

# Chapter 288

## 1981 REPLACEMENT PART

### Public Borrowing and Bonds Generally

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## **PUBLIC BORROWING AND BONDS**

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**288.605 to 288.695**

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**FISCAL AGENCY IN NEW  
YORK FOR PUBLIC BOND  
PAYMENTS**

**288.010 Definitions for ORS 288.010 to 288.110.** 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 State Treasurer 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 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 two years unless sooner revoked by the State Treasurer for valid and sufficient reasons. The appointment may be renewed for a period of two years.

(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 State Treasurer 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 State Treasurer considers unsatisfactory the terms under which such a bank or trust company is willing so to act, the bonds and bond interest 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. [Amended by 1981 c.660 §13]

**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, 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. [Amended by 1967 c.220 §1]

**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.** (1) After payment of the bonds or coupons issued by a subdivision for which the funds were remitted by the treasurer or other fiscal officer of the subdivision, 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. At the option of the treasurer or other fiscal officer, the bonds and coupons may be held for destruction as are state bonds and coupons under ORS 288.120 and may be destroyed in the same manner as state bonds and coupons are destroyed under ORS 288.120.

(2) After payment of the bonds or coupons issued by this state for which funds were remitted by the State Treasurer, the bonds or coupons shall be canceled and held for destruction under ORS 288.120. [Amended by 1975 c 462 §3; 1981 c 252 §1]

**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 Destruction of bonds and coupons upon payment; when destroyed; certification; responsibility of fiscal agency.** (1) When the principal and interest upon bonds issued by this state must be paid only at the office of the State Treasurer, the bonds and interest coupons surrendered to the State Treasurer upon payment shall be retained by him for two years or until audited by the Secretary of State. Thereafter, the State Treas-

urer, shall destroy them. The State Treasurer shall prepare a list of the bonds and coupons destroyed and shall maintain a certificate signed by him that the bonds and coupons described therein were destroyed by him on the date of the certificate.

(2) When the principal and interest upon bonds issued by this state must be paid at the office of the fiscal agency or may be paid at either the office of the fiscal agency or the State Treasurer, bonds and interest coupons surrendered upon payment shall be destroyed by the fiscal agency. Bonds and interest coupons that must be destroyed by the fiscal agency under this subsection that are surrendered to the State Treasurer upon payment shall be sent in due course by the State Treasurer to the fiscal agency for destruction.

(3) The fiscal agency shall destroy paid bonds and interest coupons under subsection (2) of this section not earlier than one year after the date upon which those bonds and coupons are surrendered on payment. For each occasion on which bonds or coupons are destroyed, the fiscal agency shall prepare a destruction certificate for bonds and a separate destruction certificate for coupons. A destruction certificate shall contain a list of the bonds or coupons destroyed, the date of destruction and the signature of an authorized agent of the fiscal agency, and shall be filed with the State Treasurer.

(4) The fiscal agency is responsible for proper payment and disposition of all bonds and coupons, and for any duplicate payments, payments to unauthorized persons and non-payment to authorized persons occurring as a result of destruction of bonds or coupons under this section. [1975 c 462 §2]

### **BROKER COMMISSIONS**

**288.310 Definitions for ORS 288.310 and 288.320.** As used in ORS 288.310 and 288.320, 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, percentage fees, brokerage, remuneration or other charges.

(4) "Obligations" means bonds, notes, warrants or other obligations of the state or a subdivision. [Formerly 287.702; 1959 c.213 §1; 1979 c 837 §2]

**288.320 Broker commissions prohibited.** (1) Neither the state nor any subdivision, nor any officer or agent thereof, shall pay, directly or indirectly, any commission to any broker 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 a subdivision.

(2) Nothing herein contained shall prevent the state or any subdivision from paying a reasonable fee for financial programming and marketing assistance based on the value of the service rendered in connection with the issuance or proposed issuance or sale of the obligations of the state or of a subdivision.

