

House Bill 2444

Sponsored by Representative P SMITH (at the request of Oregon Bartlett Pear Commission)

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**.

Abolishes Oregon Bartlett Pear Commission.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Oregon Bartlett Pear Commission; creating new provisions; amending ORS 576.062
3 and 576.325; and declaring an emergency.

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

5 **SECTION 1. (1) No later than 30 days after the effective date of this 2007 Act the chair-**
6 **person of the Oregon Bartlett Pear Commission shall:**

7 (a) **Deliver all books, records and accounts of the commission to the State Archivist; and**

8 (b) **After ensuring the payment of any outstanding expenditures, close the account es-**
9 **tablished by the commission under ORS 576.375 and deliver the account balance to the State**
10 **Treasury.**

11 (2) **The State Treasurer shall credit the moneys delivered by the chairperson to the De-**
12 **partment of Higher Education special checking account established under ORS 351.540 for**
13 **use by Oregon State University as provided under ORS 576.455.**

14 **SECTION 2. The Oregon Bartlett Pear Commission is abolished.**

15 **SECTION 3. ORS 576.062 is amended to read:**

16 576.062. The following commodity commissions are established as state commissions:

17 (1) The Oregon Dairy Products Commission.

18 (2) The Oregon Hazelnut Commission.

19 (3) The Oregon Dungeness Crab Commission.

20 (4) The Oregon Salmon Commission.

21 (5) The Oregon Albacore Commission.

22 (6) The Oregon Grains Commission.

23 (7) The Oregon Sheep Commission.

24 (8) The Oregon Potato Commission.

25 (9) The Oregon Alfalfa Seed Commission.

26 [(10) *The Oregon Bartlett Pear Commission.*]

27 [(11)] (10) The Oregon Blueberry Commission.

28 [(12)] (11) The Oregon Clover Seed Commission.

29 [(13)] (12) The Oregon Fine Fescue Commission.

30 [(14)] (13) The Oregon Fryer Commission.

31 [(15)] (14) The Oregon Highland Bentgrass Commission.

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 [(16)] **(15)** The Oregon Hop Commission.
- 2 [(17)] **(16)** The Oregon Mint Commission.
- 3 [(18)] **(17)** The Oregon Orchardgrass Seed Producers Commission.
- 4 [(19)] **(18)** The Oregon Processed Vegetable Commission.
- 5 [(20)] **(19)** The Oregon Raspberry and Blackberry Commission.
- 6 [(21)] **(20)** The Oregon Ryegrass Growers Seed Commission.
- 7 [(22)] **(21)** The Oregon Strawberry Commission.
- 8 [(23)] **(22)** The Oregon Sweet Cherry Commission.
- 9 [(24)] **(23)** The Oregon Tall Fescue Commission.
- 10 [(25)] **(24)** The Oregon Trawl Commission.
- 11 [(26)] **(25)** The Western Oregon Onion Commission.

12 **SECTION 4.** ORS 576.325 is amended to read:

13 576.325. (1) As used in this section, “industry average unit price” means the average unit price
 14 for the raw commodity within the industry. Unless provided otherwise, “industry average unit
 15 price” includes prices that are calculated using a one-year, two-year or three-year average and data
 16 from the most recent complete year or years preceding the year of determination.

17 (2)(a) A commodity commission may assess, levy and collect an assessment, the amount of which
 18 the commission shall determine, on all units or animals of the commodity grown or produced in this
 19 state, or procured from this state’s rivers or the offshore waters, but not the Columbia River, for
 20 handling within this state, and sold in commercial channels. A commission may not apply an as-
 21 sessment to a transaction that occurred prior to the effective date of the commission rule adopting
 22 the assessment.

23 (b) A commission may assess, levy and collect a differential assessment, the amount of which the
 24 commission shall determine, based on the intended use, type or variety of the commodity.

25 (c) All casual sales of the commodity made by the producer direct to the consumer are exempt
 26 from the assessment.

27 (d) A commission may, by rule, define and regulate handling, processing and casual sales.

