Chapter 288

1987 REPLACEMENT PART

Public Borrowing and Bonds Generally

FISCAL AGENCY FOR PUBLIC BOND PAYMENTS

288.010 Definitions for ORS 288.010 to 288.110

288.020 Designating banking institution as fiscal agency; qualifications; duration

288.030 Notice of appointment of agent; bonds and coupons payable at agency

288.040 Remitting funds by state and local treasurers to pay bonds and coupons

288.050 Notice of receipt of funds

288.060 Return of canceled bonds and coupons

288.070 Release of treasurers from liability for funds remitted

288.080 Fiscal agency to furnish statements

288.090 Postage and express costs

288.100 Certain bond issues not affected

288.110 Civil liability of treasurers failing to comply with law

288.120 Destruction of bonds and coupons upon payment; when destroyed; certification; responsibility of fiscal agency

BROKER COMMISSIONS

288.310 Definitions for ORS 288.310 and 288.320

288.320 Broker commissions prohibited

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

288.410 Definitions for ORS 288.410 to 288.460

288.420 Payment of matured instrument that has been lost, mutilated or destroyed

288.430 Issuance of duplicate for instrument that has been lost, mutilated or destroyed

288.440 Form of duplicate instrument

288.450 Waiver of requirement of indemnity bond

288.460 Petition to circuit court; court order requiring payment of instrument or issuance of duplicate

BONDS GENERALLY

288.515 Definitions for ORS 288.515 to 288.600

288.520 Public body to determine interest, discount, terms; maximum interest rate for state bonds

288.525 Expenditure of bond proceeds for interest or redemption

288.530 Deferral of initial payment of principal on bonds; determination of interest periods

288.535 Use of seal

288.540 Authorized signatures

288.545 Form of bonds

288.550 Preliminary official statement not required in certain circumstances

288.560 Destruction of bonds and coupons

288.570 Appointment of paying agents

288.580 County treasurer as paying agent

288.590 Registered bond ownership not public record

288.592 Refunding bonds

288.594 Effect of pledge of revenues to secure bonds

288.596 Variable rate bonds; credit enhancement agreements

288.598 Authority to pay rebates and make investments necessary for tax-exempt bond interest

288.600 Issuance of bonds with taxable interest authorized

ADVANCE REFUNDING BONDS

288.605 Definitions for ORS 288.605 to 288.695

288.610 Legislative findings; applicability of ORS 288.605 to 288.695

288.615 Power to issue advance refunding bonds; allowable purposes; subject to State Treasurer's approval

288.620 Review and approval by State Treasurer; expenses

288.625 Manner of issuance

288.630 Oregon Municipal Debt Advisory Commission assistance

288.635 Bonds to be refunded; time of redemption

288.637 Earlier redemption and advance refunding; waiver of State Treasurer; report to Legislative Assembly

288.640 Redemption of advance refunding bonds

288.645 Limit on advance refunding amount

288.650 Investment of proceeds; approval by State Treasurer

288.655 Tax levies

288.660 Trustee; use of proceeds; additional pledges

288.665 Advance refunding of revenue bonds; conditions

288.670 Advance refunding of certain general obligation bonds; conditions

288.675 Amounts credited to bond retirement not indebtedness

288.677 Amount credited to escrow account not indebtedness

288.680 Issuance of refunding bonds with other bonds

288.685 Rules

288.690 Severability

288.695 Short title

UNIFORM REVENUE BOND ACT

288.805 Definitions for ORS 288.805 to 288.945

288.815 Procedure for municipality to issue revenue bonds

288.825 Pledge of revenues; revenue estimates; excluded revenue

288.835 Method of sale; findings

288.845 Requirements for private negotiated sale

288.855 State authority to issue revenue bonds

288.865 Preliminary official statement; content; availability; waiver; exemption

288.875 Public competitive bid sales; notice; bid requirements

288.885 Public competitive bid sale by municipality

288.895 Public competitive bid sale by state

288.905 Purchaser requirements in private negotiated sale

288.915 Award on competitive bid

288.925 Form of revenue bonds

288.935 Other authority of municipality

288.945 Short title

CROSS REFERENCES

Borrowing and bonds of local governments, Ch. 287

Computation of true cash value for bonding limitations, 308 207

Financing public projects and improvements, Ch. 280

Oregon Mass Transportation Financing Authority, bonding powers, 391 560 to 391.590

