

HB 2205-4
(LC 2648)
3/28/19 (DFY/ps)

Requested by HOUSE COMMITTEE ON VETERANS AND EMERGENCY PREPAREDNESS (at the request of Representative Paul Evans)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2205**

1 In line 2 of the printed bill, before the period insert “; and declaring an
2 emergency”.

3 Delete lines 4 through 7 and insert:

4 **“SECTION 1. (1) As used in this section:**

5 **“(a) ‘Emergency’ has the meaning given that term in ORS 401.025.**

6 **“(b) ‘Maintain’ means to repair, perform upkeep on and otherwise
7 keep in good working condition.**

8 **“(c) ‘Preparedness equipment’ means equipment, vehicles,
9 infrastructure elements, buildings or other real or personal property
10 that:**

11 **“(A) May be used to decrease the risk to life and property resulting
12 from an emergency; and**

13 **“(B) Qualifies as a capital asset eligible for financing with tax-
14 exempt bonds.**

15 **“(d) ‘Qualified applicant’ means an entity that owns or operates a
16 public airport.**

17 **“(e) ‘Recipient’ means an entity that applies for and receives
18 preparedness equipment, or funds to purchase preparedness equip-
19 ment, under the program described in subsection (3) of this section.**

20 **“(f) ‘Tax-exempt bond’ means a bond, as defined in ORS 286A.001,
21 the receipt of interest on which is excluded from gross income under**

1 the Internal Revenue Code or that is eligible for a federal interest
2 subsidy payment or other tax-advantaged status.

3 “(2)(a) Before December 31, 2019, the State Aviation Board, in con-
4 sultation with the State Resilience Officer, shall develop a list of
5 preparedness equipment that is needed throughout this state to ad-
6 dress deficiencies in the ability of the state to respond to local and
7 regional emergencies.

8 “(b) In developing the list, the board shall consult and coordinate
9 with the Oregon Department of Aviation, managers of public airports
10 and county, city and tribal emergency managers.

11 “(c) The board shall assign a priority level to each type of
12 preparedness equipment on the list, taking into consideration, without
13 limitation, the types of emergencies that are most likely to occur in
14 different regions of this state and the types of preparedness equipment
15 that offer the highest ratio of utility to cost. The board shall period-
16 ically update and revise the list.

17 “(3) The department shall, by rule, develop and administer an avi-
18 ation resiliency assistance program to distribute preparedness equip-
19 ment, or funds to purchase preparedness equipment, to recipients
20 throughout this state. Pursuant to the program:

21 “(a) Qualified applicants may request preparedness equipment that
22 is identified on the list described in subsection (2) of this section. Ap-
23 plicants must demonstrate a need for the specific preparedness equip-
24 ment requested, the ability to maintain the preparedness equipment
25 and the ability to use the preparedness equipment to address defi-
26 ciencies in local or regional emergency preparedness.

27 “(b) The department shall identify which requests from applicants,
28 if fulfilled, will maximize the state’s ability to respond to an emer-
29 gency, taking into account considerations that include but are not
30 limited to:

1 “(A) The level of priority assigned to the requested preparedness
2 equipment type pursuant to subsection (2) of this section;

3 “(B) The level of need for the requested preparedness equipment as
4 demonstrated by the applicant;

5 “(C) The ability to use and maintain the preparedness equipment
6 as demonstrated by the applicant;

7 “(D) The types of emergency most likely to occur in the region
8 where the airport owned or operated by the applicant is located; and

9 “(E) Whether the applicant has an alternative means of acquiring
10 the requested preparedness equipment.

11 “(c) The department shall enter into agreements with applicants
12 identified under paragraph (b) of this subsection as provided in para-
13 graph (e) of this subsection. The department may then either purchase
14 the requested preparedness equipment for distribution to a recipient
15 or disburse funds to the recipient for the purchase of the requested
16 preparedness equipment.

17 “(d) During a state of emergency declared by the Governor under
18 ORS 401.165, the Public Contracting Code does not apply to the acqui-
19 sition of preparedness equipment by the department or by a recipient
20 pursuant to this section. When acquiring preparedness equipment
21 during a state of emergency, the department and recipients shall use
22 procurement methods that are impartial and transparent to the
23 greatest extent feasible and that are designed to maximize value to the
24 State of Oregon.

