Chapter 288

1957 REPLACEMENT PART

Public Borrowing and Bonds Generally

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CROSS REFERENCES

Borrowing and bonds of counties, cities and districts, Ch. 287

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FISCAL AGENCY IN NEW YORK FOR PUBLIC BOND PAYMENTS

Trust company authorized to act as fiscal agent of state, municipality, body politic or corporation, 709.150(1)

288.020

Bonds payable at fiscal agency, 266.580, 351.400

Deposit of securities with fiscal agency, 291.614

FISCAL AGENCY IN NEW YORK FOR PUBLIC BOND PAYMENTS

288.010 Definitions. As used in ORS 288.010 to 288.110, unless the context otherwise requires:

(1) "Fiscal agency" means the bank or trust company in New York designated pursuant to ORS 288.020.

(2) "Subdivision" means a municipal corporation, quasi-municipal corporation or civil subdivision in this state.

288.020 Designating banking institution as fiscal agency; qualifications; duration. (1) The Governor may designate some well-known and responsible bank or trust company in the City and State of New York having a paid-up capital and surplus of not less than $5 million as fiscal agency for payment of the bonds and coupons issued by this state or by any subdivision, that are by their terms made payable in the City and State of New York. The appointment when so made shall continue for a period of four years unless sooner revoked by the Governor for valid and sufficient reasons.

(2) Until its successor has been appointed, the bank or trust company named shall act as the fiscal agency of the State of Oregon in the City of New York, in accordance with such terms as shall be agreed upon between the Governor and the agency. The fiscal agency shall act as custodian of such securities owned by the State of Oregon as the State Treasurer shall specify.

(3) If no such bank or trust company is willing to accept appointment as fiscal agency, or if the Governor considers unsatisfactory the terms under which such a bank or trust company is willing so to act, the bonds and bond interest coupons payable at the fiscal agency in the City and State of New York shall thereupon become payable at the State Treasury or at the office of the treasurer or fiscal officer of the subdivision concerned, as the case may be.

288.030 Notice of appointment of agent; bonds and coupons payable at agency. The State Treasurer shall, immediately after the establishment of the fiscal agency, publish a notice thereof in some financial newspaper of general circulation in the City and State of New York, for two weeks. Thereafter all bonds and coupons of this state or of any subdivision therein which by their terms are payable in New York City shall be paid at the fiscal agency.

288.040 Remitting funds by state and local treasurers to pay bonds and coupons. Unless otherwise provided by law, the State Treasurer and the treasurer or other fiscal officer of every affected subdivision shall remit to the fiscal agency, at least 15 days before the maturity of any bonds or coupons payable at the fiscal agency in New York City, sufficient moneys out of any funds in the hands of any such treasurer or other fiscal officer applicable to such purpose, for the redemption of such bonds or coupons.

288.050 Notice of receipt of funds. Upon the receipt of any funds by the fiscal agency, the agency shall notify the officers from whom the funds were received that the funds have been received.

288.060 Return of canceled bonds and coupons. After payment of the bonds or coupons for which the funds were remitted, the bonds or coupons shall be canceled and returned to the officer from whom the funds were received, not less often than quarterly by January 15, April 15, July 15 and October 15 of each year.

288.070 Release of treasurers from liability for funds remitted. Neither the State Treasurer nor the treasurer or other fiscal officer of any subdivision shall be held responsible for funds remitted to the fiscal agency. The acknowledgment of the receipt of such funds, for which canceled bonds and coupons have not been returned, shall be a voucher to such treasurer in any settlement.

288.080 Fiscal agency to furnish statements. The fiscal agency shall render on the first business day in January, April, July and October of each year, to the State Treasurer for the state account and to each fiscal officer concerned, for the account of the subdivision of which he is such officer, an accurate statement showing the daily balances of the money on deposit for the quarter next preceding. Like statements shall be furnished, when requested in writing by the Governor or State Treasurer, by successors to fiscal officers concerned, by auditors duly authorized to examine the accounts of the State Treasurer or of such fiscal officers, or by their legal representatives.

288.090 Postage and express costs. Postage and express costs shall be proper charges against the state or subdivision therein for which they are incurred and

shall be paid to the fiscal agency and in turn be allowed the treasurer or other fiscal officer in his settlement.

288.100 Certain bond issues not affected. Nothing in ORS 288.010 to 288.110 shall be construed to affect any bond issues existing on May 20, 1911, or on February 17, 1943, that by their provisions are made payable at a fiscal agency in the City of New York designated before February 17, 1943. However, if desired by the holder, such bond issues and the interest thereon may be paid at the regular fiscal agency appointed in accordance with ORS 288.020.

288.110 Civil liability of treasurers failing to comply with law. If the State Treasurer or the treasurer or other fiscal officer of any subdivision neglects or refuses to perform the duties imposed by ORS 288.010 to 288.110, he shall be liable to the holder of any bonds or coupons aggrieved by such neglect, in a sum, recoverable in an action at law against such treasurer and his bondsmen, for twice the amount of the face value of any such bonds or coupons as are dishonored on account of the neglect or refusal of such officer to comply with the provisions of ORS 288.010 to 288.110.

288.120 to 288.300 [Reserved for expansion]

BROKERS' COMMISSIONS

288.310 Definitions. As used in ORS 388.310 and 388.320, unless the context otherwise requires:

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

(2) "Broker" means any person, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker.

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

(4) "Obligations" means bonds, notes, warrants or other obligations of the state or a subdivision. [Formerly 287.702]

288.320 Brokers' commissions prohibited. (1) Except as otherwise permitted in subsection (4) of this section, neither the state nor any officer or agency thereof, nor a subdivision, nor the governing body of a subdivision, nor any member or officer of such governing body, nor any 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 fee or commission to any broker or to any person, partnership, or corporation for preparing, supervising or handling the proceedings of, or for financing or underwriting the sale of, or for acting in an advisory capacity in connection with the issuance or proposed issuance or sale of the obligations of the state or the subdivision.

(2) Neither the state nor any officer or agency thereof nor any 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 interest, compensation, or a commission.

(3) No broker or attorney, either severally or jointly with another or others, shall enter into an agreement whereby the commission, or discount on bonds, or any part thereof, is charged or collected or contracted for under the guise of interest or attorneys' fees.

(4) This section does not prohibit the state or 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 state or the subdivision, or in settlement of opposing attorneys' fees arising from claims or litigation against the state or 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. [Formerly 287.704]

288.330 to 288.980 [Reserved for expansion]

PENALTIES

288.990 Penalties. Any officer or employe of the state or any member of the governing body of a subdivision, as defined in ORS 288.310, and any officer, agent, employe or representative of such subdivision, upon conviction for violating the provisions of ORS 288.320, or upon entering a plea of guilty to a complaint or indictment charging him with such violation, shall be liable personally in debt to the state or such subdivision for the full amount of any fee, interest, compensation, discount on bonds or 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 288.310, 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 state or the subdivision and shall be punished by a like fine or imprisonment or both. Upon request of the state or 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 state or the subdivision, as the case may be. [Formerly 287.990]

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 December 2, 1957.

Sam R. Haley
Legislative Counsel

CHAPTERS 289 AND 290

[Reserved for expansion]