Chapter 287

1989 EDITION

Borrowing and Bonds of Local Governments

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BORROWING AND BONDS OF COUNTIES, CITIES AND DISTRICTS GENERALLY

287.001 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Bonds" means general obligation bonds.

(2) "Municipality" means this state's political subdivisions and municipal, quasi-municipal and public corporations authorized by law to issue bonds. [1983 c.347 §7]

287.002 [Amended by 1963 c.526 §1; 1965 c 265 §1, 1969 c 341 §2; 1973 c.488 §6; repealed by 1975 c.642 §8 (287 014 to 287.026 enacted in lieu of 287 002)]

287.003 Authority of cities to issue authorized obligations; "authorized obligations" defined. (1) Notwithstanding any other provision of law, including the city charter, a city with a population of 85,000 or more according to the most recent federal decennial census may:

(a) Issue authorized obligations, the interest on which is taxable under the income tax laws of the United States, if such obligations are nonqualified private purpose obligations as defined by the federal Internal Revenue Code of 1986 or if the governing body of the city expressly authorizes issuance on a taxable basis of obligations which are not nonqualified private purpose obligations.

(b) Issue and sell authorized taxable obligations in foreign markets, provided that such obligations shall not be payable in whole or in part in any foreign currency unless the issuer has made prior provision, through forward contracts or otherwise, to establish a complete hedge against foreign currency risk with respect to payment of principal, interest and redemption premium, if any, on such obligations.

(c) Enter into agreements to pay authorized obligations at any place outside the United States through any agent selected by the city, to pay authorized obligations in United States currency and to otherwise conform the terms of any authorized obligation to any established foreign market in which the authorized obligations will be traded.

(d) Enter into agreements to pay authorized obligations at any place within the United States through any agent selected by the city and to conform the terms of any authorized obligation to any established domestic market in which the authorized obligations will be traded.

(e) Negotiate the sale of authorized obligations described in paragraph (a) of this subsection and authorized obligations that are sold in foreign markets or are payable outside the United States.

(f) Enter into any contracts or agreements necessary or desirable to implement the powers granted by this section.

(2) For purposes of this section, "authorized obligations" means any bonds, notes, warrants or other obligations which a city is authorized to issue under any provision of law other than this section. [1987 c.827 §2; 1989 c.335 §1]

287.004 Limitation on amount of bonds issuable by cities. (1) Unless the city charter expressly provides to the contrary, the governing body of any city may, without a charter amendment, issue bonds upon approval of the electors of the city by a majority of those voting upon the question of issuance. Nothing in this section shall be deemed to require such approval if not required by the charter of the city or if not required by statute.

(2) Unless a lesser limitation upon the issuance of bonds has otherwise been provided by law or charter, no city shall issue or have outstanding at any one time bonds in excess of three percent of the true cash value of all taxable property within its boundaries, computed in accordance with ORS 308.207, after deducting from outstanding bonds such cash funds and sinking funds as are applicable to the payment of the principal thereof.

(3) Where a lesser limitation upon the issuance of bonds is provided by law or charter, that limitation applies.

(4) The limitations on amounts of this section do not apply to bonds issued for water, sanitary or storm sewers, sewage disposal plants, hospitals, infirmaries, gas, power or lighting purposes, or the acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facility, nor to bonds issued pursuant to applications to pay assessments for improvements in instalments under statutory or charter authority.

(5) This section does not affect the right of any city to issue bonds heretofore legally voted and authorized nor the right to refund bonds now outstanding to the extent that sinking funds shall not be available at maturity to retire such bonds. [Amended by 1959 c.653 §11; 1963 c.9 §13; 1965 c.282 §1; 1973 c.65 §1]

287.006 Tax levy to pay interest and principal on bonds of cities; bond sinking or debt service fund. (1) Each city and town shall annually cause to be levied upon the taxable property within its boundaries a sum sufficient, with such other revenues as are available, to pay the maturing interest and principal of all general obligation bonds

and to provide a sinking or debt service fund to pay the interest and principal of all other bonds issued after June 3, 1929, by such city or town at or before the maturity date or dates thereof. If any such other bonds are not callable or subject to retirement by purchase or otherwise before the ultimate maturity dates specified in such bonds, the surplus of the sinking or debt service fund over and above current requirements to pay interest and principal shall be invested in the classes of securities specified in ORS 294.035 and 294.040.

(2) The earnings of the sinking or debt service fund shall be added to and become a part thereof for the purpose of paying interest and principal of the bonds for which the fund was created.

(3) The fund shall not be diverted or used for any other purpose; but if a surplus remains after all interest and principal of a given issue have been paid, the surplus may be transferred to such other fund as the governing body of the particular city may designate. However, funds of municipal utilities shall not be diverted or transferred to other funds.

(4) Annual sinking or debt service fund instalments to pay the principal of municipal utility bonds issued after June 3, 1929, to defray costs of construction, extension and betterments may be deferred, if necessary, for a period not to exceed five years from the issuing date or dates of such bonds.

(5) This section does not apply to or affect bonds issued pursuant to applications to pay assessments for improvements in instalments under statutory or charter authority. [Amended by 1983 c 347 §8]

287.008 Issuance of bonds of municipalities. All bonds issued by municipalities shall be issued in accordance with the provisions of ORS 288.515 to 288.560. [Amended by 1967 c.408 §1; 1969 c.25 §2; 1971 c.325 §2; 1975 c 642 §17; 1981 c 526 §1; 1983 c.347 §9]

287.010 Appraised value of timber used in determining borrowing and bonding capacities of eastern Oregon counties, cities and districts. Notwithstanding any provision of ORS 321.405 to 321.520, timber in eastern Oregon shall be considered as though it remained on the tax rolls at the appraised values established pursuant to ORS 321.485 (3) for the purpose of determining the borrowing and bonding capacities of counties, cities and taxing districts in eastern Oregon. [1961 c 627 §27]

287.012 Use and disposition of bond proceeds. (1) Notwithstanding any other provision of law, when bonds, obligations or other evidence of indebtedness issued by any district, authority or public corporation after August 9, 1961, are sold the proceeds may be used to pay attorneys' fees and other expenses incurred in the preparation, authorization, issuance and sale of, and in all proceedings relating to, such bonds, obligations or other evidence of indebtedness.

(2) When bonds are sold, the proceeds received in excess of the principal shall be placed with the principal in the improvement fund for which the bonds were issued or in a debt service fund to repay the bond. [1961 c.70 §1; 1971 c 515 §1]

287.014 Definitions for ORS 287.014 to 287.026. As used in ORS 287.014 to 287.026, unless the context requires otherwise:

(1) "Bond" means a general obligation note or a bond supported by the full faith and credit of the issuer.

(2) "Issuer" includes the state, cities, counties, common and union high school districts, community college districts, special districts, authorities, and other municipal corporations authorized by law to issue general obligation bonds. [1975 c.642 §9 (enacted in lieu of 287.002)]

287.016 Manner of issuance. Bonds of any issuer shall be issued in the manner provided in ORS 287.014 to 287.026. [1975 c.642 §10 (enacted in lieu of 287 002)]

287.018 Preliminary official statement required for general obligation issues. For general obligation issues:

(1) The issuer shall prepare and make available upon request 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) A brief description of the financial administration and organization of the issuer;

(c) A brief description of the economic and social characteristics of the issuer which will permit bidders and investors to appraise the issuer's ability to assume and service adequately the debt obligation; and

(d) Any other information the issuer may provide or which the Oregon Municipal Debt Advisory Commission may require by rule of any issuer other than the state.

(2) The preliminary official statement described in subsection (1) of this section shall be available not later than 14 calendar days preceding the bond sale.

(3) The preliminary official statement shall contain the best available information which shall be accurate to the best knowledge of the issuer. However, any errors or omissions in the preliminary official state-

ment shall not affect the validity of the bond issue.

(4) The statement required by this section of state agencies shall be submitted to the State Treasurer for approval. If not approved, the State Treasurer shall note the revision required. The issuer shall make the noted revisions. [1975 c.642 §11 (enacted in lieu of 287.002); 1977 c 266 §6; 1981 c.660 §12; 1983 c.347 §10]

287.020 Assistance by Oregon Municipal Debt Advisory Commission; expenses. (1) The issuer may request the Oregon Municipal Debt Advisory Commission to prepare the preliminary official statement described in ORS 287.018 and shall provide the commission with the information required by ORS 287.018.

(2) The issuer may request the Oregon Municipal Debt Advisory Commission to prepare the notice of bond sale required by ORS 287.022 and 287.024. However, the responsibility for publication, advertising and distribution of the notice of bond sale shall remain with the issuer.

(3) The commission may charge the issuer a fee commensurate with expenses incurred in the preparation, publication and distribution of a preliminary official statement or notice of bond sale prepared pursuant to subsection (1) or (2) of this section. [1975 c 642 §12 (enacted in lieu of 287.002); 1977 c.266 §7]

287.022 Requirements for notice of bond sale; bids required. (1) The issuer shall prepare a notice of bond sale which shall specify:

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

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

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

(d) The maximum effective rate of interest and the minimum percentage of par value of the 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 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 bond bids are to be awarded; and

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

(2) The notice of sale may contain:

(a) The name of the person who will furnish financial data;

(b) Coupon rate multiples;

(c) Registration provision, if any;

(d) Bid forms availability;

(e) Estimated delivery date and place;

(f) Procedure for awarding tie bids;

(g) Such other conditions as the issuer may impose;

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

(i) The purpose of the bonds.

(3) Bids submitted must be for all 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 bonds. [1975 c.642 §13 (enacted in lieu of 287.002); 1981 c.94 §18]

287.024 Notice; publication. Except for the state:

(1) The issuer shall cause the notice of bond sale, or a summary thereof, to be published in one or more newspapers having general circulation within the boundaries of the issuer.

(2) The notice of bond sale, or the summary, shall be published not less than 14 calendar days preceding the date of the bond sale.

(3) 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 less than 14 calendar days preceding the date of bond sale. If a summary is published under this subsection, it must specify the location where the complete notice of sale is available.

(4) 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 14 calendar days preceding the date of bond sale.

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

(6) If circumstances warrant, the State Treasurer may on an individual sale basis approve other terms and conditions for the public notice of bond sale in lieu of or in addition to those specified in subsections (1) to (4) of this section. [1975 c.642 §14 (enacted in lieu of 287.002); 1981 c.661 §7; 1983 c.347 §11]

287.026 Bids as public record; to whom sale made; time of sale; rejection of bids. (1) All bonds shall be awarded by public competitive sale on the basis described in the notice of sale. All bids must be entered into the public record of the issuer.