Oregon State Fair and Exposition Center, Director, revenue bond authority, 565.095

State borrowing and bonds, 286.010 to 286 545

Trust company authorized to act as fiscal agent of state, municipality, body politic or corporation, 709 150

288.020

Bonds payable at fiscal agency, 266.580

Deposit of securities with investment officer, 293 751

288.320

Hospital facilities, certain provisions not applicable to organization or finances of public authorities therefor, 441.590

288.420

Payment of lost, mutilated or destroyed check or warrant, 293 470

288.430

Issuance of duplicate check or warrant, 293.475

288.515 to 288.600

Irrigation district financing, Ch. 541

288.605 to 288.695

Refunding bonds for city economic development projects, 280 460

288.805 to 288.945

Water supply authority as municipality for purpose of Act, 450 690

FISCAL AGENCY 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 designated pursuant to ORS 288.020.

(2) "Subdivision" means a municipal corporation, quasi-municipal corporation or civil subdivision in this state. [Amended by 1987 c 869 §7]

288.020 Designating banking institution as fiscal agency; qualifications; duration. (1) The State Treasurer may designate, as fiscal agency for payment of the bonds issued by this state or by any subdivision, a reputable and responsible bank or trust company in any city in which the bonds by their terms are made payable. 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 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 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, 1987 c.869 §8]

288.030 Notice of appointment of agent; bonds and coupons payable at agency. The State Treasurer, immediately after the establishment of the fiscal agency, shall publish a notice thereof in some financial paper of general circulation in the city in which the fiscal agency is to act on behalf of the state. Thereafter all bonds and coupons of the state or one of its subdivisions which are by their terms payable in a specified city, shall be paid at the fiscal agency appointed in that city. [Amended by 1987 c 869 §9]

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 the fiscal officer 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 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, the State Treasurer or treasurer or other fiscal officer 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 the bondsmen of such treasurer, 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 the State Treasurer for two years or until audited by the Secretary of State. Thereafter, the State Treasurer, shall destroy them. The State Treasurer shall prepare a list of the bonds and coupons destroyed and shall maintain a certificate signed by the State Treasurer that the bonds and coupons described therein were destroyed by the State Treasurer 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 nonpayment 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 contained in this section 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 this section shall prohibit the state or any subdivision from entering into a bona fide agreement to pay, nor from paying, reasonable attorney 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 attorney 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, 1987 c 158 §40]

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 the possession of the asserted owner.

(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 the property of the person 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 the 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 the possession of the asserted owner; 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 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 the possession of the asserted owner; 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 maturity 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 the paying officer or governing body 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 288.600. As used in ORS 288.515 to 288.600:

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

(2) "Public body" means the State of Oregon, its agencies, institutions or any municipality authorized by law to issue bonds.

(3) "Municipality" means a political subdivision of this state and municipal, quasi-municipal and public corporations authorized by law to issue bonds. [1981 c.94 §2; 1983 c.347 §1]

288.520 Public body to determine interest, discount, terms; maximum interest rate for state bonds. (1) Except as provided in subsection (5) of this section, a public body issuing bonds shall determine:

(a) The maximum effective rate of interest, if any, 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;

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

(d) The form of the bonds;

(e) The term of the bonds;

(f) The schedule for payment of bond principal and interest;

(g) The denominations of the bonds; and

(h) For revenue bonds, tax increment bonds or notes, the type of sale.

(2) When issuing general obligation bonds, the public body must sell the bonds in conformance with ORS 287.014 to 287.026.

