

Senate Bill 1535

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 Senate Interim Committee on Finance and Revenue)

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**.

Limits investment of local government funds to statutory investment pool for local and tribal government funds.

Authorizes State Treasurer to require local or tribal government to enter into investment agreement as condition of placing funds in investment pool.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public investing; amending ORS 294.035 and 294.810; and declaring an emergency.

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

4 **SECTION 1.** ORS 294.035 is amended to read:

5 294.035. (1) Subject to ORS 294.040 and 294.135 to 294.155, the custodial officer may invest any
6 sinking fund, bond fund or surplus funds in the custody of the custodial officer in the bank accounts,
7 classes of securities at current market prices, insurance contracts and other investments listed in
8 this section, but only after obtaining from the governing body of the county, municipality, political
9 subdivision or school district a written order that has been entered in the minutes or journal of the
10 governing body.

11 (2) This section does not:

12 (a) Limit the authority of the custodial officer to invest surplus funds in other investments when
13 the investment is specifically authorized by another statute.

14 (b) Apply to a sinking fund or a bond fund established in connection with conduit revenue bonds
15 issued by a county, municipality, political subdivision or school district for private business entities
16 or nonprofit corporations.

17 (3) Investments authorized by this section are:

18 (a) Lawfully issued general obligations of the United States, the agencies and instrumentalities
19 of the United States or enterprises sponsored by the United States Government and obligations
20 whose payment is guaranteed by the United States, the agencies and instrumentalities of the United
21 States or enterprises sponsored by the United States Government.

22 (b) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon
23 and its political subdivisions that have a long-term rating of A or an equivalent rating or better or
24 are rated on the settlement date in the highest category for short-term municipal debt by a na-
25 tionally recognized statistical rating organization.

26 (c) Lawfully issued debt obligations of the States of California, Idaho and Washington and poli-
27 tical subdivisions of those states if the obligations have a long-term rating of AA or an equivalent
28 rating or better or are rated on the settlement date in the highest category for short-term municipal

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 debt by a nationally recognized statistical rating organization.

2 (d) Time deposit open accounts, certificates of deposit and savings accounts in insured insti-
3 tutions as defined in ORS 706.008, in credit unions as defined in ORS 723.006 or in federal credit
4 unions, if the institution or credit union maintains a head office or a branch in this state.

5 (e) Share accounts and savings accounts in credit unions in the name of, or for the benefit of,
6 a member of the credit union pursuant to a plan of deferred compensation.

7 (f) Fixed or variable life insurance or annuity contracts as defined by ORS 731.170 and guaran-
8 teed investment contracts issued by life insurance companies authorized to do business in this state.

9 (g) Trusts in which deferred compensation funds from other public employers are pooled, if:

10 (A) The purpose is to establish a deferred compensation plan;

11 (B) The trust is a public instrumentality of such public employers and described in section (2)(b)
12 of the Investment Company Act of 1940, 15 U.S.C. 80a-2(b), as amended, in effect on September 20,
13 1985, or the trust is a common trust fund described in ORS 709.170;

14 (C) Under the terms of the plan the net income from or gain or loss due to fluctuation in value
15 of the underlying assets of the trust, or other change in such assets, is reflected in an equal increase
16 or decrease in the amount distributable to the employee or the beneficiary thereof and, therefore,
17 does not ultimately result in a net increase or decrease in the worth of the public employer or the
18 state; and

19 (D) The fidelity of the trustees and others with access to such assets, other than a trust com-
20 pany, as defined in ORS 706.008, is insured by a surety bond that is satisfactory to the public em-
21 ployer, issued by a company authorized to do a surety business in this state and in an amount that
22 is not less than 10 percent of the value of such assets.

23 (h)(A) Banker's acceptances, if the banker's acceptances are:

24 (i) Guaranteed by, and carried on the books of, a qualified financial institution;

25 (ii) Eligible for discount by the Federal Reserve System; and

26 (iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated
27 in the highest category by one or more nationally recognized statistical rating organizations.

28 (B) For the purposes of this paragraph, "qualified financial institution" means:

29 (i) A financial institution that is located and licensed to do banking business in the State of
30 Oregon; or

31 (ii) A financial institution that is wholly owned by a financial holding company or a bank hold-
32 ing company that owns a financial institution that is located and licensed to do banking business in
33 the State of Oregon.

34 (C) A custodial officer shall not permit more than 25 percent of the moneys of a local govern-
35 ment that are available for investment, as determined on the settlement date, to be invested in
36 banker's acceptances of any qualified financial institution.