(2) All bids shall be publicly opened at the time and place specified in the notice of sale. The bonds shall be sold to the responsible bidder whose bid will result in the lowest interest cost to the issuer, 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 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 issuer need not calculate the total amount of the sale prior to awarding the sale to any bidder if the issuer is able to determine the lowest responsible bid based on interest cost, discount and premium aspects of the submitted bids. [1975 c.642 §15 (enacted in lieu of 287.002); 1987 c.840 §1]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "chapter 642, Oregon Laws 1975" in 287.026. Chapter 642, Oregon Laws 1975, enacted into law and amended the ORS sections which may be found by referring to the Comparative Section Table located in volume 15 of Oregon Revised Statutes.

287.028 Negotiated sale; application of ORS 287.014 to 287.026. (1) Notwithstanding any other provision of law, a municipality may negotiate the sale of its general obligation or revenue bonds or other obligations with the Federal Government or the State of Oregon or any corporation, department or agency thereof, when such sale has been authorized by the governing body of the municipality. A municipality may borrow from the agency by furnishing thereto one or more bonds or other obligations in such form and on such terms as may be agreed upon between the governing body of the municipality and the agency.

(2) With the approval of the lending agency, bonds issued by a municipality pursuant to subsection (1) of this section may be refunded at any time after issuance through the sale of lawfully authorized refunding bonds bearing interest at a net rate not exceeding that of the bonds refunded.

(3) ORS 287.014 to 287.026 do not apply to bonds issued under ORS 225.490 unless such bonds are publicly sold; nor to bonds issued under ORS 287.102 to 287.146; nor to bonds issued and sold directly to the Federal Government or to the State of Oregon or to any corporation, department or agency thereof. [1975 c.642 §16; 1983 c.347 §31]

287.029 Citizens bonds authorized; requirements for issuance. (1) Notwithstanding any other provision of law, whenever a city is authorized to issue and sell general obligation bonds of the city, it may issue and sell all or any portion of the bonds in denominations of less than $5,000, either by competitive public sale or directly to members of the public at preestablished interest rates.

(2) Bonds issued and sold directly to members of the public are to be referred to as citizens bonds and may only be issued and sold in compliance with rules adopted by the Oregon Municipal Debt Advisory Commission. These rules shall reserve to the State Treasurer the right to review and approve any or all issues of citizens bonds and may impose requirements, as the commission considers necessary, to protect adequately both the issuing body and the purchasers of the bonds.

(3) Proceeds from the sale of citizens bonds may be used to finance any capital project that is not in conflict with the city's comprehensive plan.

(4) Prior to selling an issue of citizens bonds, the city shall make available to interested investors:

(a) The preliminary official statement required under ORS 287.018, a legal opinion from a recognized bond counsel and a comparison to taxable yields at various income levels.

(b) Application forms for the purchase of citizens bonds which shall specify, as a minimum:

(A) The time, date and place where applications will be received, the manner in which applications will be processed and conditions under which the sale may be canceled if the issue is not fully subscribed during the application period.

(B) The issue date, maturity dates and the dates on which interest will be earned and paid.

(C) The denominations of the bonds.

(D) The approximate yield on the bonds if held to maturity and the manner in which interest rates have been calculated.

(E) The provision made for the transfer of ownership of outstanding bonds.

(c) Any other information which the State Treasurer may require or the Oregon Municipal Debt Advisory Commission may by rule prescribe. [1981 c.434 §§2, 3]

Note: 287.029 (4) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 287 or any series therein by legis-

lative action. See Preface to Oregon Revised Statutes for further explanation.

287.030 Oregon Municipal Debt Advisory Commission; creation; term; compensation. (1) There is created the Oregon Municipal Debt Advisory Commission consisting of seven members, selected as follows:

(a) The State Treasurer or designate.

(b) Three local government finance officers, appointed by the Governor, one each among persons recommended by the Association of Oregon Counties, the League of Oregon Cities, the Oregon School Boards Association and one representative of special districts appointed by the Governor.

(c) Two public members not represented in the other categories of appointment, appointed by the Governor.

(2) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the Governor. Before the expiration of the term of an appointed member, the Governor shall appoint a successor to assume the duties of the member on July 1, next following. A member is eligible for reappointment for not to exceed one additional term. In case of a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term.

(3) The Governor shall designate one of the appointed members as chairman to serve a term of one year, subject to reappointment.

(4) Appointed members of the commission shall be entitled to compensation and expenses as provided in ORS 292.495. [1975 c.740 §1; 1979 c.195 §2]

287.032 Meetings; quorum; personnel. (1) The advisory commission shall meet on the call of the chairman, or at the request of a majority of the members, or at the request of the State Treasurer, or at the request of the Governor.

(2) A majority of all members of the advisory commission constitutes a quorum for the transaction of business.

(3) All administrative and clerical assistance required by the advisory commission shall be furnished by the office of the State Treasurer. [1975 c.740 §§6, 7; 1977 c.266 §8]

287.033 Definitions for ORS 287.034 and 287.038. As used in ORS 287.034 and 287.038, "bonds" and "bonded obligations" include revenue and general obligation bonds. [1977 c.266 §4]

287.034 Powers of commission; rules. The advisory commission may:

(1) Provide assistance and consultation, upon request of the state or of local government units, to assist them in the planning, preparation, marketing and sale of new bond issues to reduce the cost of the issuance to the issuer and to assist in protecting the issuer's credit.

(2) Collect, maintain and provide financial, economic and social data on local government units pertinent to their ability to assume and service bonded obligations.

(3) Collect, maintain and provide information on bonds sold and outstanding and serve as a clearinghouse for all local bond issues.

(4) Maintain contact with municipal bond underwriters, credit rating agencies, investors and others to improve the market for local government bond issues.

(5) Prepare, advertise and distribute, upon request of issuers, preliminary official statements required by ORS 287.018 and notices of bond sales required by ORS 287.022 and 287.024.

(6) Undertake or commission studies on methods to reduce the costs of state and local issues.

(7) Recommend changes in state law and local practices to improve the sale and servicing of local bonds.

(8) Perform any other function required or authorized by law.

(9) Pursuant to ORS 183.310 to 183.550 adopt rules necessary to carry out its duties. [1975 c.740 §2; 1977 c.266 §9]

287.036 Fees. In providing services to local government units under ORS 287.034 (5), the advisory commission may charge fees commensurate with its direct expenses incurred in providing the service. Amounts received under this section shall be deposited in the General Fund for the State Treasurer, and such moneys are continuously appropriated for payment of expenses incurred by the office of the State Treasurer in providing such services. [1975 c.740 §4; 1981 c.582 §3]

287.038 Newsletter; annual report. The advisory commission shall publish:

(1) A regular newsletter describing proposed new bond issues, new bond sales, refundings, credit rating changes and other pertinent information to issuers, underwriters, investors and the public as such information relates to municipal bonds.

(2) An annual report describing and evaluating the operations of the advisory commission during the preceding year. [1975 c 740 §5; 1977 c 266 §10]

287.040 Notice to commission of proposed issues. (1) After December 31, 1981, the Oregon Municipal Debt Advisory Commission shall require prior notice of proposed issuance of new bonds by a public body to be

made to the advisory commission in such form and at such times as the advisory commission specifies.

(2) As used in this section:

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

(b) "Public body" means the governing body or authorized board, commission or person representing any political subdivision or municipal, quasi-municipal or public corporation in this state authorized by law to issue bonds. [1977 c 266 §2; 1981 c 94 §19; 1981 c.661 §8]

287.042 Verification of commission's information by local government. To assist the Oregon Municipal Debt Advisory Commission in carrying out its duties, the finance officer of each local government unit authorized by law to issue bonds at least once every biennium, at dates established by the commission, shall verify with the commission the commission's information on the unit's bonded obligations. [1977 c.266 §3; 1981 c.526 §2]

287.045 Preliminary official statement; status of statement; nonliability of commission. In preparing a preliminary official statement under ORS 287.018, the commission shall use the most recent and accurate information which has been compiled and is available to it. In no event shall a preliminary official statement prepared by the commission be construed as a contract or agreement between this state and the purchasers or holders of the bonds issued with it. Neither this state, the commission or its staff may be held liable, in the absence of actual fraud, for damages in any civil action or suit concerning the preparation and release of a preliminary official statement under ORS 287.018 and this section. [1977 c 266 §5]

287.047 Notes, warrants, tax exempt paper or other obligations of cities. (1) A city may borrow money by issuing notes, warrants, commercial paper or other obligations:

(a) In anticipation of taxes or other revenues;

(b) To provide interim financing for capital projects to be undertaken by the city; or

(c) To refund obligations authorized under this section.

(2) To secure obligations authorized under this section a city may:

(a) Pledge its anticipated taxes, other revenues, the proceeds of any bonds or other permanent financing, or any combination thereof;

(b) Segregate any pledged funds in separate accounts which may be held by the city or third parties;

(c) Enter into contracts with third parties to obtain standby lines of credit or other financial commitments designated to provide additional security for obligations authorized by this section;

(d) Establish any reserves deemed necessary by the city for the payment of the obligations; and

(e) Adopt resolutions containing covenants and provisions for protection and security of the holders of obligations, which shall constitute enforceable contracts with such holders.

(3) Obligations authorized by this section which are issued in anticipation of taxes or other revenues, and any obligations authorized by this section which are issued to refund them, shall not be issued prior to, and shall mature not later than, the end of the fiscal year in which the taxes or other revenues are expected to be received. Obligations issued in anticipation of taxes or other revenues shall not be issued in an amount greater than 80 percent of the amount budgeted to be received by the city in the fiscal year in which the obligations are issued.

(4) Obligations authorized by this section which are issued to provide interim financing for capital projects, and any obligations issued to refund them, shall mature not later than one year after the estimated completion date of the capital projects financed with the obligations.

(5) Except as this section otherwise specifically provides, obligations authorized by this section may be in any form and contain any terms, including provisions for redemption at the option of the holder and provisions for the varying of interest rates in accordance with any index, bankers' loan rate or other standard.

(6) The city may contract with third parties to serve as issuing, paying and authenticating agents for any obligations authorized by this section.

(7) Obligations authorized by this section may be sold at public or private sale upon such terms as the city finds advantageous, with such disclosure as the city deems appropriate. ORS 287.014 to 287.026 do not apply to obligations authorized by this section. ORS 287.040 does apply to obligations authorized under this section. [1983 c.495 §1; 1987 c.462 §1]

Note: 287.047 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 287 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

287.049 City of 85,000 or more authorized to enter into credit agreements and to issue limited general obligation bonds. (1) Notwithstanding any other provision of law, including any debt limitation contained in a statute or city charter, a city with a population of 85,000 or more according to the most recent federal decennial census may:

(a) Enter into credit agreements in amounts not greater than the maximum estimated insurable liabilities or incurred losses of the city during the period of time the credit agreement is outstanding.

(b) After it has sustained incurred losses, issue limited general obligation bonds in amounts not greater than incurred losses plus costs of issuing the bonds.

