

A-Engrossed
Senate Bill 225

Ordered by the Senate March 23
Including Senate Amendments dated March 23

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Housing and Community Services Department)

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.

Provides that unused portion of amount of pass-through revenue bonds authorized for issuance in preceding biennium carries forward until legislation authorizing amount of pass-through revenue bonds for current biennium is enacted.

Provides that [*entity that is authorized to issue private activity bonds*] **state agency on behalf of which private activity bonds may be issued** may suballocate its private activity bond allocation to other issuers.

Adjusts terminology relating to conduit revenue bonds.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to bonding; amending ORS 286A.035, 286A.118, 286A.130 and 286A.615; and declaring an
3 emergency.

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

5 **SECTION 1.** ORS 286A.035 is amended to read:

6 286A.035. (1) Each related agency shall report the plans of the related agency for the issuance
7 of bonds during the next biennium. The related agency shall submit the related agency's report to
8 the Governor by a date determined by the Governor and shall include in the report a description
9 of bonds that the related agency intends to retire or defease during the next biennium.

10 (2) On or before a date determined by the Governor, the State Treasurer shall advise the Gov-
11 ernor on the prudent maximum amount of bonds to be issued for each bond program. The State
12 Treasurer shall consider available economic and financial data in preparing advice to be given to
13 the Governor.

14 (3) As part of the Governor's budget described in ORS 291.216, the Governor shall:

15 (a) Consider the prudent maximum amounts advised by the State Treasurer pursuant to sub-
16 section (2) of this section to determine the Governor's total recommended amount; and

17 (b) Recommend to the Legislative Assembly the total amount of bonds the State Treasurer may
18 issue for each bond program for a biennium.

19 (4) The Legislative Assembly shall determine the amount of bonds the State Treasurer may issue
20 for each state agency for a biennium. **Except as provided in subsection (5) of this section**, if the
21 Legislative Assembly fails to make the determination described in this subsection by the first day
22 of the biennium, the unused portion of the authorization the Legislative Assembly made for the
23 preceding biennium is deemed to carry forward for the current biennium at the amount authorized

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 for the preceding biennium until the earlier of:

2 (a) The date on which legislation authorizing the amount of bonds for the current biennium is
3 enacted; or

4 (b) The date on which the Legislative Assembly adjourns sine die.

5 **(5) The unused portion of the amount of pass-through revenue bonds authorized for is-**
6 **suance in the preceding biennium is deemed to carry forward for the current biennium until**
7 **the date on which legislation authorizing the amount of pass-through revenue bonds for the**
8 **current biennium is enacted.**

9 [(5)] (6) The amount of bonds that may be issued under bond programs may be modified by the
10 Governor. However, the Governor may not modify the amount of bonds that may be issued under
11 bond programs in a way that would cause the maximum amount established by the Legislative As-
12 sembly for a category of bond programs to be exceeded if the Legislative Assembly:

13 (a) Has categorized the bonds that may be issued under bond programs as general obligation,
14 direct revenue and pass-through revenue bonds; and

15 (b) Assigned a maximum amount to each category.

16 [(6)] (7) This section applies to bonds:

17 (a) Unless the bonds are expressly exempted from the requirements of this section.

18 (b) Except refunding bonds.

19 **SECTION 2.** ORS 286A.615 is amended to read:

20 286A.615. (1) The Private Activity Bond Committee is established. It shall consist of the State
21 Treasurer or the designee of the State Treasurer, one representative from the Oregon Department
22 of Administrative Services and one public representative appointed to serve at the pleasure of the
23 Governor.

24 (2) The State Treasurer, or the State Treasurer's designee, shall serve as chair of the committee.

25 (3) The purpose of private activity bonding in this state is to maximize the economic benefits
26 of private activity bonding to the citizens of this state. The committee shall adopt by rule standards
27 for amounts allocated to the committee for further allocation for economic development, housing,
28 education, redevelopment, public works, energy, waste management, waste and recycling collection,
29 transportation and other activities that the committee determines will benefit the citizens of this
30 state. In developing standards, the committee shall:

31 (a) Survey the expected need for private activity bond allocations at least once each year;

32 (b) Develop strategies for reserving and allocating the limit that are designed to maximize the
33 availability of tax exempt financing among competing sectors of the Oregon economy; and

34 (c) Ensure that the standards include but are not limited to standards that:

35 (A) Support projects that increase the number of family wage jobs in this state.

36 (B) Promote economic recovery in small cities heavily dependent on a single industry.

37 (C) Emphasize development in underdeveloped rural areas of this state.

38 (D) Utilize educational resources available at public universities listed in ORS 352.002.

39 (E) Support development of the state's small businesses, especially minority-owned businesses,
40 woman-owned businesses, businesses that service-disabled veterans own and emerging small busi-
41 nesses, as those terms are defined in ORS 200.005.

42 (F) Encourage use of Oregon's human and natural resources in endeavors that harness Oregon's
43 economic comparative advantages.

44 (4) The state private activity bond volume cap allocated to the Private Activity Bond Committee
45 as provided in ORS 286A.620 shall be allocated and reallocated among issuers by the Private Ac-

1 tivity Bond Committee as follows:

2 (a) Any amounts not reserved to an issuer or a class of issuers under the authorization adopted
3 by the Legislative Assembly under ORS 286A.035 shall be allocated or reallocated by the committee
4 under rules adopted under subsection (3) of this section.

5 (b) Any amounts provided for in the authorization adopted by the Legislative Assembly under
6 ORS 286A.035 that are unused shall be carried forward for use as provided by rules adopted under
7 subsection (3) of this section.

