

# Senate Bill 751

Sponsored by Senator KNOPP, Representative ZIKA; Representatives BYNUM, LEIF, SPRENGER, WILDE, WILSON

## 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**.

Allows certain planned communities to deposit their funds into local government investment pool managed by State Treasurer.

Becomes operative on effective date of rules adopted by State Treasurer or January 1, 2026, whichever is earlier.

## A BILL FOR AN ACT

1  
2 Relating to investments of qualified planned communities; creating new provisions; and amending  
3 ORS 94.670, 293.353, 293.857, 294.805, 294.810, 294.815, 294.831, 294.840, 294.860, 294.870, 294.880  
4 and 294.882.

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

6 **SECTION 1.** ORS 94.670 is amended to read:

7 94.670. (1) A homeowners association shall retain within this state the documents, information  
8 and records delivered to the association under ORS 94.616 and all other records of the association  
9 for not less than the period specified for the record in ORS 65.771 or any other applicable law ex-  
10 cept that:

11 (a) The documents specified in ORS 94.616 (3)(o), if received, must be retained as permanent  
12 records of the association.

13 (b) Proxies and ballots must be retained for one year from the date of determination of the vote,  
14 except that proxies and ballots relating to an amendment to the declaration, bylaws or other gov-  
15 erning document must be retained for one year from the date the amendment is effective.

16 (2)(a) All assessments, including declarant subsidies and all other association funds, shall be  
17 deposited and maintained in the name of the association in one or more separate federally insured  
18 accounts, including certificates of deposit, at a financial institution, as defined in ORS 706.008, other  
19 than an extranational institution. Except as provided in paragraph (b) of this subsection, funds must  
20 be maintained in an association account until disbursed.

21 (b) Subject to any limitations imposed by the declaration or bylaws, funds of the association  
22 maintained in accounts established under this subsection may be:

23 **(A)** Used to purchase obligations of the United States government[.]; **or**

24 **(B) Deposited and maintained in the Oregon Short Term Fund or any other commingled**  
25 **investment pool established by the State Treasurer for investment of the funds of state**  
26 **agencies or local governments, subject to the rules of the State Treasurer under ORS 294.810,**  
27 **provided:**

28 **(i) The planned community is a Class I planned community;**

29 **(ii) The association manages or governs police and fire department services for the**  
30 **planned community; and**

**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       **(iii) The initial deposit into the Oregon Short Term Fund or other commingled invest-**  
2 **ment pool under this subparagraph is no less than \$5 million.**

3       (c) All expenses of the association shall be paid from the association account.

4       (3) The association shall keep financial records sufficiently detailed for proper accounting pur-  
5 poses.

6       (4) Within 90 days after the end of the fiscal year, the board of directors shall:

7       (a) Prepare or cause to be prepared an annual financial statement consisting of a balance sheet  
8 and income and expenses statement for the preceding fiscal year; and

9       (b) Distribute to each owner and, upon written request, any mortgagee of a lot, a copy of the  
10 annual financial statement.

11       (5) Subject to ORS 94.671, the association of a planned community that has annual assessments  
12 exceeding \$75,000 shall cause the financial statement required under subsection (4) of this section  
13 to be reviewed within 300 days after the end of the fiscal year by an independent certified public  
14 accountant licensed in the State of Oregon in accordance with the Statements on Standards for  
15 Accounting and Review Services issued by the American Institute of Certified Public Accountants.

16       (6) The association of a planned community created on or after January 1, 2004, or the associ-  
17 ation of a planned community described in ORS 94.572 that has annual assessments of \$75,000 or less  
18 shall cause the most recent financial statement required by subsection (4) of this section to be re-  
19 viewed in the manner described in subsection (5) of this section within 300 days after the association  
20 receives a petition requesting review signed by at least a majority of the owners.

21       (7) An association subject to the requirements of subsection (5) of this section may elect, on an  
22 annual basis, not to comply with the requirements of subsection (5) of this section by an affirmative  
23 vote of at least 60 percent of the owners, not including the votes of the declarant with respect to  
24 lots owned by the declarant.

25       (8)(a) The association shall provide, within 10 business days of receipt of a written request from  
26 an owner, a written statement that provides:

27       (A) The amount of assessments due from the owner and unpaid at the time the request was re-  
28 ceived, including:

29       (i) Regular and special assessments;

30       (ii) Fines and other charges;

31       (iii) Accrued interest; and

32       (iv) Late payment charges.

33       (B) The percentage rate at which interest accrues on assessments that are not paid when due.

34       (C) The percentage rate used to calculate the charges for late payment or the amount of a fixed  
35 charge for late payment.

