

TITLE 27

PUBLIC BORROWING AND BONDS

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Chapter 286

1983 REPLACEMENT PART

State Bonds

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BONDS GENERALLY

286.010 Registration of bonds; exchange or transfer of registered bonds; designation by State Treasurer of agent or coregistrar. (1) At the request of the holder of any bond of the state bearing interest coupons and issued after May 29, 1919, the State Treasurer shall issue in exchange for such bond a registered bond or a bearer bond or bonds, substantially of the same tenor and of a like aggregate principal amount, but such registered bonds shall be issued only in denominations of \$500 or multiples thereof, payable, as to both principal and interest, to the holder thereof. Such bonds shall likewise be exchanged for other registered or bearer bonds of like tenor and of a like aggregate principal amount but such bonds shall be issued only in denominations of \$500 or multiples thereof. Upon the transfer of any such bond a new bond or bonds of like tenor and aggregate principal amount shall be issued in the name of the transferee. All such new bonds shall be executed in the same manner as the original bonds by the persons in office at the time such new bonds are issued. Bonds as provided for in this section shall be issued under rules adopted from time to time by the State Treasurer.

(2) The State Treasurer may designate a fiscal agent to serve as registrar of all bonds of the state under such conditions as may be agreed upon by the treasurer and the agent. The State Treasurer may also appoint an Oregon institution as coregistrar. [Amended by 1981 c.660 §10]

286.020 Fees and charges for registration. A fee, to be established by the State Treasurer commensurate with expenses incurred, shall be charged for each registered bond issued in exchange for one or more bonds, or for one or more bonds previously registered, or for each registered bond issued as a submultiple of the principal of a bond previously registered. The State Treasurer may collect from owners of bonds sent in for registration, and from transferees of registered bonds, expenses incurred for postage, postal registry fees and postal insurance on bonds mailed to owners and transferees. [Amended by 1981 c.660 §11]

286.025 Disposition of fees and charges for registration. All moneys received under ORS 286.020 shall be deposited in the Miscellaneous Receipts Account established in the General Fund for the State Treasurer. The State Treasurer may draw warrants in payment of vouchers and drawn against the account in payment of costs incurred by the State Treasurer or of costs incurred by the financial institution

appointed registrar as provided for in ORS 286.010 for printing, postage, postal insurance, and for all other expenses incurred in connection with the registration, reregistration or conversion to bearer form of bonds of the State of Oregon. [1981 c.660 §14; 1983 c.44 §3]

Note: 286.025 to 286.078 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 286 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

286.030 [Repealed by 1981 c.660 §18]

286.031 State Treasurer to issue all state bonds. Notwithstanding any other provision of law, for all general obligation and revenue bonds of this state the State Treasurer:

(1) Shall issue the bonds after consultation with the state agency responsible for administering the bond proceeds.

(2) Shall set the date of issuance after consultation with the agency.

(3) May combine the issues of bonds for more than one program into a single bond issue whenever a combination is consistent with the constitutional authority under which the bonds are issued.

(4) Shall determine the issuance and reissuance of all bonds and coupons. [1981 c.660 §1; 1983 c.519 §1]

Note: See note under 286.025.

286.033 Authorization of bond issue. The state agency shall authorize issuance of bonds subject to ORS 286.031 by resolution of its governing body or, if none, the administrative head of the agency. [1981 c.660 §2]

Note: See note under 286.025.

286.036 Determination of interest on bonds; interest exempt from state taxes; approval of State Treasurer for issuance of bonds. (1) The agency, with the approval of the State Treasurer, shall determine the maximum interest to be borne by the bonds, the interest basis and definition thereof. The maximum effective interest rate shall be certified to the State Treasurer as prudent in light of prevailing interest rates, market conditions and the projected program revenues, if any, and the State Treasurer must approve or disapprove.

(2) Interest on bonds may be capitalized for 18 months or the estimated period of construction, whichever is less.

(3) The interest upon all bonds, including refunding bonds, of the State of Oregon, shall be exempt from taxation by the State of Oregon.