8 (c) The rules adopted by the committee shall limit the period of time for which an allocation of
9 private activity bonding authority is effective. The rules shall ensure that allocations made during
10 a calendar year are used during that calendar year or that the unused amount of the allocation is
11 reallocated or carried forward.

12 *[(5) Unused allocations are not transferable among issuers but are available for reallocation.]*

13 **(5) Amounts allocated to a state agency on behalf of which the State Treasurer may issue**
14 **bonds may be suballocated by the state agency, at the state agency's discretion, through an**
15 **assignment of the allocation to another issuer, provided that the issuer receiving the as-**
16 **signment shall:**

17 **(a) Use the allocation for the same category of private activity bond projects for which**
18 **the allocation was made;**

19 **(b) Use the allocation during the calendar year for which the allocation was made; and**

20 **(c) Otherwise comply with any terms and conditions imposed in connection with the al-**
21 **location by the committee or the Legislative Assembly or by rule of the state agency making**
22 **the assignment.**

23 **SECTION 3.** ORS 286A.118 is amended to read:

24 286A.118. With the approval of the State Treasurer, a related agency may lend moneys derived
25 from an issuance and sale of bonds to a *[conduit]* **pass-through revenue bond** borrower of proceeds
26 from outstanding, previously issued *[conduit]* **pass-through** revenue bonds for the purpose of paying
27 a termination payment due under an agreement for exchange of interest rates entered into by the
28 *[conduit]* **pass-through revenue bond** borrower in relation to the outstanding, previously issued
29 *[conduit]* **pass-through** revenue bonds.

30 **SECTION 4.** ORS 286A.130 is amended to read:

31 286A.130. (1) The State Treasurer or a related agency may enter into one or more agreements
32 for bond counsel services for a period of not less than one year during any biennium in which there
33 are bonds outstanding that were issued for the state agency or during any biennium in which the
34 state agency expects the State Treasurer to issue bonds for an agency program. A state agency may
35 not enter into an agreement for bond counsel services unless the State Treasurer and the Attorney
36 General have reviewed and approved the terms and conditions of the agreement. Before approving
37 an agreement, the State Treasurer shall consider the reputation, experience and credentials of the
38 bond counsel, including the individuals expected to actually fulfill the contract work.

39 (2) Except as provided in subsection (3) of this section, the appointment of bond counsel may
40 not be construed as authorizing bond counsel to advise or represent the state on matters that are
41 committed by statute to the Attorney General.

42 (3) The services provided under a bond counsel agreement may include:

43 (a) Advising a state agency or the State Treasurer concerning the legality of specific proposed
44 taxable or tax-exempt bonds and the compliance of obligations with applicable law, including but
45 not limited to federal securities and tax laws;

1 (b) Issuing opinions to a state agency, the State Treasurer or other parties concerning the
2 enforceability of, authority for and tax status of bonds, agreements for exchange of interest rates,
3 credit enhancement devices or similar associated documents and on the lawful use of the proceeds
4 of the bonds, as may be required by the demands of the marketplace for the bonds;

5 (c) Advising a state agency or the State Treasurer on legal procedures and practices in the bond
6 marketplace, including advice on the structuring and sale of bonds;

7 (d) Preparing or assisting in the preparation of documents related to a specific issue of bonds,
8 including but not limited to an authorizing resolution or declaration, a trust indenture, a prospectus,
9 a preliminary official statement, an official statement, a bond sale notice, a bond form, a bid form,
10 a bond purchase agreement, an agreement for exchange of interest rates, a credit enhancement de-
11 vice or a similar document necessary or desirable to sell bonds;

12 (e) Advising a state agency or the State Treasurer concerning the maintenance of the tax status
13 of specific bonds, compliance with any requirements for representations or disclosures relating to
14 the bonds, compliance with any documents executed as part of the issuance of the bonds and federal
15 laws related to bond programs that may be available to a state agency;

16 (f) Advising a state agency or the State Treasurer concerning accounting, investment or ad-
17 ministrative procedures recommended or required for compliance with federal or state securities or
18 tax or rebate requirements relating to bonds that were issued for the agency or that the agency
19 expects to issue; and

20 (g) Advising and assisting a state agency or the State Treasurer in responding to an inquiry
21 received from or an audit by a federal or state regulatory body concerning:

22 (A) The tax status of interest paid on the bonds;

23 (B) The marketing of the bonds;

24 (C) Requirements of federal law related to the use of bond proceeds or the program for which
25 the bonds were issued; or

26 (D) Other matters within the jurisdiction of the federal or state regulatory body relating to
27 bonds that were issued by the state agency.

28 (4) In addition to entering into an agreement described in subsection (3) of this section, the State
29 Treasurer or a related agency may appoint bond counsel by letter, certificate or otherwise, to pro-
30 vide the services described in subsection (3) of this section for an individual [*conduit*] **pass-through**
31 revenue bond sale.

32 (5) The State Treasurer or, with the approval of the State Treasurer, a related agency may enter
33 into an agreement with and retain the services of one or more providers of financial advisory ser-
34 vices. When considering whether to enter into or approve an agreement with a provider of financial
35 advisory services, before approving the agreement, the State Treasurer shall consider the reputation,
36 experience and credentials of the adviser, including the individuals expected to actually fulfill the
37 contract work.

38 (6) Except for the expenses of bond counsel services provided under subsection (4) of this section
39 for [*conduit*] **pass-through** revenue bond sales, the related agency shall pay the expenses of any
40 agreements entered into under this section and may use bond proceeds to pay those expenses.

41 (7) The Public Contracting Code does not apply to agreements entered into under this section.

42 **SECTION 5. This 2023 Act being necessary for the immediate preservation of the public**
43 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
44 **on its passage.**