(3) Nothing contained in section 2 shall 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, 1959 c.213 §2; 1979 c 837 §3]

**Note:** No substitution of a specific ORS section number for the words "section 2" and "herein" has been made by the Legislative Counsel in 288.320

#### **PAYMENT OR REISSUANCE OF LOST, MUTILATED OR DESTROYED EVIDENCE OF INDEBTEDNESS**

**288.410 Definitions for ORS 288.410 to 288.460.** As used in ORS 288.410 to 288.460, unless the context requires otherwise:

(1) "Evidence of indebtedness" includes interest coupons originally attached to bonds issued by an issuer even though detached

therefrom subsequent to the date on which such bonds were issued.

(2) "Duplicate" means a duplicate of an instrument.

(3) "Governing body" means the person, board, commission, council or other body authorized to direct the issuance of instruments for the issuer.

(4) "Indemnity bond" means an undertaking conditioned that the asserted owner of an instrument, as principal, will protect the issuer and the paying officer against loss or liability resulting from any demand or payment of the principal of or interest on an instrument and that such asserted owner will surrender such instrument to the paying officer if it comes into his possession.

(5) "Instrument" means any lost, mutilated or destroyed evidence of indebtedness of an issuer, other than warrants or checks.

(6) "Issuer" means the state, county, municipality, district or civil subdivision which has issued an instrument.

(7) "Lost" means lost or stolen for a length of time and under circumstances that indicate that the instrument has been destroyed or irrevocably lost, that it is not held by any person as his own property and that it will not be the basis of a claim against the issuer.

(8) "Mutilated" means defacement of an instrument to the extent that its negotiation may be impaired.

(9) "Paying officer" means the public officer, other than a fiscal or paying agent, to whom instruments may be presented for payment. [1959 c 410 §1]

**288.420 Payment of matured instrument that has been lost, mutilated or destroyed.** (1) The paying officer shall pay the principal of or interest on any instrument at or after maturity when, except as provided in subsections (2) and (3) of this section, the asserted owner of such instrument:

(a) Submits a satisfactory affidavit describing the instrument and the circumstances surrounding his acquisition of such instrument and giving a detailed statement of the circumstances surrounding its loss, mutilation or destruction; and

(b) Surrenders the instrument, if mutilated and in his possession; and

(c) Furnishes an indemnity bond executed by two or more sureties satisfactory to the paying officer and qualifying as in the case of

sureties for bail for twice the face amount of the instrument plus interest due thereon; or

(d) Furnishes an indemnity bond executed by a surety company licensed to do business in the state for the face amount of the instrument plus interest due thereon.

(2) If such asserted owner does not have personal knowledge of the information which must be contained in the affidavit required under paragraph (a) of subsection (1) of this section, the person having such personal knowledge may make the affidavit.

(3) If the face amount of an instrument plus interest due thereon is \$1,000 or more, a surety company licensed to do business in the state must execute the indemnity bond required under subsection (1) of this section. [1959 c 410 §2]

**288.430 Issuance of duplicate for instrument that has been lost, mutilated or destroyed.** (1) If an instrument has not yet matured, the governing body of the issuer shall direct the appropriate officer to execute and deliver a duplicate to the asserted owner of such instrument when, except as provided in subsection (2) of this section, such asserted owner:

(a) Submits a satisfactory affidavit describing the instrument and the circumstances surrounding his acquisition of such instrument and giving a detailed statement of the circumstances surrounding its loss, mutilation or destruction; and

(b) Surrenders the instrument, if mutilated and in his possession; and

(c) Furnishes an indemnity bond executed by a surety company licensed to do business in the state for the face amount of the instrument plus interest due and to become due thereon; and

(d) Deposits a sum sufficient to pay the expenses of issuing a duplicate with an appropriate officer of the issuer.

