

Senate Bill 115

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies statutory basis for Oregon University System to cause issuance of higher education revenue bonds.

Establishes Higher Education Revenue Bond Project Fund, Higher Education Revenue Bond Fund and Higher Education Revenue Bond Administration Fund. Continuously appropriates moneys in funds to Oregon University System to finance projects, to refund bonds issued for projects and to pay bond-related costs.

A BILL FOR AN ACT

1
2 Relating to borrowing for the Oregon University System; creating new provisions; amending ORS
3 351.317, 351.450, 351.455 and 351.460; repealing ORS 351.315; and appropriating money.

4 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. As used in sections 1 to 3 of this 2011 Act:

6 (1) **"Bond-related costs" means:**

7 (a) **The costs and expenses of issuing, administering and maintaining higher education**
8 **revenue bonds including, but not limited to, the costs of:**

9 (A) **Paying or redeeming higher education revenue bonds.**

10 (B) **Paying amounts due in connection with credit enhancement devices or agreements**
11 **for exchange of interest rates.**

12 (C) **Paying the fees, administrative costs and expenses of the State Treasurer and the**
13 **Oregon University System, including the costs of consultants or advisors retained by the**
14 **State Treasurer or the Chancellor of the Oregon University System, for the higher education**
15 **revenue bonds.**

16 (b) **The costs of funding reserves for the higher education revenue bonds.**

17 (c) **Capitalized interest for the higher education revenue bonds.**

18 (d) **Rebates or penalties due to the United States in connection with the higher education**
19 **revenue bonds.**

20 (e) **Any other costs or expenses that the State Treasurer or the Chancellor of the Oregon**
21 **University System determines are necessary or desirable in connection with issuing and**
22 **maintaining the higher education revenue bonds.**

23 (2) **"Higher education revenue bonds" means revenue bonds issued pursuant to section 2**
24 **of this 2011 Act.**

25 (3) **"Higher education revenues" includes:**

26 (a) **Tuition, fees and charges imposed or collected by the Oregon University System, or**
27 **by one of the universities in the system; and**

28 (b) **Moneys appropriated, allocated or otherwise made available to the Oregon University**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 System, or to one of its universities, by the Legislative Assembly, if those moneys are law-
2 fully available to pay the bond-related costs of higher education revenue bonds.

3 **SECTION 2.** (1) At the request of the Chancellor of the Oregon University System, the
4 State Treasurer may issue, as provided in ORS chapter 286A, higher education revenue bonds
5 from time to time, the net proceeds of which must be used to:

6 (a) Finance projects that the State Board of Higher Education determines will assist the
7 Oregon University System in carrying out its statutory powers;

8 (b) Refund bonds issued for the projects; and

9 (c) Pay bond-related costs.

10 (2) The Chancellor of the Oregon University System, with the approval of the State
11 Treasurer, may:

12 (a) Pledge all or a portion of the higher education revenues, pursuant to ORS 286A.102,
13 to secure higher education revenue bonds, credit enhancement devices or agreements for the
14 exchange of interest rates, identifying the specific higher education revenues that will be
15 pledged to secure each series of higher education revenue bonds and specifying the status
16 of the lien of each pledge.

17 (b) Enter into covenants, pursuant to ORS 286A.025 (4)(c), on behalf of the State of
18 Oregon for the benefit of owners of higher education revenue bonds, providers of credit en-
19 hancement for higher education revenue bonds and counterparties to agreements for ex-
20 change of interest rates to:

21 (A) Adjust the rates, charges or fees that produce higher education revenues so that
22 higher education revenues equal or exceed specified levels during specified periods.

23 (B) Create only those pledges or liens on higher education revenues that are permitted
24 by the covenants authorized by this section.

25 (C) Budget and apply, or otherwise allow, higher education revenues to be applied in
26 amounts that, when added to other moneys lawfully available for the purpose, will be suffi-
27 cient:

28 (i) To pay in full and when due the principal, interest and premium on outstanding higher
29 education revenue bonds;

30 (ii) To pay amounts due in connection with agreements for exchange of interest rates and
31 credit enhancement devices for higher education revenue bonds; and

32 (iii) To maintain the balance required by covenants in any debt service reserves estab-
33 lished for the higher education revenue bonds.

34 (c) Own and operate the properties of the Oregon University System in compliance with
35 the higher education revenue bond covenants until all higher education revenue bonds are
36 paid or defeased.

37 (3) Higher education revenue bonds are not a debt or a general obligation of the State
38 of Oregon or the Oregon University System and neither the full faith and credit nor the
39 taxing power of the State of Oregon may be pledged to secure or pay the revenue bonds.

40 (4) The State Treasurer and the Oregon University System do not have an obligation to
41 pay bond-related costs except as provided in sections 1 to 3 of this 2011 Act. A holder of
42 higher education revenue bonds issued under this section does not have the right to compel
43 the exercise of the taxing power of the State of Oregon to pay bond-related costs.

