

TITLE 27

PUBLIC BORROWING AND BONDS

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Chapter 286

1985 REPLACEMENT PART

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PUBLIC BORROWING AND 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]

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]

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]

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]

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]

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]

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]

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]

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]

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, 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, 1985 c 565 §44]

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]

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]

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]

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]

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]

286.507 Economic development bonds subject to ORS 286.505 to 286.545. No bonds shall be issued under ORS 280 310 to

280 397, except as provided under ORS 286 505 to 286 545 [1985 c 805 §3]

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]

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]

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]

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]

PRIVATE ACTIVITY BONDS

286.605 Definitions for ORS 286.615 to 286.645. As used in ORS 286 615 to 286 645

(1) "Issuer" means a governmental unit in this state that has authority to issue private activity bonds and includes the Economic Development Commission.

(2) "Private activity bonds" has the meaning given in section 621 of the federal Tax Reform Act of 1984 [1985 c 806 §19]

286.615 Private Activity Bond Committee. (1) The Private Activity Bond Committee is established. It shall consist of one representative each from the Executive Department and from the State Treasurer and one public representative appointed to serve at the pleasure of the Governor.

(2) The representative from the Executive Department shall serve as chair of the committee.

(3) The purpose of private activity bonding in this state shall be to maximize the economic benefits of such bonding to the citizens of this

state To this end, the committee shall adopt standards for allocating the limits for such bonds The standards shall include but are not limited to the following criteria

(a) Support projects that increase the number of family wage jobs in this state

(b) Promote economic recovery in small cities heavily dependent on a single industry

(c) Emphasize development in underdeveloped rural areas of this state

(d) Utilize educational resources available at institutions of higher education

(e) Support development of the state's small businesses, especially businesses owned by women and members of minority groups

(f) Encourage use of Oregon's human and natural resources in endeavors which harness Oregon's economic comparative advantages

(g) Limit assistance to projects that assist businesses selling goods and services in markets for which national or international competition exists

(4) The state private activity bond limit allotted to this state by the federal Tax Reform Act of 1984 shall be allocated among issuers by the Private Activity Bond Committee For calendar years beginning on or after January 1, 1986, the state private activity bond limit shall be allocated among issuers as provided below

(a) Any amounts reserved to an issuer under the limitation adopted under ORS 286 525 shall be allocated to that issuer

(b) Any amounts reserved to a class of issuers under the limitation adopted under ORS 286 525 shall be allocated among that class of issuers by the committee under rules adopted under subsection (3) of this section

(c) Any amounts not reserved to an issuer or a class of issuers under the limitation adopted under ORS 286 525 shall be allocated by the committee under rules adopted under subsection (3) of this section

(d) Any amounts provided for in the limitation under ORS 286 525 that are unused shall be carried forward for use as provided by rules adopted under subsection (3) of this section

(e) The rules adopted by the committee shall limit the period of time for which an allocation of private activity bonding authority is effective Such rules shall insure allocations made during a calendar year shall be used during that calendar year

(5) Unused allocations shall not be transferable among issuers but shall be available for reallocation [1985 c 806 §21]

286.625 Advisory Council on Allocation of State Private Activity Bond Limit.

(1) The Advisory Council on the Allocation of the State Private Activity Bond Limit is established The council shall consist of seven members appointed by the Governor to serve at the pleasure of the Governor The council shall consist of one representative each from the Executive Department, from the office of the State Treasurer, from the Economic Development Commission, from the Oregon Municipal Debt Advisory Commission and a local government issuer, a representative of a port district and a representative from the list of qualified Oregon bond counsel as maintained by the State Treasurer

(2) The Governor shall designate one member to serve as chairperson of the council

(3) The council shall advise the Private Activity Bond Committee on the development of rules and policies for the allocation of the bond limit as provided in ORS 286 615

(4) The council shall advise the Governor of its recommendations for the allocation of the limit on private activity bond issuance at the times and in the manner in ORS 286 525 [1985 c 806 §22]

286.635 Private activity bonds subject to ORS 286.505 to 286.545. Private activity bonds shall be subject to the limitations imposed on bond issuance by ORS 286 505 to 286 545 [1985 c 806 §20]

286.645 State Treasurer to maintain records. The office of State Treasurer shall maintain the official state private activity bond limit records and provide administrative support to the Private Activity Bond Committee and the Advisory Council on the Allocation of the State Private Activity Bond Limit [1985 c 806 §23]