(4) A state agency authorized to issue or cause to be issued any general obligation, revenue or industrial development bonds must apply for and receive approval of the State Treasurer prior to issuance of bonds. The approval must include approval of the preliminary official statement, if any, the specific amount of the bonds to be issued and the date of issuance. The State Treasurer may reduce the amount or alter the date of issuance, or both. ORS 286.056 and 286.061 (1) do not apply to revenue or industrial development bonds described in this section.

[1981 c.660 §8]

Note: See note under 286.025.

286.040 [Repealed by 1981 c.660 §18]

286.041 Preparation of form of bonds. (1) The State Treasurer shall cause to be prepared, with the approval of the Attorney General, a form of direct, general obligation, interest-bearing bonds of the State of Oregon to be sold in order to provide funds for carrying out the purposes for which general obligation bonds are authorized by the Constitution of the State of Oregon.

(2) The bonds may be issued in one or more series, bear such date or dates, mature at such times and in such amounts, be in such denomination or denominations, bear such numbers, be payable at a designated place or places within or without the State of Oregon or at the fiscal agency of the State of Oregon, bear such rate or rates of interest, and contain such other terms, conditions and covenants as the State Treasurer may determine. [1981 c.660 §3]

Note: See note under 286.025.

286.046 Bond forms authorized. Bonds may be 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. [1981 c.660 §9]

Note: See note under 286.025.

286.050 [Amended by 1959 c.231 §1; 1979 c.130 §1; repealed by 1981 c.660 §18]

286.051 Refunding bonds; optional redemption date provisions permitted in bonds; notice requirements. (1) At the discretion of the State Treasurer, refunding bonds or advance refunding bonds, as provided for in ORS 288.605 to 288.695, may be issued. The bonds may be refunded either prior to or at their maturity dates. Refunding bonds may be issued in the same manner as other bonds are issued under the terms of ORS 178.070, 286.010 to 286.078, 287.018, 288.020, 293.701, 351.345 to 351.460, 351.520, 351.545, 367.234, 367.258 to

367.430, 367.555, 367.565, 367.700, 367.715, 407.415, 407.515, 456.519, 456.645, 456.650, 456.670, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785. Refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

(2) If the governing body or administrative head of the state agency so elects, and the State Treasurer approves, bonds may be issued with the option upon the part of the state to redeem the bonds, with or without premium, in such order, and at such time or times prior to the final maturity date or dates of the bonds, upon publication of at least one notice of the intended redemption in one issue of a newspaper specializing in financial matters published in New York, New York, and of at least one such notice in a newspaper of general circulation printed and published in Portland, Oregon. Notice shall be published at least 30 days before the redemption date. However, if a bond to be redeemed is then registered, notice of the intended redemption of such bond may be given by the mailing, at least 40 days before the redemption date, of at least one such notice to the registered owner, in lieu of the publication thereof. Failure to mail such notice shall not affect the proceedings for such redemption. [1981 c.660 §4]

Note: See note under 286.025.

286.056 Advertisement of bonds for sale. The State Treasurer shall provide such methods as the State Treasurer considers necessary for the advertisement of each issue of bonds before they are sold. A notice of sale approved by the State Treasurer must be published not more than 20 calendar days nor less than 10 calendar days, prior to sale in a newspaper or financial journal of general circulation printed and published in the City and State of New York and in the City of Portland, Oregon. [1981 c.660 §5]

Note: See note under 286.025.

