Chapter 295

1959 REPLACEMENT PART
(1962 reprint)

Depositories of Public Funds and Securities

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STATE DEPOSITORIES

295.010 Definitions for ORS 295.010 to 295.230. As used in ORS 295.010 to 295.230, unless the context otherwise requires:

(1) "Funds" means all funds in the State Treasury.

(2) "Security" or "securities" means obligations approved by the State Treasurer of the State of Oregon. They include only obligations of the United States and those that are fully and unconditionally guaranteed both as to principal and interest by the United States; bonds of the International Bank for Reconstruction and Development; bonds of any state of the United States; bonds of Federal Land Banks, Federal Intermediate Credit Banks, and Federal Home Loan Banks; bonds of the State of Oregon and general obligation bonds of the several counties, ports, cities, school districts, park districts, sanitary districts, public water supply districts and rural fire protection districts thereof; bonds of any county, city or school district in the United States having a population of 100,000 or more that are payable from general taxes levied on all of the taxable property within the county, city or school district, and that are rated in one of the four highest grades by a recognized investment service organization that has been regularly engaged for a period of 10 years or more in rating or grading municipal bonds; public authority bonds; and bonds of public housing agencies issued pursuant to the United States Housing Act of 1937, as amended.
[Amended by 1953 c.352 §3; 1957 c.172 §1]

295.020 Application to be made a depository; approval or rejection; effect of approval. (1) All banks and trust companies applying to be made state depositories under ORS 295.010 to 295.230 shall file their applications in writing with the State Treasurer on or before the first Monday in June of each year. The application shall be accompanied by a sworn statement of the financial condition of the bank or trust company, at the time application is made.

(2) The State Treasurer shall:

(a) Pass upon all applications made in compliance with this section.

(b) Stamp upon each application "Approved" or "Rejected."

(c) Sign each application.

(3) The applicants whose applications are stamped "Approved" and signed by the State Treasurer shall be eligible to be made state depositories.

295.030 Designation of depositories. The State Treasurer, on the first Monday in June of each year, shall designate the banks and trust companies within this state that he considers eligible under ORS 295.020 to be made state depositories for the purpose of receiving on deposit funds of this state, and paying out the funds on order or checks of the State Treasurer, or in accordance with the terms of time certificates of deposit.

295.040 Deposit of money by State Treasurer; applying to be a depository; amount deposited in single institution limited. (1) Subject to subsection (3) of this section and to ORS 295.090, the State Treasurer shall deposit, and at all times keep on deposit, in national banks or other banks and trust companies doing business within the state that have been approved under ORS 295.020, the amount of money in his hands belonging to the several funds in the State Treasury.

(2) Any such bank or trust company may file with the State Treasurer its application for the privilege of keeping on deposit such funds or some part thereof.

(3) No greater amount of money than 35 percent of the total of the moneys on deposit in banks and trust companies at any one time shall be deposited by or at the direction of the State Treasurer in any one bank or trust company and its branches.
[Amended by 1959 c.330 §1]

295.050 Deposits payable on demand; interest rate; subject to regulations of State Treasurer. (1) Subject to ORS 295.070 and 295.080 all deposits under ORS 295.040 shall be subject to payment when demanded by the State Treasurer on his check.

(2) Subject to ORS 295.070, any bank receiving and holding any such deposit shall be required to pay and shall pay to the state, for the privilege of holding the deposit, interest at the rate prescribed by the State Treasurer; but the rate of interest shall not be less than two percent a year.

(3) The deposits shall be subject to such regulations as are imposed by law and the rules adopted by the State Treasurer for receiving and holding the deposits.

295.060 Fixing rate of interest on demand deposits. If the payment of interest upon demand deposits of state or public

funds is hereafter resumed, the State Treasurer shall annually on June 30, or on June 29 if June 30 falls on Sunday, fix the rate of interest to be paid on such deposits. The rate shall not be less than the rate established in subsection (2) of ORS 295.050. The rate when so established shall not be changed for the period of one year.

295.070 Effect of federal regulations as to interest. (1) If depositories are member banks of a federal reserve bank or of the Federal Reserve System, or are banks the deposits of which, within certain limits, are insured by the Federal Deposit Insurance Corporation and, as such, are prohibited by a statute of the United States or by a lawful regulation of the federal reserve bank or of the Federal Reserve System or of the Federal Deposit Insurance Corporation, or of any authorized agency of the Federal Government, from paying interest upon demand deposits of public funds of a state, the requirement of ORS 295.050 as to the payment of interest upon demand deposits of funds, to the extent and for the period of time that payment thereof is so prohibited, shall not apply.

