

Chapter 287

1955 REPLACEMENT PART

Borrowing and Bonds of Counties, Cities and Districts

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BORROWING AND BONDS OF COUNTIES, CITIES AND DISTRICTS GENERALLY

287.002 Procedure for sale of city bonds.

(1) All legally authorized bonds of cities shall be advertised for sale at least once each week for not less than two successive weeks in a newspaper of general circulation printed and published within their boundaries, or, if there is no such newspaper, then in a newspaper of general circulation in the county in which the city is located.

(2) All bids for such bonds shall be in writing and, unless the sale is made to the particular municipality or to the State of Oregon, shall be accompanied by a certified check on a bank doing business in this state, for not less than two percent of the par value of the bonds offered for sale.

(3) All bids for such bonds shall be publicly opened at the time and place specified in the advertisement thereof. The bonds shall be sold to the highest responsible bidder for not less than 98 percent of their par value and the entire amount of accrued interest. In determining the highest bid received, the governing body of the particular city shall take into consideration such premiums as are offered and such items of cost as have been or shall be charged by the bidder in connection with the purchase of the bonds.

(4) If the bids for such bonds are not satisfactory to the governing body of the city offering the bonds for sale, the governing body may reject any or all of the bids and readvertise the bonds in the manner and under the conditions provided in this section.

(5) This section does not apply to bonds issued pursuant to applications to pay assessments in instalments under statutory or charter authority; nor to bonds issued under authority of ORS 287.102 to 287.138; nor to bonds issued and sold directly to the Federal Government or to any corporation, department or agency thereof, if less favorable bids or no bids are received from others pursuant to published advertisement therefor, as provided in this section.

287.004 Limitation on amount of bonds issuable by cities. (1) Unless a lesser limitation has otherwise been provided by law or charter, no city shall issue or have outstanding at any one time bonds in excess of five percent of the assessed valuation of the property within its boundaries, after deducting from outstanding bonds such cash funds and sinking funds as are applicable to the

payment of the principal thereof; but in any city situated in a county where it appears from the latest published report of the State Tax Commission that the property, as assessed by the county assessor, and equalized by the county board of equalization, has been assessed at less than 60 percent of its full cash value, the limitation upon the maximum bond issue permitted in this section shall be raised by such proportion which, if applied to the county, would place such county on a 60 percent ratio.

(2) Where a lesser limitation is provided by law or charter, that limitation applies.

(3) This section does not apply to bonds issued for water, sewers, sewage disposal plants, hospitals, infirmaries, gas, power or lighting purposes, nor to bonds issued pursuant to applications to pay assessments for improvements in instalments under statutory or charter authority.

(4) This section does not affect the right of any city to issue bonds heretofore legally voted and authorized nor the right to refund bonds now outstanding to the extent that sinking funds shall not be available at maturity to retire such bonds.

287.006 Tax levy to pay interest and principal on bonds of cities; bond sinking fund.

(1) Each city and town shall annually cause to be levied upon the taxable property within its boundaries a sum sufficient, with such other revenues as are available, to pay the maturing interest and principal of all serial bonds and to provide a sinking fund to pay the interest and principal of all other bonds issued after June 3, 1929, by such city or town at or before the maturity date or dates thereof. If any such other bonds are not callable or subject to retirement by purchase or otherwise before the ultimate maturity dates specified in such bonds, the surplus of the sinking fund over and above current requirements to pay interest and principal shall be invested in the classes of securities specified in ORS 294.035 and 294.040.

(2) The earnings of the sinking fund shall be added to and become a part thereof for the purpose of paying interest and principal of the bonds for which the fund was created.

(3) The fund shall not be diverted or used for any other purpose; but if a surplus remains after all interest and principal of a given issue have been paid, the surplus may be transferred to such other fund as the

governing body of the particular city may designate. However, funds of municipal utilities shall not be diverted or transferred to other funds.

(4) Annual sinking fund instalments to pay the principal of municipal utility bonds issued after June 3, 1929, to defray costs of construction, extension and betterments may be deferred, if necessary, for a period not to exceed five years from the issuing date or dates of such bonds.

(5) This section does not apply to or affect bonds issued pursuant to applications to pay assessments for improvements in instalments under statutory or charter authority.

287.008 Maturities and denominations of bonds of cities and school districts. (1) All bonds issued by cities and school districts shall be in serial form with definite maturities and shall mature in annual or semi-annual instalments. If the governing body of the issuing city or school district so elects, bonds may be issued with the option of redeeming them on and after certain interest-paying dates specified by the governing body therein, upon publication at least 30 days prior to contemplated redemption date of one notice of intended redemption in a newspaper printed and published within the county in which the city or school district is located. Such callable bonds may be called and refunded pursuant to any law authorizing such refunding. The first instalment of principal shall fall due and be payable not later than five, and the last instalment not later than 25, years from date of issue. The instalments of principal shall either be equal or substantially equal in amount, or the combined instalments of principal and interest due in any year shall be as nearly as practicable in such sums as will permit of an equal annual tax levy for the retirement of the principal of and the payment of the interest on the bonds.

(2) Except for the issuance of bonds in odd denominations to complete the amount of an issue, bonds issued by cities and school districts shall be in denominations that are multiples of \$100 but if the principal amounts and maturities of the issues will permit, the bonds shall be in denominations of \$500 or \$1,000 each, or both, or in multiples thereof, in the discretion of the issuing authority.

(3) This section does not apply to:

(a) Bonds issued to fund warrants or refund bonds outstanding on June 6, 1931.

(b) Bonds legally authorized before June 6, 1931.

(c) Bonds issued for water, power, gas or lighting purposes.

(d) Bonds issued pursuant to applications to pay assessments in instalments under authority of any city charter or under authority of ORS 223.205 to 223.220, 223.305 to 223.315, 450.495 and 450.500.

(e) Bonds of municipalities having a population of 200,000 or more.

287.010 to 287.100 [Reserved for expansion]

REFINANCING OF OBLIGATIONS OF MUNICIPAL CORPORATIONS AND CIVIL SUBDIVISIONS

287.102 Definitions for ORS 287.102 to 287.138. As used in ORS 287.102 to 287.138:

(1) "Subdivision" means any municipal corporation or civil subdivision, other than an irrigation district or drainage district, that is in default in the payment of the principal of or the interest on any of its bonds, the bonds of any issue of which, in whole or in part, are owned by the State of Oregon or were, on March 19, 1935, on deposit with the State Treasurer for exchange or refunding purposes.

(2) "Refinancing" includes compromising, adjusting, funding, refunding or rearranging of the indebtedness of any subdivision.

(3) "Indebtedness" means warrants, bonds, notes, utility certificates, revenue bonds, judgments and any other obligation of a subdivision payable in money.

(4) "Commission" means the State Bond Commission.

287.104 Application to bond commission to refinance; preliminary investigation. Upon application to the commission by a subdivision, pursuant to a duly adopted resolution thereof requesting that the commission act in an intermediary capacity between the subdivision and its creditors in refinancing the indebtedness of the subdivision, the commission, in its discretion and at the expense of the subdivision, shall make a preliminary investigation of the financial condition of the subdivision.

287.106 Preparing plan for refinancing; audit. If after making the preliminary investigation the commission determines that it will be to the mutual advantage of the subdivision and of its creditors that the indebted-

edness of the subdivision be refinanced, the commission shall prepare a plan therefor. In order to ascertain the exact financial condition of the subdivision, the commission may cause the finances of the subdivision to be audited at the expense of the subdivision for such period prior to the intervention of the commission as the commission deems advisable.

287.108 Contacting holders of obligations; preparing necessary proceedings. After it has devised the refinancing plan, the commission may contact the holders of the outstanding obligations of the subdivision and submit its findings and recommendations to them. The commission, with the attorney for the subdivision, if any, shall prepare the necessary proceedings to accomplish the purposes of the plan.

287.110 Authorizing issue of refunding bonds to refinance bonds; accepting funds for deposit; interest rates and maturities of refunding bonds. (1) The commission, with the approval by resolution or ordinance of the governing body of the subdivision and with the further approval of the holders of not less than 80 percent of the par value of the outstanding bonds of the subdivision sought to be refinanced, or such higher percentage thereof as the commission fixes, may authorize the issuance by the governing body of the subdivision of refunding bonds to refinance the bonds of the subdivision, either matured or unmatured, or any issue of such bonds, and may accept for deposit with the State Treasurer in trust for the holders of the obligations of the subdivision any of the funds of the subdivision available for payment of the principal of or interest upon such obligations.

