

Enrolled Senate Bill 25

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CHAPTER

AN ACT

Relating to Oregon 529 College Savings Network; creating new provisions; amending ORS 279A.025, 348.853 and 348.856; appropriating money; and declaring an emergency.

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

SECTION 1. ORS 348.853 is amended to read:

348.853. The Oregon 529 College Savings Board shall have the following powers, duties, and functions:

(1) To establish, develop, implement and maintain the Oregon 529 College Savings Network in a manner consistent with ORS 348.841 to 348.873 and section 529 of the Internal Revenue Code and to obtain the benefits of section 529 of the Internal Revenue Code for the network and its participants.

(2) To adopt rules for the general administration of the network, to administer ORS 348.841 to 348.873 and to ensure the network's compliance with section 529 of the Internal Revenue Code.

(3) To maintain, invest and reinvest the funds contributed into the network consistent with the investment restrictions established by the board. The investment restrictions shall be consistent with the objectives of the network, and the board shall exercise the judgment and care then prevailing that persons of prudence, discretion and intelligence exercise in the management of their own affairs with due regard to the probable income and level of risk from certain types of investments of money, in accordance with the policies established by the board.

(4) To make and enter into any and all contracts, agreements or arrangements, and to retain, employ and contract for the services of private and public financial institutions, depositories, consultants, investment advisors or managers and third-party plan administrators and for research, technical and other services necessary or desirable for carrying out the purposes of ORS 348.841 to 348.873.

(5) To accept donations or receive funds for the purpose of providing scholarships, grants and other incentives to account owners, potential account owners and their designated beneficiaries or furthering any of the purposes of ORS 348.841 to 348.873.

(6) To encourage increased participation in the network by awarding scholarships or grants, providing or making available other incentives to account owners or potential account owners and their designated beneficiaries, or entering into promotional arrangements with third parties as the board deems desirable.

SECTION 2. ORS 348.856 is amended to read:

348.856. (1) The Oregon 529 College Savings Network Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon 529 College Savings Network Fund shall be credited to the fund. **All moneys credited to the Oregon 529 College Savings Network Fund are continuously appropriated to the Oregon 529 College Savings Board for the purposes of ORS 348.841 to 348.873.**

[(2) The purpose of the fund is to serve as an operating account for the State Treasury for the administration of the Oregon 529 College Savings Network under ORS 348.841 to 348.873.]

(2) The Oregon 529 College Savings Network Fund shall consist of:

(a) Moneys appropriated to the fund by the Legislative Assembly;

(b) Moneys transferred to the fund from the federal government, other state agencies or local governments;

(c) Moneys from the payment of fees and the payment of other moneys due the board;

(d) Any gifts or donations made to the State of Oregon for deposit in the fund; and

(e) Earnings on moneys in the fund.

(3) The board may use the moneys in the fund to pay the administrative costs and expenses of the board and the Oregon 529 College Savings Network, to provide or make available scholarships, grants and other incentives to account owners, potential account owners and their designated beneficiaries or to further any other purpose of ORS 348.841 to 348.873.

SECTION 3. ORS 279A.025 is amended to read:

279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(2) The Public Contracting Code does not apply to:

(a) Contracts between contracting agencies or between contracting agencies and the federal government;

(b) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145 for purposes of source selection;

(c) Grants;

(d) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a public body is or may become interested;

(e) Acquisitions or disposals of real property or interest in real property;

(f) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;

(g) Contracts for the procurement or distribution of textbooks;

(h) Procurements by a contracting agency from an Oregon Corrections Enterprises program;

(i) The procurement, transportation or distribution of distilled liquor, as defined in ORS 471.001, or the appointment of agents under ORS 471.750 by the Oregon Liquor Control Commission;

(j) Contracts entered into under ORS chapter 180 between the Attorney General and private counsel or special legal assistants;

(k) Contracts for the sale of forest products, as defined in ORS 321.005, from lands owned or managed by the State Board of Forestry and the State Forestry Department;

(L) Contracts for forest protection or forest related activities, as described in ORS 477.406, by the State Forester or the State Board of Forestry;

(m) Sponsorship agreements entered into by the Director of the Oregon State Fair and Exposition Center in accordance with ORS 565.080 (4);

(n) Contracts entered into by the Housing and Community Services Department in exercising the department's duties prescribed in ORS chapters 456 and 458, except that the department's public contracting for goods and services, as defined in ORS 279B.005, is subject to ORS chapter 279B;

(o) Contracts entered into by the State Treasurer in exercising the powers of that office prescribed in ORS chapters 178, 286, 287, 288, 289, 293, 294 and 295, including but not limited to investment contracts and agreements, banking services, clearing house services and collateralization agreements, bond documents, certificates of participation and other debt repayment agreements, and

any associated contracts, agreements and documents, regardless of whether the obligations that the contracts, agreements or documents establish are general, special or limited, except that the State Treasurer's public contracting for goods and services, as defined in ORS 279B.005, is subject to ORS chapter 279B;

(p) Energy savings performance contracts;

(q) Contracts, agreements or other documents entered into, issued or established in connection with:

(A) The incurring of debt by a public body, including but not limited to the issuance of bonds, certificates of participation and other debt repayment obligations, and any associated contracts, agreements or other documents, regardless of whether the obligations that the contracts, agreements or other documents establish are general, special or limited;

(B) The making of program loans and similar extensions or advances of funds, aid or assistance by a public body to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or

(C) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085;

(r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565; or

(s) Any other public contracting of a public body specifically exempted from the code by another provision of law.

(3) The Public Contracting Code does not apply to the public contracting activities of:

(a) The Oregon State Lottery Commission;

(b) The Oregon University System and member institutions, except as provided in ORS 351.086;

(c) The legislative department;

(d) The judicial department;

(e) Semi-independent state agencies listed in ORS 182.451, 182.452 and 182.454, except as provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

(f) Oregon Corrections Enterprises;

(g) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to 279A.290;

(h) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

(i) The Appraiser Certification and Licensure Board, except as provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290; [or]

(j) **The Oregon 529 College Savings Network and the Oregon 529 College Savings Board;**

or

[(j)] (k) Any other public body specifically exempted from the code by another provision of law.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for disabled individuals under ORS 279.835 to 279.855.

SECTION 4. The amendments to ORS 279A.025 by section 3 of this 2005 Act apply to public contracts first advertised by the Oregon 529 College Savings Board, but if not advertised then entered into, on or after the effective date of this 2005 Act.

SECTION 5. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by Senate April 5, 2005

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Secretary of Senate

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President of Senate

Passed by House June 13, 2005

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Speaker of House

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State