

# Chapter 367

1989 EDITION

## Indebtedness for State Highways, City and County Roads and Recreation Facilities

### CERTIFICATES OF INDEBTEDNESS

- 367.105 Borrowing money and issuing certificates of indebtedness for certain highway purposes

### BONDED INDEBTEDNESS FOR STATE HIGHWAYS

(Bond Act of 1951)

- 367.226 Authority to sell limited amount of bonds under ORS 367.226 to 367.242
- 367.228 Formal requirements and conditions of bonds issued under ORS 367.226 to 367.242
- 367.230 Sale of short-term bonds
- 367.232 Issuance of refunding bonds
- 367.234 Redemption of bonds before maturity
- 367.236 Setting aside sufficient moneys to pay maturing bonds issued under ORS 367.226 to 367.242
- 367.238 Payment of principal and interest on bonds; destruction of paid bonds and interest coupons
- 367.242 Disposition and use of bond proceeds

(Bond Act of 1953)

- 367.258 Bonds payable in instalments; bonds may be redeemed for retirement or refunding; bonds and coupons negotiable; execution of bonds and coupons

(Bond Act of 1959)

- 367.370 Authority to sell limited amounts of bonds
- 367.415 Use of revenues from bridge financed with receipts from certain bonds
- 367.430 When bridge constructed under ORS 367.370 to be free of tolls

(Bond Act of 1973 - General Highway Purposes)

- 367.550 "Department" defined for ORS 367.550 to 367.600
- 367.555 Authority to sell limited amount of bonds under ORS 367.550 to 367.600
- 367.560 Disposition and use of bond proceeds
- 367.565 Procedure for issuing bonds under ORS 367.550 to 367.600
- 367.595 Setting aside sufficient moneys to pay maturing obligations
- 367.600 Constitutional debt limits not to be exceeded

### HIGHWAY USER TAX BONDS

- 367.605 Source of funds to secure bonds
- 367.810 Use of available highway fund moneys to secure bonds

- 367.615 Authority for bond issuance; bonds not general obligation; conditions for issuance of additional bonds; use of bond proceeds
- 367.620 Limitation on bond amount
- 367.625 Limitations on use of bond issuance authority
- 367.630 Highway revenue declaration; contents; purpose
- 367.635 Bond form; sale; price; maturity; provisions subject to determination of State Treasurer
- 367.640 Indenture; provisions
- 367.645 Reserve account
- 367.650 Trust indenture to secure bonds; provisions
- 367.655 Loan of bond proceeds to cities and counties; use of loans
- 367.660 Lien on certain moneys pledged for bonds; terms of lien
- 367.665 Interest on bonds exempt from state income tax
- 367.670 Refunding bonds

### BONDED INDEBTEDNESS FOR CITY AND COUNTY ROADS AND RECREATION FACILITIES

- 367.700 Authority to sell limited amount of bonds under ORS 367.700 to 367.750
- 367.705 Use of funds; priority
- 367.710 Repayment by city or county; interest
- 367.715 Procedure for issuing bonds under ORS 367.700 to 367.750
- 367.745 Setting aside sufficient moneys to pay maturing bonds
- 367.750 Constitutional debt limits not to be exceeded

### CROSS REFERENCES

- Bonds generally, 286.010 to 286.545, Ch. 288
- Constitutional debt limit for highways, Const. Art. XI, §7
- Facsimile signatures, 286.061
- 367.370
- Interstate bridges generally, Ch. 381
- 367.655
- County roads and streets generally, Ch. 368

**HIGHWAYS, ROADS, BRIDGES AND FERRIES**

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Note: The definitions in 366.005 and 366.015 apply to this chapter.

### CERTIFICATES OF INDEBTEDNESS

**367.105 Borrowing money and issuing certificates of indebtedness for certain highway purposes.** (1) For the purpose set forth in ORS 366.725, for the purpose of providing funds with which to pay when due the interest and principal, or either, of bonded indebtedness created for highway purposes, the payment of which is necessary to protect and preserve the financial credit of the state, and for the purpose of meeting other emergencies, or for any of these purposes, the Department of Transportation may borrow money from the State Treasurer or from any banking institution, and evidence the debt by certificates of indebtedness redeemable and payable out of state highway revenues only.

(2) Such certificates of indebtedness may be in such denominations or for such sums as the department may fix, and may draw interest at a negotiated rate.

(3) The total indebtedness created in any one calendar year by the issuance of certificates of indebtedness under this section shall not exceed \$10 million.

(4) All certificates of indebtedness issued pursuant to this section shall mature within one year from the date of issuance.