(2) The State Treasurer shall hold such funds in an open account, subject to the direction of the commission for:

(a) Payment by State Treasurer's check to the parties entitled thereto; or

(b) Investment by the commission, at its discretion, with the approval of the subdivision, in obligations of the subdivision or otherwise, for the benefit of the subdivision.

(3) The refunding bonds authorized pursuant to subsection (1) of this section shall have the interest rates and maturities, either straight or serial, with or without option of redemption prior to maturity date in numerical order, by lot, or otherwise, that the commission considers advisable and as shall be agreed upon between the commis-

sion, the subdivision and the holders of the bonds to be refunded. The refunding bonds may be issued by the subdivision without submitting the question of the refunding to a vote of the electors of the subdivision.

287.112 Authorizing issue of funding bonds to fund unbonded obligations. If the holders of 80 percent of the par value of the obligations proposed to be refinanced consent to the refinancing and with the approval of the electors and of the governing body of the subdivision, the commission may authorize the issuance of funding bonds of like character as the bonds referred to in ORS 287.110 to fund the outstanding notes, warrants and other like unbonded obligations of the subdivision or any issue, class or series thereof.

287.114 Funding judgments based on bonds or bond interest. With the approval of any judgment creditor holding a judgment founded upon bonds and bond interest, or either, the judgment and the interest thereon may be funded separately, or with other indebtedness, into bonds by ordinance without the approval of the electors of the subdivision owing the judgment or interest.

287.116 Funding judgments based on warrants or interest on warrants. (1) Any judgment against the subdivision with the accrued interest thereon predicated upon warrants of the subdivision and the interest thereon, or either, may be funded separately from other obligations with the approval of the electors and of the governing body of the subdivision and of the judgment creditor holding the judgment, without the necessity of obtaining approval or consent of any of the holders of other obligations of the subdivision.

(2) In the discretion of the commission, the judgment referred to in subsection (1) of this section, with the accrued interest thereon, may be funded concurrently with other obligations of the subdivision. If the judgment is funded concurrently, the amount of the judgment shall be included within the 80 percent referred to in ORS 287.112 of the par value of obligations intended to be refinanced.

287.118 Refinancing bonds, unbonded obligations and judgments in case of disaster. In the event of loss of 50 percent or more of the assessed valuation of the subdivision through fire, flood, storm or other disaster, the commission, in its discretion

and with the consent of the subdivision, may refinance the outstanding bonds, warrants or other obligations of or judgments against the subdivision, or any class or kind of such bonds, warrants, other obligations or judgments severally, if the holders of 70 percent or more of the par value of the particular class of obligations intended to be refinanced consent to the plan promulgated by the commission for the refinancing.

287.120 General issue of refunding bonds to refinance bonds, unbonded obligations and judgments. With the approval of the holders of the bonds, warrants or judgments, or any of such obligations, to be refinanced, the refunding bonds may be issued in one general issue to replace all bonds, warrants and judgments embraced in the plan but the funding into bonds of warrants and the interest thereon and the judgments based upon warrants and the interest thereon constituting a part of the refunding issue shall first have been authorized by vote of the electors as prescribed in ORS 287.112 and 287.116.

287.122 Authorized contract provisions. With the approval of the commission, the subdivision may include in the ordinance or resolution authorizing refunding bonds, provisions constituting a part of the contract with the holders of the refunding bonds, for the:

(1) Creation of a trust fund or sinking fund for payment of the interest on the refunding bonds and the principal thereof.

(2) Pledging of receipts from taxes, municipal assessments and interest thereon, and other revenues directly to the fund for such purposes.

(3) Limiting or restricting of future borrowing or incurring of indebtedness by the subdivision.

(4) Limiting, subject to constitutional provisions, of appropriations in annual budgets for purposes other than the payment of the principal of and interest upon the refunding bonds.

(5) Adoption of such policies generally as, in the judgment of the commission, shall serve to improve the financial condition and credit status of the subdivision.

287.124 Bids and public notice not required for exchange of bonds. The refunding and funding bonds may be exchanged by the commission for the corresponding obligations of the subdivision refunded or funded

thereby without soliciting bids for such refunding or funding bonds or giving other public notice of the exchange.

287.126 Refinancing under federal laws.

(1) A subdivision, with the approval of the commission, may proceed under the provisions of any valid federal law providing for the compromising, adjusting, funding, refunding or refinancing of indebtedness of civil subdivisions of the various states if the commission fails to obtain the approval of:

(a) The holders of 80 percent of the par value of the bonds, notes, warrants, utility certificates, revenue bonds, judgments or other obligations of the subdivision sought to be funded or refinanced, excepting judgments refinanced separately as provided in ORS 287.114 and 287.116; or of

(b) The holders of 70 percent of the par value of the obligations of the subdivision sought to be refinanced in case of the loss of 50 percent or more of the assessed valuation of the subdivision through fire, flood, storm or other disaster, as provided in ORS 287.118.

(2) In proceeding under the federal law as authorized by subsection (1) of this section, it shall not be necessary for the subdivision or for the governing body thereof to submit to the voters the question of authority to so proceed, nor for any city or town to enact charter powers therefor.

(3) Municipal corporations and civil subdivisions other than as defined in ORS 287.102 that are unable to meet their financial obligations shall have like authority to resort to the provisions of any such valid federal law, without proceeding under authority of ORS 287.102 to 287.138.

287.128 Commission to approve budgets and annual tax levies of subdivision. For six years following the intervention on the part of the commission, the budgets and annual tax levies of the subdivision shall require approval by the commission before the levies are certified or forwarded to the clerk and assessor of the county in which the subdivision is located to be extended upon the tax rolls of the county.

287.130 Representing subdivision in litigation; compelling performance of ministerial duties. The commission shall have authority to:

(1) Represent the subdivision in any litigation involving the finances of the subdivision.

(2) Institute legal proceedings against

any of the officers of the subdivision to compel them to perform any ministerial duties with which they are charged under any law, ordinance, resolution or charter provision of the subdivision.

287.132 Exemption from debt limitations. The debt limitations applying to the incurring of financial obligations and indebtedness of subdivisions shall not apply to any obligations refinanced or issued under authority of ORS 287.102 to 287.138.

287.134 Adoption of rules and regulations. The commission may adopt all necessary rules, orders and regulations which it deems advisable in order to perform efficiently the duties imposed upon it by ORS 287.102 to 287.138.

287.136 Place of deposit of obligations for exchange or refunding purposes; reimbursement of State Treasurer. The State Treasurer, as a member of the commission, shall receive for safekeeping, and be liable for the safe custody of, all bonds and other obligations deposited with the commission for exchange or refunding purposes under authority of ORS 287.102 to 287.138; but any subdivision may have such bonds and other obligations deposited at the expense of the subdivision or of the holders of the bonds and other obligations, or at the expense of both such parties, with a bank or trust company approved by the State Treasurer. The State Treasurer shall be reimbursed for his actual costs and expenses incurred in connection with his duties as custodian.

287.138 Expenses of commissioners; clerical assistance; office expenses; reimbursement for and payment of expenses. (1) The members of the commission shall serve without compensation except such as is provided by law for the performance of their official duties as other state officers but they and their assistants shall be entitled to reimbursement for expenses in attending meetings of the governing bodies of civil subdivisions which have applied to the commission for intervention or for making investigations or studies of the finances of the subdivisions.

(2) The commission may employ such clerical help and assistance and incur such office expenses as are necessary in performing the duties prescribed in ORS 287.102 to 287.138.

(3) All expenses incurred by the commission in connection with refinancing indebtedness of a subdivision under authority of ORS 287.102 to 287.138 shall be borne by the subdivision, or by the depositors of the bonds or other obligations, or by its judgment creditors, or by both the subdivision and the depositors or creditors, and shall be paid in cash to the State Bond Commission to be credited to the General Fund.

287.140 Cooperation by State Treasurer with subdivisions in refinancing or refunding indebtedness; recommendation. Upon the request of any civil subdivision other than an irrigation or drainage district, the State Treasurer, in his discretion, may cooperate with the subdivision in refinancing or refunding the indebtedness of the subdivision. The State Treasurer may make recommendations to such subdivisions as to investments of their sinking funds and as to the refunding of their indebtedness for the purpose of enabling them to liquidate their obligations over a period of time and of reducing their tax levies.

287.142 Deposit of defaulted bonds with State Treasurer; exchange of refunding bonds; expenses of exchange. (1) The State Treasurer may:

(a) Accept deposits of defaulted bonds of municipal corporations in Oregon except irrigation and drainage districts.

(b) Exchange for such bonds with the respective bondholders, refunding bonds of such municipal corporations to be delivered pursuant to agreements made with the respective bondholders.