44 (5) As long as any higher education revenue bonds issued under this section are out-
45 standing, covenants related to the revenue bonds are deemed to be contracts between the

1 State of Oregon and holders of the revenue bonds. The State of Oregon may not give force
 2 or effect to a statute or initiative or referendum measure approved by the electors of this
 3 state, if doing so would unconstitutionally impair existing covenants made with the holders
 4 of existing higher education revenue bonds or would unconstitutionally impair other obli-
 5 gations or agreements regarding the security of revenue bonds to which the moneys depos-
 6 ited in the fund are pledged and assigned.

7 **SECTION 3.** The Higher Education Revenue Bond Project Fund is established in the State
 8 Treasury, separate and distinct from the General Fund. The Higher Education Revenue Bond
 9 Project Fund consists of net proceeds of higher education revenue bonds issued under section
 10 2 of this 2011 Act and other moneys made available for the purposes described in section 2
 11 (1) of this 2011 Act. Moneys in the Higher Education Revenue Bond Fund may be invested
 12 as provided in ORS 293.701 to 293.820, and interest earned by moneys in the fund shall be
 13 credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Uni-
 14 versity System for the purposes described in section 2 (1) of this 2011 Act.

15 **SECTION 4.** (1) The Higher Education Revenue Bond Fund is established in the State
 16 Treasury, separate and distinct from the General Fund. Amounts in the Higher Education
 17 Revenue Bond Fund may be invested as provided in ORS 293.701 to 293.820, and interest
 18 earned on the bond fund must be credited to the bond fund. Amounts credited to the bond
 19 fund are continuously appropriated to the Oregon University System for the purpose of
 20 paying, when due, the principal of, the interest on and the premium, if any, on outstanding
 21 higher education revenue bonds. The system shall deposit in the bond fund:

22 (a) Capitalized or accrued interest on Article XI-Q bonds;

23 (b) Amounts appropriated or otherwise made available by the Legislative Assembly for
 24 deposit in the bond fund; and

25 (c) Reserves established for the payment of higher education revenue bonds.

26 (2) At the request of the system, the State Treasurer may create separate accounts in
 27 the bond fund for reserves and debt service for each series of higher education revenue
 28 bonds as provided in ORS 286A.025 (2)(g).

29 **SECTION 5.** (1) The Higher Education Revenue Bond Administration Fund is established
 30 in the State Treasury, separate and distinct from the General Fund. Amounts in the Higher
 31 Education Revenue Bond Administration Fund may be invested as provided in ORS 293.701
 32 to 293.820, and interest earned on the bond administration fund must be credited to the bond
 33 administration fund. Amounts credited to the bond administration fund are continuously
 34 appropriated to the Oregon University System for payment of bond-related costs. The system
 35 shall credit to the bond administration fund:

36 (a) Proceeds of higher education revenue bonds that were issued to pay bond-related
 37 costs; and

38 (b) Amounts appropriated or otherwise made available by the Legislative Assembly for
 39 deposit in the bond administration fund.

40 (2) At the request of the system, the State Treasurer may create separate accounts in
 41 the bond administration fund as provided in ORS 286A.025 (2)(g).

42 **SECTION 6.** ORS 351.317 is amended to read:

43 351.317. An obligation incurred under ORS 351.140 [*or 351.315*] is not an indebtedness of the
 44 State of Oregon and does not create a general indebtedness of the [*State Board of Higher Education*].
 45 *A bond issued by the State Treasurer at the request of the board may be paid only from the property,*

1 *income or revenues pledged to secure its payment*] **Oregon University System.**

2 **SECTION 7.** ORS 351.450 is amended to read:

3 351.450. (1) The *[moneys]* **net proceeds** realized from sales of bonds issued to construct, improve,
4 repair, equip and furnish buildings and other structures for higher education, and to purchase and
5 improve sites *[therefor]* **for buildings and other structures**, shall be credited to a designated ac-
6 count in the Oregon University System Fund established by ORS 351.506.

7 (2) The account designated by this section shall have:

8 (a) A separate subaccount for the credit of *[moneys]* **net proceeds** realized from sales of **general**
9 **obligation** bonds issued pursuant to Article XI-F(1) of the Oregon Constitution and ORS 351.350;
10 **and**

11 (b) A separate subaccount for the credit of *[moneys]* **net proceeds** realized from sales of **general**
12 **obligation** bonds issued pursuant to Article XI-G of the Oregon Constitution and ORS 351.345[;
13 *and]*

14 *[(c) A separate subaccount for the credit of moneys realized from the sales of revenue bonds issued*
15 *pursuant to ORS chapter 286A].*

16 (3) The *[moneys]* **net proceeds** received from the issuance of temporary bonds under ORS
17 351.470 for the purpose of interim financing pending the sale of the bonds shall also be credited to
18 the appropriate subaccount of the account designated by this section.