(2) The State Treasurer, in conformity with such statute or regulation, may deposit the portion of funds he considers advisable with such depositories upon a term basis as provided in ORS 295.080, and may deposit the remaining portion, if not invested, upon a noninterest-bearing demand basis.

295.080 Deposit or investment of funds in excess of current demands. Subject to subsection (3) of ORS 295.040, the State Treasurer may deposit moneys not required to meet current demands for a term not to exceed one year at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the State Treasurer and any depository bank or banks in the state, or the State Treasurer may, in his discretion, invest such moneys in obligations of the United States maturing at a time not to exceed one year from date of purchase.
[Amended by 1959 c.330 §2]

295.090 Reserve for paying current obligations and appropriations. The State Treasurer may retain on hand in the state vault or, subject to subsection (3) of ORS 295.040, in the active depository the sum he considers necessary as a reserve for the purpose of paying the current obligations and appropriations of the state.
[Amended by 1959 c.330 §3]

295.100 Computing interest on average daily balance; when interest payable; monthly statements; crediting of interest received. (1) Subject to ORS 295.070, the amount to be paid by depositories under this section for the privilege of keeping public funds on deposit shall be computed on the average daily balance of the public moneys kept on deposit therewith. The interest on demand deposits, if any, shall be paid to the state monthly on the first day of each month.

(2) The depository shall, on the first day of each month, submit to the State Treasurer an accurate statement showing the daily balances of such moneys for the month next preceding and the interest thereon; but so long as and during the period that the payment of interest upon demand deposits of public funds is prohibited by federal law or lawful regulation of a federal agency, as provided in ORS 295.070, it shall not be necessary for such depositories to submit such statements unless so requested by the State Treasurer.

(3) All sums paid to the state for the privilege of keeping the public moneys on deposit shall be credited by the State Treasurer to the General Fund.

295.110 Security for deposits. For the security of funds deposited under ORS 295.010 to 295.230, and of the interest thereon, the State Treasurer shall require the depositories to deposit securities only of the kind and character described in ORS 295.010. The securities in the aggregate shall have a market value equalling or exceeding 110 percent of the amount of the deposits of the State Treasurer with the depository bank and of the accrued interest thereon.
[Amended by 1953 c.352 §3]

295.120 Safekeeping of securities. (1) All securities, after approval, shall be deposited in safekeeping, at the expense of the depositing bank or trust company, with the State Treasurer, or with the Portland Branch of the Federal Reserve Bank of San Francisco, or with any bank or trust company doing business in this state other than the depository bank itself, or with any bank or trust company not located in this state that has been authorized by the Superintendent of Banks of this state to act as trustee therein, or with the duly appointed and acting fiscal agency of the State of Oregon in

the City and State of New York. Such securities as are deposited in safekeeping with a custodian bank or trust company or with the aforesaid fiscal agency under authority of this section shall be held by such bank, trust company or fiscal agency subject to the written order of the State Treasurer.

(2) Maturing coupons from such securities so deposited may be delivered to or collected for the depository bank so long as such bank is conducting its business in due course.

(3) Registered securities of the character described in subsection (2) of ORS 295.010 may be deposited by the depository with the State Treasurer but not with a bank or trust company, provided the bonds are registered in the name of the State Treasurer as security for the purposes specified in ORS 295.010 to 295.230.

[Amended by 1953 c.352 §3]

295.130 Transfer, withdrawal or release of securities. (1) If the safety of the securities deposited pursuant to ORS 295.120 is imperiled by war or other emergency, the State Treasurer, at the expense of the depository bank, may transfer the securities to such bank or trust company as in his judgment may more fully insure the protection thereof.

(2) The depository bank shall have the right to withdraw securities deposited whenever the withdrawal does not reduce the aggregate market value of the securities below 110 percent of the amount of the deposits and the accrued interest thereon. Upon the final withdrawal of the deposits in full and the payment of the interest accrued thereon, the State Treasurer, upon request of the depository bank and at its expense, shall release to it all of the securities of the bank held by him or by the custodian bank or trust company.