(2) All postage, insurance, safekeeping and clerical expense incurred by the State Treasurer in the exchange of such bonds shall be borne by the holders of such bonds and by the municipal corporation whose bonds are to be exchanged.

287.144 State Treasurer may act as intermediary and assist in funding and refunding of bonds. The State Treasurer may:

(1) Act as intermediary between the municipal corporations referred to in ORS 287.142 and the holders of their bonds.

(2) Effect compromises or adjustments between such corporations and the holders of their bonds.

(3) Assist such municipal corporations in the funding or refunding of their matured bonded obligations.

287.146 Omission of certain prior statutes concerning funding and refunding of city and school district obligations not intended as repeal. The omission from the Oregon Revised Statutes of O.C.L.A. 97-201 to 97-207 is not intended as a repeal of the omitted statutes in so far as they apply to funding and refunding bonds issued pursuant thereto.

287.148 to 287.200 [Reserved for expansion]

COUNTY REFUNDING BONDS

287.202 Definitions for ORS 287.202 to 287.220. As used in ORS 287.202 to 287.220, "court or board" means the county court or the board of county commissioners.

287.204 County authorized to issue and sell or exchange refunding bonds. The court or board in any county may issue and sell or exchange county refunding bonds for the purpose of paying, redeeming or retiring any or all outstanding lawfully issued bonds of such county when:

- (1) The bonds have matured but have not been paid and canceled; or
- (2) The bonds are about to mature and become payable; or
- (3) The bonds are redeemable at the option of the county; or
- (4) The holders of all or any part of any issue of the bonds of the county are willing to surrender such bonds in exchange for refunding bonds, whether or not the bonds to be surrendered have matured or are about to mature or become payable.

287.206 Notice of intended redemption. Notice of intended redemption of callable or optional bonds prior to the redeeming and the refunding thereof under authority of ORS 287.204 shall be given in the manner specified in the bonds. If no express provision has been made in the bonds concerning the manner of giving such notice, the county treasurer shall give notice thereof by publication in a newspaper printed and published within the county at least 30 days prior to the interest date upon which the bonds are to be redeemed.

287.208 Limitation on amount of bonds issued. Refunding bonds issued under authority of ORS 287.204 shall not exceed in the aggregate the par amount of the bonds to be paid, redeemed or replaced thereby,

after deducting sinking funds or other funds applicable to the payment of the principal thereof. If the deduction of the sinking fund produces an uneven sum which, if offset exactly by refunding bonds, would necessitate the issuance of odd bonds in denominations of less than \$100, the total issue of the refunding bonds shall be in such next larger sum as will permit issuance of bonds in denominations of \$100 each or multiples thereof exactly and the balance thereupon remaining in the sinking fund shall be transferred to the sinking fund for the refunding issue.

287.210 Designation, class and character of bonds; charge on revenues. The bonds issued under authority of ORS 287.204 shall be designated refunding bonds and shall be of the same class and character as the bonds refunded thereby and shall constitute a charge upon the same kinds of revenues or funds as were applicable to the payment of the principal of and the interest on the bonds so refunded.

287.212 Providing funds to pay interest and instalments of principal. The court or board shall levy an annual tax or provide for setting aside annually other funds with which to pay the interest and to meet the serial instalments of the principal of the refunding bonds as they become due and payable.

287.214 Calling refunding bonds with optional dates. The court or board may call refunding bonds issued with optional dates under the authority of ORS 287.218 either for the purpose of retiring the bonds or of redeeming them with new serial refunding bonds of the class and character authorized by ORS 287.202 to 287.220, which refunding bonds shall bear interest at a rate not to exceed the rate paid on the bonds to be refunded.

287.216 Limitation of bonded indebtedness. The refunding bonds issued pursuant to ORS 287.202 to 287.220 shall not be considered to be within any limitation of bonded indebtedness imposed by law or by the constitution of this state until:

- (1) The refunding bonds have been exchanged for the bonds they were issued to refund; or
- (2) The proceeds of sale of the refunding bonds have been applied in payment of the refunded bonds.

287.218 Form of bonds; maturities; option to call; interest rate; instalment payments. (1) All refunding bonds issued by a county pursuant to ORS 287.202 to 287.220 shall be in serial form with definite maturity dates and shall mature in annual or semi-annual instalments, but may be issued with the option to call or redeem the bonds in numerical order on a prior date or dates, pursuant to publication of notice in one issue of a newspaper printed and published in such county.

(2) The refunding bonds shall bear interest at a rate not to exceed six percent per year, payable semiannually. The first instalment of principal of each issue of the bonds shall become due and payable not later than two years, and the last instalment thereof not later than 20 years, from the date of issue of the bonds. The instalments of principal of the bonds shall either be equal or substantially equal in amount, or the combined instalments of principal and interest due in any year shall be, as nearly as practicable, in such sums as will permit of a substantially uniform annual tax levy for the retirement of the principal of and the payment of the interest on the bonds as they respectively become due.

287.220 Sale or exchange of bonds. (1) The bonds issued under authority of ORS 287.202 to 287.220 shall be advertised for sale for at least two weeks in a newspaper of general circulation printed and published in the particular county.

(2) All bids for the bonds shall be in writing and shall be accompanied by a certified check on a bank doing business in this state, for not less than two percent of the par value of the bonds offered for sale. The bids shall be publicly opened at the time and place specified in the advertisement therefor. The bonds shall be sold to the highest responsible bidder for not less than par value and accrued interest. In determining the highest bid received, the court or board of the particular county shall take into consideration such premiums as are offered and such items of cost as have been or shall be paid to the bidder in connection with the purchase of the bonds. If the bids for such bonds are not satisfactory to the court or board, it may reject any or all of the bids and readvertise the bonds in the manner and under the conditions prescribed in this section.

(3) If no bids for the bonds are received

or the bids therefor are unsatisfactory, the court or board may exchange the refunding bonds for the outstanding bonds, pursuant to agreements entered into by the court or board and the holders of the outstanding bonds. The exchange of bonds shall be on a par basis and the refunding bonds shall bear interest at a rate not exceeding six percent per year and shall mature serially, as provided in ORS 287.218, on such dates as shall be agreed upon between the court or board and the holders of the bonds to be refunded.

287.222 to 287.250 [Reserved for expansion]

CITY REFUNDING BONDS

287.252 Cities authorized to issue and sell or exchange refunding bonds; limitation on amount; soliciting bids. (1) The governing body of any incorporated city may issue and sell or exchange refunding bonds for the purpose of paying, redeeming or retiring any or all outstanding lawfully issued bonds of such city, including bonds issued pursuant to applications to pay assessments in instalments, when:

(a) The bonds have matured but have not been paid or canceled; or

(b) The bonds are about to mature and become payable; or

(c) The bonds are redeemable at the option of the city; or

(d) The holders of all or any part of any issue of bonds of the city are willing to surrender such bonds, whether or not the bonds to be surrendered have matured or are about to mature or become payable.

(2) Refunding bonds issued under authority of subsection (1) of this section shall not exceed in the aggregate the par amount of the bonds to be called, paid, redeemed or replaced, less the amount in the sinking fund, if any, applicable thereto.

(3) Refunding bonds shall not be exchanged for outstanding bonds under authority of subsection (1) of this section until bids for the refunding bonds have been solicited in the manner prescribed by ORS 287.002.

287.254 Notice of intended redemption. Notice of intended redemption of callable or optional bonds prior to the redeeming and the refunding thereof under authority of ORS 287.252 shall be given in the manner specified in the bonds or in the law, ordinance or charter provision under authority

of which such bonds were issued. If no express provision has been so made as to the manner of giving notice of such intended redemption, notice thereof shall be given at least 30 days prior to the date of redemption of the bonds in one issue of a newspaper printed and published in the county in which the issuing city is located.

287.256 Form and maturities of bonds; redemption prior to maturity; interest; payment of instalments of principal and interest; issuing long term bonds; debt limitations not applicable. (1) Subject to subsections (4) and (5) of this section, each issue of refunding bonds issued under authority of ORS 287.252 shall be in serial form with definite maturities and shall mature in annual or semiannual instalments, but may be issued with the option to call or redeem the bonds in numerical order on a prior date or dates indicated therein, pursuant to publication of notice at least 30 days prior to such redemption date, in one issue of a newspaper printed and published in the county in which the issuing city or the greater portion of the assessed valuation thereof is located.

(2) The refunding bonds interest rate shall not exceed six percent per year, payable semiannually.