(5) Not less than 10 days before the date of maturity of any such certificate of indebtedness the department shall prepare and approve for payment a claim or voucher covering the amount of the certificate, together with such interest as may be due thereon, and shall file the claim or voucher with the Executive Department which shall issue a warrant therefor payable out of highway funds to the party entitled thereto. The State Treasurer may, upon the presentation of the warrant, take up the certificate of indebtedness and cancel it, and pay the amount of the warrant out of highway funds. Whenever a certificate of indebtedness is redeemed and paid by the State Treasurer the treasurer shall file it with the Executive Department, and the department shall attach the certificate to the original voucher pursuant to which payment of the certificate is made. [Formerly 366.605; 1969 c.427 §1; 1975 c.614 §11; 1981 c.94 §32; 1981 c.311 §1]

367.155 [Formerly part of 366.735; repealed by 1981 c.660 §18]

367.160 [Formerly 366.740; 1981 c.94 §33; repealed by 1981 c.660 §18]

367.165 [Formerly 366.745; repealed by 1981 c.660 §18]

367.170 [Formerly 366.750; repealed by 1981 c.660 §18]

367.175 [Formerly 366.755; 1975 c.462 §5; repealed by 1981 c.660 §18]

367.180 [Formerly 366.760; repealed by 1981 c.660 §18]

367.185 [1975 c.436 §6; repealed by 1981 c.660 §18]

367.202 [Formerly 366.625; repealed by 1963 c.61 §1]

367.204 [Formerly 366.627; repealed by 1963 c.61 §1]

367.206 [Formerly 366.629; repealed by 1963 c.61 §1]

367.208 [Formerly 366.631; repealed by 1963 c.61 §1]

367.210 [Formerly 366.633; repealed by 1963 c.61 §1]

367.212 [Formerly 366.635; repealed by 1963 c.61 §1]

367.214 [Formerly 366.637; repealed by 1963 c.61 §1]

367.216 [Formerly 366.639; repealed by 1963 c.61 §1]

367.218 [Formerly 366.641; repealed by 1963 c.61 §1]

367.220 [Formerly 366.643; repealed by 1963 c.61 §1]

### BONDED INDEBTEDNESS FOR STATE HIGHWAYS

(Bond Act of 1951)

**367.226 Authority to sell limited amount of bonds under ORS 367.226 to 367.242.** In addition to the authority now vested by law in the Department of Transportation to issue and sell state highway bonds of the state, the department may issue and sell state highway bonds of the state to provide funds to defray the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges. The principal amount of bonds that may be issued in any one calendar year under authority of ORS 367.226 to 367.242 shall not exceed \$15 million par value. At no time shall the principal amount of such bonds outstanding exceed \$40 million par value. [Formerly 366.645]

**367.228 Formal requirements and conditions of bonds issued under ORS 367.226 to 367.242.** (1) At the request of the State Treasurer, the Attorney General shall prepare a form of interest-bearing general obligation bond of the State of Oregon or a Highway User Tax Bond to carry out the purposes of ORS 367.226 to 367.242.

(2) The bonds referred to in subsection (1) of this section shall:

(a) Conform to the requirements of ORS 286.010 to 286.545 or, if Highway User Tax Bonds, to the requirements of ORS 367.605 to 367.670.

(b) Be sold in the manner determined by the State Treasurer as authorized by law. [Formerly 366.650; 1989 c.610 §1]

### 367.230 Sale of short-term bonds.

Whenever in the judgment of the department it is consistent with the best interest of the state and will more efficiently and adequately promote highway construction, the department may sell bonds under ORS 367.226 to 367.242 maturing at a date not later than five years from the issue date. [Formerly 366.655]

**367.232 Issuance of refunding bonds.**

(1) The department may issue refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.226 to 367.242.

(2) The refunding bonds may be sold in the same manner as other bonds are sold under ORS 367.226 to 367.242.

(3) The issuance of the refunding bonds, the maturity dates and other details thereof, the rights of the holders thereof and the duties of the Governor, Secretary of State and State Treasurer with respect thereto, shall be governed by the other provisions of ORS 367.226 to 367.242, in so far as applicable.

(4) The refunding bonds may be issued to refund bonds originally issued or to refund bonds previously issued for refunding purposes. [Formerly 366.660]

**367.234 Redemption of bonds before maturity.** In its discretion, the department may issue bonds, as provided in ORS 286.031 to 286.046 with reservation of the right to redeem them for retirement or refunding purposes prior to the final dates of maturity. [Formerly 366.665; 1981 c.660 §20]

**367.236 Setting aside sufficient moneys to pay maturing bonds issued under ORS 367.226 to 367.242.** The Department of Transportation shall compute and determine in January of each year, after the sale of bonds under ORS 367.226 to 367.242, the amount of principal and interest which will fall due during the year on bonds then outstanding and unpaid, and shall maintain or hold in the highway fund sufficient moneys to pay the maturing obligations. [Formerly 366.670]

**367.238 Payment of principal and interest on bonds; destruction of paid bonds and interest coupons.** (1) The Department of Transportation shall pay the principal and interest upon bonds authorized by ORS 367.226 to 367.242 as they become due from any funds subject to its control from whatever source they may come, without regard to their origin.