[Amended by 1953 c.352 §3]

295.140 [Repealed by 1953 c.352 §3]

295.150 Forfeiture and sale of securities; disposal of proceeds. The State Treasurer may sell any and all the bonds and other securities that are deposited as security for the deposit of any state funds in any depository under ORS 295.010 to 295.230, at public or private sale, whenever there is a failure or refusal upon the part of the bank, as a depository, to pay over the funds or any part thereof upon the check or demand of the State Treasurer made upon the bank, or in accordance with the terms of any time deposits. Notice of sale of the bonds or other securities shall, when deemed advisable by the State Treasurer, be given for a period of two weeks in a newspaper published in Salem. When the sale is made by the State Treasurer, either at public or private sale, and the bonds or other securities have been transferred by the State Treasurer, the absolute ownership of such bonds and other securities rests in the purchaser or purchasers, upon the payment of the purchase money to the State Treasurer. If there is any surplus after paying the amount to the state and expenses of sale, it shall be paid over to the bank making the deposit.

295.160 Designation of active depository. The State Treasurer may designate a bank or trust company in Salem or a bank or trust company in Portland as an active depository for the collection of drafts, checks, certificates of deposit and coupons that may be received by him on account of any claim due the state.

295.170 Security required from active depository. The bank or trust company, designated as the active depository, shall be required to give security to the state to be approved by the State Treasurer for:

(1) The prompt collection of all drafts, checks, certificates of deposit or coupons delivered to the active depository by the State Treasurer for collection.

(2) The safekeeping and prompt payment on the State Treasurer's order of the proceeds of all such collections.

(3) The payment of all drafts issued to the State Treasurer by the active depository.

295.180 Collections by active depository; compensation. The State Treasurer, on receipt of any draft, check or certificate of deposit, on account of state dues, may place it in the active depository for collection. The active depository shall collect the same without delay, without charge for its services for such collection, or for exchange, and shall notify the State Treasurer when collected. The compensation to be paid by the active depository shall be fixed by the State Treasurer upon the best terms obtainable for the state.

295.190 Investigation of depositories; requiring additional security. The State Treasurer may cause an investigation to be made at any time to ascertain the sufficiency of any bank or security offered or

given under ORS 295.010 to 295.230. He may require new or additional security whenever in his judgment the safety of any deposit of state moneys requires it. The deposit shall be withdrawn unless the new or additional security is given.

295.200 Deposit of funds not applied for. If all the funds of the state are not applied for by approved depositories under ORS 295.010 to 295.230, the State Treasurer may, in his discretion, deposit the funds not so applied for and remaining in his hands, in some solvent bank or banks, trust company or trust companies, upon the best terms obtainable.

295.210 Liability of State Treasurer for loss by failure or insolvency of bank. The State Treasurer shall not be liable personally or upon his official bond for any moneys lost by reason of the failure or insolvency of any bank which becomes a depository under ORS 295.010 to 295.230.

295.220 Auditing and paying expenses under ORS 295.010 to 295.230. Any expense incurred in carrying out the provisions of ORS 295.010 to 295.230 shall be audited by the Secretary of State and paid out of the General Fund.

295.230 Investment of State Land Board funds not affected. Nothing in ORS 295.010 to 295.220 shall be construed to deprive the State Land Board of the power to invest or dispose of the funds derived from the sale of public lands as provided by law.

295.240 State Treasurer depositing securities in bank or safe deposit vault. For the better protection of securities deposited in the State Treasury, the State Treasurer may deposit such part of the securities, as in his discretion appears advisable, in the vaults of any bank or safe deposit company in Salem. Such deposit shall not relieve the State Treasurer of his responsibility for the safekeeping of such securities as provided by law.

295.250 to 295.400 [Reserved for expansion]

DEPOSITORIES FOR PUBLIC FUNDS, EXCEPT THOSE UNDER THE CONTROL OF THE STATE TREASURER

295.410 Definitions for ORS 295.410 to 295.530. As used in ORS 295.410 to 295.530, unless the context requires otherwise:

(1) "Public officers or employes" means all public officers and employes in this state who are by law made the custodians of any public funds or who have control of any public funds, but does not include the State Treasurer.

(2) "Public funds" or "funds" means the public funds under the control or in the custody of public officers or employes.

295.420 Handling, depositing and keeping safe public funds. All public officers and employes shall handle, deposit and keep safe public funds under their control or in their custody in the manner prescribed in ORS 295.410 to 295.530.