(3) Subject to subsection (5) of this section, the first instalment of principal shall become due and payable not later than five years, and the last instalment thereof not later than 20 years, from the date of issue of the bonds. The instalments of principal shall either be equal or substantially equal in amount, or the combined instalments of principal and interest due in any year shall be as nearly as practicable in such sums as will permit of an equal annual tax levy for retirement of the principal of and payment of the interest on the bonds.

(4) The governing body of any incorporated city having a population in excess of 100,000 may, at its election, issue the refunding bonds with definite or straight maturities, not exceeding 20 years, but callable on or after three years from the date of the issuance thereof, if the city governing body so elects.

(5) With written approval of the State Bond Commission, cities in default in payment of either principal of or interest on their bonds, or both, and cities having bonded and warrant indebtedness exceeding 25 percent of their latest assessed valuations, may issue long-term refunding bonds with

maturities, either serial or straight, not exceeding 40 years, without deduction of sinking funds applicable to the bonds to be refunded, if the holders thereof so agree. The refunding bonds, the issuance of which is so approved, may contain optional dates of redemption if the governing body of the city so elects.

(6) The debt limitations imposed by law or charter shall not affect the right of any city to issue refunding bonds pursuant to ORS 287.252.

287.258 Class and character of bonds; charge on assets. Refunding bonds issued under authority of ORS 287.252 shall be of the same class and character as the bonds refunded thereby and shall constitute a charge upon the same character of revenues, assessments, liens or other assets that were applicable to the payment of the bonds so refunded.

287.260 Bonds to be issued pursuant to ordinance; providing annual tax levy or other revenues. All bonds issued by any city under authority of ORS 287.252 shall be issued pursuant to an ordinance duly adopted by the governing body of the city. The ordinance shall be adopted and take effect in the same manner as other ordinances of the city take effect. The ordinance shall set forth the date, purpose of issue, interest rate, maturity date or dates, and the amount of the bonds to be refunded after application of such sinking or other funds to the payment thereof as appertain thereto. The ordinance shall also set forth the date, interest rate, and the maturity dates of the refunding issue, and shall provide for an annual tax levy or other revenues with which to pay the interest on and the principal of the refunding bonds as they become due and payable.

287.262 Application of statute to utility certificates. The word "bonds" as used in ORS 287.252 to 287.264 includes utility certificates. Such certificates may be refunded in the like manner as bonds are refunded under authority of ORS 287.252, except that the ordinance providing for refunding utility certificates need not provide for an annual tax levy to pay the interest on and the principal of such certificates.

287.264 Charter provisions or vote not required; rules and regulations. The power granted by ORS 287.252 to 287.264 is self-operating in each incorporated city without

the further necessity of enacting charter provisions incorporating the terms of ORS 287.252 to 287.264 or of submitting the question of refunding at an election of the voters of the city. Each incorporated city shall have authority, by and through its council, to provide by ordinance such rules and regulations as may be needed for carrying out the terms of ORS 287.252 to 287.264.

287.266 to 287.300 [Reserved for expansion]

**REFINANCING OF MUNICIPAL REVENUE PRODUCING ENTERPRISES;
REVENUE BOND REFINANCING
ACT OF 1937**

287.302 Short title. ORS 287.302 to 287.342 may be cited as The Revenue Bond Refinancing Act of 1937.

287.304 Definitions for ORS 287.302 to 287.342. As used in ORS 287.302 to 287.342, unless the context otherwise requires:

(1) "Municipality" means any city or town.

(2) "Governing body" means the council, board or other legislative body of a municipality having the power to borrow money on behalf of the municipality.

(3) "Law" means any Act or statute, general, special or local, of this state, including without being limited to, the charter of any municipality.

(4) "Enterprise" means any work, undertaking or project which the municipality is authorized to construct and from which the municipality has heretofore derived or may hereafter derive revenues, for the refinancing or the refinancing and improving of which enterprise, refunding bonds are issued under ORS 287.302 to 287.342, and "enterprise" includes all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto.

(5) "Federal agency" includes the United States, the President of the United States, Reconstruction Finance Corporation, or any agency, instrumentality or corporation of the United States heretofore or hereafter designated or created by or pursuant to any Act or joint resolution of the Congress of the United States or owned or controlled, directly or indirectly, by the United States.

(6) "Improving" means reconstructing,

replacing, extending, repairing, bettering, equipping, developing, embellishing or improving or any combination thereof.

(7) "Refunding bonds" means notes, bonds, certificates or other obligations of a municipality issued pursuant to ORS 287.302 to 287.342, or pursuant to any other law, as supplemented by, or in conjunction with ORS 287.302 to 287.342.

(8) "Refinancing" means funding, refunding, paying or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates.

(9) "Revenues" means all fees, tolls, rates, rentals and charges to be levied and collected in connection with, and all other income and receipts of whatever kind or character derived by the municipality from, the operation of any enterprise or arising from any enterprise.

(10) "Holder of bonds" or "bondholders" or any similar term means:

(a) Any person who is the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered; or

(b) The registered owner of any such outstanding bond or bonds which are at the time registered other than to bearer.

287.306 Municipalities may refinance, borrow money and issue refunding bonds. Any municipality may refinance, or refinance and improve, any enterprise; and for such purpose or purposes may borrow money and issue refunding bonds from time to time.

287.308 Procedure for authorizing issuance of refunding bonds. Refunding bonds shall be authorized by resolutions of the governing body of the municipality. The resolutions may be adopted at a regular or special meeting and at the same meeting at which they are introduced by a majority of all members of the governing body then in office. The resolutions shall take effect immediately upon the adoption thereof. No other proceedings or procedure of any character whatever shall be required for the is-

suance of refunding bonds by the municipality.

287.310 Refunding bonds; issuance; terms and covenants; negotiable character.

(1) The refunding bonds may be issued in one or more series.

(2) The refunding bonds may:

(a) Bear such dates;

(b) Mature at such time or times not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, but not exceeding 40 years from their respective dates;

(c) Bear interest at a rate not exceeding the maximum rate of interest borne by the notes, bonds, or other obligations refinanced thereby;

(d) Be in such denomination and such form, either coupon or registered;

(e) Carry such registration and conversion privileges;

(f) Be executed in such manner;

(g) Be payable in such medium of payment, at such places;

(h) Be subject to such terms of redemption, with or without a premium;

(i) Be declared or become due before maturity date thereof;

(j) Provide for replacement of mutilated, destroyed, stolen, or lost bonds;

(k) Be authenticated in such manner and upon compliance with such conditions;

(L) Contain such other terms and covenants, as may be provided by resolution of the governing body of the municipality.

(3) Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall be negotiable instruments for all purposes.

287.312 Validity of refunding bonds not affected by retirement of signer or proceedings for improving enterprise; recital respecting issuance. (1) Refunding bonds bearing the signatures of officers of the municipality in office on the date of the signing thereof shall be valid and binding obligations of the municipality for all purposes, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon ceased to be officers of the municipality, the same as if such persons had continued to be officers of the municipality until after delivery thereof.

(2) The validity of the authorization and issuance of the refunding bonds shall not

be dependent on or affected in any way by proceedings taken for the improving of any enterprise for the refinancing and improving of which the refunding bonds are to be issued, or by contracts made in connection with the improving of any such enterprise.

(3) Any resolution authorizing refunding bonds may provide that any such refunding bond may contain a recital that such refunding bond is issued pursuant to The Revenue Bond Refinancing Act of 1937. Any refunding bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of ORS 287.302 to 287.342.

287.314 Sale and exchange of refunding bonds.

(1) The refunding bonds may be sold or exchanged in instalments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in instalments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates or other obligations to be refinanced thereby.

(2) If the governing body determines to exchange any refunding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of the outstanding notes, bonds or other obligations of the municipality issued to finance or to aid in financing the acquisition, the construction, the improving, the refinancing, or the improving and refinancing, of an enterprise. The refunding bonds may be exchanged for a like or greater principal amount of such notes, bonds or other obligations of the municipality, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds or other obligations to be surrendered.

(3) If the governing body determines to sell any refunding bonds, such refunding

bonds shall be sold at not less than par at public or private sale in such manner and upon such terms as the governing body deems best for the interests of the municipality.

287.316 Preservation of refunded obligation as additional security. (1) As security for any issue of refunding bonds, or any part thereof, any municipality may, by resolution of its governing body, confer upon the holders of the refunding bonds all rights, powers and remedies which the holders would be entitled to if they were the owners and had possession of the notes, bonds or other obligations for the refinancing of which the refunding bonds were issued, including, but not limited to, the preservation of the lien of such notes, bonds or other obligations without extinguishment, impairment or diminution thereof.