(2) If the asserted owner does not have personal knowledge of the information which must be contained in the affidavit required under paragraph (a) of subsection (1) of this section, the person having such personal knowledge may make the affidavit. [1959 c 410 §3]

**288.440 Form of duplicate instrument.** If any duplicate be issued, it shall be in the same form and amount and bear the same serial number, date of issue and date of matu-

riety as the original instrument. If the instrument be a bond with interest coupons attached, only interest coupons that have not matured under the terms of the original instrument as of the date the duplicate is issued shall be attached to the duplicate. The officer issuing the duplicate shall indorse the word "DUPLICATE" and the date of its issuance upon its face and upon the face of any interest coupon attached thereto. The officer issuing the duplicate shall sign the duplicate on behalf of the issuer. [1959 c.410 §6]

**288.450 Waiver of requirement of indemnity bond.** The paying officer may waive the requirement of an indemnity bond as imposed by ORS 288.420 and the governing body may waive such requirement as imposed by ORS 288.430 when:

(1) The asserted owner of the instrument furnishes an undertaking for the face amount of such instrument plus all interest due and to become due thereon to protect the issuer and the paying officer from loss or liability resulting from any demand or payment of the principal of or interest on such instrument; and either

(2) The asserted owner surrenders a mutilated instrument that is so complete that any missing portion thereof could not form the basis of a valid claim against the issuer; or

(3) The asserted owner of the instrument is the state in its individual or fiduciary capacity or any county, municipality, district or civil subdivision which is not in default on the payment of any of its outstanding obligations. [1959 c 410 §4]

**288.460 Petition to circuit court; court order requiring payment of instrument or issuance of duplicate.** If any paying officer refuses to pay or if any governing body refuses to direct the issuance of a duplicate, the asserted owner of an instrument may petition any circuit court for an order requiring the paying officer or governing body to show cause why he or it should not be required to pay such instrument in accordance with its terms or direct the issuance of a duplicate. If, upon hearing, it appears to the satisfaction of the court that the petitioner is the owner of the instrument, that it has been lost, mutilated or destroyed and that no sufficient cause has been shown why it should not be paid or a duplicate thereof issued, the court shall make an order requiring the paying officer to pay it or requiring the governing body to direct the issuance of a duplicate upon

such conditions as the court considers adequate for the protection of the issuer and the paying officer against loss or liability resulting from any demand or payment of the principal of or interest on the instrument. [1959 c 410 §5]

**288.510** [1969 c.63 §1; 1971 c.366 §1, 1973 c.488 §7; 1975 c.642 §27; 1981 c.23 §2; repealed by 1981 c.94 §1 (288.515 to 288 550 enacted in lieu of 288.510)]

## BONDS GENERALLY

**288.515 Definitions for ORS 288.515 to 288.550.** As used in ORS 288.515 to 288.550:

(1) "Bonds" means general obligation, revenue or tax increment bonds, or notes of a public body.

(2) "Public body" means the governing body or authorized board, commission or person representing the State of Oregon, its agencies, institutions, political subdivisions, municipal, quasi-municipal and public corporations authorized by law to issue bonds. [1981 c.94 §2]

**288.520 Public body issuing bonds; interest; discount; terms of redemption; maximum interest rate for state bonds.** (1) Except as provided in subsection (2) of this section, a public body issuing bonds shall determine:

(a) The maximum effective rate of interest which the bonds shall bear including variable interest rates if the public body so decides;

(b) The discount or premium, if any, which the public body will allow; and

(c) The terms by which the bonds may be redeemed prior to maturity, including, but not limited to, the amount of any permitted premium.

(2) When a public body issuing general obligation bonds is the State of Oregon or one of its agencies, the maximum effective rate of interest which the bonds shall bear is 13 percent per annum. However, if an agency is unable to sell the bonds after a reasonable marketing effort, the maximum effective rate of interest may be increased but shall not exceed 14 percent per annum.

(3) Notice of any redemption authorized under paragraph (c) of subsection (1) of this section shall be published in the manner provided in ORS 287.024. [1981 c.94 §3; 1981 c 661 §4; 1981 c 879 §1]

**288.525 Expenditure of bond proceeds for payment of interest on bonds.** A public body may expend bond proceeds for the payment of interest on the bonds for the period established by the public body. [1981 c 94 §4]

**288.530 Deferral of initial payment of principal on bonds; determination of interest periods.** A public body may defer initial payment of principal on bonds for a period of time it reasonably determines, and shall determine whether interest should be paid semiannually or otherwise. [1981 c 94 §5]

