

Senate Bill 339

Sponsored by Senator GOLDEN (Presession filed.)

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**.

Establishes Bank of the State of Oregon. Specifies purposes of bank. Establishes Bank of the State of Oregon Board to operate and manage bank. Creates advisory board of directors to advise bank board and management on operation of bank.

Requires bank to accept deposits of public funds and permits bank to accept deposits of other funds. Permits bank to make, purchase, guarantee or hold certain loans and to serve as custodian bank. Specifies other powers. Directs State Treasurer to deposit moneys in bank in amount treasurer determines is necessary to allow bank to fulfill duties.

Requires Bank of the State of Oregon Board to determine and reserve amount of revenue necessary to continue bank operations in safe and sound manner and to credit remaining revenue to use for general governmental operations.

Directs board to adopt rules to ensure safety and soundness of bank, describe permissible investments, bank services, loan limits and reserve requirements. Requires Secretary of State audit.

Specifies that deposits of bank are guaranteed by state and that income bank earns on public funds is not subject to taxation.

Specifies that certain bank records are confidential and not subject to disclosure.

Becomes operative January 1, 2023.

A BILL FOR AN ACT

1
2 Relating to establishment of a public bank; creating new provisions; and amending ORS 293.875 and
3 295.002.

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

5 **SECTION 1. (1) The Bank of the State of Oregon is established.**

6 **(2) The purposes of the Bank of the State of Oregon are:**

7 **(a) To support the economic development of this state by increasing access to capital for**
8 **businesses and farms within this state in partnership with local financial institutions.**

9 **(b) To provide stability to the local financial sector, and not in any way to compete with**
10 **community banks, credit unions or other financial institutions.**

11 **(c) To reduce the costs this state pays for basic banking services.**

12 **(d) To fund governmental operations with a portion of the bank's earnings.**

13 **SECTION 2. (1) The Bank of the State of Oregon Board is established. The board shall**
14 **operate, manage and control the Bank of the State of Oregon. The board shall specify lo-**
15 **cations for and maintain places of business in which the bank will operate and shall adopt**
16 **and enforce orders, rules and bylaws for the transaction of the bank's business.**

17 **(2) The board consists of the Governor, the State Treasurer and the Commissioner of the**
18 **Bureau of Labor and Industries. The board shall exercise the board's powers and direct and**
19 **oversee the functions of the bank by means of rules the board adopts under ORS chapter 183**
20 **and policies the board adopts in consultation with the advisory board of directors described**
21 **in section 3 of this 2021 Act.**

22 **(3) The Governor is the chairperson of the board. The board shall hold regular meetings,**
23 **and by rule shall devise a method for giving notice of the meetings.**

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 (4) Two members of the board constitute a quorum to transact business and exercise the
2 board's rights, duties and powers.

3 (5) The Governor or a majority of the members of the board may call a special meeting
4 of the board, provided the Governor or the majority gives notice of the special meeting.

5 (6) The board shall appoint a president of the bank. The person appointed as president
6 must have extensive experience in banking. The board may appoint and employ subordinate
7 officers, employees and agents as the board considers necessary, and shall define the duties,
8 designate the titles and fix the compensation for the persons the board appoints and employs.
9 The board may designate the president or another officer or employee as an agent of the
10 board for the purpose of implementing the bank's functions, subject to the board's super-
11 vision, limitation and control.

12 (7) The board may remove and discharge a person the board appoints or employs or to
13 whom the board otherwise delegates a duty or power granted under sections 1 to 11 of this
14 2021 Act.

15 **SECTION 3.** (1) The Bank of the State of Oregon Board shall appoint an advisory board
16 of directors that consists of seven members.

17 (2) The members of the advisory board must include representatives of this state's fi-
18 nancial, business, agricultural and labor sectors. At least two members must be officers of
19 banks, the majority of the stock of which is owned by residents of this state.

20 (3) The Bank of the State of Oregon Board shall appoint a chairman, vice chairman and
21 secretary from the advisory board. The Bank of the State of Oregon Board shall set the term
22 of office of the directors of the advisory board, but the term of office for a director may not
23 exceed four years.