286.058 Contents of notice for sale. The notice of sale required by ORS 286.056 shall specify:

(1) The time, date and place where bids will be received, and considered and acted upon, the total amount of bonds, and the denomination of bonds;

(2) The issue date, maturity dates and amounts, interest payment dates, and place of payment of the bonds;

(3) The dates of redemption, if any; the call price premium, if any; and the order and place of redemption;

(4) The required good faith deposit by certified or cashier's check in the amount not less than two percent of the par value of the bonds, or \$500,000, whichever is less;

(5) Such constraints on the coupon or interest rates as the agency, with the approval of the State Treasurer, may wish to impose;

(6) The interest basis and definition thereof on which bids are to be awarded;

(7) The nature of the security on the bonds; and

(8) The name of bond counsel; the name of the source of the preliminary official statement; coupon rate multiples, registration provision, if any; estimated delivery date and place; the purpose of the bonds; the statutes and constitutional provisions pursuant to which the bonds are being issued; the procedure for awarding the bids; and such other provision as the agency, with the approval of the State Treasurer, may wish to impose. [1981 c.660 §6]

Note: See note under 286.025.

286.060 [1961 c.582 §1; 1981 c.23 §1; 1981 c.94 §17; repealed by 1981 c.660 §18]

286.061 Bonds to be general obligations; facsimile signatures authorized; payment procedures. (1) All bonds issued under ORS 178.070, 286.010 to 286.078, 287.018, 288.020, 293.701, 351.345 to 351.460, 351.520, 351.545, 367.234, 367.258 to 367.430, 367.555, 367.565, 367.700, 367.715, 407.415, 407.515, 456.519, 456.645, 456.650, 456.670, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785 shall be direct general obligations of the State of Oregon, in negotiable form, and shall embody an absolute promise to pay the amounts thereof in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States of America.

(2) The bonds shall be executed with a facsimile signature of the Governor and Secretary of State and the manual signature of the State Treasurer or Deputy State Treasurer. The bonds shall be issued as bearer coupon bonds or in registered form, either as to principal or interest, or both.

(3) Not less than 20 days before the payment of the principal or interest falls due on any of the bonds, the respective program shall prepare and submit to the State Treasurer, for verification, a claim duly approved by the agency for the amount necessary to meet the payment thereof. Upon such verification, the agency shall present the claim in like manner as other claims against

the state are presented. The claim shall be paid out of moneys provided by law for its payment.

(4) Notwithstanding any other provision of law, when bonds, obligations or other evidence of indebtedness are sold the proceeds may be used to pay attorney, consultant and other professional fees and other expenses incurred in the preparation, authorization, issuance, sale and delivery of, and in all proceedings relating to such bonds, obligations or other evidence of indebtedness.

(5) The State Treasurer may establish funds and accounts separate and distinct from the General Fund as may be authorized by law or reasonably required to protect the bond proceeds and to arrange for their redemption. [1981 c.660 §7]

Note: See note under 286.025.

286.066 Appointment of bond counsel. With the approval of the State Treasurer, each respective general obligation bonding agency shall provide for the appointment of bond counsel for a period of not less than one year during any biennium in which the agency expects to issue bonds. [1981 c.660 §15]

Note: See note under 286.025.

286.070 [1961 c.582 §2; repealed by 1981 c.660 §18]

286.071 Retention of financial consultant services. The State Treasurer may, or an agency authorized to use bond proceeds may, with the approval of the State Treasurer, retain the services of a financial consultant. The State Treasurer, in granting approval for the retention of a financial consultant authorized by this section, shall consider:

(1) The reputation, experience and credentials of the consultant, including the individuals expected to actually fulfill the contract work; and

(2) The willingness of the consultant to consider the impact of the agency's bond program on overall state resources, levels of bonded indebtedness, and state-wide bond issuance procedures and policies. [1981 c.660 §16; 1983 c.798 §6]

Note: See note under 286.025.

286.076 Public competitive sale required; authority to reject bids. All general obligation bonds of the state shall be awarded by public competitive sale on the basis described in the notice of sale. The state may reject any or all bids and readvertise the sale of bonds in the manner required by ORS 178.070, 286.010 to 286.078, 287.018, 288.020, 293.701, 351.345 to 351.460, 351.520, 351.545, 367.234, 367.258 to 367.430, 367.555, 367.565, 367.700, 367.715,

407.415, 407.515, 456.519, 456.645, 456.650, 456.670, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785. [1981 c.660 §17]

Note: See note under 286.025.