**288.535 Use of seal.** A public body authorized by law to possess a seal shall cause such seal to be imprinted, attached, impressed or otherwise evidenced on any bond of which it is the issuer. However, the failure to imprint, attach, impress or otherwise evidence a seal on any bond shall not affect the validity thereof. [1981 c.94 §6]

**288.540 Authorized signatures.** Bonds of a public body shall be executed by the signature or signatures of one or more officers as specified by the public body. Signatures of the designated officers may be either manual or facsimile, but at least one such signature shall be manual in form. However, all signatures of the public body may be by facsimile if the bonds are to be authenticated by at least one manual signature. [1981 c 94 §7]

**288.545 Form of bonds.** Bonds may be issued in coupon form, with or without privilege of registration, or may be in registered form, or both, with the privilege of converting and reconverting from one form to another, upon such terms and conditions as provided by the public body. [1981 c 94 §8]

**288.550 Preliminary official statement not required in certain circumstances.** The preliminary official statement required for general obligation bonds by ORS 287.018 shall not be required for any issue for which a commitment to purchase has been received from any state or federal agency unless such state or federal agency requires the preparation of such document. If any other purchaser is awarded the sale of general obligation bonds offered at a sale for which a commitment to purchase such bonds has been received from a state or federal agency, an official statement shall be prepared prior to the delivery of the bonds if such other purchaser so requests. [1981 c 94 §9]

Note: Section 58, chapter 94, Oregon Laws 1981, provides:

Sec. 58. This Act supersedes all legislation in conflict with sections 2 to 9 of this Act adopted prior to the effective date of this Act [May 7, 1981], and a public body may exercise the powers granted by sections 2 to 9 of this Act notwithstanding any limitation provided by such legislation adopted prior to the effective date of this Act

**288.560 Destruction of bonds and coupons.** At the option of the treasurer or other fiscal officer of a subdivision making use of a paying agent other than the state's fiscal agency, bonds and coupons may be held for destruction as are state bonds and coupons under ORS 288.120 and may be destroyed in the same manner as state bonds and coupons are destroyed under ORS 288.120. [1981 c.252 §2]

### ADVANCE REFUNDING BONDS

**288.605 Definitions for ORS 288.605 to 288.690.** As used in ORS 288.605 to 288.695, unless the context requires otherwise:

(1) "Advance refunding bonds" means bonds issued for the purpose of refunding bonds first subject to redemption or maturing one year or more from the date of the advance refunding bonds.

(2) "Bond" means any revenue bond or general obligation bond.

(3) "General obligation bond" means any bond, note, warrant, certificate of indebtedness or other obligation of a public body which constitutes an indebtedness within the meaning of the constitutional or statutory debt limitation and which is secured by the unlimited taxing power of the public body.

(4) "Governing body" means the council, commission, board or other legislative body of the public body designated in ORS 288.605 to 288.695 in which body the legislative powers of the public body are vested, provided that with respect to the state it shall mean the State Treasurer.

(5) "Government obligations" means any of the following:

(a) Direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America and bank certificates of deposit secured by such obligations;

(b) Bonds, debentures, notes, participation certificates or other obligations issued by the banks for cooperatives, the federal intermedi-

ate credit bank, the federal home loan bank system, the export-import bank of the United States, federal land banks or the federal national mortgage association;

(c) Public housing bonds and project notes fully secured by contracts with the United States;

(d) Obligations of financial institutions insured by the Federal Deposit Insurance Corporation to the extent insured or to the extent guaranteed as permitted under any other state law; or

(e) General obligation bonds of the State of Oregon bearing a rating from a nationally recognized rating service at least equal in quality to the rating assigned by such service to the bonds being refunded.

(6) "Issuer" means the public body issuing any bond or bonds.

(7) "Ordinance" means an ordinance of a public body or resolution or other instrument by which the governing body of the public body exercising any power takes formal action and adopts legislative provisions and matters of some permanency.

(8) "Public body" means the State of Oregon, its agencies, institutions, political subdivisions, municipal, quasi-municipal and public corporations authorized by law to issue general obligation or revenue bonds.