(3) The schedule required by paragraph (f) of subsection (1) of this section shall provide for substantially equal principal payments, substantially equal combined payments of principal and interest, or payments of principal and interest that are structured to facilitate payment from expected revenues. Before establishing a schedule structured to facilitate payment from expected revenues, a municipality shall prepare a financing plan that reasonably estimates the flow of revenues that are expected to be used to pay bond principal and interest, and demonstrates that the expected flow of revenues are sufficient to pay bond principal and interest when due. Not less often than annually, the governing body shall review and update its financing plan and, if necessary, take appropriate action to provide financial resources to assure timely payment of debt service. For purposes of this subsection, the term "revenues" includes, but is not limited to, assessment payments.

(4) A municipality may establish a sinking fund for the purpose of repaying principal and interest when due and may covenant to make contributions to that fund.

(5) 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.

(6) Notice of any redemption authorized under paragraph (c) of subsection (1) of this section shall be given in the manner directed by the public body, which shall include publication in at least one issue of a business and financial newspaper published within the City of Portland, Oregon. [1981 c.94 §3; 1981 c 661 §4, 1981 c 879 §1, 1983 c.347 §2; 1985 c.441 §3]

288.525 Expenditure of bond proceeds for interest or redemption. (1) A public body may expend bond proceeds for the payment of interest on the bonds for the period established by the public body.

(2) A public body may expend bond proceeds to purchase or redeem the bonds from which proceeds are derived. [1981 c 94 §4; 1983 c.347 §3]

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 and applicable provisions of federal law. As evidence of indebtedness, the public body may utilize immobilized or book-entry delivery systems and may use depositories for these purposes. [1981 c.94 §8; 1983 c.129 §1]

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]

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]

288.570 Appointment of paying agents. (1) In connection with the issuance of bonds, any municipality may appoint one or more paying agents to serve as paying agent on all bonds issued after May 26, 1983. The same agents must serve as paying agent for all bonds issued by the municipality.

(2) The paying agents designated under subsection (1) of this section shall either be a financial institution authorized to do business in Oregon or the state's fiscal agent as provided for in ORS 288.020.

(3) Any municipality which is required by law to use the county treasurer as paying agent may appoint a paying agent and registrar. The municipality shall provide the county treasurer written notice of such appointment no later than 20 days following the appointment.

(4) Any municipality appointing a paying agent under the authority of ORS 288.545 and 288.570 to 288.590 may:

(a) Provide for powers, duties and functions and compensation of such paying agent.

(b) Limit the liabilities of such paying agent.

(c) Prescribe a method for resignation, removal, merger or consolidation of such paying agent, appointment of a successor paying agent and transfer of right and properties to such successor paying agent.

(5) The entity through which bonds are payable shall serve as registrar under such terms and conditions as may be required by rule of the Oregon Municipal Debt Advisory Commission in effect at the time such agreement is executed.

(6) If the municipality's paying agent is the state's fiscal agent, the municipality shall also designate a coregistrar within the State of Oregon. The coregistrar may be either a financial institution authorized to do business in Oregon or a municipality. A municipality may appoint the state's fiscal agent as paying agent for bonds issued by the municipality. The municipality is not required under this section to appoint the state's fiscal agent as paying agent for all bonds issued by the municipality.

(7) Notwithstanding subsection (5) of this section, in cases where the municipality elects to serve as its own paying agent, it may contract with a financial institution authorized to do business in Oregon or the State of Oregon's fiscal agent to register bonds at the time of original issuance.

