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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OST 2-2019
CHAPTER 170
OREGON STATE TREASURY

FILED

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending rule to comply with SB 1049 (2019)

EFFECTIVE DATE: 08/01/2019 THROUGH 01/27/2020

AGENCY APPROVED DATE: 07/24/2019

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NEED FOR THE RULE(S):

To meet responsibilities of the Oregon State Treasurer through the powers and duties of the Municipal Debt Advisory Commission pertaining to local government public bodies' bond sales, specifically notice requirements, document submission and timing.

JUSTIFICATION OF TEMPORARY FILING:

Amendment to be effective immediately to avoid (1) risk of non-compliance with SB 1049 (2019) passed under Emergency Declaration; and (2) serious prejudice to local governments expected to adhere to the new law.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS 287A.634 (https://www.oregonlegislature.gov/bills_laws/ors/ors287A.html)

ORS 287A.640 (https://www.oregonlegislature.gov/bills_laws/ors/ors287A.html)

SB 1049 (2019) (<https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB1049/Enrolled>)

AMEND: 170-061-0000

RULE SUMMARY: Language amended to conform to the requirements of SB 1049 (2019) related to Pension Obligation Bonds, Sections 22 to 26. Adds related definitions.

CHANGES TO RULE:

170-061-0000

Notice and Reporting Requirements by Public Bodies When Issuing Bonds ¶¶

(1) Terms used in OAR 170-061 shall have the meanings given in ORS Chapters 286A and 287A unless otherwise specifically defined herein.¶¶

(2) Definitions.¶¶

(a) "MDAC" means the Oregon Municipal Debt Advisory Commission.¶¶

(b) "OST" means the Office of the State Treasurer.¶¶

(c) "Bond marketing date" is the date the public body and underwriter or placement agent agree on the market terms of the bonds. For competitive bid bonds this is the date bids are opened and the bonds are awarded to public bidders pursuant to a published notice of bond sale. For negotiated sales or private placements this means the date the public body gives the verbal award to the underwriter or placement agent.¶

(d) "Called bonds" are bonds for which the public body has exercised the option or requirement to redeem before the stated maturity date. The call date is the date the bond may be redeemed.¶

(e) "Closing" means the date the bonds are delivered to the initial bond purchaser and the public body receives payment for the bonds.¶

(f) "Delivery date" means the date shown by the United States Postal Service or other delivery services' cancellation mark or, if provided electronically, the delivery date is the date shown as electronically received by the OST.¶

(g) "Governing body" means the person, board, commission, council, officer or other body authorized to direct the issuance of bonds.¶

(h) "Issuer" means a public body or the State Treasurer.¶

(i) "Official statement" means the document published by a state agency or public body that discloses material information on the issue of bonds including the purposes of the issue, repayment methods, and the financial, economic and social characteristics of the issuing government. A final official statement is printed after the final terms of the bonds are available.¶

(j) "Paying officer" means the public officer, other than a fiscal or paying agent, to whom bonds may be presented for payment.¶

(k) "Public body" means those entities described in ORS 287A.001 and an intergovernmental entity formed pursuant to ORS 238.695.¶

(l) "State agency" means a related agency defined in ORS 286A.001(8).¶

(m) "True Interest Cost" (TIC) means the annual discount rate that, when used to discount all debt service payments on the issue to the date of initial delivery of the issue, using a compounding interval equal to the interest payment periods for the issue, results in the aggregate present value of such debt service payments being equal to the original purchase price (including accrued interest) of the issue.¶

(n) "Independent SEC-registered advisor" has the meaning given in Senate Bill 1049 of the 2019 regular legislative session.¶

(o) "Pension Obligation Bonds" means issuance of bonds authorized under ORS 238.694.¶

(3) Notice of bond sales. Public bodies shall provide notice of bond sales to MDAC by submitting MDAC Form 1 as set forth in OAR 170-055-0001(4). Notice must include preliminary bond sale information such as: the issuing entity, type of bond, anticipated bond marketing date, bond par amount, project or purpose of the bond issue, source of revenues used to repay the bonds, anticipated closing date, bond counsel, financial advisor and other summary information identified on MDAC Form 1.¶

(4) Timing. ~~If a public body issues Pension Obligation Bonds, the public body shall provide the notice of the bond sale not less than 10 days preceding the bond marketing date described in section 3 of this rule to the MDAC at least 30 days prior to bond marketing date; for all other bond sales the public body shall provide the required notice to the MDAC at least 10 days prior to the bond marketing date.~~ ¶

(5) Pension Bonds Assessment. In addition to the notice required under section 4 of this rule, a public body issuing Pension Obligation Bonds shall also submit to OST at least 30 days prior to the bond marketing date the following items:¶

(a) A statistically based assessment from an independent economic or financial consulting firm regarding the likelihood that investment returns on the Pension Obligation Bond proceeds will exceed the interest cost of the bonds under various market conditions; and¶

(b) The name of the SEC-registered advisor, if any, that will assist the public body in issuing the Pension Obligation Bonds. ¶

(56) Confirmation of notice. After receipt of the notice required under section 4 of this rule, the MDAC shall provide a letter verifying such. The letter includes a statement that the notice complies with OAR 170-061-0000

and is conclusive evidence of such compliance. Compliance letters are sent to bond counsel. Noncompliance letters state the reason for non-compliance and are sent to the public body and its bond counsel.¶

(67) Postponement. For postponed or changed bond sales the public body complies with notice requirements when, on a best efforts basis, it submits an updated MDAC Form 1 to the MDAC as set forth in OAR 170-055-0001(4).¶

(78) Reporting results. Any public body issuing bonds shall report bond sale results by submitting MDAC Form 2, and a public body preparing an official statement shall provide a final copy of such official statement, to the MDAC within seven business days after the bond marketing date. Sale results must include all of the information identified on MDAC Form 2. The public body and its bond counsel will receive written notice of non-compliance if sale results are not reported.¶

(89) Exceptions. The MDAC, at its discretion, may waive any or all provisions of this rule.

Statutory/Other Authority: ORS 287A.634, 287A.640

Statutes/Other Implemented: ORS 287A.634, ORS 287A.640