(9) "Revenue bond" means any bond, note, warrant, certificate of indebtedness or other obligation for the payment of money issued by a public body or any predecessor of any public body and which is payable from designated revenues or a special fund but excluding any obligation constituting an indebtedness within the meaning of the constitutional or statutory debt limitations and any obligation payable solely from special assessments or special assessments and a guaranty fund.

(10) "Special revenue bond" means any bond, note, warrant, certificate of indebtedness or other obligation for the payment of money issued by a public body or any predecessor of any public body which is payable from designated revenues or a special fund and which is subject to statutory debt limitations. [1977 c.536 §3]

**288.610 Legislative findings; applicability of ORS 288.605 to 288.690.** (1) The Legislative Assembly finds that:

(a) It is desirable to afford public bodies the authority to reduce the costs on their outstanding bonds, thereby resulting in a

savings in the costs of capital expenditures of a public body; that such a savings is for the benefit of the people of the state;

(b) Legislation permitting a public body to pay and discharge all or any part of outstanding bonds in arrears, or about to become due and for which sufficient funds are not available, or to effect a reorganization of its permanent debt, or to effect a savings is desirable to protect the credit of the state and its public bodies; and

(c) To determine the extent of the need for advance refunding bonds and to insure that issuance of such bonds is to the advantage of and in the best interests of and for the general welfare of the state and all public bodies, it is desirable that the State Treasurer approve of the issuance of all such bonds.

(2) The Legislative Assembly declares that the issuance of advance refunding bonds is a matter of general state-wide concern and ORS 288.605 to 288.695 pre-empts all statutory or charter authority to issue advance refunding bonds, except that ORS 288.605 to 288.695 is not applicable to nor shall it affect advance refunding bonds issued prior to October 4, 1977. [1977 c 536 §2]

**288.615 Power to issue advance refunding bonds; allowable purposes; subject to State Treasurer's approval.** (1) Subject to subsections (2) and (3) of this section, the governing body of any public body may by ordinance provide for the issuance of bonds without an election to refund outstanding bonds which are not advance refunding bonds heretofore or hereafter issued by the public body or its predecessor and to pay redemption premiums and costs of refunding, only in order (a) to pay or discharge all or any part of such outstanding series or issue of bonds, including any interest thereon, in arrears or about to become due and for which sufficient funds are not available, or (b) to effect a favorable reorganization of the permanent debt structure of the issuer, or (c) to effect a savings discounted to present value to the public body or in the event of industrial development bonds, to effect a savings discounted to present value to the principal obligor of the revenue bonds.

(2) To determine whether or not a saving will be effected, consideration shall be given to the interest to fixed maturities of the refunding bonds and the bonds to be refunded, the costs of issuance of the refunding bonds, the redemption premiums, if any, to be paid

and the known earned income from the investment of the refunding bond proceeds pending redemption of the bonds to be refunded.

(3) The refunding plan shall be subject to provisions concerning payment and to all other contractual provisions in the proceedings authorizing the issuance of the bonds to be refunded or otherwise appertaining thereto and to the review and authorization of the State Treasurer. [1977 c 536 §4]

**288.620 Review and approval by State Treasurer; expenses.** (1) Within seven days following adoption of an ordinance or resolution approving a refunding plan, the refunding plan shall be submitted to the State Treasurer for review and approval. After review of the proposed refunding plan, the State Treasurer shall advise the public body, in writing, whether the sale of refunding bonds is authorized. No refunding bonds may be issued under ORS 288.605 to 288.695 unless authorized by the State Treasurer pursuant to this section; provided, that failure to notify the public body within 30 business days after receipt of the refunding plan shall be deemed an authorization to proceed. Except as provided in ORS 288.625, in making determinations under this section the State Treasurer shall consider all relevant factors, including the purposes for which the refunding plan is adopted, the terms of the refunding plan, the effects (if any) of applicable federal laws and the views of recognized experts in the field.

(2) The State Treasurer may delegate his authority to approve refunding plans, including approval of the investment of the refunding bond proceeds, to the Oregon Municipal Debt Advisory Commission.