(8) The authority granted by ORS 288.545 and 288.570 to 288.590 is in addition to any authority to appoint a paying agent or registrar provided by statute or charter amendment. [1983 c 129 §§3, 5, 1985 c 441 §4]

288.580 County treasurer as paying agent. A county treasurer may enter into agreements with financial institutions to serve as paying agent and registrar, as provided in ORS 288.570 (1) to (8), for any bond issue for which the county treasurer serves as paying agent. A county treasurer may recover costs from the municipality for the service. [1983 c 129 §4; 1985 c.441 §5]

288.590 Registered bond ownership not public record. The records of registered bond ownership, whether maintained by the state or a municipality or its registrar, are not public records within the meaning of ORS 192.410 (4). [1983 c.129 §6]

288.592 Refunding bonds. (1) A public body may issue bonds to refund outstanding bonds. The proceeds of the refunding bonds shall be used solely to pay the principal of, and interest and premium on the bonds being refunded, plus costs of issuing the refunding bonds. The proceeds of the refunding bonds shall be used to pay debt service on the refunded bonds within one year after the refunding bonds are issued. The refunding bonds shall be payable only from those sources of funds which were legally available to pay the refunded bonds.

(2) The State Treasurer may adopt rules regulating the issuance of refunding bonds under this section. If the State Treasurer adopts rules, no refunding bonds may be issued under this section unless the issuance complies with the rules adopted by the State Treasurer. [1987 c.91 §2]

288.594 Effect of pledge of revenues to secure bonds. (1) If a municipality is authorized by statute or municipal charter to pledge its revenues or other funds to secure bonds or other obligations, the pledge shall be valid and binding

from the time the pledge is made, revenues and other funds so pledged shall be immediately subject to the lien of the pledge without physical delivery, filing or other act and the lien of pledge shall be superior to all other claims and liens of any kind whatsoever.

(2) This section shall apply to all bonds and obligations issued on and after September 27, 1987, unless another provision of law grants greater rights to the beneficiary of a pledge for such bonds or obligations. This section shall apply to all bonds and obligations issued before September 27, 1987, unless another provision of law grants greater rights to the beneficiary of a pledge for such bonds or obligations, or unless the rights of third parties with respect to pledged revenues or funds has vested before September 27, 1987. [1987 c.91 §3]

288.596 Variable rate bonds; credit enhancement agreements. Any public body authorized to issue variable rate bonds may:

(1) Enter into letter of credit or other credit enhancement agreements in order to provide liquidity or security for bonds. Such credit enhancement agreements shall be payable solely from the same sources of funds which the public body may legally commit to pay debt service on the bonds.

(2) Issue bonds which are subject to redemption at the option of the owner. However, such right of redemption must be limited to money available under a credit enhancement agreement, proceeds of the bonds and reserves of the public body established for such purpose. [1987 c.91 §4]

288.598 Authority to pay rebates and make investments necessary for tax-exempt bond interest. Notwithstanding any other provision of law, a municipality issuing bonds, the interest on which is intended to be excludable from gross income under federal income tax laws, may:

(1) Covenant for the benefit of the owners of the bonds to pay rebates that are required under the federal income tax laws in order for interest on the bonds to be excludable from gross income. The rebates shall be considered an interest expense of the bonds, and may be paid from any source of funds which may be used to pay interest on the bonds, or from any source of funds which earns interest that is subject to rebate.

(2) Invest in United States Government securities or other legal investments which have a yield that is less than current market yield, in order to facilitate compliance with federal laws which govern whether interest on the bonds is excludable from gross income under federal income tax laws. [1987 c.840 §4]

288.600 Issuance of bonds with taxable interest authorized. A public body may issue bonds, notes or other evidences of indebtedness the interest on which is taxable for federal income tax purposes to the holders of the bonds, notes or other evidences of indebtedness. Notwithstanding the grant of such authority to a public body, a public body shall consent to such taxation expressly and in writing at the time at which the bonds, notes or other evidences of indebtedness are issued. The express written consent shall be made a part of the transcript of the proceedings of the issuance. [1987 c 840 §8]

ADVANCE REFUNDING BONDS

288.605 Definitions for ORS 288.605 to 288.695. 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 intermediate 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 288.695. (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, including advance refunding bonds heretofore or hereafter issued by the public body or its predecessor, or to fund the obligations of the public body under any contract, lease, sublease or agreement entered into with the Oregon Mass Transportation Financing Authority pursuant to ORS 267.227 and 391.500 to 391.660, and to pay redemption or prepayment premiums and costs of issuance, only in order (a) to pay or discharge all or any part of such outstanding obligations or 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 or obligations to be refunded, the costs of issuance of the refunding bonds, the redemption or prepayment premiums, if any, to be paid and the known earned income from the investment of the refunding bond proceeds pending redemption or prepayment of the bonds or obligations 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 or obligations to be refunded or otherwise appertaining thereto and to the review and authorization of the State Treasurer.