(2) If a municipality exercises the power conferred by this section:

(a) Each refunding bond shall contain a recital to the effect that the holder thereof has been granted the additional security provided by this section.

(b) Each note, bond, certificate or other obligation of the municipality to be refinanced by the refunding bonds shall be kept intact and shall not be canceled or destroyed until the refunding bonds, and interest thereon, have been fully paid and discharged but shall be stamped with a legend to the effect that it has been refunded pursuant to The Revenue Bond Refinancing Act of 1937.

287.318 Bonds payable from and lien on revenues of enterprise. The refunding bonds shall be special obligations of the municipality and shall be payable from and secured by a lien upon the revenues of the enterprise, as shall be more fully described in the resolutions of the governing body authorizing the issuance of the refunding bonds, having due regard to the cost of operation and maintenance of the enterprise and the amount or proportion, if any, of the revenues of the enterprise previously pledged. Any municipality, by resolution of its governing body, may pledge for the security of the refunding bonds a fixed amount without regard to any fixed proportion of the gross revenues of the enterprise.

287.320 Bonds of same issue to have equal and ratable security. All refunding bonds of the same issue shall be equally and ratably secured, without priority by reason

of number, date of bonds, of sale, of execution or of delivery, by a lien upon the revenues of the enterprise in accordance with the provisions of ORS 287.318 and the resolution authorizing the issuance of such refunding bonds.

287.322 Impairment or rights of other creditors; application of debt limitation provisions. Nothing in ORS 287.302 to 287.342:

(1) Alters the terms of any agreements made with the holders of any outstanding notes, bonds or other obligations of the municipality or authorizes the municipality to alter the terms of any such agreements, or impairs, or authorizes the municipality to impair, the rights and remedies of any creditor of the municipality.

(2) Authorizes a municipality to do anything which would result in creation or incurring of a debt or indebtedness or issuance of any instrument which would constitute a bond or debt within the meanings of any provision, limitation or restriction of the constitution relating to the creation or incurring of a debt or indebtedness or issuance of an instrument constituting a bond or a debt.

287.324 Resort to general fund, credit or taxing power prohibited; restriction of payment to revenues pledged; recital in bond. (1) No recourse shall be had for payment of the refunding bonds, or interest thereon, or any part thereof, against the general fund of any municipality, nor shall the credit or taxing power of any municipality be deemed to be pledged thereto.

(2) The refunding bonds, and interest thereon, shall not be a debt of the municipality, nor a charge, lien or encumbrance, legal or equitable, upon any property of the municipality, or upon any income, receipts, or revenues of the municipality other than such of the revenues of the enterprise as have been pledged to the payment thereof. Every refunding bond shall recite in substance that the bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the municipality is under no obligation to pay the same, except from such revenues.

287.326 Appointment of fiscal agent. Any municipality, in connection with the issuance of refunding bonds, may:

(1) Appoint a fiscal agent.

(2) Provide for powers, duties and functions and compensation of such fiscal agent.

(3) Limit the liabilities of such fiscal agent.

(4) Prescribe a method for resignation, removal, merger or consolidation of such fiscal agent, appointment of a successor fiscal agent and transfer of rights and properties to such successor fiscal agent.

287.328 Duties of issuing municipality. In order that payment of the refunding bonds, and interest thereon, is adequately secured, any municipality issuing refunding bonds pursuant to ORS 287.302 to 287.342 and the proper officers, agents and employees thereof shall have the mandatory duty, and it is of the essence of the contract of municipality with the bondholders, at all times:

(1) To pay or cause to be paid punctually the principal of every refunding bond, and the interest thereon, on the date or dates and at the place or places and in the manner and out of the funds mentioned in such refunding bonds and in the coupons thereto appertaining and in accordance with the resolution authorizing their issuance.

(2) To operate the enterprise in an efficient and economical manner and to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper, which fees, tolls, rates, rentals and other charges shall be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in the estimates to:

(a) Pay all current expenses of operation and maintenance of such enterprise.

(b) Pay the interest on principal of the refunding bonds as it becomes due and payable.

(c) Comply in all respects with the terms of the resolution or resolutions authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds.

(d) Meet any other obligations of the municipality which are charges, liens, or encumbrances upon the revenues of such enterprise.

(3) To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition.

(4) To preserve and protect the security of the refunding bonds and the rights of the holders thereof, and to warrant and

defend such rights against all claims and demands of all persons.

(5) To pay and discharge, or cause to be paid or discharged any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the refunding bonds, or which might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds shall be fully preserved and protected.

(6) To hold in trust the revenues pledged to the payment of the refunding bonds for the benefit of the holders of the refunding bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the refunding bonds or, if such resolution or resolutions are modified in the manner provided therein or in ORS 287.302 to 287.342, only as provided in such resolution or resolutions as modified.

(7) To keep proper books of record and accounts of the enterprise, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the municipality, shall at all times be subject to the inspection of the holder or holders of not less than 10 percent of the refunding bonds then outstanding or his or their representatives duly authorized in writing.

287.330 Costs of complying with ORS 287.328. None of the duties listed in ORS 287.328 shall be construed to require the expenditure in any manner or for any purpose by the municipality of any funds other than revenues received or receivable from the enterprise.

287.332 Additional provisions that may be inserted in resolution. (1) The governing body of any municipality shall have power, in addition to the other powers conferred by ORS 287.302 to 287.342, to insert provisions in any resolution authorizing the issuance of refunding bonds, which shall be a part of the contract with the holders of the refunding bonds, as to:

(a) Limitations on the purpose to which the proceeds of sale of any issue of refunding bonds, or any notes, bonds or other obligations then or thereafter to be issued to

finance the improving of the enterprise, may be applied.

(b) Limitations on the issuance and on the lien of additional refunding bonds, or additional notes, bonds or other obligations to finance the improving of the enterprise which are secured by or payable from the revenues of such enterprise.

(c) Limitations on the right of the municipality or its governing body to restrict and regulate the use of the enterprise.

(d) The amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance moneys.

(e) Pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence.

(f) Covenanting against pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence.

(g) Events of default and terms and conditions upon which any or all of the refunding bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(h) The rights, liabilities, powers and duties arising upon the breach by it of any covenants or obligations.

(i) The vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the refunding bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the refunding bonds or any proportion or percentage of them may enforce any covenants made under, or duties imposed by, ORS 287.302 to 287.342.

(j) A procedure by which the terms of any resolution authorizing refunding bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated and as to the amount of refunding bonds the holders of which must consent thereto and the manner in which such consent may be given.

(k) The execution of all instruments necessary or convenient in the exercise of the powers granted by ORS 287.302 to 287.342 or in the performance of the duties of the municipality and the officers, agents and employees thereof.

(L) Refraining from pledging or in any

manner whatever claiming or taking the benefit or advantage of any stay or extension law whenever enacted, nor at any time hereafter in force, which may affect the duties or covenants of the municipality in relation to the refunding bonds, or the performance thereof, or the lien of such refunding bonds.

(m) The purchase out of any funds available therefor, including but not limited to the proceeds of refunding bonds, of any outstanding notes, bonds or obligations, including but not limited to refunding bonds, and the price or prices at which and the manner in which such purchases may be made.

(n) Any other acts and things as may be necessary or convenient or desirable in order to secure the refunding bonds, or as may tend to make the refunding bonds more marketable.

(o) The manner of collecting the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise, and the combining in one bill of the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise with the fees, tolls, rates, rentals or charges for other services, facilities or commodities afforded by the municipality.

(p) The discontinuance of the services, facilities or commodities of the enterprise as well as any other services, facilities or commodities, afforded by the municipality, in the event that the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise are not paid.

(2) Nothing in this section shall be construed to authorize any municipality to make any covenants, to perform any act or to do any thing which requires the expenditure in any manner or for any purposes by the municipality of any funds other than revenues received or receivable from the enterprise.

287.334 Protective remedies accorded bondholders; suits, actions and proceedings. Subject to any contractual limitations binding upon the holders of any issue of refunding bonds, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of refunding bonds, or trustee therefor, shall have the right and power, for the equal

benefit and protection of all holders of refunding bonds similarly situated, to:

(1) Enforce, by mandamus or other suit, action or proceeding at law or in equity, his rights against the municipality and its governing body and any of its officers, agents and employees and to require and compel such municipality or such governing body or any such officers, agents or employees to perform and carry out its and their duties and obligations under ORS 287.302 to 287.342 and its and their covenants and agreements with bondholders.

(2) Require, by action or suit, the municipality and the governing body thereof to account as if they were the trustee of an express trust.