36       (b) The association is not required to comply with paragraph (a) of this subsection if the asso-  
37 ciation has commenced litigation by filing a complaint against the owner and the litigation is  
38 pending when the statement would otherwise be due.

39       (9)(a) Except as provided in paragraph (b) of this subsection, the association shall make the  
40 documents, information and records described in subsections (1) and (4) of this section and all other  
41 records of the association reasonably available for examination and, upon written request, available  
42 for duplication by an owner and any mortgagee of a lot that makes the request in good faith for a  
43 proper purpose.

44       (b) Records kept by or on behalf of the association may be withheld from examination and du-  
45 plication to the extent the records concern:

1 (A) Personnel matters relating to a specific identified person or a person’s medical records.

2 (B) Contracts, leases and other business transactions that are currently under negotiation to  
 3 purchase or provide goods or services.

4 (C) Communications with legal counsel that relate to matters specified in subparagraphs (A) and  
 5 (B) of this paragraph and the rights and duties of the association regarding existing or potential  
 6 litigation or criminal matters.

7 (D) Disclosure of information in violation of law.

8 (E) Documents, correspondence or management or board reports compiled for or on behalf of the  
 9 association or the board of directors by its agents or committees for consideration by the board of  
 10 directors in executive session held in accordance with ORS 94.640 (8).

11 (F) Documents, correspondence or other matters considered by the board of directors in execu-  
 12 tive session held in accordance with ORS 94.640 (8).

13 (G) Files of individual owners, other than those of a requesting owner or requesting mortgagee  
 14 of an individual owner, including any individual owner’s file kept by or on behalf of the association.

15 (10) The association shall maintain a copy, suitable for the purpose of duplication, of the fol-  
 16 lowing:

17 (a) The declaration and bylaws, including amendments or supplements in effect, the recorded  
 18 plat, if feasible, and the association rules and regulations currently in effect.

19 (b) The most recent financial statement prepared pursuant to subsection (4) of this section.

20 (c) The current operating budget of the association.

21 (d) The reserve study, if any, described in ORS 94.595.

22 (e) Architectural standards and guidelines, if any.

23 (11) The association, within 10 business days after receipt of a written request by an owner,  
 24 shall furnish the requested information required to be maintained under subsection (10) of this sec-  
 25 tion.

26 (12) The board of directors, by resolution, may adopt reasonable rules governing the frequency,  
 27 time, location, notice and manner of examination and duplication of association records and the  
 28 imposition of a reasonable fee for furnishing copies of any documents, information or records de-  
 29 scribed in this section. The fee may include reasonable personnel costs for furnishing the docu-  
 30 ments, information or records.

31 **SECTION 2.** ORS 294.805 is amended to read:

32 294.805. As used in ORS 294.805 to 294.895:

33 (1) “Board” means the Oregon Short Term Fund Board.

34 (2) “Council” means the Oregon Investment Council created under ORS 293.706.

35 (3) “Funds” means funds under the control or in the custody of any local government official  
 36 or tribal government official by virtue of office that are not required to meet current demands.

37 (4) “Investment officer” means the State Treasurer in capacity as investment officer for the  
 38 council and the investment pool.

39 (5) “Investment pool” means the aggregate of all funds from local government officials, [and]  
 40 tribal government officials **and planned community treasurers** that are placed in the custody of  
 41 the investment officer for investment and reinvestment as provided under ORS 294.805 to 294.895.

42 (6) “Local government official” means each officer or employee of any agency, political subdivi-  
 43 sion or public corporation of this state, including the Oregon State Bar, who by law is made the  
 44 custodian of or has control of any funds.

45 (7) “Oregon Indian tribe” means each of the Burns Paiute Tribe, the Confederated Tribes of

1 Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand Ronde Community  
 2 of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the  
 3 Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon,  
 4 the Coquille Indian Tribe, the Cow Creek Band of Umpqua Tribe of Indians and the Klamath Tribes,  
 5 as long as each remains a federally recognized Indian tribe.

6 **(8) “Planned community treasurer” means the officer or employee of a qualifying planned  
 7 community association who has control of the planned association’s funds.**

8 [(8)] (9) “Public body” means:

9 (a) A public body as defined in ORS 287A.001; or

10 (b) An Oregon Indian tribe.

11 **(10) “Qualified planned community” means a planned community meeting the qualifica-  
 12 tions in ORS 94.670 (2)(b)(B).**

13 [(9)] (11) “Tribal government” means the governing body of an Oregon Indian tribe.

14 [(10)] (12) “Tribal government official” means each officer or employee of a tribal government  
 15 who by law is made the custodian of or has control of any funds.