(4) For purposes of ORS 288.605 to 288.690, wherever reference is made to "the bonds or obligations to be refunded" or any words of similar import, such reference shall include the following:

(a) In the case of an advance refunding of general obligation bonds or revenue bonds, the general obligation or revenue bonds to be refunded; or

(b) In the case of a funding of the obligations of a mass transit district under any contract, lease, sublease or agreement entered into with the Oregon Mass Transportation Financing Authority pursuant to ORS 267.227 and 391.500 to 391.660, both the obligations of the mass transit district under such contract, lease, sublease or agreement and the revenue bonds issued by the Oregon Mass Transportation Financing Authority under ORS 391.500 to 391.660 which are secured by such contract, lease, sublease or agreement.

(5) Subject to the provisions of ORS 288.605 to 288.690, a mass transit district may exercise the powers conferred upon public bodies under this section and ORS 288.637 and issue advance refunding bonds for the purpose of refunding the obligations of such mass transit district under any contract, lease, sublease or agreement with the Oregon Mass Transportation Financing Authority under ORS 267.227 and 391.500 to 391.660, in which event such advance refunding bonds shall, for purposes of ORS 288.605 to 288.690, be deemed to be issued for the purpose of the advance refunding of revenue bonds. [1977 c 536 §4; 1985 c.429 §3]

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 the 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. Advance refunding bonds for general obligation, 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 provided, 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; 1987 c 840 §2]

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]

288.637 Earlier redemption and advance refunding; waiver of State Treasurer; report to Legislative Assembly. (1) Notwithstanding any other provision of ORS 288.605 to 288.690:

(a) The State Treasurer may permit redemption of bonds to be refunded at maturity or any

earlier time and permit advance refunding of bonds which are not callable prior to maturity by waiving the conditions and requirements of ORS 288.635.

(b) The State Treasurer may permit advance refunding of advance refunding bonds by waiving the conditions and requirements of ORS 288.635.

(2) Prior to granting a waiver authorized by this section, the State Treasurer shall hold a hearing on the waiver at the same time and place as a regular or special meeting of the Oregon Municipal Debt Advisory Commission. The members of the commission and the public shall be given an opportunity to comment on the proposed waiver.

(3) After the hearing, the State Treasurer shall determine whether each proposed waiver furthers the policies expressed in ORS 288.610 and 288.615 and whether the estimated cost to this state of the advance refunding is exceeded by the estimated benefits to this state. If the State Treasurer determines that the proposed waiver furthers such policies and that costs are exceeded by the benefits, the State Treasurer may issue a waiver authorized by this section.

(4) Not later than January 1 in each year in which the Legislative Assembly convenes in regular session, the State Treasurer shall submit a written report to the Legislative Assembly. The report shall contain a description of all waivers requested under this section, a description of the action taken upon each request and, for those requests which were granted, a summary of the findings which supported granting the waiver.

(5) The State Treasurer may charge each applicant for a waiver a fee for processing the waiver request. The fee shall be sufficient to cover the costs of processing the application.

(6) For purposes of ORS 288.620 (1), an advance refunding plan which contains a request for a waiver under this section shall not be considered to be received by the State Treasurer until after the findings described in subsection (3) of this section have been made. [1985 c.429 §2]

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 certain general obligation bonds; conditions. (1) Except for advance refunding bonds sold pursuant to ORS 288.615 (1)(a), 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.