19 (4) The moneys in the account designated by this section shall be used for the purpose of de-
20 fraying the costs of the projects to be financed through sale of the bonds and for the purpose of
21 retiring temporary bonds issued under ORS 351.470 and may not be used for any other purpose un-
22 less designated for investment by the Chancellor of the Oregon University System. If a surplus re-
23 mains after application to the purposes described in this subsection, the surplus and earnings from
24 temporary investments shall be credited to the account maintained in the Oregon University System
25 Fund under ORS 351.460.

26 **SECTION 8.** ORS 351.455 is amended to read:

27 351.455. Notwithstanding any other provisions of law, the Oregon University System may expend
28 moneys from the appropriate subaccount of the account in the Oregon University System Fund
29 designated by ORS 351.450, including *[moneys]* **net proceeds** realized from the sale of **general ob-**
30 **ligation** bonds issued pursuant to Article XI-F(1) of the Oregon Constitution and ORS 351.350, *[and*
31 *from the sale of revenue bonds authorized by ORS 351.315,]* for the planning, constructing, altering,
32 repairing, furnishing and equipping of buildings and facilities of the kind and character prescribed
33 by Article XI-F(1) of the Oregon Constitution and for the acquisition of land.

34 **SECTION 9.** ORS 351.460 is amended to read:

35 351.460. (1) The State Board of Higher Education shall maintain an account within the Oregon
36 University System Fund established by ORS 351.506 to provide for the payment of the principal of
37 and the interest upon:

38 (a) The **general obligation** bonds issued under authority of Article XI-F(1) of the Oregon Con-
39 stitution and ORS 351.350;

40 (b) The **general obligation** bonds issued under authority of Article XI-G of the Oregon Consti-
41 tution and ORS 351.345; **and**

42 *[(c) Revenue bonds authorized by ORS 351.315; and]*

43 *[(d)]* (c) Amounts due under financial agreements entered into under ORS 351.356.

44 (2) The account maintained under this section comprises one subaccount for each of the pur-
45 poses of the account identified in subsection (1) of this section.

1 (3) Income and interest derived from moneys in the subaccounts of the account maintained under
 2 this section are credited to the appropriate subaccount.

3 (4) The sources of moneys for the account maintained under this section are:

4 (a) All moneys received from ad valorem taxes levied pursuant to ORS 291.445;

5 (b) All moneys that the Legislative Assembly may provide in lieu of *[such]* **ad valorem** taxes;

6 (c) All of the net revenues received from the projects or undertakings for the financing of which
 7 the bonds were issued, including gifts, grants and building fees;

8 (d) Unpledged revenues of buildings and projects of like character that are allocated by the
 9 board;

10 (e) All moneys received as accrued interest upon bonds sold;

11 (f) All earnings from investments of the account;

12 (g) All proceeds of the sale of refunding bonds; and

13 (h) All moneys that the State of Oregon has agreed to hold in the account to pay amounts due
 14 under financial agreements entered into under ORS 351.356.

15 (5) The board may credit the account maintained under this section with moneys received from
 16 either a sale or interfund transfer of land, buildings and facilities. When the land, buildings or fa-
 17 cilities are sold or the use of the land, buildings or facilities is rededicated so that a transfer from
 18 one subaccount to another subaccount is appropriate, the moneys received shall be credited to the
 19 appropriate subaccount.

20 (6) The board shall apply student building fees, revenues, gifts and grants for the payment of the
 21 principal of and the interest upon the bonds issued under authority of Article XI-F(1) of the Oregon
 22 Constitution *[and upon revenue bonds authorized by ORS 351.315]* until *[such time as]* the proper
 23 subaccount and investments of the subaccount, as supplemented by expected future income will, in
 24 the judgment of the board, be sufficient to meet in full the principal of and the interest upon all such
 25 outstanding bonds. Except for student building fees, income not required for the account as de-
 26 scribed in this subsection shall be transferred to other accounts and subaccounts within the Oregon
 27 University System Fund that are designated by the board. Student building fees for buildings con-
 28 structed from the proceeds of **general obligation** bonds issued under Article XI-F(1) of the Oregon
 29 Constitution *[or ORS 351.315]* shall be applied only to *[those]* **general obligation** bonds authorized
 30 under Article XI-F(1) of the Oregon Constitution *[or ORS 351.315]*.

31 (7)(a) The board may not use the account maintained under this section for any purpose other
 32 than the purposes for which the account was created.

33 (b) Notwithstanding paragraph (a) of this subsection, the board may transfer any surplus in the
 34 account to other accounts in the Oregon University System Fund if a balance remains in the ac-
 35 count from sources other than student building fees for buildings constructed from the proceeds of
 36 bonds issued under Article XI-F(1) of the Oregon Constitution and:

37 (A) The purposes for which the account was created have been fulfilled; or

38 (B) A reserve sufficient to meet all existing and future obligations and liabilities of the account
 39 has been set aside.

40 **SECTION 10. ORS 351.315 is repealed.**