24 (4) The advisory board shall:

25 (a) Meet regularly with the management of the Bank of the State of Oregon to review
26 the bank's operations and finances and to determine whether the advisory board should re-
27 commend measures to the Bank of the State of Oregon Board to improve the bank's man-
28 agement performance, customer service and internal methods, procedures and operating
29 policies;

30 (b) Meet regularly with the Bank of the State of Oregon Board to discuss the advisory
31 board's recommendations and to provide other advice, expertise or information at the re-
32 quest of the Bank of the State of Oregon Board;

33 (c) Recommend additional objectives for the bank's operations to the Bank of the State
34 of Oregon Board at the advisory board's initiative;

35 (d) Advise and consult with the Bank of the State of Oregon Board concerning the ap-
36 pointment of officers of the bank; and

37 (e) Participate on the bank's loan committees.

38 **SECTION 4.** (1) The Bank of the State of Oregon shall accept deposits of public funds as
39 defined in ORS 295.001 and may accept deposits of funds from any other source. Income that
40 the bank earns on deposited funds must be credited to and become a part of the revenues
41 and income of the bank.

42 (2) A public official who has control of public funds and the sureties on the public
43 official's bond are exempt from liability that arises for a loss of public funds deposited in the
44 bank.

45 (3) The bank shall pay interest on public deposits at a rate comparable to rates that

1 private depositories in this state or elsewhere pay on public funds and may offer other fi-
 2 nancial products to the State Treasurer on a competitive basis.

3 (4) The State Treasurer shall deposit moneys the State Treasurer receives under ORS
 4 293.265 with the bank in an amount the Bank of the State of Oregon Board determines is
 5 necessary to allow the bank to fulfill the bank's duties and functions under sections 1 to 11
 6 of this 2021 Act. To the extent necessary to ensure the security of public funds, the Bank
 7 of the State of Oregon Board shall authorize deposits of public funds in accordance with ORS
 8 chapter 295, but the board shall give preference to depositing public funds with the bank.

9 **SECTION 5.** The Bank of the State of Oregon may:

10 (1) Make, purchase, guarantee or hold loans:

11 (a) To state-chartered or federally chartered lending agencies or institutions or other fi-
 12 nancial institutions.

13 (b) That the United States or any agency or instrumentality of the United States insures
 14 or guarantees in whole or in part.

15 (c) That the bank obtains as security pledged for or originated by means of restructuring
 16 another loan that the bank properly originated or in which the bank participated.

17 (d) To instrumentalities of this state.

18 (2) Purchase participation interests in loans made or held by banks, bank holding com-
 19 panies, state-chartered or federally chartered lending agencies or institutions, other financial
 20 institutions or other entities that provide financial services and that meet underwriting
 21 standards that are generally accepted by state or federal financial regulatory agencies.

22 (3) Invest the bank's funds in accordance with policies that the Bank of the State of
 23 Oregon Board and the State Treasurer adopt, and in accordance with the investment stand-
 24 ard set forth in ORS 293.726 (1).

25 (4) Buy and sell federal funds.

26 (5) Lease, assign, sell, exchange, transfer, convey, grant, pledge or mortgage real and
 27 personal property, title to which the bank has acquired in any manner.

28 (6) Authorize the bank's president or an officer, agent or employee or contract with an-
 29 other person to perform an act or take an action that is necessary, convenient, advisable or
 30 desirable in order to carry out the powers expressly granted or necessarily implied under
 31 sections 1 to 11 of this 2021 Act.

32 (7) Purchase, guarantee or hold loans originated by financial institutions that do business
 33 in this state.

34 (8) Participate in a loan to a qualified person that resides in or does business in this state
 35 that a private financial institution originates.

36 (9) Act as a custodian bank for financial institutions organized under the laws of this
 37 state and accept deposits from the financial institutions in connection with this function.

38 (10) Issue bank stock loans to financial institutions organized under the laws of this
 39 state.

40 (11) Perform the functions and render the services of a clearinghouse for financial insti-
 41 tutions that make the bank a reserve depository, including providing facilities for domestic
 42 and foreign exchange and rediscounting paper on terms the Bank of the State of Oregon
 43 Board prescribes.

44 **SECTION 6.** (1) Except as provided in ORS 293.148, as soon as possible after the end of
 45 each calendar quarter, the Bank of the State of Oregon Board shall determine the amount

1 of revenue that the Bank of the State of Oregon earned in the calendar quarter and the
 2 amount that is necessary to administer the activities of the bank and to ensure the bank's
 3 safe and sound operation in accordance with rules the board adopts under section 7 of this
 4 2021 Act.