(2) Subsection (1) of this section does not apply to general obligation bonds of the State of Oregon. [1977 c.536 §14, 1983 c 798 §9]

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]

288.677 Amount credited to escrow account not indebtedness. If a public body causes government obligations to be placed irrevocably in escrow in an amount calculated to be sufficient to pay principal and interest on outstanding bonds issued by the body as they mature or have been irrevocably called for prior redemption, in accordance with rules established by the State Treasurer, the amounts of money and investments credited to or on deposit for the payment of such outstanding bonds shall be deducted from the amount of outstanding indebtedness in computing indebtedness for the purpose of any constitutional or statutory debt limitation. Bonds for which government obligations have been so deposited irrevocably in escrow shall be deemed to be defeased to the same extent as if such bonds had been advance refunded pursuant to the provisions of ORS 288.605 to 288.690. [1983 c 347 §5]

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 persons 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 Refinancing and Refunding Bond Act of 1977. [1977 c.536 §1]

UNIFORM REVENUE BOND ACT

288.805 Definitions for ORS 288.805 to 288.945. As used in ORS 288.805 to 288.945:

(1) "Facilities" means real property, including land, streets and other improvements, betterments, appurtenances, structures and fixtures, and personal property which is functionally related and subordinate to real property.

(2) "Municipality" means the political subdivisions in or of this state, municipal, quasi-municipal and public corporations. "Municipality" does not include a people's utility district organized under the authority of ORS chapter 261.

(3) "Private negotiated sale" means the sale of revenue bonds for which the rate or rates and other terms and conditions are negotiated between the public body and the purchaser.

(4) "Public body" means the State of Oregon, its agencies, institutions or any municipality.

(5) "Revenue bonds" means bonds issued to finance revenue producing facilities, which are secured solely by the revenues generated from revenue producing facilities owned and operated by a public body and which are sold under the authority granted by ORS 288.805 to 288.945. Nothing in ORS 288.805 to 288.945 is intended to permit a public body to impose fees and charges that are not otherwise authorized by law.

(6) "Revenues" means all fees, tolls, taxes, rates, charges and all other income and receipts of whatever kind or character derived by or to which a public body is entitled from the operation or use of the facility. [1983 c 320 §1, 1987 c 354 §1]

288.815 Procedure for municipality to issue revenue bonds. (1) A municipality, upon adoption of a resolution or an ordinance authorizing the issuance of bonds in accordance with subsections (1) to (7) of this section, may issue revenue bonds authorized by ORS 288.805 to 288.945.

(2) The authorizing resolution or ordinance must provide that no bonds may be sold, or in the case of a private negotiated sale, no purchase agreement can be executed, for at least 60 days following publication of the notice required in subsection (6) of this section.

(3) The authorizing resolution or ordinance must provide that electors residing within the municipality may file a petition with the municipality asking to have the question of whether to issue such bonds referred to a vote.

(4) If the municipality receives petitions containing valid signatures of that municipality's electors totaling not less than five percent of the municipality's electors, the question of issuing such bonds shall be placed on the ballot at the next legally available election date.

(5) If such a petition is filed with the municipality within 60 days following publication of the notice described in subsection (6) of this section, no bonds may be sold until the resolution or ordinance is approved by a majority of the electors of that jurisdiction voting on the resolution or ordinance.

(6) A notice describing the purposes for which the bonds are sold shall be published by the municipality in at least one newspaper of general circulation within the municipality, and in the same manner as are other public notices of that municipality. Such notice shall contain:

(a) The date the authorizing resolution or ordinance was adopted and the number thereof, if any;

(b) Expected source of revenue for repayment of the revenue bonds;

(c) Estimated principal amount of the bonds to be sold;

(d) The procedures by which the question of issuing the revenue bonds may be referred to a vote;

(e) The time in which the required signatures must be gathered;

(f) Any other information the municipality may wish to include; and

(g) The fact that the authorizing resolution or ordinance is available for inspection at the appropriate office of the municipality.

(7) Nothing in subsections (1) to (7) of this section shall in any way prohibit the municipality on its own initiative from referring the resolution or ordinance authorizing the sale of revenue bonds to a vote of the electors of the municipality.

