

# House Bill 2846

Sponsored by Representative BUTLER

## 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**.

Creates Rainy Day Fund. Directs Department of Revenue to estimate amount of capital gains taxes raised during previous biennium. Directs State Treasurer to transfer one-half of certified amount from General Fund to Rainy Day Fund, until Rainy Day Fund equals or exceeds ceiling percentage of legislatively adopted budget. Reduces capital gains taxes thereafter until Rainy Day Fund is less than floor percentage of legislatively adopted budget. Reinstates accumulation of higher capital gains rate and accumulation of capital gains revenue in Rainy Day Fund whenever Rainy Day Fund is below floor percentage of budget.

Restricts expenditures from Rainy Day Fund, unless certain economic conditions are present. Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to Rainy Day Fund funding; creating new provisions; amending ORS 316.037; and prescrib-  
3 ing an effective date.

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

5 **SECTION 1. (1) The Rainy Day Fund is created in the State Treasury, separate and dis-**  
6 **tinct from the General Fund. Interest earned by the Rainy Day Fund shall be credited to the**  
7 **Rainy Day Fund.**

8 **(2) Moneys shall be transferred into the Rainy Day Fund under section 2 (2) of this 2007**  
9 **Act until the ending fund balance on the last day of a biennium equals or exceeds 12 percent**  
10 **of the legislatively adopted budget for that biennium.**

11 **(3) Beginning on July 1, following the biennium in which the ending fund balance of the**  
12 **Rainy Day Fund equals or exceeds the maximum balance described in subsection (2) of this**  
13 **section, only earnings of the Rainy Day Fund may be credited to the Rainy Day Fund until**  
14 **the ending fund balance of the Rainy Day Fund is less than five percent of the legislatively**  
15 **adopted budget for that biennium. Thereafter, subsection (2) of this section applies.**

16 **(4)(a) Moneys in the Rainy Day Fund may not be appropriated or expended for any pur-**  
17 **pose unless:**

18 **(A) The last quarterly economic and revenue forecast for a biennium indicates that**  
19 **moneys available to the General Fund for the next biennium will be at least three percent**  
20 **less than appropriations from the General Fund for the current biennium;**

21 **(B) There has been a decline for two or more consecutive quarters in the last 12 months**  
22 **in seasonally adjusted nonfarm payroll employment; or**

23 **(C) A quarterly economic and revenue forecast prepared by the Oregon Department of**  
24 **Administrative Services projects that revenues in the General Fund in the current biennium**  
25 **will be at least two percent below what the revenues were projected to be in the revenue**  
26 **forecast on which the legislatively adopted budget for the current biennium was based.**

27 **(b) If paragraph (a) of this subsection is satisfied, moneys in the Rainy Day Fund are**

**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 miscellaneous receipts available generally to meet any expense or obligation of the State of  
 2 Oregon lawfully incurred.

3 **SECTION 2.** (1) As soon as is practicable after the end of a biennium in which the Rainy  
 4 Day Fund is receiving moneys under section 1 (2) of this 2007 Act, the Department of Re-  
 5 venue shall prepare an estimate of revenues derived from personal income taxes on capital  
 6 gains that were imposed at the rates described in ORS 316.037 (1) during the previous  
 7 biennium, and shall certify those revenues to the State Treasurer.

8 (2) The State Treasurer shall transfer one-half of the amount certified under subsection  
 9 (1) of this section from the General Fund to the Rainy Day Fund.

10 (3) As soon as is practicable after the beginning of a biennium in which moneys are not  
 11 being transferred under subsection (2) of this section, the Department of Revenue shall cer-  
 12 tify that tax rates set forth in ORS 316.037 (4) apply to capital gains includable in Oregon  
 13 taxable income for tax years ending in that biennium.

14 **SECTION 3.** ORS 316.037 is amended to read:

15 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every  
 16 resident of this state. The amount of the tax shall be determined in accordance with the following  
 17 table:

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If taxable income is:	The tax is:
20 Not over \$2,000	21 5% of 22 taxable 23 income 24
25 Over \$2,000 but not 26 over \$5,000	27 \$100 plus 7% 28 of the excess 29 over \$2,000
30 Over \$5,000	31 \$310 plus 9% 32 of the excess 33 over \$5,000

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34  
 35 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a  
 36 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

37 (A) The minimum and maximum dollar amounts for each rate bracket for which a tax is imposed  
 38 shall be increased by the cost-of-living adjustment for the calendar year.

39 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-  
 40 graph shall not be changed.

41 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the  
 42 rate brackets, shall be adjusted.

43 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-  
 44 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer  
 45 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the

1 monthly averaged index for the second quarter of the calendar year 1992.

2 (d) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S. City  
3 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
4 Labor Statistics of the United States Department of Labor.

5 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,  
6 the increase shall be rounded to the next lower multiple of \$50.

7 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year  
8 resident of this state. The amount of the tax shall be computed under subsection (1) of this section  
9 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided  
10 under ORS 316.117 to determine the tax on income derived from sources within this state.

11 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident  
12 that is derived from sources within this state. The amount of the tax shall be determined in ac-  
13 cordance with the table set forth in subsection (1) of this section.

14 **(4) Notwithstanding subsections (1) to (3) of this section, if the Department of Revenue**  
15 **has issued a certification described in section 2 (3) of this 2007 Act that applies to the tax**  
16 **year, any gain that is treated as net capital gain for federal tax purposes and that is included**  
17 **in taxable income in this state shall be taxed at the rate of 4.5 percent.**

18 **SECTION 4. The amendments to ORS 316.037 by section 3 of this 2007 Act apply to tax**  
19 **years beginning on or after January 1, 2008.**

20 **SECTION 5. This 2007 Act takes effect on the 91st day after the date on which the reg-**  
21 **ular session of the Seventy-fourth Legislative Assembly adjourns sine die.**

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