(2) Not less than 20 days before the due date for the payment of the principal of and the interest on any bond issued under ORS 367.226 to 367.242, the department shall prepare and submit to the State Treasurer for verification a claim in an amount sufficient to meet the payment. Upon verification, the department shall present the claim to the Executive Department which thereupon shall draw a warrant upon the State Treasurer in payment of the claim.

(3) All bonds authorized by ORS 367.226 to 367.242 and interest coupons surrendered to the State Treasurer upon payment shall be retained and then destroyed as provided

in ORS 288.120. [Formerly 366.675; 1975 c.462 §6; 1983 c.740 §120]

**367.240** [Formerly 366.680; repealed by 1989 c.610 §3]

**367.242 Disposition and use of bond proceeds.** All moneys obtained from the sale of bonds under ORS 367.226 to 367.242 shall immediately be paid over to the State Treasurer and credited by the State Treasurer to the highway fund. Such moneys shall be used only for the purposes stated in ORS 367.226 to 367.242. [Formerly 366.685]

**(Bond Act of 1953)**

**367.252** [Formerly 366.688; repealed by 1981 c.660 §18]

**367.254** [Formerly 366.689; 1967 c.335 §43, repealed by 1981 c.660 §18]

**367.256** [Formerly 366.690; repealed by 1981 c.660 §18]

**367.258 Bonds payable in instalments; bonds may be redeemed for retirement or refunding; bonds and coupons negotiable; execution of bonds and coupons.** Each issue of bonds shall be payable in such principal instalments and upon such maturity date or dates as shall be determined by the State Treasurer, provided that the earliest maturity date of any of the bonds of an issue shall be not less than one year and the final maturity date not more than 20 years from the date of issue thereof. In the treasurer's discretion, the State Treasurer may issue the bonds, as provided in ORS 286.031 to 286.046, with reservation of the right to redeem the bonds for retirement or refunding purposes prior to the final date or dates of maturity thereof. The bonds and the appurtenant coupons, if any, shall be negotiable in form and shall embody an absolute and unconditional promise of the State of Oregon to pay the principal of and the interest upon the bonds, when due, in any coin or currency which, at the time of payment, is legal tender for the payment of public and private debts within the United States of America. The bonds shall be executed as provided for in ORS 286.031 to 286.046. The bonds shall bear coupons, if any, evidencing the interest to become due thereon for each instalment thereof. The first coupon, if any, of each issue of bonds may be for a period of more or less than six months but of not more than one year, if, in the judgment of the department, the issuance of the bonds with such coupons, if any, is advisable. The coupons, if any, shall be executed with the facsimile signature, with the title of office thereunder, of each of the officers named in ORS 286.031 to 286.046. Bonds issued under authority of ORS 367.252 to 367.270 and the interest coupons, if any, annexed thereto, bearing the signatures of officers in office on the date of the execution of the bonds shall be valid and

legally binding obligations, notwithstanding that before delivery of the bonds to the purchasers thereof any or all of the said officers shall have ceased to be such. [Formerly 366.691; 1981 c.660 §21]

367.260 [Formerly 366.692; 1975 c.462 §7; repealed by 1981 c.660 §18]

367.262 [Formerly 366.693; repealed by 1981 c.660 §18]

367.264 [Formerly 366.694; repealed by 1981 c.660 §18]

367.266 [Formerly 366.695; repealed by 1981 c.660 §18]

367.268 [Formerly 366.696; repealed by 1981 c.660 §18]

367.270 [Formerly 366.697; repealed by 1981 c.660 §18]

367.282 [Formerly 366.6980; repealed by 1981 c.660 §18]

367.284 [Formerly 366.6981; repealed by 1981 c.660 §18]

367.286 [Formerly 366.6982; 1967 c.335 §44; repealed by 1981 c.660 §18]

367.288 [Formerly 366.6983; repealed by 1981 c.660 §18]

367.290 [Formerly 366.6984; repealed by 1981 c.660 §18]

367.292 [Formerly 366.6985; 1975 c.462 §8; repealed by 1981 c.660 §18]

367.294 [Formerly 366.6986; repealed by 1981 c.660 §18]

367.296 [Formerly 366.6987; repealed by 1981 c.660 §18]

367.298 [Formerly 366.6988; repealed by 1981 c.660 §18]

367.300 [Formerly 366.6989; repealed by 1981 c.660 §18]

367.302 [Formerly 366.6990; repealed by 1981 c.660 §18]

367.324 [Formerly 366.7000; repealed by 1981 c.660 §18]

367.326 [Formerly 366.7001; repealed by 1981 c.660 §18]