286.078 Authority of agency head to establish standards necessary to preserve tax exempt status of interest to holders of bonds. The head of the state agency responsible for administering bond proceeds of bonds sold pursuant to ORS 178.070, 286.010 to 286.078, 287.018, 288.020, 293.701, 351.345 to 351.460, 351.520, 351.545, 367.234, 367.258 to 367.430, 367.555, 367.565, 367.700, 367.715, 407.415, 407.515, 456.519, 456.645, 456.650, 456.670, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785 may establish, notwithstanding other requirements, standards and priorities for the use of those bond proceeds that are necessary to assure that the interest paid to holders of bonds, notes or other evidences of indebtedness issued pursuant to ORS 178.070, 286.010 to 286.078, 287.018, 288.020, 293.701, 351.345 to 351.460, 351.520, 351.545, 367.234, 367.258 to 367.430, 367.555, 367.565, 367.700, 367.715, 407.140, 407.170, 456.519, 456.645, 456.650, 456.670, 468.195, 470.220, 530.130, 530.230, 541.780 and 541.785 are exempt from federal income taxes.

[1981 c.660 §22]

Note: See note under 286.025.

286.079 [1981 c.659 §1; renumbered 286.505]

286.080 [1979 c.130 §2; renumbered 286.515]

286.085 [1981 c.659 §2; 1983 c.112 §1; 1983 c.798 §7; renumbered 286.525]

286.090 [1981 c.659 §4; 1983 c.798 §8; renumbered 286.535]

286.105 Cash flow projection before bonds issued. The State Treasurer shall issue no bonds for any state agency authorized to operate a program using proceeds from general obligation or revenue bonds, until:

(1) The agency has prepared and submitted, and the State Treasurer has approved, a cash flow projection detailing program revenues, if any, and their sufficiency to meet debt service requirements. The projections shall include a listing of all significant assumptions of the cash flow model and the agency's estimate of the likelihood that such assumptions will materialize. If the State Treasurer determines, and notifies the agency in writing, that the cash flow projection and underlying assumptions supplied by the agency are unreasonable or do not fairly represent a likely set of events, the State Treasurer may require additional cash flow

projections to be computed using assumptions supplied by the State Treasurer.

(2) If a financial consultant is retained as provided for in ORS 286.071 to assist with the bond program, the consultant has attested that the cash flow projection required in subsection (1) of this section contains all significant disclosures and all significant underlying assumptions necessary to provide a reasonable basis for that projection. [1983 c.798 §2]

286.115 Report on factors influencing bond payment. (1) Any state agency that has general obligation or revenue bonds, notes or other obligations outstanding, shall prepare and submit to the State Treasurer reports that:

(a) Detail present and projected cash flow of program revenues, if any, and the anticipated sufficiency of that cash flow to meet required debt service payments;

(b) Detail historical performance regarding payments, delinquencies, reinvestment rates or similar factors that would effect the adequacy of the assumptions underlying the cash flow projection;

(c) Provide a schedule for use of bond proceeds, if any, by program category;

(d) Describe any changes in program administration that could affect the cash flow projection; and

(e) Provide any additional information relating to the ability to repay outstanding bonds as may be required by the State Treasurer.

(2) The reports required in subsection (1) of this section shall be submitted at such times as the State Treasurer determines and which may be reasonably supplied by the agency but in no event more often than quarterly nor less often than yearly. [1983 c.798 §3]

286.125 Exemption from ORS 286.105 and 286.115. The State Treasurer may exempt any program or transaction from any or all of the requirements of ORS 286.105 and 286.115 on finding the program or transaction does not significantly affect the financial integrity of the state. [1983 c.798 §5]

286.135 Annual audit of bond program; exemption. (1) Any state agency that administers a program for which bonds are outstanding shall request the Secretary of State to conduct a financial audit of the bond program at least annually. The request for an audit shall include a request that the audit be published as soon as possible following the end of the audit period.