(2) A city meeting the requirements of subsection (1) of this section, through its governing body and after public hearings held after due notice, shall adopt a policy setting forth the conditions for the use of the credit agreement and the limited general obligation bonds, prior to using these financial instruments as set forth in this section. The conditions set forth in the policy shall include, but are not limited to, an analysis and annual review of the city's exposure to catastrophic loss, its ability to fund large losses, and the availability, pricing and coverage of commercial insurance.

(3) For purposes of this section:

(a) "Credit agreement" means a letter of credit, line of credit or similar agreement in which a financial institution agrees to pay all or a portion of the incurred losses or insurable liabilities of a city, and the city agrees to repay the amounts paid by the financial institution over time, with or without interest.

(b) "Incurred loss" means an operational loss after the event has occurred.

(c) "Insurable liabilities" means any claim or judgment against the city for personal injury, property damage or tortious conduct.

(d) "Limited general obligation bonds" means bonds payable from all or any portion of the unobligated funds of a city and taxes within the limitation of section 11, Article XI of the Oregon Constitution.

(e) "Operational loss" means an unforeseen act or event which causes personal injury or property damage. [1987 c.434 §2]

COUNTY BONDS

287.052 Definitions for ORS 287.052 to 287.074. As used in ORS 287.052 to 287.074:

(1) "Governing body" means the county court or other legislative body of a county.

(2) "Bonds" means general obligation bonds issued pursuant to ORS 287.052 to 287.074. [1957 c.721 §1; 1983 c.347 §12]

287.054 County's power to contract bonded indebtedness; limit. (1) For the purpose of carrying into effect all or any of the powers granted by law to counties, the governing body of a county, when authorized by the electors at any general election or special election called for that purpose pursuant to ORS 287.052 to 287.074 and within the limitations set forth in ORS 287.052 to 287.074, may borrow money and issue and sell general obligation bonds of the county.

(2) The aggregate amount of general obligation bonded indebtedness of counties shall not at any time exceed two percent of the true cash value of all taxable property in the county, computed in accordance with ORS 308.207. [1957 c.721 §2; 1963 c.9 §14; 1983 c.347 §13]

287.055 Hearing; notice. (1) When the governing body of a county decides to submit the question of issuing bonds to the electors at an election, it shall conduct a public hearing on the proposed bond issue. The hearing shall be held after a notice to the public published once each week for two successive weeks in at least one newspaper published in the county and of general circulation throughout the county. If there is no such newspaper, the notice shall be published in the newspaper or newspapers which in the judgment of the governing body will afford the best notice. The governing body shall designate the newspaper or newspapers in which the notice will be published.

(2) The notice shall set forth the date, hour and place of the hearing and the information required by ORS 287.056 (1). The notice shall state that all interested persons may attend and shall be given a reasonable opportunity to be heard. [1971 c.111 §2; 1981 c.173 §42; 1983 c.350 §134]

287.056 Election; notice; ballot title. (1) After the public hearing required by ORS 287.055, if the governing body decides to proceed with the proposal it shall submit the question of issuing and selling bonds at an election on a date specified in ORS 203.085. The order calling the election shall set forth:

(a) The use to which the proceeds of the bonds are to be put.

(b) That the bonds shall be general obligation bonds of the county.

(c) The amount of bonds proposed to be issued.

(d) The length of time, not to exceed 30 years, during which the bonds shall mature.

(2) The governing body shall file with the county clerk a notice of an election called under this section not later than:

(a) The 61st day before an election held on the fourth Tuesday in March, the third Tuesday in May or the first Tuesday after the first Monday in November;

(b) The 43rd day before an election held on the second Tuesday in August; or

(c) The 34th day before any other election.

(3) The statement of the chief purpose of the measure in the ballot title shall include the information required in subsection (1) of this section. [1957 c.721 §3; 1971 c.111 §3; 1981 c.94 §20, 1981 c.173 §43, 1983 c.347 §14; 1983 c.350 §135, 1987 c.707 §22, 1989 c.923 §19]

287.058 Submission as separate questions. At any bond election under ORS 287.052 to 287.074, the governing body may submit to the electors as separate questions, the issuance of bonds for two or more purposes. [1957 c.721 §4]

287.060 [1957 c.721 §§5, 6; 1981 c.173 §44; repealed by 1983 c.350 §331a]

287.062 Election procedure. ORS chapters 246 to 260 govern the conduct of all elections called under ORS 287.052 to 287.074. [1957 c.721 §7; 1981 c.173 §45; 1983 c.350 §136]

287.064 Order if bond issue approved; effect. If at a general election or a special election called for that purpose a majority of the electors of the county voting upon the question vote in favor of issuing the bonds, the governing body shall enter an order in its journal declaring that fact. This order shall be conclusive as to the regularity of all proceedings in reference to the election. [1957 c.721 §8]

287.066 Issuance of bonds. All bonds issued under the authority of ORS 287.052 to 287.074 shall be issued in accordance with the provisions of ORS 288.515 to 288.560. [1957 c.721 §9; 1967 c.197 §1; 1983 c.347 §16]

287.068 [1957 c.721 §10; repealed by 1975 c.642 §18 (287.069 enacted in lieu of 287.068)]

287.069 Sale of bonds. All legally authorized and issued general obligation bonds or revenue bonds shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.026. [1975 c.642 §19 (enacted in lieu of 287.068)]

287.070 Use of proceeds of sale of bonds. The proceeds of the sale of the bonds shall be paid to the county treasurer and shall be placed in a special fund which shall be used only for the particular purpose or purposes for which the bond proceeds are to be used as specified in the order calling for an election upon the question of issuance of the bonds and for no other purpose. However, the proceeds from the sale of the bonds may be used for the payment of principal and interest of such bonds or for the redemption or purchase of these bonds. [1957 c.721 §11; 1983 c.347 §17]

287.072 Tax levy. The governing body shall ascertain and levy annually, in addition to all other taxes, a direct annual ad valorem tax on all the taxable property in the county sufficient to pay the interest accruing and the principal maturing on the bonds promptly when and as they become due. [1957 c.721 §12]

287.074 Refunding bonds. The governing body may, without authorization from the electors and pursuant to the provisions of ORS 287.202 to 287.220, issue refunding bonds for the purpose of refunding outstanding bonds issued under ORS 287.052 to 287.074. [1957 c.721 §13]

287.090 [1959 c.538 §§2, 3, 4; repealed by 1961 c.61 §1]

REFINANCING OF OBLIGATIONS OF LOCAL GOVERNMENTS

287.102 Definitions for ORS 287.102 to 287.138. As used in ORS 287.102 to 287.138:

(1) "Subdivision" means any municipal corporation or civil subdivision that is in default in the payment of the principal of or the interest on any of its bonds, the bonds of any issue of which, in whole or in part, are owned by the State of Oregon or were, on March 19, 1935, on deposit with the State Treasurer for exchange or refunding purposes.

(2) "Refinancing" includes compromising, adjusting, funding, refunding or rearranging of the indebtedness of any subdivision.

(3) "Indebtedness" means warrants, bonds, notes, utility certificates, revenue bonds, judgments and any other obligation of a subdivision payable in money. [Amended by 1959 c.157 §6, 1989 c.182 §3]

287.104 Application to State Treasurer to refinance; preliminary investigation. Upon application to the State Treasurer by a subdivision, pursuant to a duly adopted resolution thereof requesting that the State Treasurer act in an intermediary capacity between the subdivision and its creditors in refinancing the indebtedness of the subdivision, the State Treasurer, in the discretion of the State Treasurer and at the expense of the subdivision, shall make a preliminary investigation of the financial condition of the subdivision.

287.106 Preparing plan for refinancing; audit. If after making the preliminary investigation the State Treasurer determines that it will be to the mutual advantage of the subdivision of its creditors that the indebtedness of the subdivision be refinanced, the

State Treasurer shall prepare a plan therefor. In order to ascertain the exact financial condition of the subdivision, the State Treasurer may cause the finances of the subdivision to be audited at the expense of the subdivision for such period prior to the intervention of the State Treasurer as the State Treasurer deems advisable.

287.108 Contacting holders of obligations; preparing necessary proceedings. After the State Treasurer has devised the refinancing plan, the State Treasurer may contact the holders of the outstanding obligations of the subdivision and submit findings and recommendations to them. The State Treasurer, with the attorney for the subdivision, if any, shall prepare the necessary proceedings to accomplish the purposes of the plan.

287.110 Authorizing issue of refunding bonds to refinance bonds; accepting funds for deposit; interest rates and maturities of refunding bonds. (1) The State Treasurer, with the approval by resolution or ordinance of the governing body of the subdivision and with the further approval of the holders of not less than 80 percent of the par value of the outstanding bonds of the subdivision sought to be refinanced, or such higher percentage thereof as the State Treasurer fixes, may authorize the issuance by the governing body of the subdivision of refunding bonds to refinance the bonds of the subdivision, either matured or unmatured, or any issue of such bonds, and may accept for deposit with the State Treasurer in trust for the holders of the obligations of the subdivision any of the funds of the subdivision available for payment of the principal of or interest upon such obligations.

(2) The State Treasurer shall hold such funds in an open account, subject to the direction of the State Treasurer for:

(a) Payment by State Treasurer's check to the parties entitled thereto; or

(b) Investment by the State Treasurer, at the discretion of the State Treasurer, with the approval of the subdivision, in obligations of the subdivision or otherwise, for the benefit of the subdivision.

(3) The refunding bonds authorized pursuant to subsection (1) of this section shall have the interest rates and maturities, either straight or serial, with or without option of redemption prior to maturity date in numerical order, by lot, or otherwise, that the State Treasurer considers advisable and as shall be agreed upon between the State Treasurer, the subdivision and the holders of the bonds to be refunded. The refunding bonds may be issued by the subdivision without submitting the question of the refunding to a vote of the electors of the subdivision.

287.112 Authorizing issue of funding bonds to fund unbonded obligations. If the holders of 80 percent of the par value of the obligations proposed to be refinanced consent to the refinancing and with the approval of the electors and of the governing body of the subdivision, the State Treasurer may authorize the issuance of funding bonds of like character as the bonds referred to in ORS 287.110 to fund the outstanding notes, warrants and other like unbonded obligations of the subdivision or any issue, class or series thereof.

287.114 Funding judgments based on bonds or bond interest. With the approval of any judgment creditor holding a judgment founded upon bonds and bond interest, or either, the judgment and the interest thereon may be funded separately, or with other indebtedness, into bonds by ordinance without the approval of the electors of the subdivision owing the judgment or interest.

287.116 Funding judgments based on warrants or interest on warrants. (1) Any judgment against the subdivision with the accrued interest thereon predicated upon warrants of the subdivision and the interest thereon, or either, may be funded separately from other obligations with the approval of the electors and of the governing body of the subdivision and of the judgment creditor holding the judgment, without the necessity of obtaining approval or consent of any of the holders of other obligations of the subdivision.