295.430 Officer relieved of personal liability. If a public officer has complied with ORS 295.410 to 295.530 in the handling of funds in his custody, he shall be relieved of personal liability on account of the loss of the funds due to burglary, robbery, depository failure or failure of any insurance company.

295.440 Security required from depository bank; approved securities. (1) Any public officer or employe may deposit public funds in any bank or banks in this state if the depository bank, before receiving the fund, shall, as security therefor, deposit securities approved by the depositing public officer or employe, and the attorney, if any, for the municipal corporation or political subdivision concerned.

(2) Subject to subsections (3) and (4) of this section, the securities required by subsections (1) and (5) of this section shall consist of:

(a) Obligations of the United States and of the International Bank for Reconstruction and Development;

(b) Bonds and General Fund warrants of the State of Oregon;

(c) Bonds and general fund warrants or road warrants of the several counties in this state;

(d) Bonds and warrants of the depositing corporation;

(e) Securities that are acceptable to the Federal Government for securing deposits of postal savings funds; or

(f) Bonds of port districts or bonds and warrants of school districts in this state.

(3) Bonds of school districts and of cities, other than of the depositing corporation,

shall be accepted as security only if the net indebtedness of the school district or city, including the proportionate indebtedness of civil subdivisions which embrace the school district or city or are approximately coterminous therewith, after deducting offsetting sinking funds and the net indebtedness of self-supporting and self-liquidating municipal utilities, does not exceed 15 percent of the latest assessed valuation of the school district or city.

(4) Bonds that are in default as to payment of interest or principal shall not be accepted as security.

(5) At all times the depository bank shall maintain, as security for the deposited funds and the interest thereon, readily marketable securities having a market value of at least 10 percent in excess of the amount of the deposit or deposits and of the accrued interest thereon.

[Amended by 1957 c.171 §1]

295.450 Depositing bonds and securities for safekeeping; depositing registered bonds. (1) The bonds and securities required by ORS 295.440, after approval thereof, shall be deposited for safekeeping with:

(a) The public officer or employe;

(b) Any bank or trust company doing business in this state other than the depository bank itself;

(c) Any bank or trust company not located in this state but authorized to act as trustee in this state; or

(d) The fiscal agency of the State of Oregon in the City and State of New York, duly appointed and acting as such agency under authority of ORS 288.010 to 288.110.

(2) Registered bonds of the character prescribed in ORS 295.440 may be deposited by depositors with the public officer or employe but not with a bank or trust company, provided the bonds are registered under the title of the treasurer of the subdivision concerned, as security for the purposes specified in ORS 295.440.

295.460 Bond in lieu of securities. Any public officer or employe may deposit public funds in any bank or banks in this state if the depository bank delivers to the depositing officer or employe, in lieu of securities as set out in ORS 295.440, a bond in standard form prepared by the Attorney General, executed by a surety company authorized to do business in this state, guaranteeing payment of the full amount of principal and interest of the deposit and reasonable attorneys' fees incurred in protecting the fund. The attorney for the municipal corporation or political subdivision concerned shall approve the bond as to execution by the surety company.

295.470 Deposit with treasurer of moneys received in connection with official duties. Any public officer or employe may deposit moneys coming into his hands in connection with his official duties with the treasurer of the municipal corporation or political subdivision concerned and obtain his receipt therefor.

295.480 Other methods of keeping funds. (1) If it is not possible for a public officer or employe to deposit or keep public funds in any one of the ways authorized by ORS 295.440 to 295.470, he shall make application to the governing body or other authority for whom he serves as treasurer or in a similar capacity, to designate the manner in which such funds shall be kept.

(2) Thereupon, the governing body or other authority shall direct the public officer or employe to keep the funds in the manner which to it seems safest under the circumstances, which may be one of the following:

(a) Keep the funds in a safety deposit box in any designated bank in this state.

(b) Keep the funds in a steel vault or safe if such vault or safe is provided for such purpose by the governing body or other authority for whom the officer or employe serves as treasurer or in a similar capacity and when the funds are thus kept, the governing body or other authority shall cause the funds to be insured fully against burglary and robbery.

(c) If the fund does not exceed $5,000, deposit the funds in a designated bank of this state which, to the governing body, appears to be a safe bank of deposit without meeting the requirements of ORS 295.440 or 295.460.