(8) When the public body issuing revenue bonds is a municipality, the municipality shall issue such bonds in accordance with the provisions of ORS 288.515 to 288.560. [1983 c 320 §§2, 7]

288.825 Pledge of revenues; revenue estimates; excluded revenue. (1) A public body may pledge to the payment of revenue bonds all or any portion of the revenues of any revenue producing facility providing services related to the services financed by the public bonds.

(2) A public body shall cause to be prepared a plan showing that the estimated net revenues of the facility are sufficient to pay the estimated debt incurred under the bond issue.

(3) Lease payments made by a municipality shall not constitute revenue of a revenue producing facility under ORS 288.805 to 288.945. [1983 c 320 §§3, 3a, 4]

288.835 Method of sale; findings. Revenue bonds authorized to be sold as provided for in ORS 288.815 (1) to (7) may be sold at public competitive bid or at private negotiated sale, as determined by the public body. However, before a private negotiated sale is authorized, the public body must make specific findings that such a method of sale is desirable. [1983 c 320 §5]

288.845 Requirements for private negotiated sale. (1) A municipality when issuing revenue bonds at a private negotiated sale must retain independent expert advice which shall evaluate:

(a) The terms and conditions of the proposed sale;

(b) The pricing of the proposed sale; and

(c) Any other relevant aspects of the sale.

(2) The evaluation required by subsection (1) of this section shall be made either in writing or, if orally, at a public meeting of the municipality authorizing a private negotiated sale. [1983 c 320 §6]

288.855 State authority to issue revenue bonds. The State of Oregon, its institutions and agencies, may issue revenue bonds under the authority of ORS 288.805 to 288.945 to finance revenue producing facilities. Such revenue bonds shall be issued by the State Treasurer under such terms and conditions as the State Treasurer shall determine. [1983 c.320 §8]

288.865 Preliminary official statement; content; availability; waiver; exemption. (1) If revenue bonds are issued by a municipality, the municipality shall prepare and make available to bidders and investors a preliminary official statement that includes the following:

(a) Past and current financing and estimated future financing of the issuer;

(b) Brief description of the financial administration and organization of the issuer;

(c) Brief description of the economic and social characteristics of the issuer;

(d) A detailed description of the project being financed, the sources of revenue to repay the debt and an analysis of the economic feasibility of the project;

(e) Any information the Oregon Municipal Debt Advisory Commission may by rule require; and

(f) Any other information the issuer may provide.

(2) The preliminary official statement described in subsection (1) of this section shall be available not fewer than 10 calendar days preceding the date of the revenue bond sale.

(3) The preliminary official statement described in subsection (1) of this section shall contain the best available information, shall be accurate to the best knowledge of the issuer, and shall be specifically approved by the municipality.

(4) The requirement for the preliminary official statement described in subsections (1) to (3) of this section, at the request of the purchaser, may be waived if the revenue bonds are not being bought with the intent to resell them.

(5) If circumstances warrant, and if the revenue bonds are to be issued at a private negotiated sale, the State Treasurer may on an individual sale basis approve a shorter period than 10 days for the availability of the preliminary official statement required by subsection (2) of this section. [1983 c 320 §9]

288.875 Public competitive bid sales; notice; bid requirements. (1) For public competitive bid sales, the public body shall prepare a notice of revenue bond sale which shall specify:

(a) The time, date and place where bids are to be received, and considered and acted upon, the

total amount of revenue bonds, and the denominations of the revenue bonds;

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

(c) The date of optional redemption, if any, the call price premium, if any, and the order of revenue bond redemption and place of redemption;

(d) The maximum effective rate of interest and the minimum percentage of par value of the revenue bonds which may be bid;

(e) The required good faith deposit by certified or cashier's check on a bank doing business in this state in the amount not less than two percent of the par value of the revenue bonds, or $500,000, whichever is the lesser;

(f) Such constraints on the coupon rates as the issuer may impose;

(g) The interest basis and definition thereof on which the revenue bond bids are to be awarded;

(h) The name of bond counsel, if any, who will furnish the legal opinion;

(i) Registration provision, if any;

(j) Estimated delivery date and place;

(k) Such other conditions as the public body may impose;

(L) The statute and ordinance, if any, pursuant to which the revenue bonds are to be issued; and

(m) The purpose of the revenue bonds.