(2) In the discretion of the State Treasurer, the judgment referred to in subsection (1) of this section, with the accrued interest thereon, may be funded concurrently with other obligations of the subdivision. If the judgment is funded concurrently, the amount of the judgment shall be included within the 80 percent referred to in ORS 287.112 of the par value of obligations intended to be refinanced.

287.118 Refinancing bonds, unbonded obligations and judgments in case of disaster. In the event of loss of 12-1/2 percent or more of the true cash value of all the taxable property of the subdivision through fire, flood, storm or other disaster, the State Treasurer, in the discretion thereof and with the consent of the subdivision, may refinance the outstanding bonds, warrants or other obligations of or judgments against the subdivision, or any class or kind of such bonds, warrants, other obligations or judgments severally, if the holders of 70 percent or more of the par value of the particular class of obligations intended to be refinanced consent

to the plan promulgated by the State Treasurer for the refinancing. [Amended by 1967 c 293 §29; 1981 c.804 §81]

287.120 General issue of refunding bonds to refinance bonds, unbonded obligations and judgments. With the approval of the holders of the bonds, warrants or judgments, or any of such obligations, to be refinanced, the refunding bonds may be issued in one general issue to replace all bonds, warrants and judgments embraced in the plan but the funding into bonds of warrants and the interest thereon and the judgments based upon warrants and the interest thereon constituting a part of the refunding issue shall first have been authorized by vote of the electors as prescribed in ORS 287.112 and 287.116.

287.122 Authorized contract provisions. With the approval of the State Treasurer, the subdivision may include in the ordinance or resolution authorizing refunding bonds, provisions constituting a part of the contract with the holders of the refunding bonds, for the:

(1) Creation of a trust fund or sinking fund for payment of the interest on the refunding bonds and the principal thereof.

(2) Pledging of receipts from taxes, municipal assessments and interest thereon, and other revenues directly to the fund for such purposes.

(3) Limiting or restricting of future borrowing or incurring of indebtedness by the subdivision.

(4) Limiting, subject to constitutional provisions, of appropriations in annual budgets for purposes other than the payment of the principal of and interest upon the refunding bonds.

(5) Adoption of such policies generally as, in the judgment of the State Treasurer, shall serve to improve the financial condition and credit status of the subdivision.

287.124 Bids and public notice not required for exchange of bonds. The refunding and funding bonds may be exchanged by the State Treasurer for the corresponding obligations of the subdivision refunded or funded thereby without soliciting bids for such refunding or funding bonds or giving other public notice of the exchange.

287.126 Refinancing under federal laws. (1) A subdivision, with the approval of the State Treasurer, may proceed under the provisions of any valid federal law providing for the compromising, adjusting, funding, refunding or refinancing of indebtedness of civil subdivisions of the various states if the State Treasurer fails to obtain the approval of:

(a) The holders of 80 percent of the par value of the bonds, notes, warrants, utility certificates, revenue bonds, judgments or other obligations of the subdivision sought to be funded or refinanced, excepting judgments refinanced separately as provided in ORS 287.114 and 287.116; or of

(b) The holders of 70 percent of the par value of the obligations of the subdivision sought to be refinanced in case of the loss of 12-1/2 percent or more of the true cash value of the subdivision through fire, flood, storm or other disaster, as provided in ORS 287.118.

(2) In proceeding under the federal law as authorized by subsection (1) of this section, it shall not be necessary for the subdivision or for the governing body of the subdivision to submit to the electors the question of authority to so proceed, nor for any city or town to enact charter powers to so proceed.

(3) Municipal corporations and civil subdivisions other than as defined in ORS 287.102 that are unable to meet their financial obligations shall have like authority to resort to the provisions of any valid federal law described in this section without proceeding under authority of ORS 287.102 to 287.138. [Amended by 1981 c.804 §82]

287.128 State Treasurer to approve budgets and annual tax levies of subdivision. For six years following the intervention on the part of the State Treasurer, the budgets and annual tax levies of the subdivision shall require approval by the State Treasurer before the levies are certified or forwarded to the clerk and assessor of the county in which the subdivision is located to be extended upon the tax rolls of the county.

287.130 Representing subdivision in litigation; compelling performance of ministerial duties. The State Treasurer shall have authority to:

(1) Represent the subdivision in any litigation involving the finances of the subdivision.

(2) Institute legal proceedings against any of the officers of the subdivision to compel them to perform any ministerial duties with which they are charged under any law, ordinance, resolution or charter provision of the subdivision.

287.132 Exemption from debt limitations. The debt limitations applying to the incurring of financial obligations and indebtedness of subdivisions shall not apply to any obligations refinanced or issued under authority of ORS 287.102 to 287.138.

287.134 Adoption of rules and regulations. The State Treasurer may adopt all necessary rules, orders and regulations which the State Treasurer deems advisable in order to perform efficiently the duties imposed upon the State Treasurer by ORS 287.102 to 287.138.

287.136 Place of deposit of obligations for exchange or refunding purposes; reimbursement of State Treasurer. The State Treasurer shall receive for safekeeping, and be liable for the safe custody of, all bonds and other obligations deposited with the State Treasurer for exchange or refunding purposes under authority of ORS 287.102 to 287.138; but any subdivision may have such bonds and other obligations deposited at the expense of the subdivision or of the holders of the bonds and other obligations, or at the expense of both such parties, with a bank or trust company approved by the State Treasurer. The State Treasurer shall be reimbursed for the actual costs and expenses incurred in connection with the duties of the State Treasurer as custodian. [Amended by 1959 c.157 §7]

287.138 Expenses of State Treasurer; clerical assistance; office expenses; reimbursement for and payment of expenses. (1) The State Treasurer shall serve under ORS 287.102 to 287.138 without compensation except such as is provided by law for the performance of the official duties as State Treasurer; but the State Treasurer and assistants shall be entitled to reimbursement for expenses in attending meetings of the governing bodies of civil subdivisions which have applied to the State Treasurer for intervention or for making investigations or studies of the finances of the subdivisions.

(2) The State Treasurer may employ such clerical help and assistance and incur such office expenses as are necessary in performing the duties prescribed in ORS 287.102 to 287.138.

(3) All expenses incurred by the State Treasurer in connection with refinancing indebtedness of a subdivision under authority of ORS 287.102 to 287.138 shall be borne by the subdivision, or by the depositors of the bonds or other obligations, or by its judgment creditors, or by both the subdivision and the depositors or creditors, and shall be paid in cash to the State Treasurer to be credited to the General Fund. [Amended by 1959 c.157 §8]

287.140 Cooperation by State Treasurer with subdivisions in refinancing or refunding indebtedness; recommendations. Upon the request of any civil subdivision, the State Treasurer, in the discretion thereof, may cooperate with the subdivision in refinancing or refunding the indebtedness of the subdivision. The State Treasurer may make recommendations to such subdivisions as to investments of their sinking funds and as to the refunding of their indebtedness for the purpose of enabling them to liquidate their obligations over a period of time and of reducing their tax levies. [Amended by 1989 c.182 §4]

287.142 Deposit of defaulted bonds with State Treasurer; exchange of refunding bonds; expenses of exchange. (1) The State Treasurer may:

(a) Accept deposits of defaulted bonds of municipal corporations in Oregon.

(b) Exchange for such bonds with the respective bondholders, refunding bonds of such municipal corporations to be delivered pursuant to agreements made with the respective bondholders.

(2) All postage, insurance, safekeeping and clerical expense incurred by the State Treasurer in the exchange of such bonds shall be borne by the holders of such bonds and by the municipal corporation whose bonds are to be exchanged. [Amended by 1989 c 182 §5]

287.144 State Treasurer may act as intermediary and assist in funding and refunding of bonds. The State Treasurer may:

(1) Act as intermediary between the municipal corporations referred to in ORS 287.142 and the holders of their bonds.

(2) Effect compromises or adjustments between such corporations and the holders of their bonds.

(3) Assist such municipal corporations in the funding or refunding of their matured bonded obligations.

287.146 Omission of certain prior statutes concerning funding and refunding of city and school district obligations not intended as repeal. The omission from the Oregon Revised Statutes of O.C.L.A. 97-201 to 97-207 is not intended as a repeal of the omitted statutes in so far as they apply to funding and refunding bonds issued pursuant thereto.

COUNTY REFUNDING BONDS

287.202 Definitions for ORS 287.202 to 287.220. As used in ORS 287.202 to 287.220, "court or board" means the county court or the board of county commissioners.

287.204 County authorized to issue and sell or exchange refunding bonds. The court or board in any county may issue and sell or exchange county refunding bonds for the purpose of paying, redeeming or retiring

any or all outstanding lawfully issued bonds of such county when:

(1) The bonds have matured but have not been paid and canceled; or

(2) The bonds are about to mature and become payable; or

(3) The bonds are redeemable at the option of the county; or

(4) The holders of all or any part of any issue of the bonds of the county are willing to surrender such bonds in exchange for refunding bonds, whether or not the bonds to be surrendered have matured or are about to mature or become payable.

287.206 Notice of intended redemption. Notice of intended redemption of callable or optional bonds prior to the redeeming and the refunding thereof under authority of ORS 287.204 shall be given in the manner specified in the bonds. If no express provision has been made in the bonds concerning the manner of giving such notice, the county treasurer shall give notice thereof by publication in a newspaper printed and published within the county at least 30 days prior to the interest date upon which the bonds are to be redeemed.

287.208 Limitation on amount of bonds issued. Refunding bonds issued under authority of ORS 287.204 shall not exceed in the aggregate the par amount of the bonds to be paid, redeemed or replaced thereby, after deducting sinking funds or other funds applicable to the payment of the principal thereof. If the deduction of the sinking fund produces an uneven sum which, if offset exactly by refunding bonds, would necessitate the issuance of odd bonds in denominations of less than $100, the total issue of the refunding bonds shall be in such next larger sum as will permit issuance of bonds in denominations of $100 each or multiples thereof exactly and the balance thereupon remaining in the sinking fund shall be transferred to the sinking fund for the refunding issue.

287.210 Designation, class and character of bonds; charge on revenues. The bonds issued under authority of ORS 287.204 shall be designated refunding bonds and shall be of the same class and character as the bonds refunded thereby and shall constitute a charge upon the same kinds of revenues or funds as were applicable to the payment of the principal of and the interest on the bonds so refunded.

287.212 Providing funds to pay interest and instalments of principal. The court or board shall levy an annual tax or provide for setting aside annually other funds with which to pay the interest and to meet the serial instalments of the principal of the refunding bonds as they become due and payable.

287.214 Calling refunding bonds with optional dates. The court or board may call refunding bonds issued with optional dates under the authority of ORS 287.218 either for the purpose of retiring the bonds or of redeeming them with new serial refunding bonds of the class and character authorized by ORS 287.202 to 287.220, which refunding bonds shall bear interest at a rate not to exceed the rate paid on the bonds to be refunded.