367.328 [Formerly 366.7002; 1967 c.335 §45; repealed by 1981 c.660 §18]

367.330 [Formerly 366.7003; repealed by 1981 c.660 §18]

367.332 [Formerly 366.7004; repealed by 1981 c.660 §18]

367.334 [Formerly 366.7005; 1975 c.462 §9; repealed by 1981 c.660 §18]

367.336 [Formerly 366.7006; repealed by 1981 c.660 §18]

367.338 [Formerly 366.7007; repealed by 1981 c.660 §18]

367.340 [Formerly 366.7008; repealed by 1981 c.660 §18]

367.344 [Formerly 366.7009; repealed by 1981 c.660 §18]

367.346 [Formerly 366.7010; repealed by 1981 c.660 §18]

#### (Bond Act of 1959)

367.365 [Formerly 366.7020; repealed by 1981 c.660 §18]

**367.370 Authority to sell limited amounts of bonds.** (1) In addition to the authority now vested by law to issue and sell state highway bonds of the State of Oregon, and notwithstanding the limitations contained in other laws, the State Treasurer, subject to subsection (2) of this section, shall issue and sell state highway bonds of the State of Oregon to provide funds to defray the costs, incurred after March 1, 1961, of location and construction of a bridge over the Columbia River, but excluding costs of location, relocation, improvement, construction or reconstruction of approaches as shown and described in "A Report On A Proposed Bridge Across The Columbia River," prepared by the Oregon and Washington State Highway Commissions, dated January 1959. For such purposes the department shall issue bonds in the aggregate principal sum of not to exceed \$24 million par value.

(2) The State Treasurer shall not issue bonds under subsection (1) of this section unless and until the State of Washington, by law, has imposed, to the extent provided in subsection (3) of this section, a first and prior charge against all revenues subsequently derived from the proceeds of state excise taxes on motor vehicle fuels directed by law to be deposited in the Washington motor vehicle fund available for Washington State Highway Commission purposes, and an agreement or agreements have been entered into between the Oregon Department of Transportation and the Washington State Highway Commission whereby, among other things, the State of Washington is bound to pay from any moneys in the Washington motor vehicle fund not otherwise pledged or from any other source available to the Washington State Highway Commission for such purpose the amounts as provided in subsection (3) of this section.

(3) To the extent that revenues derived from the imposition and collection of tolls and franchise fees for the use of the bridge referred to in subsection (1) of this section in any year are insufficient to provide for the payment of principal, interest and other charges incidental to the issuance, sale and retirement of the bonds referred to in subsection (1) of this section and refunding bonds for the purpose of refunding outstanding bonds issued under subsection (1) of this section or such refunding bonds, the State of Oregon shall pay the first \$100,000 of such deficit for such year, and the State of Washington shall pay, when due, 40 percent of the balance of such deficit for such year; except that in no case shall the portion of such deficit paid by the State of Washington exceed \$200,000 in any such year. [Formerly 366.7021; 1981 c.660 §48]

367.372 [1961 c.381 §2; repealed by 1981 c.660 §18]

367.380 [Formerly 366.7022; 1967 c.335 §46; repealed by 1981 c.660 §18]

367.385 [Formerly 366.7023; repealed by 1981 c.660 §18]

367.390 [Formerly 366.7024; repealed by 1981 c.660 §18]

367.395 [Formerly 366.7025; 1975 c.462 §10, repealed by 1981 c.660 §18]

367.400 [Formerly 366.7026, repealed by 1981 c.660 §18]

367.405 [Formerly 366.7027, repealed by 1981 c.660 §18]

367.410 [Formerly 366.7028, repealed by 1981 c.660 §18]

**367.415 Use of revenues from bridge financed with receipts from certain bonds.** In addition to the other provisions of ORS 367.370 and this section relating to the payment of the principal, interest and other charges incidental to the issuance, sale and retirement of bonds issued under ORS 367.370 (1) and refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.370 (1) or such refunding bonds, and notwithstanding any other provision of law, all revenues derived from the imposition and collection of tolls and franchise fees for the use of the bridge referred to in ORS 367.370 (1) shall be used for the following purposes in the following order:

(1) Payment of all costs of toll collection and insurance in the event the bridge is insured; and then

(2) Payment of the principal, interest and other charges incidental to the issuance, sale and retirement of the bonds issued under ORS 367.370 (1) and refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.370 (1) or such refunding bonds. [Formerly 366.7029; 1981 c.660 §49]

367.420 [Formerly 366.7030, repealed by 1981 c.660 §18]

367.425 [1961 c.345 §3, repealed by 1981 c.660 §18]