(2) Bids submitted must be for all revenue bonds offered for sale. All bids are to be unconditional and to be submitted in writing in a sealed envelope clearly marked as a proposal for revenue bonds. [1983 c.320 §10]

288.885 Public competitive bid sale by municipality. For any public competitive bid sale except for the state:

(1) The issuer shall cause the notice of revenue bond sale, or a summary thereof, to be published in one or more newspapers having general circulation within the boundaries of the issuer not fewer than 10 calendar days preceding the date of the bond sale.

(2) In addition to the publication described in subsection (1) of this section, a notice or summary of the notice shall be published in a business and financial newspaper published in Portland, Oregon, not fewer than 10 calendar days preceding the date of bond sale. If a summary is published under this subsection, it must specify where the complete notice of sale is published or available.

(3) For issues of $3 million or more par value, a notice or summary of the notice of bond sale shall be submitted for publication in at least one issue of a national financial newspaper not less than 10 calendar days preceding the date of bond sale.

(4) Copies of the complete notice of sale shall be furnished upon request to bidders, investors and the public.

(5) If circumstances warrant, the State Treasurer may on an individual sale basis approve other terms and conditions for the public notice of revenue bond sale in lieu of or in addition to those specified in subsections (1) to (4) of this section. [1983 c.320 §11]

288.895 Public competitive bid sale by state. For the state, the notice of sale for public competitive bid sales shall be published in the manner prescribed by the State Treasurer. [1983 c 320 §12]

288.905 Purchaser requirements in private negotiated sale. For private negotiated sales, the public body shall require of the purchaser at the time a purchase agreement is executed, a good faith deposit by certified or cashier's check on a bank doing business in this state in the amount not less than two percent of the par value of the bonds, or $500,000, whichever is the lesser. [1983 c.320 §13]

288.915 Award on competitive bid. (1) For all public competitive bid sales, the bonds shall be awarded on the basis described in the notice of sale. All bids must be entered into the public record of the public body issuing the revenue bonds.

(2) All bids shall be publicly opened at the time and place specified in the notice of sale. The revenue bonds shall be sold to the responsible bidder whose bid will result in the lowest interest cost to the public body, as defined in the manner set forth in the notice of sale, and taking into consideration any premium or discount bid. Unless all bids are rejected, the sale must be acted upon within four hours of the time the bids are opened.

(3) The issuer may reject any or all bids and readvertise the sale of revenue bonds in the manner required by chapter 642, Oregon Laws 1975. The issuer shall make public the reasons why any or all bids are rejected.

(4) The preliminary official statement required for revenue bonds by ORS 288.865 shall not be required for any issue for which a commit-

ment 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 the revenue 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. [1983 c 320 §§14, 15]

288.925 Form of revenue bonds. The revenue bonds issued under the authority of ORS 288.805 to 288.945 shall:

(1) Contain a statement that such bonds are payable solely out of pledged revenues of the public body and are not general obligations of the public body or a charge upon the tax revenues of the public body;

(2) Be in such denominations of $5,000 or multiples thereof, as the public body determines; and

(3) Be payable at the place designated by the public body. [1983 c.320 §16]

288.935 Other authority of municipality. The powers conveyed by ORS 288.805 to 288.945 are in addition to any other powers possessed by municipalities and shall not be deemed to limit such powers. [1983 c.320 §17]

288.945 Short title. ORS 288.805 to 288.945 may be cited as the Uniform Revenue Bond Act. [1983 c.320 §18]

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

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

CHAPTERS 289 AND 290
[Reserved for expansion]