

House Bill 2278

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Transportation and Economic Development)

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**.

Modifies schedule and conditions for issuance of lottery bonds to pay costs of Coos Bay Channel Project.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public borrowing for Coos Bay channel project; amending sections 11, 12, 13 and 14,
3 chapter 746, Oregon Laws 2007; and declaring an emergency.

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

5 **SECTION 1.** Section 11, chapter 746, Oregon Laws 2007, is amended to read:

6 **Sec. 11.** As used in sections 11 to 15 *[of this 2007 Act]*, **chapter 746, Oregon Laws 2007:**

7 (1) "Act of God" means an unanticipated grave natural disaster or other natural phenomenon
8 of an exceptional, inevitable and irresistible character, the effects of which could not have been
9 prevented or avoided by the exercise of due care or foresight.

10 (2) "Coos Bay Channel Project" means a project to deepen and widen the lower Coos Bay deep
11 draft navigation channel, west of the Coos Bay railroad bridge, to perform ecosystem investigation
12 and restoration projects and to make additional navigational system improvements including, but
13 not limited to, structural work at the entrance jetties, navigation aids and other design or engi-
14 neering tasks.

15 (3) "Oregon sponsors" means the Oregon International Port of Coos Bay *[or]* **and** any agency
16 acting as a financial contributor to the Coos Bay Channel Project.

17 (4) "Primary sponsor" means the Oregon International Port of Coos Bay as representative of the
18 Oregon sponsors.

19 **SECTION 2.** Section 12, chapter 746, Oregon Laws 2007, is amended to read:

20 **Sec. 12.** The Legislative Assembly finds that:

21 (1)(a) The Coos Bay Channel Project will create jobs and further economic development in
22 Oregon because deepening and widening the lower Coos Bay deep draft navigation channel, west
23 of the Coos Bay railroad bridge, will allow the Oregon International Port of Coos Bay to accom-
24 modate new generations of deep draft cargo vessels and to diversify the types of cargo that can be
25 processed through the port, increasing maritime and international trade throughout Oregon, im-
26 proving the attractiveness of Oregon to new businesses and supporting the operations and prosperity
27 of existing businesses.

28 (b) Authorization for the issuance of lottery bonds will increase the likelihood of federal funding
29 for the project, encourage the development of public and private sector partnerships to continue the
30 modernization and expansion of the Oregon International Port of Coos Bay[, *including the develop-*

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 *ment and construction of an intermodal container terminal for Coos Bay harbor,]* and add new income
2 that will directly benefit Oregon's dredging, construction or maritime industries.

3 (2) The factors described in subsection (1) of this section will encourage and promote economic
4 development within the state, and the issuance of lottery bonds to finance the Coos Bay Channel
5 Project is therefore an appropriate use of state lottery funds to pay the amounts specified in section
6 13 [*of this 2007 Act*], **chapter 746, Oregon Laws 2007**, under [*section 4,*] Article XV, **section 4**, of
7 the Oregon Constitution, and under ORS 461.510. Neither the faith and credit nor any of the taxing
8 power of the state is pledged or otherwise committed by sections 11 to 15 [*of this 2007 Act*], **chapter**
9 **746, Oregon Laws 2007**, and the commitments of the state under sections 11 to 15 [*of this 2007*
10 *Act*], **chapter 746, Oregon Laws 2007**, and ORS 777.277 to 777.287 do not constitute a debt or li-
11 ability of the state within the meaning of [*section 7,*] Article XI, **section 7**, of the Oregon Constitu-
12 tion.