28 (3) The amount of the assessment provided for in subsection (2) of this section is limited as fol-
 29 lows:

30 (a) If a commission assesses on a unit basis, the assessment may not exceed one and one-half
 31 percent of the industry average unit price. The commission may determine the industry average unit
 32 price by considering data and estimates of the United States Department of Agriculture, Oregon
 33 State University or other reliable sources.

34 (b) If a commission assesses on a percentage of dollar value basis, the assessment may not ex-
 35 ceed one and one-half percent of the dollar value received by a producer for the raw commodity. If
 36 the dollar value received by a producer is not otherwise determinable, the commission may establish
 37 the dollar value based on the industry average unit price for that year for the raw commodity.

38 (4) Notwithstanding subsection (3) of this section:

39 (a) The maximum assessment by the Oregon Clover Seed Commission may not exceed one and
 40 one-half percent of the industry average unit price for products within the same market category,
 41 if assessed on a unit basis.

42 (b) The maximum assessments by the Oregon Albacore Commission, the Oregon Orchardgrass
 43 Seed Producers Commission and the Oregon Tall Fescue Commission may not exceed three percent
 44 of the industry average unit price if assessed on a unit basis or three percent of the value received
 45 by a producer for the raw commodity if assessed on a percentage of dollar value basis.

1 (c) The maximum assessment by the Oregon Sweet Cherry Commission for fresh, brined, canned
 2 and frozen cherries may not exceed four percent of the respective industry average unit prices for
 3 fresh, brined, canned and frozen cherries if assessed on a unit basis.

4 [(d) *The maximum assessment by the Oregon Bartlett Pear Commission may not exceed seven*
 5 *percent of the industry average unit price if assessed on a unit basis.*]

6 [(e)] (d) The maximum assessment by the Oregon Processed Vegetable Commission on a com-
 7 modity may not exceed 0.5 percent of the industry average unit price for that commodity if assessed
 8 on a unit basis or 0.5 percent of the dollar value received by a producer for the commodity if as-
 9 sessed on a percentage of dollar value basis.

10 [(f)] (e) The maximum assessment by the Oregon Hop Commission may not exceed two percent
 11 of the industry average unit price if assessed on a unit basis.

12 [(g)] (f) The maximum assessment by the Oregon Sheep Commission may not exceed five cents
 13 per pound on all wool, in the grease basis, sold through commercial channels. The commission may
 14 not adopt an assessment that is more than one-half cent per pound of wool, in the grease basis,
 15 above the assessment for the previous year.

16 (5) A commission shall assess and levy an assessment under subsections (2) to (4) of this section
 17 to the producer at the time and in the manner provided by the commission by rule. The commission
 18 is the owner of a collected assessment. A person who collects an assessment holds the assessment
 19 in trust for the benefit of the commission and the state and shall remit the assessment in the time
 20 and manner required by the commission under ORS 576.335.

21 (6) Notwithstanding subsection (5) of this section, a commission may assess, levy and collect an
 22 assessment from a first purchaser at the time and in the manner provided by the commission by rule.
 23 Except as provided in subsection (8) of this section, the assessment may not exceed the limits de-
 24 scribed in subsections (3) and (4) of this section.

25 (7) A regional commission may assess, levy and collect an assessment only on the commodity
 26 produced in the counties in which the regional commission functions.

27 (8) Notwithstanding subsections (3) and (4) of this section, a commodity commission may assess,
 28 levy and collect an assessment in excess of the limits described in subsections (3) and (4) of this
 29 section pursuant to a federal marketing order or agreement.

30 (9) A person who believes that the amount of an assessment is incorrect may apply to the
 31 commission for a refund not later than 60 days after the person pays the assessment.

32 **SECTION 5. Section 2 of this 2007 Act and the amendments to ORS 576.062 and 576.325**
 33 **by sections 3 and 4 of this 2007 Act become operative 31 days after the effective date of this**
 34 **2007 Act.**

35 **SECTION 6. This 2007 Act being necessary for the immediate preservation of the public**
 36 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
 37 **on its passage.**