(2) The Executive Department may on an annual basis exempt any program from the requirements of subsection (1) of this section.

[1983 c.798 §4]

AMOUNT OF BONDS

286.310 [Repealed by 1981 c.660 §18]

286.320 [Repealed by 1981 c.660 §18]

286.330 [Repealed by 1981 c.660 §18]

286.410 [Repealed by 1953 c.32 §2]

286.420 [Repealed by 1953 c.32 §2]

286.430 [Repealed by 1953 c.32 §2]

286.440 [Repealed by 1953 c.32 §2]

286.450 [Repealed by 1953 c.32 §2]

286.505 Policy. The Legislative Assembly finds that incurring of state debt by sale of bonds should be subjected to the same process of executive recommendations and legislative approval as the process by which the state biennial budget is recommended and approved.

[Formerly 286.079]

Note: 286.505 to 286.535 were enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 286 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

286.515 Report on debt required; content. The State Treasurer shall submit to the Executive Department by July 1 of each even-numbered year a report detailing a consolidated debt profile of the state's bonded indebtedness, how that amount compares to economic growth of the state during the preceding biennium, how the state's bonded indebtedness level compares to other states and any other relevant information the State Treasurer considers important for policy consideration and inclusion in the Governor's budget report to the Legislative Assembly. [Formerly 286.080]

Note: See note under 286.505.

286.525 Governor recommendation of total maximum bonding level; advice of State Treasurer; biennial agency reports.

(1) The Governor shall recommend to the Legislative Assembly for each biennium, by fiscal year, the total maximum bonding level for all state programs for which general obligation or revenue bonds are authorized. In making the recommendations, the Governor shall seek the advice of the State Treasurer on the total maximum bonding level for each biennium by fiscal year. The treasurer's advice shall be given at a time requested by the Governor and shall be

based on the treasurer's review of available economic and financial data for the state. After reviewing the treasurer's advice, the Governor shall present the total maximum bonding level for each program to the Legislative Assembly as part of the Governor's budget along with the figures advised by the treasurer. The Legislative Assembly shall then determine the maximum bonding level for each program for each fiscal year.

(2) For each biennium, each state agency authorized to issue general obligation or revenue bonds shall report to the Governor biennially on a date determined by the Governor on agency plans for issuing bonded indebtedness during the coming biennium. The agency shall include any knowledge it has on refunding outstanding indebtedness during the following biennium or thereafter. [Formerly 286.085]

Note: See note under 286.505.

286.535 Emergency Board modification of bond issuance amounts. (1) The bond issuance amounts authorized by this section and ORS 286.505, 286.525, 407.325 and 407.505 may be modified by the Emergency Board within program designation or between program designation but shall not exceed the amount of bonds authorized by the Legislative Assembly for the biennium.

(2) If the Legislative Assembly establishes categories of general obligation bonds, direct revenue bonds and pass through revenue bonds, the authority granted under subsection (1) of this section does not authorize modification as between categories.

(3) Nothing in this section and ORS 286.505, 286.525, 407.325 and 407.505 applies to refunding bonds authorized or required under any state bond program adopted under ORS 286.085.

(4) The provisions of law fixing the amount of bonds that may be issued under Article XI-G of the Oregon Constitution are controlling over any greater amount that may be appropriated therefor. [Formerly 286.090]

Note: See note under 286.505.

286.545 Effect of issuing bonds in subsequent biennium; time limit. (1) When a public agency has authority to issue general obligation bonds and the process of bidding and acceptance is completed before the end of the biennium, the agency may issue the bonds in the next biennium subject to the limit in amount of issuance imposed in the preceding biennium, if any. Any bonds issued under the authority

granted by this section shall not be considered a part of the issuing agency's general obligation limitation, if any, for the next biennium.

(2) No bonds shall be issued under the authority granted by subsection (1) of this section on a date later than the effective date of legislation setting general obligation bond limits, as required by ORS 286.525 (1), for the next biennium. [1983 c.112 §§3, 4]