25 “(e) The department may not disburse preparedness equipment or
26 funds under this section unless the department and the intended re-
27 cipient first enter into an agreement as described in this paragraph.
28 The agreement:

29 “(A) Shall require the recipient to maintain the preparedness
30 equipment.

1 **“(B) Shall provide that, if a recipient fails to adequately maintain**
2 **preparedness equipment, the recipient must relinquish possession of**
3 **the preparedness equipment or reimburse the department for the cost**
4 **of the preparedness equipment.**

5 **“(C) Shall specify that the department may conduct periodic in-**
6 **spections of the preparedness equipment as described in paragraph (f)**
7 **of this subsection.**

8 **“(D) Shall specify that preparedness equipment distributed to the**
9 **recipient remains the property of the department until it is fully de-**
10 **preciated under governmental accounting principles, after which the**
11 **department may offer the preparedness equipment for sale to the re-**
12 **ipient at its fair market value at the time of sale.**

13 **“(E) May permit the recipient to use the preparedness equipment**
14 **for any purpose, governmental or otherwise, that is permissible for**
15 **assets financed with tax-exempt bonds, including nonemergency pur-**
16 **poses.**

17 **“(F) Shall require the recipient to take action or refrain from action**
18 **as necessary to maintain federal tax benefits related to any tax-exempt**
19 **bonds that are used to fund the preparedness equipment and to**
20 **indemnify the State of Oregon for any costs, expenses or liability due**
21 **to loss of such federal tax benefits caused by action or inaction of the**
22 **recipient.**

23 **“(f) The department shall conduct periodic inspections of**
24 **preparedness equipment distributed or purchased through the program**
25 **to ensure that recipients are adequately maintaining the preparedness**
26 **equipment. If the department finds that any preparedness equipment**
27 **is not adequately maintained, the department may take possession of**
28 **the preparedness equipment or require the recipient to reimburse the**
29 **department for the cost of the preparedness equipment.**

30 **“(g) The department may transfer between recipients, dispose of or**

1 otherwise manage the preparedness equipment as it determines is in
2 the best interests of meeting the emergency preparedness needs of the
3 State of Oregon. If the department disposes of preparedness equipment
4 for any reason, including sale to a recipient as provided in paragraph
5 (e)(D) of this subsection, the department shall deposit any moneys it
6 receives from the disposal in the Aviation Resiliency Fund established
7 under section 2 of this 2019 Act.

8 “(4) On or before December 31 of each year, the department shall
9 submit a report to the Legislative Assembly and to the board that de-
10 scribes the administration and effectiveness of the program estab-
11 lished under this section and the current prioritized list of
12 preparedness equipment types.

13 “(5) The department shall adopt rules to administer and implement
14 the provisions of this section.

15 **“SECTION 2.** The Aviation Resiliency Fund is established in the
16 State Treasury, separate and distinct from the General Fund. Interest
17 earned by the Aviation Resiliency Fund must be credited to the fund.
18 The fund consists of moneys deposited in the fund under section 1 of
19 this 2019 Act and may include moneys appropriated, allocated, depos-
20 ited or transferred to the fund by the Legislative Assembly or other-
21 wise and interest earned on moneys in the fund. The moneys in the
22 fund are continuously appropriated to the Oregon Department of Avi-
23 ation for the purposes specified in section 1 of this 2019 Act.

24 **“SECTION 3. (1)** In addition to and not in lieu of any authorization
25 to issue general obligation bonds under ORS 286A.035, in the biennium
26 beginning July 1, 2019, at the request of the Office of Emergency
27 Management, the State Treasurer may issue Article XI-Q bonds under
28 ORS 286A.816 to 286A.826 in an amount that produces \$15 million of
29 net proceeds for the purpose specified in subsection (2) of this section,
30 plus an amount estimated by the State Treasurer to pay bond-related

1 **costs.**

2 **“(2) Net proceeds of bonds issued under this section must be trans-**
3 **ferred to the Office of Emergency Management for deposit in the**
4 **Resiliency Grant Fund established under ORS 401.552.**

5 **“SECTION 4. This 2019 Act being necessary for the immediate**
6 **preservation of the public peace, health and safety, an emergency is**
7 **declared to exist, and this 2019 Act takes effect on its passage.”.**

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