(3) The administrative expenses of the State Treasurer incurred in reviewing refunding plans shall be charged against the bond proceeds, or may be paid by the public body from such other funds as may be available. [1977 c 536 §17]

**288.625 Manner of issuance.** (1) Advance refunding bonds for general obligation bonds shall be issued as provided by ORS 287.016 to 287.026 provided, however, that for the purposes of this section, "four hours" as used in ORS 287.026 means four business hours.

(2) Advance refunding bonds for revenue or special revenue bonds may be issued, at the discretion of the governing body, in the manner provided in ORS 287.016 to 287.026 pro-

vided, however, that for the purposes of this section, "four hours" as used in ORS 287.026 means four business hours, or negotiated at a price and on terms the governing body considers advisable. [1977 c 536 §5]

**288.630 Oregon Municipal Debt Advisory Commission assistance.** Any governing body refunding bonds under ORS 288.605 to 288.695 may seek assistance on matters pertaining to the issuance of the refunding bonds from the Oregon Municipal Debt Advisory Commission pursuant to ORS 287.020 and 287.034. [1977 c 536 §6]

**288.635 Bonds to be refunded; time of redemption.** (1) Bonds may be refunded under ORS 288.605 to 288.695 when the holders of the bonds to be refunded voluntarily surrender them for exchange or payment or if they mature or are subject to redemption prior to maturity of the refunding bonds.

(2) In any advance refunding plan created pursuant to ORS 288.605 to 288.695, the governing body shall provide, irrevocably in the ordinance authorizing the issuance of the advance refunding bonds, for the redemption of the bonds to be refunded not later than six months from the date they are first subject to redemption. [1977 c.536 §7]

**288.640 Redemption of advance refunding bonds.** (1) The ordinance authorizing the issuance of advance refunding bonds pursuant to ORS 288.605 to 288.695 shall contain a provision that the advance refunding bonds shall be subject to redemption not later than 10 years from date of the refunding bonds or six months after the first date on which the bonds to be refunded may be redeemed, whichever is later.

(2) If more than one issue or series of bonds are being refunded by a single issue or series of advance refunding bonds, the advance refunding bonds shall be subject to redemption not later than 10 years from date of issue of the refunding bonds or six months after the first date on which the series or issue of bonds being refunded having the latest first redemption date may be redeemed.

(3) The governing body may fix any redemption premium or premiums as it may in its discretion determine advisable. [1977 c 536 §8]

**288.645 Limit on advance refunding amount.** Advance refunding bonds shall not be issued in a principal amount in excess of

the minimum principal amount necessary:

(1) To purchase a principal amount of government securities which, together with the interest earnings thereon, will be sufficient to pay all instalments of principal, interest and redemption premiums, if any, on the bonds being refunded when they fall due in accordance with the advance refunding plan; and

(2) To pay any amounts charged to the issuer as administrative costs, expenses or fees in connection with the advance refunding transaction which can be paid from the proceeds of the advance refunding bond issue. [1977 c 536 §9]

**288.650 Investment of proceeds; approval by State Treasurer.** Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which the refunding bonds have been issued, the advance refunding bond proceeds, together with any other funds the governing body may set aside for the payment of the bonds to be refunded, may be invested and reinvested only in government obligations. Investment shall take place at a time or at times as may be required to provide funds sufficient to pay principal, interest and redemption premiums, if any, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, the advance refunding bond proceeds may be used to defray such expenses. The governmental obligations used for investment and reinvestment of advance refunding bonds shall be approved by the State Treasurer in accordance with ORS 288.620. [1977 c.536 §10]

**288.655 Tax levies.** (1) Notwithstanding any other provision of law, no governing body shall cause to be levied upon the taxable property within its district a tax to pay the maturing interest and principal on any bond or bonds being refunded pursuant to ORS 288.605 to 288.695, if the amount owed on the bonds being refunded is secured by the investment of the advance refunding bond proceeds together with any other funds the governing body may set aside for the payment of the bonds to be refunded.

