 1, 2017

TO: The Honorable Phil Barnhart, Chair
House Committee on Revenue

FROM: Cora R. Parker, Director of Finance
Oregon State Treasury

SUBJECT: HB 2779 – Administration of Public Funds

Chair Barnhart and members of the committee, my name is Cora Parker, Director of Finance for the Oregon State Treasury. I am here today to provide information on the needs behind HB 2779. This housekeeping bill addresses two distinct issues related to the administration of public funds.

The first issue, the sections amending provisions of ORS 293.265, relates to how quickly state funds are deposited with Treasury. That statute generally requires that all funds collected or received by state agencies or their agents be deposited within one business day. An exception for a "reasonable, longer period" exists for agencies that collect or receive funds themselves. The amendments extend this "reasonable, longer period" exception to agents—including counties and other public entities—that collect public funds on behalf of state agencies. While several longstanding business practices and contractual relationships have extended this exception to agents, more recent legal advice has raised questions about whether that is truly permissible under the law. This bill would clarify that the "reasonable, longer period" exception applies to all agents.

For example, under ORS 454.725 the Oregon Department of Environmental Quality (DEQ) has agreements with counties to issue various permits and collect various fees on behalf of DEQ. Such agreements were entered into based on prior legal guidance and provide a convenience to the customer in addition to driving administrative efficiencies.

Changing such business practices would most likely negatively impact administrative efficiencies and could trigger costs associated with implementing new service delivery models. Some agents may even be unable to adapt systems and processes, forcing agencies to sever relationships with some agents. Treasury generally believes that through appropriate contractual arrangements, including required adherence to ORS chapter 295 and designation of agency funds in accounts clearly (and legally) designated on behalf of the agency partner, the "reasonable, longer period" exception can be extended to agents. Adoption of the bill will clarify that current

business practices—previously implemented in good faith—in fact meet the requirements of the statute, while failure to adopt may put such practices at risk.

The second issue relates to the Public Funds Collateralization Program, with the bill amending various provisions of ORS chapter 295. Several of those provisions, particularly those relating to specific and detailed division of duties and actions among custodians, depositories, Treasury, and the Department of Consumer and Business Services, conflict with longstanding practices. Current statutes assign roles and responsibilities across the various entities at an overly detailed level. In several cases, those roles and responsibilities may make sense on paper but are impracticable in execution. Notably, several of the conflicts were brought to our attention while processing a recent change in custodian.

For example, ORS 295.013 currently directs custodians to monitor whether depositories' pledged collateral falls below minimum collateral requirements. However, *Treasury* is responsible for calculating minimum collateral requirements based on reports submitted by depositories to Treasury, and custodians are required to report collateral information to Treasury. Based on current roles and practices, Treasury is the *only* entity in possession of the information needed to actually monitor compliance with this requirement and *is* the entity that has historically performed the function.

The bill is intended to align the statutes more directly with current practices or, in most cases, to bring the language to a policy level rather than a procedural level. Such an approach acknowledges that specific systems, processes, roles, and responsibilities could change over time and that such details are best addressed via pledge agreements or administrative rules. Essentially, adoption of the bill will allow for continuation of existing or necessary business practices. Failure to adopt would require a change to existing practices (and the parties responsible for them), of which some changes would not be practicable.

We appreciate your consideration of HB 2779.