16 **SECTION 3.** ORS 294.810 is amended to read:

17 294.810. (1)(a) Subject to paragraph (b) of this subsection, [*with the consent of the governing  
 18 body,*] a local government official or tribal government official, **with the consent of the governing  
 19 body, or a planned community treasurer, with the consent of the board of directors,** may  
 20 place in the aggregate up to \$30 million of the funds of the local government, [*or*] tribal government  
 21 **or qualified planned community** in the investment pool, or, if the assets of the investment pool  
 22 have been transferred pursuant to ORS 294.882, for investment and reinvestment by the investment  
 23 officer as provided under ORS 293.701 to 293.857 or 294.805 to 294.895, as the case may be.

24 (b) The investment officer may require the governing body of the local government or tribal  
 25 government **or board of directors of a qualified planned community** to enter into an investment  
 26 agreement as a condition of placing funds with the investment officer pursuant to this subsection.  
 27 **The investment officer may require a qualified planned community to maintain a minimum  
 28 balance of an amount set by the investment officer that is not more than \$5 million.**

29 (2) The \$30 million limitation in this section does not apply either to funds of a governing body  
 30 that are placed in the investment pool on a pass-through basis or to funds invested on behalf of  
 31 another government unit. Local governments must remove pass-through funds that result in an ac-  
 32 count balance in the pool in excess of \$30 million within 10 business days. County governments,  
 33 [*and*] tribal governments **and qualified planned communities** must remove such excess funds  
 34 within 20 business days.

35 (3) The investment officer shall annually adjust the \$30 million limitation in this section by  
 36 multiplying \$30 million by the percentage, if any, by which the monthly averaged U.S. City Average  
 37 Consumer Price Index for the 12 consecutive months ending August 31 of the current calendar year  
 38 exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive  
 39 months ending August 31, 1995.

40 **SECTION 4.** ORS 294.815 is amended to read:

41 294.815. Subject to the right of the unit of local government, [*or the*] tribal government **or  
 42 qualified planned community** to specify the period in which its funds may be held in the invest-  
 43 ment pool for investment and reinvestment, the investment officer by rule shall prescribe the time  
 44 periods for investments in the investment pool and the procedure for withdrawal of funds.

45 **SECTION 5.** ORS 294.831 is amended to read:

1       294.831. (1) The investment officer shall seek to obtain a competitive return on investments of  
 2 the investment pool subject to the standards set forth in ORS 294.835 and consistent with the  
 3 liquidity requirements demanded by the short term nature of local government and tribal govern-  
 4 ment deposits in the pool.

5       (2) The investment officer shall at all times hold investments which mature in three years or  
 6 less, in an amount not less than an amount equal to the aggregate of all funds placed with the in-  
 7 vestment officer by local governments, [and] tribal governments **and qualified planned communi-**  
 8 **ties** under ORS 294.805 to 294.895, which investments shall be from the funds defined in ORS 293.701  
 9 (2)(o).

10       (3) Notwithstanding subsection (2) of this section, the investment officer may purchase legally  
 11 issued general obligations of the United States and of the agencies and instrumentalities of the  
 12 United States if the seller of the obligations agrees to repurchase the obligations within 90 days  
 13 following the date on which the investment officer makes the investment. The price paid by the in-  
 14 vestment officer for such obligations may not exceed amounts or percentages prescribed by written  
 15 policy of the Oregon Investment Council or the Oregon Short Term Fund Board created by ORS  
 16 294.885.

17       (4) Investments and commitments of the investment pool which do not conform to the quality  
 18 or maturity requirements set forth in ORS 294.805 to 294.895 shall be liquidated by the investment  
 19 officer once the market value of such investments and commitments reaches book value, or as soon  
 20 as is practicable thereafter.

21       **SECTION 6.** ORS 294.840 is amended to read:

22       294.840. Subject to the objective set forth in ORS 294.831 and the standards set forth in ORS  
 23 294.835, the Oregon Investment Council shall formulate policies for the investment and reinvestment  
 24 of moneys in the investment pool and the acquisition, retention, management and disposition of in-  
 25 vestments of the investment pool. The council, from time to time, shall review those policies and  
 26 make changes therein as it considers necessary or desirable. The council may formulate separate  
 27 policies for any funds from any single public body **or qualified planned community** included in the  
 28 investment pool.