(2) Subject to ORS 288.665, each governing body, where applicable, shall annually cause to be levied upon the taxable property within its boundaries a sum sufficient, with other revenues as are available, to pay the maturing interest and principal of all advance refunding bonds. [1977 c.536 §11]

**288.660 Trustee; use of proceeds; additional pledges.** (1) The governing body may contract with respect to the safekeeping and application of the advance refunding bond proceeds and other funds included therewith and the income therefrom including the right to appoint a trustee which may be any trust company or state or national bank having powers of a trust company within the State of Oregon.

(2) The governing body may provide in the refunding plan that until such moneys are required to redeem, retire or pay interest and principal instalments on the general obligation or revenue bonds to be refunded, the refunding bond proceeds and other funds and the income from the advance refunding bond proceeds shall be used to pay and secure the payment of the principal of and the interest on the advance refunding bonds.

(3) The governing body may additionally pledge for the payment of revenue refunding bonds any revenues which might legally be pledged for the payment of revenue bonds of the issuer of the type being refunded.

(4) Provisions shall be made by the governing body for moneys sufficient in amount to accomplish the refunding as scheduled. [1977 c 536 §12]

**288.665 Advance refunding of revenue bonds; conditions.** (1) Subject to subsection (2) of this section, when a public body has irrevocably set aside for and pledged to the payments of revenue bonds to be refunded advance refunding bond proceeds and other moneys in amounts which together with known earned income from the investment of the advance refunding bond proceeds are sufficient in amount to pay the principal of and interest and any redemption premiums on such revenue bonds as the same become due and to accomplish the refunding as scheduled, the governing body may provide that the advance refunding revenue bonds shall be payable from any source which, either at the time of the issuance of the advance refunding bonds or the revenue bonds to be refunded, might legally be or have been pledged for the payment of the revenue bonds refunded to the extent it may legally do so, notwithstanding the pledge of such revenues for the payment of the outstanding revenue bonds being refunded.

(2) The power granted to a public body under subsection (1) of this section shall be exercised only to the extent that all provisions

of law and all other contractual provisions in the proceeding authorizing the issuance of the bonds to be refunded are respected. [1977 c 536 §13]

**288.670 Advance refunding of general obligation bonds; conditions.** The various annual maturities of general obligation bonds issued to refund voted general obligation bonds shall not extend over a longer period of time than the bonds to be refunded. Such maturities may be changed in amount or shortened in term if the estimated respective annual principal and interest requirements of the refunding bonds, computed upon the anticipated effective interest rate the governing body shall in its discretion determine will be borne by such bonds, will not exceed in the aggregate the principal and interest requirements of the bonds being refunded. However, the issuer may increase the principal amount of annual maturities for the purpose of rounding out maturities to the nearest \$5,000. [1977 c.536 §14]

**288.675 Amounts credited to bond retirement not indebtedness.** In computing indebtedness for the purpose of any constitutional or statutory debt limitation there shall be deducted from the amount of outstanding indebtedness the amounts of money and investments credited to or on deposit for general obligation or special revenue bond retirement. [1977 c.536 §15]

**288.680 Issuance of refunding bonds with other bonds.** Bonds for refunding and bonds for any other purpose or purposes authorized may be issued separately or issued in combination in one or more series or issued by the same issuer. [1977 c 536 §16]

**288.685 Rules.** The State Treasurer shall adopt such rules as are necessary to carry out the purposes of ORS 288.605 to 288.695, provided that the rules shall as a minimum conform to all applicable laws and regulations thereunder of the United States that pertain to advance refunding. The rules may be changed from time to time as the State Treasurer considers necessary. [1977 c 536 §19]

**288.690 Severability.** If any provision of ORS 288.605 to 288.695, or its application to any person or circumstances is held invalid, the remainder of ORS 288.605 to 288.695, or the application of the provision to other per-

sons or circumstances is not affected. [1977  
c 536 §18]

**288.695 Short Title.** ORS 288.605 to  
288.695 may be cited as the Advance Refi-  
nancing and Refunding Bond Act of 1977.  
[1977 c.536 §1]

**288.990** [Formerly 287.990; repealed by 1959 c.213  
§3]

**288.991** [1959 c.410 §7; repealed by 1971 c.743 §432]

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**CHAPTERS 289 AND 290**  
**[Reserved for expansion]**