5 (2) The Bank of the State of Oregon Board, in consultation with the advisory board, after
 6 making the determination described in subsection (1) of this section, shall reserve an amount
 7 from the bank's revenues that is necessary to continue the bank's operations. The Bank of
 8 the State of Oregon Board may also reserve from the bank's earnings an additional amount
 9 that is necessary to fund operations, projects or other goals that the Bank of the State of
 10 Oregon Board identifies as necessary or expedient for the bank to undertake.

11 (3) The Bank of the State of Oregon shall maintain an account and any subaccounts that
 12 the State Treasurer determines are necessary to hold state funds for use by state govern-
 13 ment. The bank shall transfer to and apportion among the various accounts established un-
 14 der this subsection in accordance with the instructions of the State Treasurer all unreserved
 15 earnings of the bank. The State Treasurer shall manage and have the use of the unreserved
 16 earnings and other public funds deposited with the bank as provided under ORS chapter 293.

17 **SECTION 7.** (1) The Bank of the State of Oregon Board shall adopt rules to:

18 (a) Ensure the safety and soundness of the Bank of the State of Oregon that, to the ex-
 19 tent possible, reflect applicable standards for safety and soundness set forth in 12 C.F.R. part
 20 364.

21 (b) Specify the bank's powers and permissible investments and activities.

22 (c) Authorize specific services that the bank may provide.

23 (d) Specify limits for loans and other obligations the bank makes or undertakes.

24 (e) Specify reserve requirements.

25 (f) Set other requirements that the board considers necessary to administer the bank
 26 under sections 1 to 11 of this 2021 Act.

27 (2) The Department of Consumer and Business Services shall examine the bank at least
 28 once each calendar quarter to verify and ensure that the bank is complying with the rules
 29 the board adopted under subsection (1) of this section. The department shall report the re-
 30 sults of the examination to the board and to the Secretary of State. The department's report
 31 is a public record subject to disclosure.

32 (3) The Secretary of State shall audit the accounts and financial affairs of the bank at
 33 least once every two years.

34 **SECTION 8.** (1) Deposits in the Bank of the State of Oregon are guaranteed by the State
 35 of Oregon.

36 (2) Deposits of public funds and income that the Bank of the State of Oregon earns on
 37 the deposits of public funds are not subject to state, county, city or district taxes of any
 38 kind.

39 **SECTION 9.** (1) A person may bring a civil action against the State of Oregon for a claim
 40 that arises out of a transaction that is connected with the operation of the Bank of the State
 41 of Oregon.

42 (2) In an action brought under this section, the defendant must be designated as "The
 43 State of Oregon, doing business as The Bank of the State of Oregon."

44 (3) A person shall bring an action under this section in the same manner as, and subject
 45 to the same provisions of law that are applicable to, other civil actions. The person must

1 **bring the action in the Circuit Court of Marion County.**

2 **SECTION 10. (1) The Bank of the State of Oregon shall conduct business solely under the**
 3 **name of “The Bank of the State of Oregon” and must obtain and convey title to property**
 4 **pertaining to the operation of the bank in the name of “The State of Oregon, doing business**
 5 **as The Bank of the State of Oregon.”**

6 **(2) The bank shall execute instruments in the name of the State of Oregon. Within the**
 7 **scope of authority that the Bank of the State of Oregon Board grants, the president of the**
 8 **bank may execute instruments on behalf of the bank, including any instrument that grants,**
 9 **conveys or otherwise affects an interest in or lien upon real or personal property.**

10 **(3) An officer or employee of, and legal counsel to, the bank may execute instruments**
 11 **on the bank’s behalf if the board authorizes the officer, employee or legal counsel to do so.**

12 **SECTION 11. (1) The following records of the Bank of the State of Oregon are confiden-**
 13 **tial and may not be disclosed:**

14 **(a) Commercial or financial information of a customer of the bank, whether obtained di-**
 15 **rectly or indirectly, other than routine credit inquiries concerning information that is re-**
 16 **quired to be disclosed in accordance with due legal process.**

17 **(b) Internal or interagency memoranda or letters that are not by law available to a party**
 18 **other than a party that is in litigation with the bank.**