29       **SECTION 7.** ORS 294.860 is amended to read:

30       294.860. (1) Except as provided in ORS 294.850 and this subsection, all instruments of title of  
 31 all investments of the investment pool shall remain in the custody of the investment officer. The  
 32 investment officer may deposit with one or more custodial agents or banks those instruments of title  
 33 that the State Treasurer considers advisable, to be held in safekeeping by the agents or banks for  
 34 collection of the principal and interest or other income, or of the proceeds of sale or maturity. For  
 35 purposes of this section, instruments of title of investments of the investment pool may include such  
 36 evidence of title as the investment officer shall consider secure and consistent with modern invest-  
 37 ment, banking and commercial practices, and may include book entry and automated recordation of  
 38 such title.

39       (2) Except as provided in ORS 294.850 and 294.855 (3) and subsections (1) and (3) of this section,  
 40 the investment officer shall collect the principal and interest or other income of investments of the  
 41 investment pool, title of which is in the investment officer's custody, when due and payable, and  
 42 shall pay to the appropriate local government official, [or] tribal government official **or planned**  
 43 **community treasurer** the principal and interest or other income, within 30 days after the last day  
 44 of the calendar quarter in which the principal and interest or other income accrues. Not less often  
 45 than quarterly and without regard to whether the short-term investments were made with moneys

1 placed by local government officials, by tribal government officials, **by planned community treas-**  
 2 **urers** or by other sources, the investment officer shall compute the amount by which the current  
 3 fair market value exceeds or is less than the net purchase price of all short-term investments ad-  
 4 ministered by the investment officer that mature more than 270 days from the date computation is  
 5 made. The investment officer shall compute the fair market value of such investments based upon  
 6 the mean value of the bid and ask price of such investments as of the date of computation, based  
 7 upon quotations from reputable dealers or financial institutions dealing in such investments. If the  
 8 amount so computed by the investment officer totals more than one percent of the balance of the  
 9 pool, either in terms of a gain or loss, the investment officer shall allocate the amount to all pool  
 10 participants. Any addition to or deduction from amounts to be distributed shall be allocated among  
 11 the municipalities, [and] tribal governments **and qualified planned communities** participating in  
 12 the pool at any time during the month in proportion to their average daily balances of funds in-  
 13 vested through the pool. Investments maturing 270 days or less from the date of computation shall  
 14 not be subject to the foregoing computation, but for other purposes shall be valued at book value  
 15 or original purchase price.

16 (3) In the event of default in the payment of principal or interest or other income of any in-  
 17 vestment of the investment pool, the investment officer, with the approval of the council, may:

18 (a) Institute the proper proceedings to collect the matured principal or interest or other income.

19 (b) Accept for exchange purposes refunding bonds or other evidences of indebtedness at interest  
 20 rates to be agreed upon by the investment officer and obligor.

21 (c) Make compromises, adjustments or disposition of the matured principal or interest or other  
 22 income as the investment officer considers advisable for the purpose of protecting the moneys in-  
 23 vested.

24 (d) Make compromises or adjustments as to future payments of principal or interest or other  
 25 income as the investment officer considers advisable for the purposes of protecting the moneys in-  
 26 vested.

27 **SECTION 8.** ORS 294.870 is amended to read:

28 294.870. (1) The investment officer shall keep, for each public body **or qualified planned com-**  
 29 **munity** with funds in the investment pool, a separate account, which shall record the individual  
 30 amounts and the totals of all investments of its moneys in the investment pool.

31 (2) The investment officer shall report monthly to the local government official, [or] tribal gov-  
 32 ernment official **and planned community treasurer** of a public body **or qualified planned com-**  
 33 **munity** with funds in the investment pool the changes in its account made during the preceding  
 34 month for the investment pool. The investment officer shall also furnish a financial report monthly  
 35 to each participating governmental unit investor in the investment pool. The financial report shall  
 36 include, but not be limited to, such comparative data for the preceding six months operation of the  
 37 investment pool as will provide a basis for analyzing trends and comparing operating results and  
 38 financial position. A monthly statement shall be distributed within 30 days after the end of that  
 39 month.

40 **SECTION 9.** ORS 294.880 is amended to read:

41 294.880. An examination and audit of the investment pool shall be made separately from the  
 42 audit of the treasurer for submission to the Oregon Investment Council, public bodies **and qualified**  
 43 **planned communities** that are investors in the pool, the Legislative Assembly and the Oregon  
 44 Short Term Fund Board at least once a year and at other times as the council may require. An audit  
 45 report shall be submitted to the individuals, [and] public bodies **and qualified planned communi-**

1 **ties** specified within 60 days after the end of the fiscal year or as soon as practical. The report shall  
 2 include a statement prepared by the State Treasurer of the investment rules governing investments  
 3 authorized by the council.