**367.430 When bridge constructed under ORS 367.370 to be free of tolls.** The bridge referred to in ORS 367.370 (1) shall be operated as a toll-free bridge whenever the principal, interest and other charges incidental to the issuance, sale and retirement of all bonds issued under ORS 367.370 (1) and refunding bonds for the purpose of refunding outstanding bonds issued under ORS 367.370 (1) or such refunding bonds, have been fully paid, unless the State of Oregon and the State of Washington agree through their respective highway commissions to continue operation of the bridge as a toll bridge and to use the tolls to reimburse, in whole or in part, the State of Oregon and the State of Washington for funds advanced to pay such bond principal, interest and other incidental charges. [1961 c.345 §4; 1981 c.660 §50]

367.465 [1961 c.483 §1; repealed by 1981 c.660 §18]

367.470 [1961 c.483 §2; repealed by 1981 c.660 §18]

367.480 [1961 c.483 §3; 1967 c.335 §47]

367.485 [1961 c.483 §4; repealed by 1981 c.660 §18]

367.490 [1961 c.483 §5; repealed by 1981 c.660 §18]

367.495 [1961 c.483 §6; 1975 c.462 §11; repealed by 1981 c.660 §18]

367.500 [1961 c.483 §7; repealed by 1981 c.660 §18]

367.505 [1961 c.483 §8; repealed by 1981 c.660 §18]

367.510 [1961 c.483 §9; repealed by 1981 c.660 §18]

367.520 [1961 c.483 §10, repealed by 1981 c.660 §18]

### (Bond Act of 1973-General Highway Purposes)

**367.550 "Department" defined for ORS 367.550 to 367.600.** As used in ORS 367.550 to 367.600, "department" means the Department of Transportation. [1973 c.698 §1]

**Note:** 367.550 to 367.600 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 367 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**367.555 Authority to sell limited amount of bonds under ORS 367.550 to 367.600.** In addition to the authority now vested by any other provision of law state highway bonds of the State of Oregon used to provide funds to defray the costs of location, relocation, improvement, construction and reconstruction of state highways and bridges may in the aggregate principal sum not exceed \$150 million. [1973 c.698 §2; 1981 c.660 §32]

**Note:** See note under 367.550.

**367.560 Disposition and use of bond proceeds.** All moneys obtained from the sale of bonds under ORS 367.550 to 367.600 shall immediately be paid over to the State Treasurer and credited by the State Treasurer to the State Highway Fund. Such moneys shall be used only for the purposes stated in ORS 367.550 to 367.600. Pending the use of such moneys for highway purposes they may be invested as provided by law. [1973 c.698 §3]

**Note:** See note under 367.550.

**367.565 Procedure for issuing bonds under ORS 367.550 to 367.600.** All bonds issued under ORS 367.550 to 367.600 shall be issued in accordance with ORS 286.031 to 286.046. [1973 c.698 §4; 1981 c.660 §33]

**Note:** See note under 367.550.

367.570 [1973 c.698 §5; repealed by 1981 c.660 §18]

367.575 [1973 c.698 §6; repealed by 1981 c.660 §18]

367.580 [1973 c.698 §7, repealed by 1981 c.660 §18]

367.585 [1973 c.698 §8; repealed by 1981 c.660 §18]

367.590 [1973 c.698 §9; repealed by 1981 c.660 §18]

**367.595 Setting aside sufficient moneys to pay maturing obligations.** The department shall compute and determine in January of each year, after the sale of bonds

under ORS 367.550 to 367.600, the amount of principal and interest which will fall due during such year on bonds then outstanding and unpaid and shall maintain or hold in the State Highway Fund sufficient moneys to pay such maturing obligations. [1973 c.698 §10]

Note: See note under 367.550.

**367.600 Constitutional debt limits not to be exceeded.** No bonds shall be issued or sold under ORS 367.550 to 367.600 nor indebtedness incurred thereunder, which singly or in the aggregate with previous debts or liabilities incurred for the building and maintaining of permanent roads shall exceed any limitation provided in the Oregon Constitution at the date of the issuance and sale of such bonds. [1973 c.698 §11]

Note: See note under 367.550.

### HIGHWAY USER TAX BONDS

**367.605 Source of funds to secure bonds.** This section establishes the moneys available for use or pledge for purposes of issuing bonds under ORS 367.615 or 367.670. Such moneys are established as provided under the following:

(1) Except as provided in subsection (2) of this section, moneys, once deposited in the highway fund established under ORS 366.505, from all of the following sources are subject to the use or pledge described by this section:

(a) Moneys credited to the highway fund under ORS 153.630.

(b) Moneys from the tax on motor carriers imposed under ORS 767.815.

(c) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.

(d) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

(e) Moneys described under ORS 803.090 from the titling of vehicles.

(f) Moneys described under ORS 803.420 from the registration of vehicles.

(g) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver permits.

(2) Moneys described under subsection (1) of this section do not include any moneys described in the following:

(a) Moneys provided for appropriations to counties under ORS 366.525 to 366.540.

