EXHIBIT A 160699

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

B-Engrossed

Senate Bill 748

Ordered by the House June 4
Including Senate Amendments dated May 15
and House Amendments dated June 4

Sponsored by COMMITTEE ON BUSINESS, HOUSING AND FINANCE (at the request of City of Portland, City of Eugene)

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.

Allows cities with populations of 85,000 or more to obtain letters of credit and issue limited tax general obligation bonds for [*insurable liabilities or*] previously incurred losses.

A BILL FOR AN ACT

Relating to the financial administration of cities.

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

SECTION 1. Section 2 of this Act is added to and made a part of ORS chapter 287.

SECTION 2. (1) Notwithstanding any other provision of law, including any debt limitation contained in a statute or city charter, a city with a population of 85,000 or more according to the most recent federal decennial census may:

(a) Enter into credit agreements in amounts not greater than the maximum estimated insurable liabilities or incurred losses of the city during the period of time the credit agreement is outstanding.

(b) After it has sustained incurred losses, issue limited general obligation bonds in amounts not greater than incurred losses plus costs of issuing the bonds.

(2) A city meeting the requirements of subsection (1) of this section, through its governing body and after public hearings held after due notice, shall adopt a policy setting forth the conditions for the use of the credit agreement and the limited general obligation bonds, prior to using these financial instruments as set forth in this section. The conditions set forth in the policy shall include, but are not limited to, an analysis and annual review of the city's exposure to catastrophic loss, its ability to fund large losses, and the availability, pricing and coverage of commercial insurance.

(3) For purposes of this section:

(a) "Credit agreement" means a letter of credit, line of credit or similar agreement in which a financial institution agrees to pay all or a portion of the incurred losses or insurable liabilities of a city, and the city agrees to repay the amounts paid by the financial institution over time, with or without interest.

(b) "Incurred loss" means an operational loss after the event has occurred.

(c) "Insurable liabilities" means any claim or judgment against the city for personal injury, property damage or tortious conduct.

(d) "Limited general obligation bonds" means bonds payable from all or any portion of the unobligated funds of a city and taxes within the limitation of section 11, Article XI of the Oregon

NOTE: Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

Constitution.

(e) "Operational loss" means an unforeseen act or event which causes personal injury or property damage.

EXHIBIT B

POLICY REGARDING ISSUANCE OF LETTER OF CREDIT/LIMITED GENERAL OBLIGATION BOND TO FUND CATASTROPHIC LOSS EXPOSURES

Purpose

Since 1985, the City of Portland has found it difficult, if not impossible, to obtain insurance for catastrophic losses arising from accidental personal injury or property damage. This lack of coverage opens the City to severe financial difficulties if a catastrophic loss should occur.

The City has studied a number of alternatives to insurance as means of protecting itself against this type of loss. One such alternative is the pre-loss issuance of a Letter of Credit, with a post-loss draw on the Letter of Credit and a post-loss issuance of a limited tax general obligation bond. State Law allows the City to obtain Letters of Credit and issue limited tax general obligation bonds for previously incurred losses, provided the City adopts a policy setting forth the conditions for the use of such options (ORS 287.049). The purpose of this policy, therefore, is to establish such conditions.

For the purpose of this policy, "catastrophic loss" is defined as an unforeseen act or event which causes personal injury and/or property damage valued at $1,000,000 or more.

Conditions For Use of Letters of Credit/Limited G.O. Bonds

I. On an annual basis:

A. The Bureau of Risk Management shall:

(1) assess the City's exposure to catastrophic losses and its ability to fund large losses; and

(2) analyze the availability, pricing and coverage of commercial insurance, and assess the costs and benefits against other loss funding alternatives, such as post-loss funding through Letter of Credit and issuance of limited general obligation bonds. This assessment shall include an assessment of the appropriate levels of coverage, mix of coverage instruments, and a comparative analysis of risk retention and risk transfer.

B. The Office of Fiscal Administration shall:

(1) review the cost/benefit analysis in A(2), particularly as it relates to other loss funding alternatives; and

(2) assess each funding alternative identified under A(2) as it impacts the City's credit rating, standing in financial markets, compatibility with existing City-wide financial plans, and the City's credit capacity that is appropriate to allocate to catastrophic loss coverage.

II. If, based upon the analyses in I above, the Bureau of Risk Management and the Office of Fiscal Administration conclude that the utilization of Letter(s) of Credit and the issuance of limited general obligation bonds are in the best interest of the City, the Commissioners in Charge of the Bureau of Risk Management and the Office of Fiscal Administration shall submit the findings in the form of a full report to Council, and a summary of findings and recommendations in the form of a Resolution to the City Council for its consideration.

III. Since Letters of Credit are normally issued for periods of three to five years, and because any shorter term may make a Letter of Credit uneconomical because of issuance costs, the Resolution referred to in paragraph II above may authorize the obtaining of a Letter of Credit for a multi-year term, not to exceed five years. If the City obtains such a Letter of Credit for a multi-year term, the Bureau of Risk Management and the Office of Fiscal Administration shall submit an annual update to the initial report described in paragraph II above to meet the requirements of ORS 287.049.