37 (i)(A) Corporate indebtedness subject to a valid registration statement on file with the Securities
38 and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities
39 Act of 1933, as amended. Corporate indebtedness described in this paragraph does not include
40 banker's acceptances. The corporate indebtedness must be issued by a commercial, industrial or
41 utility business enterprise, or by or on behalf of a financial institution, including a holding company
42 owning a majority interest in a qualified financial institution.

43 (B) Corporate indebtedness must be rated on the settlement date P-1 or Aa or better by Moody's
44 Investors Service or A-1 or AA or better by Standard & Poor's Corporation or equivalent rating by
45 any nationally recognized statistical rating organization.

1 (C) Notwithstanding subparagraph (B) of this paragraph, the corporate indebtedness must be
 2 rated on the settlement date P-2 or A or better by Moody's Investors Service or A-2 or A or better
 3 by Standard & Poor's Corporation or equivalent rating by any nationally recognized statistical rat-
 4 ing organization when the corporate indebtedness is:

5 (i) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50
 6 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in
 7 Oregon; or

8 (ii) Issued by a holding company owning not less than a majority interest in a qualified financial
 9 institution, as defined in paragraph (h) of this subsection, located and licensed to do banking busi-
 10 ness in Oregon or by a holding company owning not less than a majority interest in a business en-
 11 terprise described in sub-subparagraph (i) of this subparagraph.

12 (D) A custodial officer may not permit more than 35 percent of the moneys of a local govern-
 13 ment that are available for investment, as determined on the settlement date, to be invested in
 14 corporate indebtedness, and may not permit more than five percent of the moneys of a local gov-
 15 ernment that are available for investment to be invested in corporate indebtedness of any single
 16 corporate entity and its affiliates or subsidiaries.

17 (j) Repurchase agreements whereby the custodial officer purchases securities from a financial
 18 institution or securities dealer subject to an agreement by the seller to repurchase the securities.
 19 The repurchase agreement must be in writing and executed in advance of the initial purchase of the
 20 securities that are the subject of the repurchase agreement. Only securities described in paragraph
 21 (a) of this subsection may be used in conjunction with a repurchase agreement and such securities
 22 shall have a maturity of not longer than three years. The price paid by the custodial officer for such
 23 securities may not exceed amounts or percentages prescribed by written policy of the Oregon In-
 24 vestment Council or the Oregon Short Term Fund Board created by ORS 294.885.

25 (k) Shares of stock of any company, association or corporation, including but not limited to
 26 shares of a mutual fund, but only if the moneys being invested are funds set aside pursuant to a
 27 local government deferred compensation plan and are held in trust for the exclusive benefit of par-
 28 ticipants and their beneficiaries.

29 (L) The [*Oregon Short Term Fund or*] **investment pool as defined in ORS 294.805 and, with**
 30 **the approval of the State Treasurer**, any other commingled investment pool **that may be** estab-
 31 lished [*by*] **in the discretion of** the State Treasurer for investment of the funds of [*state agencies*
 32 *or*] local governments. **The State Treasurer may require the governing body of a local gov-**
 33 **ernment to enter into an investment agreement with the State Treasurer as a condition of**
 34 **investing funds in a commingled investment pool under this paragraph.**

35 **SECTION 2.** ORS 294.810 is amended to read:

36 294.810. (1)(a) **Subject to paragraph (b) of this subsection**, with the consent of the governing
 37 body, a local government official or tribal government official may place in the aggregate up to \$30
 38 million of [*its*] **the funds of the local government or tribal government** in the investment pool,
 39 or, if the assets of the investment pool have been transferred pursuant to ORS 294.882, for invest-
 40 ment and reinvestment by the investment officer as provided under ORS 293.701 to 293.857 or
 41 294.805 to 294.895, as the case may be.

42 **(b) The investment officer may require the governing body of the local government or**
 43 **tribal government to enter into an investment agreement as a condition of placing funds with**
 44 **the investment officer pursuant to this subsection.**

45 **(2)** The \$30 million limitation [*stated*] in this section does not apply either to funds of a gov-

1 erning body that are placed in the investment pool on a pass-through basis or to funds invested on
2 behalf of another government unit. Local governments must remove pass-through funds that result
3 in an account balance in the pool in excess of \$30 million within 10 business days. County govern-
4 ments and tribal governments must remove such excess funds within 20 business days.

5 [(2)] (3) The investment officer shall annually adjust the \$30 million limitation [*contained in*
6 *subsection (1) of*] **in** this section by multiplying \$30 million by the percentage, if any, by which the
7 monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending
8 September 9 of the current calendar year exceeds the monthly averaged U.S. City Average Con-
9 sumer Price Index for the 12 consecutive months ending September 9, 1995.

10 **SECTION 3. This 2014 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect**
12 **on its passage.**

13