13 **SECTION 3.** Section 13, chapter 746, Oregon Laws 2007, as amended by section 1, chapter 900,
14 Oregon Laws 2009, and section 1, chapter 754, Oregon Laws 2013, is amended to read:

15 **Sec. 13.** (1) In addition to amounts authorized under ORS 286.505 to 286.545 (2005 Edition) or
16 pursuant to ORS 286A.035, the State Treasurer, at the request of the Director of the Oregon Busi-
17 ness Development Department, may issue lottery bonds pursuant to ORS 286A.560 to 286A.585:

18 (a) In an amount of up to \$60 million for payment of the expenses of the Coos Bay Channel
19 Project in increments described in subsection (2) of this section; and

20 (b) In an additional amount to be estimated by the State Treasurer for payment of bond-related
21 costs of the Oregon Department of Administrative Services, the Oregon Business Development De-
22 partment and the State Treasurer.

23 (2) The director shall request that the State Treasurer issue the amount of bonds described in
24 subsection (1)(a) of this section in increments that allow the director, at the request of the primary
25 sponsor, to transfer:

26 (a) In the biennium beginning July 1, 2007, up to \$5 million in net proceeds of lottery bonds to
27 the Coos Bay Channel Fund established in section 15, chapter 746, Oregon Laws 2007, for distrib-
28 ution to the primary sponsor after the director finds that the primary sponsor has taken action
29 pursuant to the grant agreement required in section 14, chapter 746, Oregon Laws 2007, that trig-
30 gers the distribution of bond proceeds described in this paragraph.

31 (b) In the biennium beginning July 1, [2015] **2017**, up to \$15 million in net proceeds of lottery
32 bonds to the Coos Bay Channel Fund established in section 15, chapter 746, Oregon Laws 2007, for
33 distribution to the primary sponsor after the director finds that the primary sponsor has taken
34 action pursuant to the grant agreement required in section 14, chapter 746, Oregon Laws 2007, that
35 triggers the distribution of bond proceeds described in this paragraph.

36 (c) In the biennium beginning July 1, [2017] **2019**, up to \$40 million in net proceeds of lottery
37 bonds to the Coos Bay Channel Fund established in section 15, chapter 746, Oregon Laws 2007, for
38 distribution to the primary sponsor after the director finds that the primary sponsor has taken
39 action pursuant to the grant agreement required in section 14, chapter 746, Oregon Laws 2007, that
40 triggers the distribution of bond proceeds described in this paragraph.

41 **SECTION 4.** Section 14, chapter 746, Oregon Laws 2007, as amended by section 2, chapter 900,
42 Oregon Laws 2009, and section 2, chapter 754, Oregon Laws 2013, is amended to read:

43 **Sec. 14.** (1) The Director of the Oregon Business Development Department shall enter into one
44 or more grant agreements with the primary sponsor that require the Oregon Business Development
45 Department to disburse, over the course of the project, an aggregate principal amount of \$60 million

1 for payment of the expenses of the Coos Bay Channel Project, in the increments described in section
 2 13 (2), chapter 746, Oregon Laws 2007, from the Coos Bay Channel Fund established pursuant to
 3 section 15, chapter 746, Oregon Laws 2007, to the primary sponsor. The department shall make dis-
 4 bursements from the fund as soon as bond proceeds are deposited in the fund.

5 (2) The one or more grant agreements must,[:]

6 [(a)] subject to subsection [(4)] (3) of this section, establish appropriate triggers for the incre-
 7 mental biennial distribution of bond proceeds described in section 13 (2), chapter 746, Oregon Laws
 8 2007, based on appropriate measures of progress in completion of the project that are satisfactory
 9 to the director and consistent with prudent financial practices that reflect sound stewardship of
 10 public resources.

11 [(b) Require the primary sponsor to:]

12 [(A) Return bond proceeds distributed and reimburse the State of Oregon for expenditures made
 13 pursuant to sections 11 to 15, chapter 746, Oregon Laws 2007, if the director determines that the project
 14 is not substantially completed by July 1, 2023, unless the project is not substantially completed:]

15 [(i) Due to an act of God; or]

16 [(ii) Because the State of Oregon fails to distribute one or more of the increments of bond proceeds
 17 described in section 13 (2), chapter 746, Oregon Laws 2007, and required to substantially complete the
 18 project, for a reason other than a failure of the primary sponsor to take action to trigger the distrib-
 19 ution or a failure of the project to meet federal or state environmental permitting standards necessary
 20 to complete the project.]