(b) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.

(c) Moneys in the account established under ORS 366.512 for parks and recreation. [1985 c.551 §2]

**367.610 Use of available highway fund moneys to secure bonds.** In addition to

moneys described in ORS 367.605, other moneys in the highway fund available for state highway purposes may be used, but cannot be pledged, to pay principal and interest on the bonds issued under ORS 367.615. [1985 c.551 §2a]

**367.615 Authority for bond issuance; bonds not general obligation; conditions for issuance of additional bonds; use of bond proceeds.** In addition to any authority the Department of Transportation has to issue and sell bonds and other similar obligations, this section establishes continuing authority for the department to issue and sell bonds and other similar obligations in a manner consistent with this section. The following apply to the authority granted by this section:

(1) Any reference to bonds issued under this section includes a reference to bonds or other similar obligations.

(2) The bonds may be referred to as Highway User Tax Bonds.

(3) Bonds issued under this section do not constitute a debt or general obligation of this state or any political subdivision of this state but are payable from moneys described under ORS 367.605 and 367.610 and secured solely by moneys described under ORS 367.605. No holder of bonds or other similar obligations issued under this section shall have the right to compel the exercise of the ad valorem taxing power of the state to pay principal and interest on such bonds or other similar obligations.

(4) This state shall provide for the continued assessment, levy, collection and deposit into the highway fund moneys described under ORS 367.605 in amounts sufficient to pay, when due, the annual debt service charges and other amounts necessary to meet requirements established by indenture under ORS 367.640.

(5) This state shall not in any way impair obligations of any agreement between this state and the holders of bonds issued under this section.

(6) The authority granted by this section is continuing and the department reserves the right, through and with the prior approval of the State Treasurer, to issue additional bonds under this section subject to the following:

(a) Additional bonds shall be secured equally and ratably by the pledge and appropriation of moneys described under ORS 367.605 or secured separately by a portion of such moneys subject only to the pledge of a particular portion of such moneys to secure particular bonds issued under this section.

(b) Additional bonds shall only be issued if sufficient moneys described under ORS 367.605 may be pledged to pay the annual debt service for all outstanding bonds issued under this section as well as for the additional bonds.

(7) Proceeds from the sale of bonds under this section are declared to be for the purpose of building and maintaining of permanent public roads and may be used as described under any of the following:

(a) To finance the cost of state highway, county road and city street projects in this state.

(b) To pay the cost of issuing the bonds.

(c) For loans to cities and counties as provided under ORS 367.655. [1985 c.551 §3]

**367.620 Limitation on bond amount.** Bonds issued under ORS 367.615 shall not exceed in the aggregate principal sum \$134 million. [1985 c.551 §4]

**367.625 Limitations on use of bond issuance authority.** (1) Bonds may be issued under ORS 367.615 only to the extent that bonding authority is available under ORS 367.226, 367.555 and 367.700. Proceeds from bonds may be used for loans to cities and counties under ORS 367.655 only to the extent that authority is available under ORS 367.700.

(2) To the extent that bonds are issued under ORS 367.615, the limits on bonding authority under ORS 367.226, 367.555 and 367.700 are reduced in the following manner:

(a) First, the limit on authority under ORS 367.555 is reduced until exhausted.

(b) Next, the limit on authority under ORS 367.226 is reduced.

(c) If the proceeds from bonds are used for loans to cities and counties under ORS 367.655, the limit on authority under ORS 367.700 is reduced. [1985 c.551 §4a]

**367.630 Highway revenue declaration; contents; purpose.** (1) Before bonds are issued under ORS 367.615, the department must prepare a highway revenue declaration authorizing issuance of the bonds. The declaration must be signed by the director or a person designated by the director and must be approved by the State Treasurer or a person designated by the State Treasurer.

(2) A declaration prepared under this section may do any of the following:

(a) Pledge any part or all of moneys described under ORS 367.605 for purposes of the bonds to be issued.

(b) Limit the purpose for which the proceeds of the sale may be applied by the department.

(c) Make pledges concerning the proceeds of the sale or moneys described under ORS 367.605 as necessary to secure payment of bonds of the department.

(d) Limit the issuance of additional bonds under ORS 367.615, limit or establish terms upon which additional bonds may be issued under ORS 367.615 or limit or establish the issuance or the terms of issuance or provide for the refunding of outstanding bonds.

(e) Provide for procedures, if any, by which the terms of contracts with bondholders may be amended or rescinded, for the percentage of the bondholders that must consent to amendment or rescinding of such contract and for the manner of bondholder consent to any amendment or rescinding of such contract.

(f) Establish a trustee as described under ORS 367.650.

(g) Vest a trustee appointed under ORS 367.650 with property, rights, powers and duties in trust, as the State Treasurer determines appropriate. Authority granted by this paragraph includes authority to:

(A) Include the rights, powers and duties of a trustee appointed to bondholders.