(3) Enjoin, by action or suit, any acts or things which may be unlawful or in violation of the rights of the bondholders.

(4) Bring suit upon the refunding bonds.

287.336 Remedies not exclusive. No remedy conferred by ORS 287.302 to 287.342 upon any holder of refunding bonds, or any trustee therefor, is intended to be exclusive of any other remedy. Each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by ORS 287.302 to 287.342 or by any other law.

287.338 Effect of waivers, delays and omissions. No waiver of any default or breach of duty or contract, whether by any holder of refunding bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of refunding bonds, may be enforced and exercised from time to time and as often as may be deemed expedient.

287.340 Restoration of rights after futile proceeding. If a suit, action or proceeding to enforce any right or exercise any remedy is brought or taken and then discontinued or abandoned, or is determined adversely to the holder of the refunding bonds or any trustee therefor, the municipality and such

holder or trustee shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

287.342 Construction of ORS 287.302 to 287.342. (1) ORS 287.302 to 287.342:

(a) Constitute full and complete authority for issuance of refunding bonds.

(b) Are remedial in nature and shall be liberally construed.

(2) The powers conferred by ORS 287.302 to 287.342 shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by ORS 287.302 to 287.342 shall not affect, the powers conferred by any other law.

287.344 to 287.350 [Reserved for expansion]

PLEDGING EARNINGS OF MUNICIPAL WATER PLANTS FOR PAYMENT OF BONDS

287.352 Definitions for ORS 287.352 to 287.358. As used in ORS 287.352 to 287.358, "utility" means a municipal water plant or system.

287.354 Cities and towns authorized to pledge earnings of municipal water plants for payment of principal and interest of certain bonds. (1) Pursuant to a duly adopted ordinance of its governing body, any city that owns and operates a municipal water plant or system and that has liquidated completely or hereafter liquidates completely all bonded, warrant and other indebtedness incurred in the financing or operation of such utility, may pledge the whole or any part of the net earnings thereof toward the payment of the principal of and interest upon general obligation bonds of such city, including bonds, if any, issued to replace or refund bonds originally issued pursuant to applications to pay assessments in installments. The bonds for the payment of the principal of and interest upon which such pledge may be made shall be limited to such as are outstanding on June 9, 1943, and to bonds or notes issued to refund them or the indebtedness represented thereby, or to such part of either thereof as the governing body determines. The bonds or notes issued after June 9, 1943, to refund or replace such bonds need not be confined to one issue, but may consist of successive issues until the indebtedness represented by such bonds outstand-

ing on June 9, 1943, and the interest thereon, has been fully liquidated and paid.

(2) The governing body, in the pledging ordinance, may provide for prior withholding of such part of such revenues as the governing body deems necessary to meet general municipal expenses or to pay for, or to set up reserves with which to defray the cost of, improvements, betterments, replacements, or extensions of the utility.

287.356 Revenues pledged confined to payment of indebtedness for which they were pledged; credit to sinking fund; use of balances. (1) As provided by ORS 294.305 to 294.415, and by Acts amendatory thereof and supplemental thereto, the amount of the annual revenues of the utility shall be taken into consideration in the tax budgets of the city; but, so long as required, the revenues of the utility pledged under authority of ORS 287.354 shall be expended only in payment of the bonded indebtedness and the interest thereon for which, by the ordinance, they were obligated or pledged.

(2) The pledged revenues shall be credited at least quarterly to the sinking fund applicable to the payment of the bonded indebtedness and the interest thereon.

(3) Balances in the fund not currently required for interest payments may be used in the purchase, for immediate retirement at current market prices, of bonds of the issues comprising the bonded indebtedness, or may be invested at like prices for resale or sinking fund purposes in other securities by law eligible for purchase by the city or town. The earnings from the other securities so purchased shall inure to the fund.

287.358 Adoption of pledging ordinance; submitting question to voters; ordinance as part of bond contract. (1) The adoption of the ordinance referred to in ORS 287.354 shall be in the sole discretion of the governing body. It shall not be necessary to submit the question of approval or adoption of such ordinance to a vote of the electors of the city or town. The governing body, however, may submit such question or that of the pledge of the revenues to a vote of the electors, should it deem such action advisable. Should the vote be adverse, the governing body shall not of its own motion again adopt such an ordinance nor submit to the electors the like question for a period of one year from the date of the election last held for the purpose of voting upon the question.

(2) The terms and covenants contained

or embodied in such an ordinance shall constitute part of the contract inherent in the bonds for the liquidation of the principal of and payment of the interest upon which the pledge of revenues was made. The city governing body thereafter shall not reduce its schedule of rates or charges for services supplied by the utility until the bonds, for the payment of the principal of and interest on which the pledge was made, have been fully paid or the sinking fund equals the par value of the bonds and the future interest to accrue thereon, or until the bonds have been refunded by a new issue not supported by such a pledge.

287.360 to 287.400 [Reserved for expansion]

SHORT-TERM BORROWING

287.402 Definitions for ORS 287.402 to 287.432. As used in ORS 287.402 to 287.432, unless the context otherwise requires:

(1) "Subdivision" means any municipal or quasi-municipal corporation or civil subdivision in this state.

(2) "Note" means a negotiable short-term promissory note issued pursuant to ORS 287.402 to 287.432.

287.404 Borrowing by subdivisions on short-term notes. For the purpose of meeting current expenses, retiring outstanding bonds or warrants, or paying the interest thereon, any subdivision, pursuant to a resolution duly adopted by its governing body, may borrow money on its negotiable short-term promissory notes, whenever provision therefor has been made in duly adopted budgets, in an aggregate amount which, with like notes outstanding, if any, shall not exceed at any time 80 percent of the ad valorem taxes upon real and personal property theretofore levied and in process of collection for such subdivision for the tax year in which such notes are issued and for the two years next preceding, and the full amount of other budgeted and unpledged revenues which the governing body of the borrowing subdivision estimates will be received from other sources during the remainder of the fiscal year next following the borrowing date.

287.406 Refunding or retiring notes. (1) Subject to the limitation and restrictions contained in ORS 287.402 to 287.432, the authority of a subdivision to borrow money under ORS 287.404 includes the right

to refund and retire with notes of like tenor any such notes as are subject to optional redemption or are about to mature and any outstanding obligations incurred under chapter 51, Oregon Laws 1935 (Special Session), chapter 321, Oregon Laws 1937 and chapter 508, Oregon Laws 1939.

(2) Notes issued to refund outstanding notes shall not be considered to be within any of the limitations and restrictions contained in ORS 287.402 to 287.432 until after the notes refunded are redeemed.

287.408 Debt limitations not applicable.

The debt limitations imposed by law or charter shall not affect the right of any subdivision to issue notes under authority of ORS 287.402 to 287.432 and none of such notes shall be taken into consideration in determining the percentage or extent to which a subdivision is indebted under any such debt limitation.

287.410 Short-term note sinking fund; diverting funds; liability of financial officer.

(1) In order to provide for the payment of all the notes and the interest thereon, each subdivision issuing them shall create a special fund to be known as the short-term note sinking fund.

(2) All revenues derived from taxes upon real and personal property, and other unpledged income and revenues accruing to such subdivision, except revenues derived from tax levies or other sources for the payment only of bond principal and interest, thereafter shall be placed by the treasurer or other financial officer of the subdivision in said fund until the cash moneys accumulated therein are sufficient to pay all such notes outstanding and the interest which will be due thereon at the payment or maturity date thereof.

(3) If bond principal and interest, or either of such obligations, have been met, in whole or in part, from a note issue or the proceeds thereof, the revenue which otherwise would have been applied in payment of the bond obligations so met shall accrue to the short-term note sinking fund in like manner and to the same extent as provided in subsection (2) of this section.

(4) None of such funds shall be transferred, borrowed, diverted or used for any purpose other than as provided in this section. For failure to hold and account for said funds as provided in this section, the treasurer or other financial officer of the subdivision shall be personally liable, and also

shall be liable upon his official bond, to the holders of the notes and any interest coupons appertaining thereto.

287.412 School district notes; registration with and payment by county treasurer.

(1) In the discretion of the governing body of school districts, notes issued by such districts under ORS 287.402 to 287.432 may be registered with, and paid both as to principal and interest by, the county treasurer of the county in which the subdivision, or the major portion of its assessed valuation, is located.

(2) The county treasurer, rather than the clerk of the district, shall impound the moneys paid over to him from taxes in behalf of the district, for the purpose of meeting, when due, the principal of and the interest on the notes so registered.