287.216 Limitation of bonded indebtedness. The refunding bonds issued pursuant to ORS 287.202 to 287.220 shall not be considered to be within any limitation of bonded indebtedness imposed by law or by the Constitution of this state until:

(1) The refunding bonds have been exchanged for the bonds they were issued to refund; or

(2) The proceeds of sale of the refunding bonds have been applied in payment of the refunded bonds.

287.218 Form of bonds; maturities; option to call; interest rate; instalment payments. (1) All refunding bonds issued by a county pursuant to ORS 287.202 to 287.220 shall be in serial form with definite maturity dates and shall mature in annual or semiannual instalments, but may be issued with the option to call or redeem the bonds in numerical order on a prior date or dates, pursuant to publication of notice in one issue of a newspaper printed and published in such county.

(2) The refunding bonds shall bear interest at a rate determined by the governing body of the county, payable semiannually. The first instalment of principal of each issue of the bonds shall become due and payable not later than two years, and the last instalment thereof not later than 20 years, from the date of issue of the bonds. The instalments or principal of the bonds shall either be equal or substantially equal in amount, or the combined instalments of principal and interest due in any year shall be, as nearly as practicable, in such sums as will permit of a substantially uniform annual tax levy for the retirement of the principal of and the payment of the interest on the bonds as they respectively become due. [Amended by 1981 c.94 §21]

287.220 Sale or exchange of bonds. (1) The bonds issued under ORS 287.202 to 287.220 shall be advertised and sold in the manner prescribed in ORS 287.014 to 287.026.

(2) If no bids for the bonds are received or the bids therefor are unsatisfactory, the court or board may exchange the refunding bonds for the outstanding bonds, pursuant to agreements entered into by the court or board and the holders of the outstanding bonds. The refunding bonds shall bear interest at a rate determined by the court or board and mature serially, as provided in ORS 287.218, on such dates as shall be agreed upon between the court or board and the holders of the bonds to be refunded. [Amended by 1975 c.642 §20; 1981 c 94 §22]

CITY REFUNDING BONDS

287.252 Cities authorized to issue and sell or exchange refunding bonds; limitation on amount; soliciting bids. (1) The governing body of any incorporated city may issue and sell or exchange refunding bonds for the purpose of paying, redeeming or retiring any or all outstanding lawfully issued bonds of such city, including bonds issued pursuant to applications to pay assessments in instalments, when:

(a) The bonds have matured but have not been paid or canceled; or

(b) The bonds are about to mature and become payable; or

(c) The bonds are redeemable at the option of the city; or

(d) The holders of all or any part of any issue of bonds of the city are willing to surrender such bonds, whether or not the bonds to be surrendered have matured or are about to mature or become payable.

(2) Refunding bonds issued under authority of subsection (1) of this section shall not exceed in the aggregate the par amount of the bonds to be called, paid, redeemed or replaced, less the amount in the sinking fund, if any, applicable thereto.

(3) Refunding bonds shall not be exchanged for outstanding bonds under authority of subsection (1) of this section until bids for the refunding bonds have been solicited in the manner prescribed by ORS 287.014 to 287.026.

287.254 Notice of intended redemption. Notice of intended redemption of callable or optional bonds prior to the redeeming and the refunding thereof under authority of ORS 287.252 shall be given in the manner specified in the bonds or in the law, ordinance or charter provision under authority of which such bonds were issued. If no express provision has been so made as to the manner of giving notice of such intended redemption, notice thereof shall be given at least 30 days prior to the date of redemption of the bonds in one issue of a newspaper printed and published in the county in which the issuing city is located.

287.256 Form and maturities of bonds; redemption prior to maturity; interest; payment of instalments of principal and interest; issuing long-term bonds; debt limitations not applicable. (1) Subject to subsections (4) and (5) of this section, each issue of refunding bonds issued under authority of ORS 287.252 shall be in serial form with definite maturities and shall mature in annual or semiannual instalments, but may be issued with the option to call or redeem the bonds in numerical order on a prior date or dates indicated therein, pursuant to publication of notice at least 30 days prior to such redemption date, in one issue of a newspaper printed and published in the county in which the issuing city or the greater portion of the assessed valuation thereof is located.

(2) The refunding bonds interest rate shall be determined by the governing body of the city, payable semiannually.

(3) Subject to subsection (5) of this section, the first instalment of principal shall become due and payable not later than five years, and the last instalment thereof not later than 20 years, from the date of issue of the bonds. The instalments of principal shall either be equal or substantially equal in amount, or the combined instalments of principal and interest due in any year shall be as nearly as practicable in such sums as will permit of an equal annual tax levy for retirement of the principal of and payment of the interest on the bonds.

(4) The governing body of any incorporated city having a population in excess of 100,000 may, at its election, issue the refunding bonds with definite or straight maturities, not exceeding 20 years, but callable on or after three years from the date of the issuance thereof, if the governing body so elects.

(5) With written approval of the State Treasurer, cities in default in payment of either principal of or interest on their bonds, or both, and cities having bonded and warrant indebtedness exceeding 6 1/4 percent of the true cash value of their taxable property, may issue long-term refunding bonds with maturities, either serial or straight, not exceeding 40 years, without deduction of sinking funds applicable to the bonds to be refunded, if the holders thereof so agree. The refunding bonds, the issuance of which is so approved, may contain optional dates of redemption if the governing body of the city so elects.

(6) The debt limitations imposed by law or charter shall not affect the right of any city to issue refunding bonds pursuant to

ORS 287.252. [Amended by 1967 c.293 §30; 1981 c.94 §23]

287.258 Class and character of bonds; charge on assets. Refunding bonds issued under authority of ORS 287.252 shall be of the same class and character as the bonds refunded thereby and shall constitute a charge upon the same character of revenues, assessments, liens or other assets that were applicable to the payment of the bonds so refunded.

287.260 Bonds to be issued pursuant to ordinance; providing annual tax levy or other revenues. All bonds issued by any city under authority of ORS 287.252 shall be issued pursuant to an ordinance duly adopted by the governing body of the city. The ordinance shall be adopted and take effect in the same manner as other ordinances of the city take effect. The ordinance shall set forth the date, purpose of issue, interest rate, maturity date or dates, and the amount of the bonds to be refunded after application of such sinking or other funds to the payment thereof as appertain thereto. The ordinance shall also set forth the date, interest rate, and the maturity dates of the refunding issue, and shall provide for an annual tax levy or other revenues with which to pay the interest on and the principal of the refunding bonds as they become due and payable.

287.262 Application of statute to utility certificates. The word "bonds" as used in ORS 287.252 to 287.264 includes utility certificates. Such certificates may be refunded in the like manner as bonds are refunded under authority of ORS 287.252, except that the ordinance providing for refunding utility certificates need not provide for an annual tax levy to pay the interest on and the principal of such certificates.

287.264 Charter provisions or vote not required; rules and regulations. The power granted by ORS 287.252 to 287.264 is self-operating in each incorporated city without the further necessity of enacting charter provisions incorporating the terms of ORS 287.252 to 287.264 or of submitting the question of refunding at an election of the electors of the city. Each incorporated city shall have authority, by and through its council, to provide by ordinance such rules and regulations as may be needed for carrying out the terms of ORS 287.252 to 287.264.

REFINANCING OF MUNICIPAL REVENUE PRODUCING ENTERPRISES; REVENUE BOND REFINANCING ACT OF 1937

287.302 Short title. ORS 287.302 to 287.342 may be cited as The Revenue Bond Refinancing Act of 1937.

287.304 Definitions for ORS 287.302 to 287.342. As used in ORS 287.302 to 287.342, unless the context otherwise requires:

(1) "Municipality" means any city or town.

(2) "Governing body" means the council, board or other legislative body of a municipality having the power to borrow money on behalf of the municipality.

(3) "Law" means any Act or statute, general, special or local, of this state, including without being limited to, the charter of any municipality.

(4) "Enterprise" means any work, undertaking or project which the municipality is authorized to construct and from which the municipality has heretofore derived or may hereafter derive revenues, for the refinancing or the refinancing and improving of which enterprise, refunding bonds are issued under ORS 287.302 to 287.342, and "enterprise" includes all improvements, betterments, extensions and replacements thereto, and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith or incidental thereto.

(5) "Federal agency" includes the United States, the President of the United States, Reconstruction Finance Corporation, or any agency, instrumentality or corporation of the United States heretofore or hereafter designated or created by or pursuant to any Act or joint resolution of the Congress of the United States or owned or controlled, directly or indirectly, by the United States.

(6) "Improving" means reconstructing, replacing, extending, repairing, bettering, equipping, developing, embellishing or improving or any combination thereof.

(7) "Refunding bonds" means notes, bonds, certificates or other obligations of a municipality issued pursuant to ORS 287.302 to 287.342, or pursuant to any other law, as supplemented by, or in conjunction with ORS 287.302 to 287.342.

(8) "Refinancing" means funding, refunding, paying or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates.

(9) "Revenues" means all fees, tolls, rates, rentals and charges to be levied and collected in connection with, and all other

income and receipts of whatever kind or character derived by the municipality from, the operation of any enterprise or arising from any enterprise.

(10) "Holder of bonds" or "bondholders" or any similar term means:

(a) Any person who is the bearer of any outstanding refunding bond or refunding bonds registered to bearer or not registered; or

(b) The registered owner of any such outstanding bond or bonds which are at the time registered other than to bearer.

287.306 Municipalities may refinance, borrow money and issue refunding bonds. Any municipality may refinance, or refinance and improve, any enterprise; and for such purpose or purposes may borrow money and issue refunding bonds from time to time.

287.308 Procedure for authorizing issuance of refunding bonds. Refunding bonds shall be authorized by resolutions of the governing body of the municipality. The resolutions may be adopted at a regular or special meeting and at the same meeting at which they are introduced by a majority of all members of the governing body then in office. The resolutions shall take effect immediately upon the adoption thereof. No other proceedings or procedure of any character whatever shall be required for the issuance of refunding bonds by the municipality.

287.310 Refunding bonds; issuance; terms and covenants; negotiable character. (1) The refunding bonds may be issued in one or more series.

(2) The refunding bonds may:

(a) Bear such dates;

(b) Mature at such time or times not exceeding the period of usefulness of the enterprise, as determined by the governing body in its discretion, but not exceeding 40 years from their respective dates;

(c) Bear interest at a rate not exceeding the maximum rate of interest borne by the notes, bonds, or other obligations refinanced thereby;

(d) Be in such denomination and such form, either coupon or registered;

(e) Carry such registration and conversion privileges;

(f) Be executed in such manner;

(g) Be payable in such medium of payment, at such places;

(h) Be subject to such terms of redemption, with or without a premium;

(i) Be declared or become due before maturity date thereof;

(j) Provide for replacement of mutilated, destroyed, stolen, or lost bonds;

(k) Be authenticated in such manner and upon compliance with such conditions;

(L) Contain such other terms and covenants, as may be provided by resolution of the governing body of the municipality.