295.490 Locality of bank or trust company; preference of, and apportionment of funds among, local depositories. In selecting banks or trust companies to act as depositories public officers and employes shall not be limited to the appointment of banks or trust companies in any particular locality; but if banks or trust companies within the corporate limits of the municipal corporation or political subdivision qualify to receive the

funds, the local depositories shall be given preference. If there is more than one local qualifying depository, the depositing public officer or employe shall apportion the funds in his hands to the depositories as nearly as practicable in the proportion that the combined capital and surplus of each depository bears to the aggregate of capital and surplus of all local qualifying depositories.

295.500 Interest on deposits. The depositories shall be required to pay to the municipal corporation or political subdivision upon deposits evidenced by certificates of deposit or deposits which by agreement may not be withdrawn on less than 30 days' notice, interest at such rate or rates as shall be agreed upon between the governing body of the municipal corporation and the depository.

295.510 Sale of deposited securities on failure of depository to pay over funds or interest; disposal of proceeds. (1) Any public officer or employe, with the written approval of the governing body of the particular municipal corporation, may sell at public or private sale any or all of the bonds and other securities deposited as security for public funds under ORS 295.410 to 295.530, whenever there is a failure or refusal upon the part of the depository to pay over the funds or any part thereof, or the interest thereon, upon the check or demand of the depositing officer or employe upon the depository, or in accordance with the terms of any time deposit.

(2) The depository shall be notified of the proposed sale of the securities not less than 30 days prior to the date of the proposed sale. When the governing body of the depositing municipal corporation or political subdivision considers it advisable, public notice of the proposed sale shall be given for a period of three weeks in a newspaper of general circulation designated by the governing body.

(3) In order to effect the sale locally the public officer or employe, in his discretion, may have transferred to him by mail or express shipment, fully insured at the expense of the depository, to the place in Oregon he designates, any or all of the bonds or securities held by a custodian outside the state.

(4) If there is any surplus left after paying the amount of the deposit or deposits and the accrued interest thereon and the expenses of the transfer and sale, the surplus shall be paid over to the depository.

295.520 Release and redelivery of securities; right to clip coupons from deposited bonds; withdrawal of securities. (1) Securities held in accordance with ORS 295.450 shall be redelivered by the custodian bank or trust company to the depository bank only on written order of the depositing public officer or employe, and shall be released to the depositing public officer or employe only in case of default on the part of the depository bank to honor checks or drafts of the depositing public officer or employe properly drawn upon the deposit.

(2) Maturing coupons from any bonds so deposited may be clipped from such bonds and delivered to or collected for the depository bank so long as such bank is conducting its business in due course.

(3) The depository bank shall have the right to withdraw securities deposited whenever the withdrawal does not reduce the aggregate amount of the readily marketable value of the securities below 110 percent of the aggregate amount of the deposit or deposits and the accrued interest thereon. Upon the final withdrawal of the deposit or deposits and the payment of the interest thereon, the depository bank shall have the right to the return of all the securities then in safekeeping with the public officer or custodian bank or trust company.

295.530 Cash working fund, deposits to pay bonded indebtedness and deposits protected by insurance not affected by ORS 295.410 to 295.530. (1) ORS 295.410 to 295.530 do not affect the right of any public officer or employe to retain such reasonable cash working fund as shall be fixed by the governing body of the political subdivision or municipal corporation concerned.

(2) ORS 295.410 to 295.530 do not affect the right of the treasurer of any municipal corporation to deposit moneys with any bank within or without the state for the purpose of paying principal of or interest on bonded indebtedness of such corporation.

(3) ORS 295.410 to 295.530 do not require either the deposit of the securities or the furnishing of the surety bond provided for in ORS 295.440 to 295.460 covering deposits to the extent and for the period of

time the deposits are fully protected by insurance under section 12B of the Federal Reserve Act, as amended.

295.540 to 295.980 [Reserved for expansion]

PENALTIES

295.990 Penalties. (1) If the State Treasurer wilfully fails or refuses at any time to do or perform any act required of him by ORS 295.010 to 295.230, he shall, upon conviction, be sentenced to pay a fine not exceeding $5,000.

(2) A public officer or employe, as defined in ORS 295.410, wilfully failing or refusing at any time to do or perform any act required of him by ORS 295.410 to 295.530 shall, upon conviction, be punished by a fine not exceeding $5,000.

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 November 1, 1959.

Sam R. Haley
Legislative Counsel

CHAPTER 296

[Reserved for expansion]