287.414 Advertisement for sale of notes with definite due dates.

Notes, bearing definite due dates, shall be advertised for sale for a period of at least 10 days, by publication of notice thereof in one issue of a newspaper of general circulation printed and published within the boundaries of the issuing subdivision, or, if there is no such newspaper, in a newspaper of general circulation printed and published in the county in which the subdivision, or the major portion of its assessed valuation, is located.

287.416 Bids; deposit of cash or check; opening of bids.

All bids tendered for the notes shall be in writing and be sealed and, unless the bid is placed by an agency of the Federal Government or by the State of Oregon or for a sinking fund of the issuing subdivision, shall be accompanied by a good faith deposit of cash or certified check drawn on a bank doing business in this state, in an amount not less than two percent of the par value of the notes for which the bid is submitted. All such bids shall be publicly opened at the time and place specified in the published advertisement thereof.

287.418 Determining highest bid.

In determining the highest bid received, the governing body of the particular subdivision shall take into consideration such premiums as are offered and such items of cost as have been or shall be charged by the bidder in connection with the purchase of the notes.

287.420 Rejection of bids and readvertisement.

If the bids for the notes are not satisfactory to the governing body of the

subdivision offering them for sale, the governing body may reject any or all of the bids and readvertise for bids in the manner and under the conditions provided in ORS 287.414 to 287.418.

287.422 Sale to highest bidder; discount.

The notes shall be sold to the highest responsible bidder therefor at not less than their par value and the full amount of accrued interest thereon; but if the notes are issued with definite due dates and without option of redemption prior thereto, they may be sold at a discount, if the price received by the issuing subdivision will not result in payment by the subdivision of a higher rate of interest on the notes than three percent per year computed from the date of payment for the notes by the original purchaser to the maturity dates of the notes.

287.424 Issue of notes with optional dates of redemption or without definite due dates. If the governing body of the issuing subdivision so elects, the notes may be issued:

- (1) With optional dates of redemption providing that the notes may be called and paid or refunded upon a designated interest payment date or dates; or
- (2) Without definite due dates with the right of the subdivision to redeem the notes at par and accrued interest whenever funds become available therefor.

287.426 Sale of notes without definite due dates. Notes issued without definite due dates may be sold at not less than face value, and accrued interest, if any, without an advertised public offering thereof.

287.428 Notes; interest rate; maturity; interest coupons. Notes authorized to be issued under the provisions of ORS 287.402 to 287.432 shall:

- (1) Bear interest at a rate not to exceed three percent per year.
- (2) Mature within a period not to exceed one year.
- (3) Have such interest coupons attached, if any, as the governing body of the subdivision shall specify.

287.430 Form of note. Subject to modifications necessary to describe properly the name of the issuing subdivision, the optional or nonoptional terms, and other provisions thereof, and the interest coupons annexed,

if any, the notes shall be in substantially the following form:

No. — United States of America \$ —
 State of Oregon
 County of —
 (name of subdivision)
 Short-Term Note

For value received —, in the County of —, State of Oregon, hereinafter designated "subdivision," acknowledges itself to owe and hereby promises to pay to bearer, at the office of the — (county treasurer, city treasurer, school clerk, etc., as the case may be) on the — day of —, 19—, from its "Short-Term Note Sinking Fund," the sum of — DOLLARS

in any coin or currency which at the time of payment is legal tender for public and private debts within the United States of America, together with interest on said principal sum payable (quarterly, semiannually, at maturity, or otherwise, as the case may be) in like money, at the rate of — percent per annum from the date hereof.

This note is issued under authority of a legislative Act entitled "Chapter 307, Oregon Laws, 1941," and of a resolution duly adopted by the — (governing body) of said subdivision on — (date); and is one of a series of like date and tenor except as to numbers (and denominations and maturities, if they vary), aggregating the principal sum of \$ —.

It hereby is certified, recited, and declared that all conditions, acts and things required upon the part of said subdivision to exist and to be done and performed to make this note and those of the issue of which it forms a part, valid and binding obligations of said subdivision, have existed and have been done and performed in due time, form and manner, as required by the aforesaid Act; and the full faith and credit of the said subdivision hereby are solemnly pledged for the punctual payment, when due, of the principal of and the interest on the notes of said issue, but solely from said short-term note sinking fund, as provided in the aforesaid Act.

In Witness Whereof, the — (governing body) of the subdivision has caused this note to be signed by its — and countersigned by its —, under the corporate seal of said subdivision (provided said subdivision has such a seal), and the interest coupons attached hereto (if any) to bear the fac-

simile (or original) signatures of its said officers, this — day of —, 19—.

Countersigned: (name of subdivision)

By _____
(title of officer) (title of officer)

(Seal)

287.432 Notice of intention to redeem callable notes. Notice of intention to redeem callable notes issued under authority of ORS 287.402 to 287.430 shall be given not less than five days nor more than 30 days prior to the contemplated redemption date, by publication of such notice in a newspaper of general circulation printed and published within the county in which the issuing subdivision, or the greater portion of its assessed valuation, is located.

287.434 to 287.440 [Reserved for expansion]

287.442 Cities authorized to issue warrants and short-term notes for certain purposes. (1) The governing body of any incorporated city may contract indebtedness by issuance of warrants or short-term promissory notes for the purpose of meeting current expenses, retiring outstanding bonds or warrants, or paying the interest thereon, whenever provision therefor has been made in duly adopted budgets.

(2) In the exercise of this authority, the governing body may contract or refund short-term loans which shall at no time exceed in the aggregate 80 percent of the ad valorem taxes upon real and personal property theretofore levied and in process of collection for such city for the tax year in which the warrants or notes are issued, and 80 percent of other budgeted and unpledged revenues which the governing body of such city estimates will be received from other sources during said tax year. The aggregate amount of money any city is authorized to borrow pursuant to this section shall be reduced by the amount of outstanding short-term notes issued by such city pursuant to ORS 287.402 to 287.432.

(3) The debt limitations imposed by law, or the charter of any city shall not affect the right of any city to issue warrants or notes under authority of this section, nor shall any such warrants or notes be taken into consideration in determining the percentage or extent to which such city is indebted under any such debt limitation. Warrants or notes issued to refund outstanding

warrants or notes shall not be considered to be within any of such debt limitations.

287.444 to 287.450 [Reserved for expansion]

WARRANTS; INTEREST, CANCELATION AND REFUNDING; MASTER WARRANTS

287.452 Interest on municipal warrants not paid on presentation. All warrants for payment of money issued by cities and other municipalities that are not paid upon presentation and so indorsed shall draw interest at the legal rate after such indorsements but municipalities may by proper resolution fix the rate at less than the legal rate and may make such interest payable semiannually.

287.454 Cancellation of warrants more than seven years old; certification of list to court or board. At the last regular term of the county court or the board of county commissioners preceding July 1 of each year, in each county, the county clerk shall certify to the court or board a list of all warrants issued more than seven years prior to July 1 of that year which have not been paid, stating the amount of each warrant, to whom issued and date of issuance.

287.456 Notice that warrants not presented will be canceled. Upon receipt of the list referred to in ORS 287.454, the court or board shall cause to be published in a newspaper published in the county and having a general circulation therein, or if no paper is published in the county, in some paper published in the state and having a general circulation in the county, a notice that if the warrants are not presented for payment within 60 days from July 1 they will be canceled and payment thereof will be refused.

287.458 Order canceling warrants; duties of clerk; payment. At the first regular term of the court or board in each county after expiration of the 60 days from July 1 of each year the court or board shall make an order that all such warrants which have not been so presented for payment, describing them, shall be canceled. The clerk shall also collect together all other county warrants which have been issued by order of the court or board and which still remain in his hands and unclaimed, and in the presence of the court or board shall cancel all such warrants issued more than seven years prior to July 1 of that year, nor shall the amount

thereof be computed in any estimation or computation of county finances. This section does not prohibit the court or board from paying the principal only and interest to date when such warrant was called, upon any claim arising from canceling of any such warrant at any time thereafter if it is presented and the court or board deems it proper for the county so to do.

287.460 Issuing refunding warrants in Washington, Yamhill and Deschutes Counties. (1) Whenever Washington, Yamhill or Deschutes County has \$500 or more in outstanding warrants in either the general fund or road fund, the county court may order the county clerk to issue refunding warrants drawn against the county general fund or the county road fund or both funds. The warrants shall be in denominations of not more than \$500 each. The total amount of the refunding warrants shall not exceed the total amount of the outstanding warrants at the date that such refunding warrants are issued by the county clerk.

(2) ORS 287.460 to 287.464 apply respectively to Washington, Yamhill and Deschutes Counties, each in its own right, each independent of the other.