(3) Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that the bond is nonnegotiable, all refunding bonds shall be negotiable instruments for all purposes.

287.312 Validity of refunding bonds not affected by retirement of signer or proceedings for improving enterprise; recital respecting issuance. (1) Refunding bonds bearing the signatures of officers of the municipality in office on the date of the signing thereof shall be valid and binding obligations of the municipality for all purposes, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon ceased to be officers of the municipality, the same as if such persons had continued to be officers of the municipality until after delivery thereof.

(2) The validity of the authorization and issuance of the refunding bonds shall not be dependent on or affected in any way by proceedings taken for the improving of any enterprise for the refinancing and improving of which the refunding bonds are to be issued, or by contracts made in connection with the improving of any such enterprise.

(3) Any resolution authorizing refunding bonds may provide that any such refunding bond may contain a recital that such refunding bond is issued pursuant to The Revenue Bond Refinancing Act of 1937. Any refunding bond containing such recital under authority of any such resolution shall be conclusively deemed to be valid and to have been issued in conformity with the provisions of ORS 287.302 to 287.342.

287.314 Sale and exchange of refunding bonds. (1) The refunding bonds may be sold or exchanged in instalments at different times or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in instalments at different times or at one time. The refunding bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates or other obligations to be refinanced thereby.

(2) If the governing body determines to exchange any refunding bonds, such refunding bonds may be exchanged privately for and in payment and discharge of any of the outstanding notes, bonds or other obligations

of the municipality issued to finance or to aid in financing the acquisition, the construction, the improving, the refinancing, or the improving and refinancing, of an enterprise. The refunding bonds may be exchanged for a like or greater principal amount of such notes, bonds or other obligations of the municipality, except that the principal amount of the refunding bonds may exceed the principal amount of such outstanding notes, bonds, or other obligations to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if and to the extent that interest is due or accrued and unpaid on such outstanding notes, bonds or other obligations to be surrendered.

(3) If the governing body determines to sell any refunding bonds, such refunding bonds shall be sold at not less than par at public or private sale in such manner and upon such terms as the governing body deems best for the interests of the municipality.

287.316 Preservation of refunded obligation as additional security. (1) As security for any issue of refunding bonds, or any part thereof, any municipality may, by resolution of its governing body, confer upon the holders of the refunding bonds all rights, powers and remedies which the holders would be entitled to if they were the owners and had possession of the notes, bonds or other obligations for the refinancing of which the refunding bonds were issued, including, but not limited to, the preservation of the lien of such notes, bonds or other obligations without extinguishment, impairment or diminution thereof.

(2) If a municipality exercises the power conferred by this section:

(a) Each refunding bond shall contain a recital to the effect that the holder thereof has been granted the additional security provided by this section.

(b) Each note, bond, certificate or other obligation of the municipality to be refinanced by the refunding bonds shall be kept intact and shall not be canceled or destroyed until the refunding bonds, and interest thereon, have been fully paid and discharged but shall be stamped with a legend to the effect that it has been refunded pursuant to The Revenue Bond Refinancing Act of 1937.

287.318 Bonds payable from and lien on revenues of enterprise. The refunding bonds shall be special obligations of the municipality and shall be payable from and secured by a lien upon the revenues of the enterprise, as shall be more fully described in the resolutions of the governing body authorizing the issuance of the refunding bonds, having due regard to the cost of operation and maintenance of the enterprise and the amount or proportion, if any, of the revenues of the enterprise previously pledged. Any municipality, by resolution of its governing body, may pledge for the security of the refunding bonds a fixed amount without regard to any fixed proportion of the gross revenues of the enterprise.

287.320 Bonds of same issue to have equal and ratable security. All refunding bonds of the same issue shall be equally and ratably secured, without priority by reason of number, date of bonds, of sale, of execution or of delivery, by a lien upon the revenues of the enterprise in accordance with the provisions of ORS 287.318 and the resolution authorizing the issuance of such refunding bonds.

287.322 Impairment of rights of other creditors; application of debt limitation provisions. Nothing in ORS 287.302 to 287.342:

(1) Alters the terms of any agreements made with the holders of any outstanding notes, bonds or other obligations of the municipality or authorizes the municipality to alter the terms of any such agreements, or impairs, or authorizes the municipality to impair, the rights and remedies of any creditor of the municipality.

(2) Authorizes a municipality to do anything which would result in creation or incurring of a debt or indebtedness or issuance of any instrument which would constitute a bond or debt within the meanings of any provision, limitation or restriction of the Constitution relating to the creation or incurring of a debt or indebtedness or issuance of an instrument constituting a bond or a debt.

287.324 Resort to general fund, credit or taxing power prohibited; restriction of payment to revenues pledged; recital in bond. (1) No recourse shall be had for payment of the refunding bonds, or interest thereon, or any part thereof, against the general fund of any municipality, nor shall the credit or taxing power of any municipality be deemed to be pledged thereto.

(2) The refunding bonds, and interest thereon, shall not be a debt of the municipality, nor a charge, lien or encumbrance, legal or equitable, upon any property of the municipality, or upon any income, receipts, or revenues of the municipality other than such of the revenues of the enterprise as have been pledged to the payment thereof.

Every refunding bond shall recite in substance that the bond, including interest thereon, is payable solely from the revenues pledged to the payment thereof and that the municipality is under no obligation to pay the same, except from such revenues.

287.326 Appointment of fiscal agent. Any municipality, in connection with the issuance of refunding bonds, may:

(1) Appoint a fiscal agent.

(2) Provide for powers, duties and functions and compensation of such fiscal agent.

(3) Limit the liabilities of such fiscal agent.

(4) Prescribe a method for resignation, removal, merger or consolidation of such fiscal agent, appointment of a successor fiscal agent and transfer of rights and properties to such successor fiscal agent.

287.328 Duties of issuing municipality. In order that payment of the refunding bonds, and interest thereon, is adequately secured, any municipality issuing refunding bonds pursuant to ORS 287.302 to 287.342 and the proper officers, agents and employees thereof shall have the mandatory duty, and it is of the essence of the contract of municipality with the bondholders, at all times:

(1) To pay or cause to be paid punctually the principal of every refunding bond, and the interest thereon, on the date or dates and at the place or places and in the manner and out of the funds mentioned in such refunding bonds and in the coupons thereto appertaining and in accordance with the resolution authorizing their issuance.

(2) To operate the enterprise in an efficient and economical manner and to establish, levy, maintain and collect such fees, tolls, rentals, rates and other charges in connection therewith as may be necessary or proper, which fees, tolls, rates, rentals and other charges shall be at least sufficient after making due and reasonable allowances for contingencies and for a margin of error in the estimates to:

(a) Pay all current expenses of operation and maintenance of such enterprise.

(b) Pay the interest on principal of the refunding bonds as it becomes due and payable.

(c) Comply in all respects with the terms of the resolution or resolutions authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds.

(d) Meet any other obligations of the municipality which are charges, liens, or encumbrances upon the revenues of such enterprise.

(3) To operate, maintain, preserve and keep, or cause to be operated, maintained, preserved and kept, the enterprise and every part and parcel thereof, in good repair, working order and condition.

(4) To preserve and protect the security of the refunding bonds and the rights of the holders thereof, and to warrant and defend such rights against all claims and demands of all persons.

(5) To pay and discharge, or cause to be paid or discharged any and all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a lien or charge upon the revenues or any part thereof, prior or superior to the lien of the refunding bonds, or which might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds shall be fully preserved and protected.

(6) To hold in trust the revenues pledged to the payment of the refunding bonds for the benefit of the holders of the refunding bonds and to apply such revenues only as provided by the resolution or resolutions authorizing the issuance of the refunding bonds or, if such resolution or resolutions are modified in the manner provided therein or in ORS 287.302 to 287.342, only as provided in such resolution or resolutions as modified.

(7) To keep proper books of record and accounts of the enterprise, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the enterprise or any part thereof, and which, together with all other books and papers of the municipality, shall at all times be subject to the inspection of the holder or holders of not less than 10 percent of the refunding bonds then outstanding or the holder or the representatives of the holder duly authorized in writing.

287.330 Costs of complying with ORS 287.328. None of the duties listed in ORS 287.328 shall be construed to require the expenditure in any manner or for any purpose by the municipality of any funds other than revenues received or receivable from the enterprise.

287.332 Additional provisions that may be inserted in resolution. (1) The governing body of any municipality shall have power, in addition to the other powers conferred by ORS 287.302 to 287.342, to insert provisions in any resolution authorizing the issuance of refunding bonds, which shall be a part of the contract with the holders of the refunding bonds, as to:

(a) Limitations on the purpose to which the proceeds of sale of any issue of refunding bonds, or any notes, bonds or other obligations then or thereafter to be issued to finance the improving of the enterprise, may be applied.

(b) Limitations on the issuance and on the lien of additional refunding bonds, or additional notes, bonds or other obligations to finance the improving of the enterprise which are secured by or payable from the revenues of such enterprise.

(c) Limitations on the right of the municipality or its governing body to restrict and regulate the use of the enterprise.

(d) The amount and kind of insurance to be maintained on the enterprise, and the use and disposition of insurance moneys.

(e) Pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence.

(f) Covenanting against pledging all or any part of the revenues of the enterprise to which its right then exists or the right to which may thereafter come into existence.

(g) Events of default and terms and conditions upon which any or all of the refunding bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(h) The rights, liabilities, powers and duties arising upon the breach by it of any covenants or obligations.

(i) The vesting in a trustee or trustees the right to enforce any covenants made to secure, to pay, or in relation to the refunding bonds, as to the powers and duties of such trustee or trustees, and the limitation of liabilities thereof, and as to the terms and conditions upon which the holders of the refunding bonds or any proportion or percentage of them may enforce any covenants made under, or duties imposed by, ORS 287.302 to 287.342.

(j) A procedure by which the terms of any resolution authorizing refunding bonds, or any other contract with bondholders, including but not limited to an indenture of trust or similar instrument, may be amended or abrogated and as to the amount of refunding bonds the holders of which must consent thereto and the manner in which such consent may be given.

(k) The execution of all instruments necessary or convenient in the exercise of the powers granted by ORS 287.302 to 287.342 or in the performance of the duties of the municipality and the officers, agents and employees thereof.

(L) Refraining from pledging or in any manner whatever claiming or taking the benefit or advantage of any stay or extension law whenever enacted, nor at any time hereafter in force, which may affect the duties or covenants of the municipality in relation to the refunding bonds, or the performance thereof, or the lien of such refunding bonds.