4 **SECTION 10.** ORS 294.882 is amended to read:

5 294.882. (1) It is recognized that a time may come when the interest of local governments and  
 6 tribal governments diminishes to the extent that participation in the investment pool no longer  
 7 warrants its operation as a separate fund. If the investment pool decreases to a level below \$125  
 8 million, the State Treasurer may transfer the assets of the pool to the Oregon Short Term Fund  
 9 established under ORS 293.728. In that event, the investment pool participant accounts will be  
 10 treated as are other state funds and accounts in receiving a proportionate share of the earnings of  
 11 the Oregon Short Term Fund. Notwithstanding ORS 294.805 to 294.895, but subject to ORS 294.810,  
 12 when the State Treasurer transfers the assets of the investment pool to the Oregon Short Term  
 13 Fund, the distributions of income to local governments, [and] tribal governments[,] **and qualified**  
 14 **planned communities**, payment of related expenses and the reporting, program examination and  
 15 audit functions with respect to the investment pool participant accounts shall be administered in  
 16 accordance with ORS 293.353 and 293.701 to 293.857.

17 (2) The State Treasurer, at the discretion of the treasurer, may reestablish the investment pool  
 18 as a separate fund if the participant accounts increase to over \$125 million and, in the State  
 19 Treasurer's judgment, sufficient interest by local government and tribal government exists to ensure  
 20 the investment pool will remain over \$125 million. Prior to reestablishing the pool as a separate  
 21 fund, the State Treasurer shall first present a plan for operation, including the reasons for such  
 22 action, to the Oregon Investment Council at a regularly scheduled meeting for its review and com-  
 23 ment. The State Treasurer shall publish notice in the Secretary of State's administrative rules bul-  
 24 letin of the treasurer's intent to reestablish the pool as a separate fund at least 30 days prior to the  
 25 meeting at which the Oregon Investment Council shall review the proposal, and notice of the  
 26 meeting time and location of the Oregon Investment Council at which the proposal will be discussed.

27 **SECTION 11.** ORS 293.353 is amended to read:

28 293.353. (1) As payment for expenses of processing banking-related transactions, the State  
 29 Treasurer may charge each state agency having such transactions involving the State Treasury. The  
 30 amount so charged shall be determined by the number of transactions processed by the State  
 31 Treasurer and shall be paid in the manner determined by the State Treasurer to be most efficient  
 32 and cost effective. The proceeds from such charges shall be deposited in the Miscellaneous Receipts  
 33 Account established in the General Fund for the State Treasurer, and such proceeds are contin-  
 34 uously appropriated for payment of expenses of the office of the State Treasurer in processing  
 35 banking-related transactions.

36 (2) When the State Treasurer transfers the assets of the investment pool to the Oregon Short  
 37 Term Fund established under ORS 293.728 as authorized by ORS 294.882, "state agency," as used in  
 38 this section, includes local government, [and] tribal government **and qualified planned community**  
 39 participants in the state investment fund.

40 **SECTION 12.** ORS 293.857 is amended to read:

41 293.857. (1) When the investment officer invests the funds of any county, municipality, school  
 42 district or other political subdivision of this state or of a tribal government **or a qualified planned**  
 43 **community**, the investment officer shall keep a separate account for each such governmental unit  
 44 **or qualified planned community** the funds of which are being invested.

45 (2) The investment officer shall report monthly to each such governmental unit **and qualified**

1 **planned community** the changes made during the preceding month in the investments for the ac-  
2 count of that governmental unit **or qualified planned community**. The monthly reports shall be  
3 provided to the governmental units **and qualified planned communities** within 30 days after the  
4 end of the month to which they pertain.

5 (3) All funds invested by the investment officer shall be invested in accordance with rules  
6 adopted or readopted at least annually by the Oregon Short Term Fund Board and approved by the  
7 Oregon Investment Council. Such rules shall be published, shall be made available to all interested  
8 parties and shall be distributed at least annually to all local governments, [and] tribal governments  
9 **and qualified planned communities** investing funds pursuant to ORS 294.805 to 294.895.

10 **SECTION 13. (1) No later than January 1, 2026, the State Treasurer shall adopt rules to**  
11 **implement the amendments to ORS 94.670, 293.353, 293.857, 294.805, 294.810, 294.815, 294.831,**  
12 **294.840, 294.860, 294.870, 294.880 and 294.882 by sections 1 to 12 of this 2019 Act.**

13 (2) The amendments to ORS 94.670, 293.353, 293.857, 294.805, 294.810, 294.815, 294.831,  
14 294.840, 294.860, 294.870, 294.880 and 294.882 by sections 1 to 12 of this 2019 Act become oper-  
15 ative on the earlier of:

16 (a) The effective date of the rules adopted by the State Treasurer under subsection (1)  
17 of this section; or

18 (b) January 1, 2026.