19 **(c) Except as provided in section 7 of this 2021 Act, information that is contained in or**
 20 **related to a report of an examination or operating or condition reports prepared by, on behalf**
 21 **of or for the use of a state or federal agency responsible for regulating or supervising ac-**
 22 **tivities of the bank.**

23 **(2) As used in this section, “customer” means a person that has transacted or is trans-**
 24 **acting business with, or has used or is using the services of, the bank, or for which the bank**
 25 **has acted or is acting as a fiduciary with respect to trust property.**

26 **SECTION 12. ORS 293.875 is amended to read:**

27 **293.875. (1) Except as provided in sections 1 to 11 of this 2021 Act, The State Treasurer is**
 28 **designated the sole banking and cash management officer for the state and may review, establish**
 29 **and modify procedures for the efficient handling of moneys under the control of the State Treasury,**
 30 **the Secretary of State, the Judicial Department, the Legislative Assembly, the Public Defense Ser-**
 31 **vices Commission and state agencies as defined in ORS 291.002. The State Treasurer shall perform**
 32 **all activities necessary or desirable to fulfill the duties of the treasurer as the banking and cash**
 33 **management officer. The activities may include, but are not limited to, entering into contracts for**
 34 **the provision of services related to the management, deposit and transfer of, or payment from,**
 35 **moneys deposited with the State Treasurer through banks and other financial institutions. The de-**
 36 **posit, transfer or payment may be through physical presentation or drafting of an instrument or**
 37 **document by electronic or other means.**

38 **(2) The State Treasurer shall continuously review the effectiveness of the cash management of**
 39 **state agencies, the Secretary of State, the Judicial Department and the Legislative Assembly, and**
 40 **when the State Treasurer considers it appropriate shall report in writing to the subject agency the**
 41 **findings of this review, along with any recommendations. A copy of the report shall be provided to**
 42 **the Legislative Fiscal Officer and to the Secretary of State.**

43 **(3) This section controls over any other law that gives another state agency general responsi-**
 44 **bility for, or control over, the accounting, fiscal or electronic commerce affairs of the State Treas-**
 45 **ury, the Secretary of State, the Judicial Department, the Legislative Assembly, the Public Defense**

1 Services Commission and state agencies as defined in ORS 291.002. State agencies shall employ the
 2 principles, standards and related requirements for cash management prescribed by the State Treas-
 3 urer, including:

4 (a) Practices related to the use of credit, debit or similar cards or devices;

5 (b) The use of secure disbursing and receiving instruments, documents and systems; and

6 (c) The use of secure information resources, information technology and networks that meet the
 7 requirements of the State Treasurer for the electronic management, deposit or transfer of, or pay-
 8 ment from, moneys deposited with the State Treasurer.

9 (4) As used in this section, “information resources” and “information technology” have the
 10 meanings given those terms in ORS 276A.206.

11 **SECTION 13.** ORS 295.002 is amended to read:

12 295.002. (1) A public official shall deposit, or require the deposit of, all public funds in the public
 13 official’s custody or control in **the Bank of the State of Oregon or in** one or more qualified de-
 14 positories, except as follows:

15 (a) A public official may retain undeposited such reasonable cash working fund as is fixed by
 16 the public body for which the public official acts.

17 (b) A public official may deposit public funds in a depository that is not a qualified depository
 18 if the amount of public funds deposited is fully insured by the Federal Deposit Insurance Corporation
 19 or the National Credit Union Administration and, for any amount deposited in excess of the insured
 20 amount, the excess amount is insured or guaranteed by private deposit insurance or a deposit
 21 guaranty bond issued by an insurance company rated A- or better by a recognized insurance rating
 22 service.

23 (2) Compliance with ORS 295.001 to 295.108 relieves the public official of personal liability for
 24 the loss of the public funds in the public official’s custody or control.

25 **SECTION 14.** (1) **Sections 1 to 11 of this 2021 Act and the amendments to ORS 293.875**
 26 **and 295.002 by sections 12 and 13 of this 2021 Act become operative on January 1, 2023.**

27 (2) **A public official may take any action prior to January 1, 2023, that is necessary to**
 28 **allow the public official to exercise, on and after January 1, 2023, all the duties, functions and**
 29 **powers conferred on the public official by sections 1 to 11 of this 2021 Act and the amend-**
 30 **ments to ORS 293.875 and 295.002 by sections 12 and 13 of this 2021 Act.**