(m) The purchase out of any funds available therefor, including but not limited to the proceeds of refunding bonds, of any outstanding notes, bonds or obligations, including but not limited to refunding bonds, and the price or prices at which and the manner in which such purchases may be made.

(n) Any other acts and things as may be necessary or convenient or desirable in order to secure the refunding bonds, or as may tend to make the refunding bonds more marketable.

(o) The manner of collecting the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise, and the combining in one bill of the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise with the fees, tolls, rates, rentals or charges for other services, facilities or commodities afforded by the municipality.

(p) The discontinuance of the services, facilities or commodities of the enterprise as well as any other services, facilities or commodities, afforded by the municipality, in the event that the fees, tolls, rates, rentals or other charges for the services, facilities or commodities of the enterprise are not paid.

(2) Nothing in this section shall be construed to authorize any municipality to make any covenants, to perform any act or to do any thing which requires the expenditure in any manner or for any purposes by the municipality of any funds other than revenues received or receivable from the enterprise.

287.334 Bondholder remedies. Subject to any contractual limitations binding upon the holders of any issue of refunding bonds, or trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of refunding bonds, or trustee therefor, shall have the right and power, for the equal benefit and protection of all holders of refunding bonds similarly situated, to:

(1) Enforce, by mandamus or other action or proceeding for legal or equitable remedies, their rights against the municipality and its governing body and any of its officers, agents and employees and to require and compel such municipality or such governing body or any such officers, agents or employees to

perform and carry out its and their duties and obligations under ORS 287.302 to 287.342 and its and their covenants and agreements with bondholders.

(2) Require, by action, the municipality and the governing body thereof to account as if they were the trustee of an express trust.

(3) Enjoin, by action, any acts or things which may be unlawful or in violation of the rights of the bondholders.

(4) Bring action upon the refunding bonds. [Amended by 1979 c 284 §133]

Note: 287 334 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 287 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

287.336 Remedies not exclusive. No remedy conferred by ORS 287.302 to 287.342 upon any holder of refunding bonds, or any trustee therefor, is intended to be exclusive of any other remedy. Each such remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by ORS 287.302 to 287.342 or by any other law.

287.338 Effect of waivers, delays and omissions. No waiver of any default or breach of duty or contract, whether by any holder of refunding bonds, or any trustee therefor, shall extend to or shall affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any bondholder or any trustee therefor to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy, conferred upon the holders of refunding bonds, may be enforced and exercised from time to time and as often as may be deemed expedient.

287.340 Restoration of rights after futile proceeding. If a suit, action or proceeding to enforce any right or exercise any remedy is brought or taken and then discontinued or abandoned, or is determined adversely to the holder of the refunding bonds or any trustee therefor, the municipality and such holder or trustee shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

287.342 Construction of ORS 287.302 to 287.342. (1) ORS 287.302 to 287.342:

(a) Constitute full and complete authority for issuance of refunding bonds.

(b) Are remedial in nature and shall be liberally construed.

(2) The powers conferred by ORS 287.302 to 287.342 shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by ORS 287.302 to 287.342 shall not affect, the powers conferred by any other law.

PLEDGING EARNINGS OF MUNICIPAL WATER PLANTS FOR PAYMENT OF BONDS

287.352 Definitions for ORS 287.352 to 287.358. As used in ORS 287.352 to 287.358, "utility" means a municipal water plant or system.

287.354 Cities and towns authorized to pledge earnings of municipal water plants for payment of principal and interest of certain bonds. (1) Pursuant to a duly adopted ordinance of its governing body, any city that owns and operates a municipal water plant or system and that has liquidated completely or hereafter liquidates completely all bonded, warrant and other indebtedness incurred in the financing or operation of such utility, may pledge the whole or any part of the net earnings thereof toward the payment of the principal of and interest upon general obligation bonds of such city, including bonds, if any, issued to replace or refund bonds originally issued pursuant to applications to pay assessments in instalments. The bonds for the payment of the principal of and interest upon which such pledge may be made shall be limited to such as are outstanding on June 9, 1943, and to bonds or notes issued to refund them or the indebtedness represented thereby, or to such part of either thereof as the governing body determines. The bonds or notes issued after June 9, 1943, to refund or replace such bonds need not be confined to one issue, but may consist of successive issues until the indebtedness represented by such bonds outstanding on June 9, 1943, and the interest thereon, has been fully liquidated and paid.

(2) The governing body, in the pledging ordinance, may provide for prior withholding of such part of such revenues as the governing body deems necessary to meet general municipal expenses or to pay for, or to set up reserves with which to defray the cost of, improvements, betterments, replacements, or extensions of the utility.

287.356 Revenues pledged confined to payment of indebtedness for which they were pledged; credit to sinking fund; use of balances. (1) As provided by ORS 294.305 to 294.520, 294.555 and 294.565, and by Acts amendatory thereof and supplemental thereto, the amount of the annual revenues

of the utility shall be taken into consideration in the tax budgets of the city; but, so long as required, the revenues of the utility pledged under authority of ORS 287.354 shall be expended only in payment of the bonded indebtedness and the interest thereon for which, by the ordinance, they were obligated or pledged.

(2) The pledged revenues shall be credited at least quarterly to the sinking fund applicable to the payment of the bonded indebtedness and the interest thereon.

(3) Balances in the fund not currently required for interest payments may be used in the purchase, for immediate retirement at current market prices, of bonds of the issues comprising the bonded indebtedness, or may be invested at like prices for resale or sinking fund purposes in other securities by law eligible for purchase by the city or town. The earnings from the other securities so purchased shall inure to the fund.

287.358 Adoption of pledging ordinance; submitting question to electors; ordinance as part of bond contract. (1) The adoption of the ordinance referred to in ORS 287.354 shall be in the sole discretion of the governing body. It shall not be necessary to submit the question of approval or adoption of such ordinance to a vote of the electors of the city or town. The governing body, however, may submit such question or that of the pledge of the revenues to a vote of the electors, should it deem such action advisable. Should the vote be adverse, the governing body shall not of its own motion again adopt such an ordinance nor submit to the electors the like question for a period of one year from the date of the election last held for the purpose of voting upon the question.

(2) The terms and covenants contained or embodied in such an ordinance shall constitute part of the contract inherent in the bonds for the liquidation of the principal of and payment of the interest upon which the pledge of revenues was made. The city governing body thereafter shall not reduce its schedule of rates or charges for services supplied by the utility until the bonds, for the payment of the principal of and interest on which the pledge was made, have been fully paid or the sinking fund equals the par value of the bonds and the future interest to accrue thereon, or until the bonds have been refunded by a new issue not supported by such a pledge.

287.402 [Repealed by 1983 c.124 §1]

287.404 [Amended by 1967 c.331 §1; repealed by 1983 c.124 §1]

287.406 [Repealed by 1983 c.124 §1]

287.408 [Repealed by 1983 c.124 §1]

287.410 [Repealed by 1983 c.124 §1]

287.412 [Repealed by 1983 c.124 §1]

287.414 [Repealed by 1983 c.124 §1]

287.416 [Repealed by 1983 c.124 §1]

287.418 [Repealed by 1983 c.124 §1]

287.420 [Repealed by 1983 c.124 §1]

287.422 [Amended by 1957 c.199 §1; 1981 c.94 §24; repealed by 1983 c.124 §1]

287.424 [Repealed by 1983 c 124 §1]

287.426 [Amended by 1981 c 94 §25; repealed by 1983 c 124 §1]

287.428 [Amended by 1957 c 199 §2; 1967 c.331 §2, 1975 c 306 §1; repealed by 1983 c 124 §1]

287.430 [Repealed by 1983 c 124 §1]

287.432 [Repealed by 1983 c 124 §1]

SHORT-TERM BORROWING

287.435 "Municipality" defined for ORS 287.442. As used in ORS 287.442, "municipality" means political subdivisions of or in this state and municipal, quasi-municipal and public corporations. [1983 c 124 §3; 1983 s s c.6 §1]

287.442 Authority to issue warrants and short-term notes. (1) The governing body of any municipality may contract indebtedness by issuance of warrants or short-term promissory notes for the purpose of meeting current expenses, retiring outstanding bonds or warrants, or paying the interest thereon, whenever provision for such borrowing has been made in duly adopted budgets as provided by ORS 294.443.

(2) In the exercise of the authority granted by subsection (1) of this section, the governing body may contract or refund short-term loans which shall at no time exceed in the aggregate 80 percent of the ad valorem taxes upon real and personal property theretofore certified to the county assessor for levy by such municipality for the tax year in which the warrants or notes are issued, and 80 percent of other budgeted and unpledged revenues which the governing body of such municipality estimates will be received from other sources during said tax year.

(3) The debt limitations imposed by law, or the charter of any municipality shall not affect the right of any municipality to issue warrants or notes under authority of this section, nor shall any such warrants or notes be taken into consideration in determining the percentage or extent to which such municipality is indebted under any such debt limitation. Warrants or notes issued to refund outstanding warrants or notes shall not be considered to be within any of such debt limitations.

(4) A municipality issuing the notes shall determine:

(a) The maximum effective rate of interest the notes shall bear;

(b) The manner of sale;

(c) The discount, if any, the municipality will allow;

(d) The terms and conditions by which the notes may be redeemed prior to maturity;

(e) The maturities of the notes, which shall not extend beyond the end of the fiscal year in which the borrowing takes place;

(f) The form and denominations of the notes; and

(g) All other terms and conditions related to the sale of the notes.

(5) The municipality shall deposit a portion of each distribution of ad valorem taxes or payment of revenues in anticipation of which the notes or warrants are issued in a separate account. Deposits to the account shall be made according to a schedule which requires that not less than 100 percent of each distribution or payment, which is received by the municipality after the estimated date of the municipality's maximum cumulative cash flow deficit, be placed in the account until sufficient amounts will be in the account to pay principal and interest due on the notes or warrants at maturity. The schedule shall be established by the municipality in its proceedings to issue the notes or warrants. Moneys in the account shall be used only to pay principal and interest on the notes or warrants, and may be pledged by the municipality for such purpose. [Amended by 1977 c.476 §1; 1983 c.124 §4; 1983 c.496 §2; 1985 c 356 §1; 1985 c.441 §2]

WARRANTS AND CHECKS; INTEREST, CANCELLATION AND REFUNDING; MASTER WARRANTS

287.452 Interest on municipal warrants not paid on presentation. All warrants for payment of money issued by cities and other municipalities that are not paid upon presentation and so indorsed shall draw interest at the legal rate after such indorsements but municipalities may by proper resolution fix the rate at less than the legal rate and may make such interest payable semiannually.