Letter of Credit Implementation

If the Letter of credit option is accepted by Council as the most appropriate course of action for the City, the Office of Fiscal Administration shall issue a request for proposals from financial institutions to provide a Letter of Credit.

The Commissioner in Charge of the Office of Fiscal Administration shall submit an Ordinance authorizing a contract with the financial institution offering the most beneficial terms to the City. The Ordinance shall include the terms of the Letter of Credit, including the timing and procedures for the repayment of the Letter of Credit with limited general obligation bonds or other means. The terms of the Letter of Credit shall be so stated as to permit the City to repay the Letter of Credit at any early date.

The City recognizes that any draw on the Letter of Credit will fall under the provisions of the Internal Revenue Code of 1986, particularly those relating to Rebate and Yield Restriction. Therefore, at no time will the City draw any funds from the Letter of Credit more than six months in advance of the intended date of use.

Should a catastrophic loss occur, the Office of Fiscal Administration shall weigh the City's ability to fund the loss against the costs and benefits of drawing from the Letter of Credit to cover part or all of the loss. If it determines that it is in the public interest to draw from the Letter of Credit, the Commissioner in Charge of the Office of Fiscal Administration shall submit an enabling Ordinance for consideration by the Council.

Following a draw upon the Letter of Credit, the Office of Fiscal Administration shall monitor interest rates and other appropriate financial indices, and shall explore all options for repayment of the Letter of Credit. If the issuance of limited general obligation bonds is identified as the most appropriate option, the Commissioner in Charge of the Office of Fiscal Administration shall submit an Ordinance for consideration by the Council enabling the issuance of limited tax general obligation bonds.

ORDINANCE No. 160699

Creates a Risk Management Letter of Credit/Limited General Obligation Bond Policy. (Reference: State of Oregon Senate Bill 748, which amends ORS Chapter 287.)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland has an exposure to catastrophic loss that has traditionally been covered by a commercial insurance policy. In 1986, the Bureau of Risk Management determined that this coverage was not available to the City.

2. Risk Management, the Office of Fiscal Administration, and Government Finance Associates, in conjunction with the City Attorney's Office and the Office of Intergovernmental Affairs, defined and analyzed a variety of options to finance potential catastrophic losses in the absence of insurance coverage.

3. A financial mechanism was selected, submitted as Senate Bill 748 in the 64th Oregon Legislative Assembly in 1987, and passed into law that year as an amendment to ORS 287 (Exhibit A).

4. The new law enables the City to purchase a letter of credit in advance of a catastrophic loss in order to have access to immediate funding on pre-negotiated terms. Funding from the letter of credit could only be obtained should a catastrophic event actually occur. The law also enables the City to issue a limited tax general obligation bond to order to replace the funding from the letter of credit with a lower interest rate and a longer amortization period.

5. The law also requires that a policy be adopted by the governing body as a pre-condition to using the financial instruments.

6. Risk Management and Fiscal Administration have developed a policy (Exhibit B) that responds to the needs of the City and to the requirements of the new legislation.

NOW, THEREFORE, the Council directs:

That the Risk Management Letter of Credit/Limited General Obligation Bond Policy presented in Exhibit B is adopted for the City of Portland in conformance with the requirements of Senate Bill 748, amending ORS 287.

Passed by the Council, APR 27 1988

Commissioner Lindberg
John Hoffman:CM
April 14, 1988

BARBARA CLARK
Auditor of the City of Portland
By [signature] Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:	Yeas	Nays
BLUMENAUER	✓	
BOGLE	✓	
KOCH	✓	
LINDBERG	✓	
CLARK	✓	

FOUR-FIFTHS CALENDAR	
BLUMENAUER	
BOGLE	
KOCH	
LINDBERG	
CLARK	

Calendar No. ~~610~~ 650

ORDINANCE No. 160699

Title

Create a Risk Management Letter of Credit/Limited General Obligation Bond Policy. (Ordinance; State of Oregon Senate Bill 748, which amended ORS Chapter 287.)

APR 20 1988

PASSED TO SECOND READING APR 27 1988

Filed APR 15 1988

BARBARA CLARK
Auditor of the CITY OF PORTLAND

By Mary L. Howard
Deputy

[redacted]

INTRODUCED BY
Mike Lindberg

NOTED BY THE COMMISSIONER	
Affairs	MDL RBA
Finance and Administration	
Safety	
Utilities	
Works	

BUREAU APPROVAL	
Bureau: Risk Management	
Prepared By: John Hoffman	Date: 4-14-88
Budget Impact Review: ☒ Completed	☐ Not required
Bureau Head: Susy Wagner SW	

CALENDAR	
Consent	Regular ✓

NOTED BY
City Attorney
City Auditor
City Engineer