(B) Limit the rights, powers and duties of the trustee.

(h) Provide for other matters affecting issuance of the bonds.

(3) A declaration under this section may establish the same requirements, be subject to the same provisions, create the same obligations and confer the same rights and is otherwise subject to the same provisions as an indenture under ORS 367.640, if so provided in the declaration. [1985 c.551 §5; 1987 c.158 §64]

**367.635 Bond form; sale; price; maturity; provisions subject to determination of State Treasurer.** This section establishes provisions relating to the sale of bonds under ORS 367.615, as follows:

(1) Each bond issued shall contain on its face a statement that the ad valorem taxing power of this state or any political subdivision of this state is not pledged to the payment of the principal or the interest on the bond.

(2) The bonds may be sold at public competitive bid or at private negotiated sale.

(3) Bonds may be sold at the price or prices established by the State Treasurer, upon the advice of the department.

(4) No bonds issued shall mature at a time exceeding 30 years from the date of issuance. Subject to this subsection, the time bonds mature may be as established by indenture under ORS 367.640.

(5) The State Treasurer shall determine all aspects relating to the sale of bonds under ORS 367.615 that are not otherwise specifically provided, including rate of interest and discount, if any. Any determination made under this subsection shall be upon the advice of the department and shall be consistent with the provisions of ORS 288.805 to 288.945 relating to issuance of bonds by this state. [1985 c.551 §6]

**367.640 Indenture; provisions.** An indenture under which bonds described under ORS 367.615 are issued may provide for any or all of the following:

(1) The pledging of moneys or a portion of moneys described under ORS 367.605 to the payment of the principal, interest or redemption premium, if any, on bonds issued under ORS 367.615.

(2) Requirements concerning particular issues of bonds under ORS 367.615.

(3) Requirements concerning moneys described under ORS 367.605 and 367.610 and payment on outstanding bonds issued under ORS 367.615.

(4) A contractual undertaking for the benefit of bondholders concerning assessment, levy collection and deposit of moneys described under ORS 367.605.

(5) Provisions concerning the registration of bonds or recording or filing of the indenture.

(6) Provisions relating to a reserve account under ORS 367.645. Provisions under this subsection may include, but are not limited to, the amount required for such account or provisions for replenishing the account from moneys described under ORS 367.605.

(7) Provisions concerning trustees under ORS 367.650, including but not limited to the following:

(a) Establishing funds, accounts or moneys described under ORS 367.605 over which the trustee will be custodian.

(b) Providing that a trustee will be appointed.

(8) Establish the maturation date for the bonds, subject to ORS 367.635. [1985 c.551 §7]

**367.645 Reserve account.** The department may establish a separate reserve account to provide additional security for bonds issued under ORS 367.615. The following apply to any account established under this section:

(1) The account may be established as part of the highway fund or separately.

(2) The establishment of an account does not, in itself, limit the payment of debt service for bonds issued under ORS 367.615 to moneys in the account. Debt service for

bonds issued under ORS 367.615 may be paid from any moneys under ORS 367.605 and 367.610, whether or not an account is established, unless otherwise provided by indenture under ORS 367.640.

(3) The account is subject to any provisions established by indenture under ORS 367.640 concerning the amount of money in the account or the replenishing of moneys if the account is drawn down at any time while bonds are outstanding.

(4) The account is subject to any other provisions concerning the account that are established by indenture under ORS 367.640. [1985 c.551 §8; 1989 c.610 §2]

**367.650 Trust indenture to secure bonds; provisions.** At the discretion of the State Treasurer, bonds issued under ORS 367.615 may be secured by a trust indenture. A trust indenture established under this section is subject to the following:

(1) The trust indenture shall be by and between the state and a trustee.

(2) The trustee may be any trust company or bank having the powers of a trust company whether inside or outside the state.

(3) The trustee may act as custodian as provided for by indenture under ORS 367.640.

(4) The trustee must be jointly appointed by the director and the State Treasurer.

(5) The trustee shall be vested with such powers and duties as provided for by indenture under ORS 367.640. [1985 c.551 §9]

**367.655 Loan of bond proceeds to cities and counties; use of loans.** (1) Notwithstanding any other provision of law or any provision of charter or local ordinance to the contrary:

(a) The department may loan a portion of proceeds from bonds issued under ORS 367.615 to cities and counties; and

(b) Cities and counties may borrow moneys under this section.

(2) Any loan made under this section is subject to all of the following provisions:

(a) Moneys from the loan may only be used to defray costs of location, relocation, improvements, construction and reconstruction of city and county streets and roads.

(b) The department shall establish rules concerning the making of agreements for the loans. Repayment of principal and interest by any city or county shall be made according to the agreement between the department and the city or county that is made under the rules.