287.454 Cancellation of warrants and checks more than seven years old; certification of list to court or board. At the last regular term of the county court or the board of county commissioners preceding July 1 of each year, in each county, the county clerk shall certify to the court or board a list of all warrants issued more than seven years prior to July 1 of that year which have not been paid, stating the amount of each warrant, to whom issued and date of issuance. The county treasurer shall certify the same information as to checks drawn. [Amended by 1959 c.438 §1]

287.456 Notice that warrants and checks not presented will be canceled. Upon receipt of the list referred to in ORS 287.454, the court or board shall cause to be published in a newspaper published in the county and having a general circulation therein, or if no paper is published in the county, in some paper published in the state and having a general circulation in the county, a notice that if the warrants and checks are not presented for payment within 60 days from July 1 they will be canceled and payment thereof will be refused. [Amended by 1959 c 438 §2]

287.458 Order canceling warrants and checks; duties of clerk; payment. At the first regular term of the court or board in each county after expiration of the 60 days from July 1 of each year the court or board shall make an order that all such warrants and checks which have not been so presented for payment, describing them, shall be canceled. The clerk shall also collect together all other county warrants which have been issued by order of the court or board and which still remain in the hands of the clerk and unclaimed, and in the presence of the court or board shall cancel all such warrants issued more than seven years prior to July 1 of that year, nor shall the amount thereof be computed in any estimation or computation of county finances. This section does not prohibit the court or board from paying the principal only and interest to date when such warrant was called, upon any claim arising from canceling of any such warrant at any time thereafter if it is presented and the court or board deems it proper for the county so to do. [Amended by 1959 c.438 §3]

287.460 [Repealed by 1973 c.241 §1]

287.462 [Repealed by 1973 c.241 §1]

287.464 [Repealed by 1973 c.241 §1]

287.482 Definitions for ORS 287.482 to 287.488. As used in ORS 287.482 to 287.488:

(1) "County fiscal officer" means:

(a) The county accountant in counties where such office is established by law.

(b) The county clerk in counties not having a county accountant.

(2) "Master warrant" means a warrant or order issued and drawn pursuant to ORS 287.486. [1955 c.321 §1; 1983 c.310 §16]

287.484 Master warrant procedure authorized if warrants would be not paid for want of funds. Whenever the county fiscal officer audits and approves a claim and issues a warrant therefor and at the same time or subsequently ascertains that the

county treasurer has not sufficient moneys in the particular fund of the county from which the claim so approved and allowed is payable and that the warrant as issued against that fund for the payment of the claim would be indorsed "Not Paid for Want of Funds," the county fiscal officer may, with approval by resolution of the county court or the board of county commissioners, issue a master warrant to any person for the purpose of obtaining money to pay such claim. The money shall be obtained only in the manner provided in ORS 287.486. [1955 c 321 §2]

287.486 Procedure. (1) The county fiscal officer shall draw a master warrant in the amount of one or more claims referred to in ORS 287.484, payable to any person who is willing to accept the master warrant, and such person shall, upon delivery of the master warrant duly indorsed "Not Paid for Want of Funds," pay to the county treasurer the full amount for which the master warrant is drawn.

(2) The amount paid under subsection (1) of this section shall constitute a special fund to be used toward the payment of warrants issued under ORS 287.484 by the county fiscal officer in payment of claims audited and approved and included in the amount of any master warrant issued to the person advancing such moneys. [1955 c.321 §3]

287.488 Taxes must be levied for payment of claims included in master warrant. No master warrant shall be issued under ORS 287.482 to 287.488 unless taxes have been levied for the payment of all claims included in the master warrant and such taxes are in the process of being collected at the time of the issuance of the master warrant. [1955 c.321 §4]

GENERAL OBLIGATION IMPROVEMENT WARRANTS

287.502 General obligation improvement warrants; debt limitations not applicable. (1) Any municipality authorized to issue bonds under ORS 223.205 to 223.295 may issue improvement warrants evidencing an indebtedness for construction of a public improvement of the character described in ORS 223.205. Such warrants shall, if the resolution or ordinance authorizing their issuance so provides, constitute a general obligation of the municipality. Such warrants may be designated "bond anticipation notes" or "improvement warrants."

(2) The debt limitations imposed by statute or by the charter of the municipality shall not affect the right of the municipality to issue general obligation improvement warrants pursuant to the provisions of ORS 287.502 to 287.515, nor shall any such warrants be taken into consideration in determining the percentage or extent to which the municipality is indebted under any such debt limitation.

(3) When a general obligation improvement warrant is directed to the custodian of the funds from which it is to be paid and is an unconditional order to pay on or before a stated date a sum certain in money to the order of the payee, it shall be deemed a negotiable instrument. One who takes such an instrument before maturity for value and without notice of any defense thereto takes the instrument free from all defenses of any party to the instrument with whom the holder has not dealt except such illegality of the transaction as renders the obligation of the party a nullity. [Amended by 1967 c.238 §1, 1983 c.124 §5; 1983 c.496 §1]

287.504 Interest; sale; terms; additional warrants. (1) A municipality issuing the warrants shall determine:

(a) The maximum effective rate of interest the warrants shall bear;

(b) The manner of sale;

(c) The discount, if any, the municipality will allow;

(d) The terms and conditions by which the warrants may be redeemed prior to maturity;

(e) The maturities of the warrants, which may not exceed two years;

(f) The form and denominations of the warrants; and

(g) All other terms and conditions related to the sale of the warrants.

(2) If the governing body of the municipality determines, by resolution or ordinance, that sufficient funds are not available pursuant to ORS 287.506 to pay the holders of warrants on presentment at maturity, the municipality may issue additional warrants. Such warrants shall be issued and sold as are other warrants pursuant to ORS 287.502 to 287.515.

(3) Proceeds from the sale of warrants issued pursuant to subsection (2) of this section shall be applied to the call and payment of those outstanding warrants for which the fund deficiency exists.

(4) Funds collected pursuant to ORS 287.506 shall be applied to payment as therein provided to warrants issued pursuant to subsection (2) of this section. [Amended by 1977 c 234 §1; 1983 c.124 §6]

287.506 Call and payment of warrants; liability for failure to hold, account for or apply funds. (1) All proceeds from the collection of unbonded assessments, the sale of improvement bonds, and the foreclosure

of improvement liens for unbonded assessments, realized from the improvement with respect to which such general obligation improvement warrants are issued, shall be applied first to the call and payment of such warrants, but that call may be deferred in the discretion of the treasurer or other financial officer of the municipality until no more than 60 days past the closing of the sale of improvement bonds issued for the project financed with the warrants.

(2) None of such funds shall be transferred, borrowed, diverted, or used for any other purpose, and, for failure to hold, account for and apply such funds, as provided in this section, the treasurer or other financial officer of the municipality shall be personally liable and shall also be liable upon any official bond of such officer to the holder of any such warrant. [Amended by 1983 c.124 §7; 1983 c.349 §10]

287.508 Notice of intention to redeem. General obligation improvement warrants shall be called for payment by notice of intention to redeem the warrants given not less than five days nor more than 30 days prior to the call date by:

(1) Publication of the notice in a newspaper of general circulation printed and published within the county in which the city or the principal portion of its assessed valuation is located; and

(2) Notice in writing directed to the holder of such warrant and mailed by ordinary mail concurrently with such publication, if the city treasurer or other financial officer has been informed of the name and address of such holder.

287.510 Provision in budget. Any city which has issued general obligation improvement warrants shall provide in its budget for the fiscal year in which the warrants will mature such amount for the payment thereof as shall be estimated or determined to be owing thereon and unpaid at the maturity thereof after application of collections made prior to such maturity as provided in ORS 287.506.

287.515 When general obligation improvement warrants issued. General obligation improvement warrants issued under the authority of ORS 287.502 to 287.515 may be issued at any time after:

(1) The city has held a hearing regarding construction of the proposed improvement, and has declared its intention to construct the improvement; or

(2) Not less than 85 percent of the property owners to be assessed for the improvement have petitioned the city to construct the improvement, or have filed their written consent to the improvement with the city. [1983 c.349 §9]

PUBLIC IMPROVEMENT INTERIM FINANCING

287.522 Definitions for ORS 287.522 to 287.526. As used in ORS 287.522 to 287.526, unless the context requires otherwise:

(1) "Municipality" means a county, city, domestic water supply district, water control district, sanitary district, sanitary authority and other municipal corporations or political subdivisions authorized to issue bonds and accept grants of funds, or either, to finance the cost of municipal public improvements.

(2) "Public improvement" means real or personal property to be used for a public purpose. Public improvement does not include improvements to be financed under ORS 223.205 to 223.295. [1973 c.488 §1; 1981 c.526 §3]

287.524 ORS 287.522 to 287.526 supersede local laws; exception. ORS 287.522 to 287.526 supersede all conflicting charter provisions, ordinances or resolutions of municipalities, except that a municipality may borrow money and issue its notes as evidence thereof to finance an improvement to a municipal public utility either pursuant to ORS 287.522 to 287.526 or pursuant to its charter. [1973 c.488 §5; 1981 c.526 §4]

287.526 Interim borrowing; limit; terms; payment. (1) A municipality may borrow money for interim financing of a public improvement if prior thereto an agency of the state or of the Federal Government has agreed in writing to provide funds for the public improvement or bonds of the municipality have previously been authorized to apply in payment of such cost. Debts created under this section outstanding at any one time shall not exceed in the aggregate the estimated unpaid cost of the public improvement or the total of written offers of such state and federal grants, if any, plus the amount of the bonds previously authorized but not issued for the public improvements, whichever is the lesser.

(2) A municipality issuing the notes shall determine:

(a) The maximum effective rate of interest the notes shall bear;

(b) The manner of sale;

(c) The discount, if any, the municipality will allow;

(d) The terms and conditions by which the notes may be redeemed prior to maturity;

(e) The form and denominations of the notes; and

(f) All other terms and conditions related to the sale of the notes.

(3) Notes issued pursuant to this section shall mature not later than the date estimated by the governing body of the municipality as the completion date of the improvement financed in whole or in part by the loan or grant. The principal of the notes and the interest thereon shall be paid in full only from and within 60 days of receipt of the grant, if any, or the proceeds of sale of the bonds issued to finance such improvements and from any other funds available therefor.

(4) In the case of a state or federal agreement described in subsection (1) of this section and after advertising, notes may be issued to redeem prior notes, at the discretion of the municipality, but can not mature later than one year from the date of such redemption. However, in no case shall the maturity of the original note when combined with the maturity of any redemption notes exceed the construction period of the public improvement plus two years. [1973 c.488 §2; 1981 c 94 §26; 1981 c.526 §5; 1983 c.124 §8]

287.528 [1973 c.488 §§3, 4, repealed by 1983 c 347 §32]

287.702 [Amended by 1957 c 704 §2; renumbered 288.310]

287.704 [Amended by 1957 c.704 §1; renumbered 288 320]

287.990 [Amended by 1957 c 704 §3, renumbered 288 990]