

Enrolled Senate Bill 341

Sponsored by Senator METSGER, Representative FLORES

CHAPTER

AN ACT

Relating to short-term borrowing by city for current expenses; amending ORS 288.165; and declaring an emergency.

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

SECTION 1. ORS 288.165 is amended to read:

288.165. (1) Subject to any applicable limitations imposed by the Constitution or laws of the State of Oregon or the charter, ordinance or resolution of a governmental unit, a governmental unit or the State of Oregon, acting through the State Treasurer pursuant to ORS 293.173, may borrow money by entering into a credit agreement, or issuing notes, warrants, short-term promissory notes, commercial paper or other obligations:

(a) In anticipation of [*taxes, grants or other revenues*] **tax revenues or other income** for purposes that include, but are not limited to, the payment of current expenses;

(b) To provide interim financing for capital assets to be undertaken by the governmental unit; or

(c) To refund outstanding obligations.

(2) To secure obligations authorized under this section, a governmental unit or the State Treasurer, **acting on behalf of the state**, may:

(a) Pledge [*its*] **the** anticipated [*taxes, grants, other revenues*] **tax revenues or other income**, the proceeds of any bonds or other permanent financing, or any combination thereof;

(b) Segregate any pledged funds in separate accounts that may be held by the governmental unit, the State Treasurer or third parties;

(c) Enter into contracts with third parties to obtain standby lines of credit or other financial commitments designated to provide additional security for obligations authorized by this section;

(d) Establish any reserves deemed necessary for the payment of the obligations; and

(e) Adopt resolutions and enter into agreements containing covenants and provisions for protection and security of the owners of obligations, which shall constitute enforceable contracts with such owners.

(3) Obligations authorized by this section that are issued in anticipation of [*taxes or other revenues*] **tax revenues or other income, except grant income**, and any obligations authorized by this section that are issued to refund them may not be issued prior to the beginning of, and shall mature not later than, the end of the fiscal period in which the [*taxes or other revenues are expected to be received*] **governmental unit or the State Treasurer expects to receive the tax revenues or other income**. Obligations issued by a governmental unit **or the State Treasurer** in anticipation of [*taxes or other revenues*] **tax revenues or other income, except grant income**, may not

be issued in an amount greater than 80 percent of the amount budgeted to be received in the fiscal period in which the obligations are issued.

(4) Obligations authorized by this section that are issued in anticipation of [a] grant **income** or to provide interim financing for capital assets shall mature not later than five years after the obligations are issued and may be redeemed beginning not later than one year after the **governmental unit or the State Treasurer expects to receive the grant** [*is expected to be received*] or the capital asset is projected to be completed.

(5) Notwithstanding subsections (3) and (4) of this section[,]:

(a) A school district, education service district, community college district or community college service district may issue obligations that are issued in anticipation of [*taxes, grants or other revenues*] **tax revenues or other income** to mature not later than 13 months after the date the obligations were issued.

(b) **A city that is incorporated on or after January 1, 1990, and is within an urban growth boundary may issue an obligation in anticipation of tax revenues or other income prior to the beginning of the fiscal period in which the city expects to receive the revenues or other income if the obligation:**

(A) **Matures not later than 18 months after the obligation is issued; and**

(B) **Is issued in an amount that does not exceed 80 percent of the amount of lawfully available funds, as defined in ORS 288.162, that the governmental unit reasonably expects to receive.**

(6) Refunding obligations issued pursuant to subsection (1)(c) of this section shall mature not later than five years after the refunding obligations are issued.

(7) The debt limitations imposed by law or the charter of any governmental unit do not affect the right of any governmental unit to issue obligations under authority of this section, nor are any of the obligations to be taken into consideration in determining the percentage or extent to which the governmental unit is indebted under the debt limitation. Obligations issued to refund outstanding obligations are not considered to be within any of such debt limitations.

(8) Except as provided in this section, obligations authorized by this section may be in any form and contain any terms, including provisions for redemption at the option of the owner and provisions for the varying of interest rates in accordance with any index, banker's loan rate or other standard.

(9) The governing body of an issuing governmental unit, in the ordinance or resolution authorizing the issuance of obligations under this section, may delegate to any elected or appointed official or employee of the governmental unit the authority to determine maturity dates, principal amounts, redemption provisions, interest rates or the method for determining a variable or adjustable interest rate, denominations and other terms and conditions of such obligations that are not appropriately determined at the time of enactment or adoption of the authorizing ordinance or resolution, which delegated authority shall be exercised subject to applicable requirements of law and such limitations and criteria as may be set forth in such ordinance or resolution. Except to the extent of any such delegation, the governmental unit or the State Treasurer shall determine:

(a) The maximum effective rate of interest the obligations shall bear;

(b) The manner of sale;

(c) The discount, if any, the governmental unit may allow;

(d) The terms and conditions by which the obligations may be redeemed prior to maturity;

(e) The maturities of the obligations;

(f) The form and denominations of the notes or other obligations; and

(g) All other terms and conditions related to the sale of the obligations.

(10) The governmental unit or the State Treasurer may contract with third parties to serve as issuing, paying and authenticating agents for any obligations authorized by this section.

(11) Obligations authorized by this section may be sold at public or private sale upon such terms as the governmental unit or the State Treasurer finds advantageous, with such disclosure as the governmental unit or State Treasurer deems appropriate. ORS 287.040 applies to obligations issued by governmental units under this section.

- (12) As used in this section, "fiscal period" means:
 (a) In the case of a governmental unit, a fiscal year.
 (b) In the case of the State of Oregon, a biennium.

SECTION 2. 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 February 15, 2005

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 Secretary of Senate

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 President of Senate

Passed by House March 10, 2005

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 Speaker of House

Received by Governor:

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Approved:

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

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 Governor

Filed in Office of Secretary of State:

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

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 Secretary of State