(c) If a city or county defaults of repayment, the department may withhold any part

of the appropriation to the city under ORS 366.785 to 366.820 or the county under ORS 366.525 to 366.540 as provided for in the agreement for repayment made under this section. [1985 c.551 §10]

**367.660 Lien on certain moneys pledged for bonds; terms of lien.** If moneys under ORS 367.605 are pledged for purposes of bonds by indenture under ORS 367.640 a lien is established upon the moneys. A lien established by this section is subject to all of the following:

(1) The lien shall be a first lien and security interest and prior charge upon the pledged moneys.

(2) The lien is valid and binding from the time the pledge is made.

(3) The pledged moneys are immediately subject to the lien without physical delivery or further act.

(4) The lien is valid and binding against all parties having claims on the money of any kind including claims under tort or contract.

(5) The lien is valid and binding against all parties irrespective of whether the parties have notice of the lien.

(6) No bond, indenture or any other instrument by which the pledge is made or the lien created must be recorded or filed except as provided by the indenture under ORS 367.640. [1985 c.551 §11]

**367.665 Interest on bonds exempt from state income tax.** The interest upon all bonds issued under ORS 367.615 and upon all refunding and advance refunding bonds issued under ORS 367.670 is exempt from personal income taxation imposed by this state under ORS chapter 316. [1985 c.551 §12]

**367.670 Refunding bonds.** Outstanding bonds issued under ORS 367.615 may be refunded by the issuance of refunding or advance refunding bonds. Refunding and advance refunding bonds issued under this section are subject to the provisions relating to bonds issued under ORS 367.615 and are subject to and shall be issued in accordance with the provisions of ORS 286.051 and 288.605 to 288.695. [1985 c.551 §13]

#### BONDED INDEBTEDNESS FOR CITY AND COUNTY ROADS AND RECREATION FACILITIES

**367.700 Authority to sell limited amount of bonds under ORS 367.700 to 367.750.** In addition to the authority now vested by any other provision of law state highway bonds of the State of Oregon used to provide funds for purposes of ORS 367.700 to 367.750 in the aggregate principal sum

may not exceed \$50 million. [1975 c.211 §1; 1981 c.660 §34]

**Note:** 367.700 to 367.750 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 367 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**367.705 Use of funds; priority.** (1) Funds available under ORS 367.700 to 367.750 shall be made available by the Department of Transportation to cities and counties to be advanced to defray costs of location, relocation, improvements, construction and reconstruction of city and county streets and roads and of acquisition, development, maintenance and care of public park and recreation facilities.

(2) If funds available under ORS 367.700 to 367.750 are not sufficient to fund all projects for which funds are applied by cities and counties, the department shall give priority to projects in cities and counties having the highest rates of unemployment in this state. [1975 c.211 §2]

**Note:** See note under 367.700.

**367.710 Repayment by city or county; interest.** (1) Repayment of principal and interest by the cities and counties who receive funds under ORS 367.705 shall be made by withholding from payments due to the city or county under ORS 366.525 to 366.540. Funds withheld under this subsection remain in the State Highway Fund available for the purposes authorized by law.

(2) The Department of Transportation shall fix the rate of interest to be charged on any advance made under ORS 367.705. [1975 c.211 §3]

**Note:** See note under 367.700.

**367.715 Procedure for issuing bonds under ORS 367.700 to 367.750.** All bonds issued under ORS 367.700 to 367.750 shall be issued in accordance with ORS 286.031 to 286.046. [1975 c.211 §4, 1981 c.660 §35]

**Note:** See note under 367.700.

**367.720** [1975 c.211 §5, repealed by 1981 c.660 §18]

**367.725** [1975 c.211 §6; repealed by 1981 c.660 §18]

**367.730** [1975 c.211 §7; repealed by 1981 c.660 §18]

**367.735** [1975 c.211 §8; repealed by 1981 c.660 §18]

**367.740** [1975 c.211 §9, repealed by 1981 c.660 §18]

**367.745 Setting aside sufficient moneys to pay maturing bonds.** The department shall compute and determine in January of each year, after the sale of bonds under ORS 367.550 to 367.600, the amount of principal and interest which will fall due during such year on bonds then outstanding and unpaid and shall maintain or hold in the State Highway Fund sufficient moneys to pay such maturing obligations. [1975 c.211 §10]

**Note:** See note under 367.700.

**367.750 Constitutional debt limits not to be exceeded.** No bonds shall be issued or sold under ORS 367.700 to 367.750 nor indebtedness incurred thereunder, which singly or in the aggregate with previous debts or liabilities incurred for the building and

maintaining of permanent roads shall exceed any limitation provided in the Oregon Constitution at the date of the issuance and sale of such bonds. [1975 c.211 §11]

**Note:** See note under 367.700.

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## HIGHWAYS, ROADS, BRIDGES AND FERRIES

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