21 [(B) Provide evidence satisfactory to the director that the primary sponsor has obtained a letter of
 22 credit, entered into a surety bond agreement or provided other similar financial assurance to guarantee
 23 the return of bond proceeds and reimbursement for expenditures required by this paragraph.]

24 [(3) Notwithstanding subsection (2)(b)(B) of this section, the primary sponsor may choose to guar-
 25 antee the bond proceeds distributed and the state expenditures made in the biennium beginning July
 26 1, 2007, by converting the amount into a loan subject to an agreement that allows the primary sponsor
 27 to repay the amount over time at terms provided for in the grant agreement.]

28 [(4)(a)] (3)(a) Prior to the distribution of bond proceeds described in section 13 (2)(a), chapter
 29 746, Oregon Laws 2007, the primary sponsor shall provide to the director a budget document out-
 30 lining expenditures for the Coos Bay Channel Project and verify and certify to the director that:

31 (A) The primary sponsor has entered into a commercially reasonable agreement with a cargo
 32 terminal developer to construct and operate cargo terminal facilities on the Coos Bay channel;

33 (B) The Secretary of the Army has authorized the performance of environmental studies on the
 34 channel pursuant to section 203 of the Water Resources Development Act of 1986 (P.L. 99-662); and

35 (C) The cargo terminal developer has entered into, or made appropriate progress in negotiations
 36 toward, a contract with rail service providers to ensure adequate rail infrastructure and service
 37 capacity to serve the cargo terminal facilities to be developed as part of the Coos Bay Channel
 38 Project.

39 (b) Prior to the distribution of bond proceeds described in section 13 (2)(b), chapter 746, Oregon
 40 Laws 2007, the primary sponsor shall provide an updated budget document outlining expenditures
 41 for the Coos Bay Channel Project and verify and certify to the director that:

42 (A) **Notwithstanding paragraph (a)(B) of this subsection**, the Secretary of the Army has
 43 provided a favorable recommendation to Congress to proceed with the Coos Bay Channel Project
 44 **pursuant to section 204 of the Water Resources Development Act of 1986 (P.L. 99-662)**; and

45 (B) The primary sponsor has obtained, or has reasonable assurance of obtaining, adequate

1 funding to complete permitting and engineering work on the Coos Bay Channel Project.

2 (c) Prior to the distribution of bond proceeds described in section 13 (2)(c), chapter 746, Oregon
3 Laws 2007, the primary sponsor shall provide an updated budget outlining expenditures for the
4 completion of the Coos Bay Channel Project and verify and certify to the director that:

5 (A) The sponsor has received the necessary approvals and permits under ORS 196.600 to 196.905
6 and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to allow the Coos
7 Bay Channel Project to be completed; and

8 (B) The primary sponsor has obtained, or has reasonable assurance of obtaining, adequate
9 funding to complete the Coos Bay Channel Project.

10 [(5)] (4) The State of Oregon and its agencies and departments are not liable to the lenders,
11 vendors or contractors of the Oregon sponsors for any action or omission under sections 11 to 15,
12 chapter 746, Oregon Laws 2007.

13 [(6)] (5) By receipt of any part of net proceeds of lottery bonds described in section 13, chapter
14 746, Oregon Laws 2007, the primary sponsor agrees to indemnify the state and its agencies and de-
15 partments to the fullest extent permitted by law for liability the state or its agencies and depart-
16 ments might incur in connection with any borrowing by the primary sponsor for the project.

17 [(7)] (6) The director and the primary sponsor shall modify the existing grant agreement as may
18 be necessary to incorporate the amendments to this section and section 13, chapter 746, Oregon
19 Laws 2007, by sections 1 and 2 [*of this 2013 Act*], **chapter 754, Oregon Laws 2013.**

20 **SECTION 5. This 2015 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
22 **on its passage.**

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