287.462 Sale of warrants; use of proceeds; payment of interest. The county treasurer may on the order of the county court, at its discretion, sell the refunding warrants referred to in ORS 287.460 by calling for bids thereon and selling the warrants for not less than par to the highest and best bidder. The proceeds from the sale of the refunding warrants shall be used by the county treasurer for the sole and exclusive purpose of retiring the existing outstanding warrants. The county treasurer shall pay the interest on the refunding warrants every six months from the date thereof.

287.464 Call of refunding warrants; order of call; new warrant. The county treasurer shall, whenever there are sufficient funds on hand in the treasury, call the refunding warrants issued pursuant to ORS 287.460 and make payment in the order of their issuance. If the county treasurer has \$500 on hand which can be used to make payment of the refunding warrants, he shall call the refunding warrants in the order of their issuance and shall notify the county court of such call. If there are insufficient funds to pay all the warrants presented in excess of the first \$500 presented, the coun-

ty court then may order the county clerk to issue a new refunding warrant in a smaller denomination and the treasurer shall pay the balance with the cash on hand.

287.466 to 287.480 [Reserved for expansion]

287.482 Definitions for ORS 287.482 to 287.488. As used in ORS 287.482 to 287.488:

(1) "County fiscal officer" means:

(a) The county auditor in counties where such office is established by law.

(b) The county clerk in counties not having a county auditor.

(2) "Master warrant" means a warrant or order issued and drawn pursuant to ORS 287.486. [1955 c.321 §1]

287.484 Master warrant procedure authorized if warrants would be not paid for want of funds. Whenever the county fiscal officer audits and approves a claim and issues a warrant therefor and at the same time or subsequently ascertains that the county treasurer has not sufficient moneys in the particular fund of the county from which the claim so approved and allowed is payable and that the warrant as issued against that fund for the payment of the claim would be indorsed "Not Paid for Want of Funds," the county fiscal officer may, with approval by resolution of the county court or the board of county commissioners, issue a master warrant to any person for the purpose of obtaining money to pay such claim. The money shall be obtained only in the manner provided in ORS 287.486. [1955 c.321 §2]

287.486 Procedure. (1) The county fiscal officer shall draw a master warrant in the amount of one or more claims referred to in ORS 287.484, payable to any person who is willing to accept the master warrant, and such person shall, upon delivery of the master warrant duly indorsed "Not Paid for Want of Funds," pay to the county treasurer the full amount for which the master warrant is drawn.

(2) The amount paid under subsection (1) of this section shall constitute a special fund to be used toward the payment of warrants issued under ORS 287.484 by the county fiscal officer in payment of claims audited and approved and included in the amount of any master warrant issued to the person advancing such moneys. [1955 c.321 §3]

287.488 Taxes must be levied for payment of claims included in master warrant. No master warrant shall be issued under ORS 487.482 to 487.488 unless taxes have been levied for the payment of all claims included in the master warrant and such taxes are in the process of being collected at the time of the issuance of the master warrant. [1955 c.321 §4]

287.490 to 287.500 [Reserved for expansion]

GENERAL OBLIGATION IMPROVEMENT WARRANTS OF CITIES

287.502 General obligation improvement warrants; debt limitations not applicable.

(1) Any improvement warrants issued by a city, evidencing an indebtedness for construction of a public improvement of the character described in ORS 223.205 and 223.210, shall, if the resolution or ordinance authorizing the improvements so provides, constitute a general obligation of the city.

(2) The debt limitations imposed by statute or by the charter of the city shall not affect the right of the city to issue general obligation improvement warrants pursuant to the provisions of ORS 287.502 to 287.510, nor shall any such warrants be taken into consideration in determining the percentage or extent to which the city is indebted under any such debt limitation.

287.504 Interest; order of payment. General obligation improvement warrants issued under the authority of ORS 287.502 to 287.510 shall bear interest from the date of issuance to the time when called for payment at the rate specified in the resolution or ordinance authorizing their issuance and shall mature on or before two years after the date thereof. The warrants issued with respect to each improvement shall be called for payment in the order of their issuance, as funds become available, and shall be paid upon presentment at or after maturity, if not sooner called.

287.506 Call and payment of warrants; liability for failure to hold, account for or apply funds. (1) All proceeds from the collection of unbonded assessments, the sale of improvement bonds, and the foreclosure of improvement liens for unbonded assessments, realized from the improvement with respect to which such general obligation improvement warrants are issued, shall be ap-

plied to the call and payment of such warrants as rapidly as funds are available for the payment of the earliest outstanding warrant or warrants, but that call may be deferred in the discretion of the treasurer or other financial officer of the city when the funds available for the payment of outstanding warrants do not exceed \$2,500.

(2) None of such funds shall be transferred, borrowed, diverted, or used for any other purpose, and, for failure to hold, account for and apply such funds, as provided in this section, the treasurer or other financial officer of the city shall be personally liable and shall also be liable upon his official bond to the holder of any such warrant.

287.508 Notice of intention to redeem. General obligation improvement warrants shall be called for payment by notice of intention to redeem the warrants given not less than five days nor more than 30 days prior to the call date by:

(1) Publication of the notice in a newspaper of general circulation printed and published within the county in which the city or the principal portion of its assessed valuation is located; and

(2) Notice in writing directed to the holder of such warrant and mailed by ordinary mail concurrently with such publication, if the city treasurer or other financial officer has been informed of the name and address of such holder.

287.510 Provision in budget. Any city which has issued general obligation improvement warrants shall provide in its budget for the fiscal year in which the warrants will mature such amount for the payment thereof as shall be estimated or determined to be owing thereon and unpaid at the maturity thereof after application of collections made prior to such maturity as provided in ORS 287.506.

287.512 to 287.700 [Reserved for expansion]

BROKERS' COMMISSIONS

287.702 Definitions for ORS 287.702 to 287.704. As used in ORS 287.702 to 287.704, unless the context otherwise requires:

(1) "Subdivision" means any municipal corporation or civil subdivision.

(2) "Broker" means any person, firm, agent, factor, intermediary, partnership, cor-

poration, association, bond house, stock-broker or bond broker.

(3) "Commission" means commissions, fees, brokerage, remuneration or other charges.

(4) "Obligations" means bonds, notes, warrants or other obligations of a subdivision.

287.704 Brokers' commissions prohibited unless approved by State Bond Commission. (1) Unless approval of the State Bond Commission in writing is first obtained, no governing body of a subdivision, member or officer of such governing body, or officer, agent, employe or representative of, or attorney for, a subdivision, shall directly or indirectly pay or authorize the payment of, either jointly or severally, any commission to any broker for preparing, supervising or handling the proceedings of, or for financing or underwriting the sale of, the obligations of the subdivision.

(2) Unless such approval of the State Bond Commission is obtained, no subdivision or broker shall directly or indirectly enter into any express or implied oral or written agreement pursuant to or as a result of which a part of the amount realized or to be realized from exchange or sale of the bonds to be issued or sold or of the premium or accrued interest thereon, shall be paid, refunded, reduced or offset, in whole or part, by a commission.

(3) No broker or attorney, either severally or jointly with another or others, shall enter into an agreement whereby the commission, or any part thereof, is charged or collected or contracted for under the guise of attorneys' fees. This subsection does not prohibit any subdivision from entering into a bona fide agreement to pay, nor from paying, reasonable attorneys' fees to duly licensed attorneys who are not also brokers

and to them only, without distribution or division with any broker, as actual compensation for furnishing legal advice to the subdivision, or in settlement of opposing attorneys' fees arising from claims or litigation against the subdivision, or for actual legal work performed in the preparation of the proceedings relating to issues of the obligations, or for the examination of transcripts of proceedings relating thereto, or for the furnishing of opinions as to the regularity of such proceedings or as to the validity of such obligations.

287.706 to 287.980 [Reserved for expansion]

PENALTIES

287.990 Penalties. Any member of the governing body of a subdivision, as defined in ORS 287.702, and any officer, agent, employe or representative of such subdivision, upon conviction for violating the provisions of ORS 287.704, or upon entering a plea of guilty to a complaint or indictment charging him with such violation, shall be liable personally in debt to such subdivision for the full amount of any commission so paid, and shall be punished by a fine not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding one year, or by both such fine and imprisonment. Any broker, as defined in ORS 287.702, upon like conviction or upon entering a like plea, shall be liable for the full amount paid or contracted to be paid to him by the subdivision and shall be punished by a like fine or imprisonment or both. Upon request of any subdivision, the Attorney General, in his discretion, may assist in any such proceedings or prosecutions, in which case the actual costs and expenses so incurred by the Attorney General shall be paid by the subdivision.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

