

B-Engrossed
Senate Bill 1036

Ordered by the House June 13
Including Senate Amendments dated May 8 and House Amendments dated
June 13

Sponsored by Senator DECKERT; Senators BATES, BROWN, BURDICK, DEVLIN, JOHNSON, METSGER, MONNES ANDERSON, MONROE, MORSE, PROZANSKI, STARR, WALKER, WESTLUND, WINTERS, Representatives BERGER, BEYER, BONAMICI, BOONE, BRUUN, BUCKLEY, BURLEY, CANNON, CLEM, DALLUM, DINGFELDER, FLORES, GALIZIO, GILLIAM, GREENLICK, HANNA, HOLVEY, HUNT, KOMP, KRUMMEL, MACPHERSON, MERKLEY, NOLAN, READ, RILEY, ROBLAN, SCHAUFLEER, SCOTT, SHIELDS, G SMITH, P SMITH

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.

Restricts local government power to impose construction excise taxes. Authorizes school districts to impose construction taxes. Dedicates revenues from such taxes to capital construction. **Authorizes school district to pledge construction taxes to payment of obligations issued to finance or refinance capital improvements.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to local government construction excise taxes; and declaring an emergency.

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

4 **SECTION 1. (1) A local government or local service district, as defined in ORS 174.116,**
5 **or a special government body, as defined in ORS 174.117, may not impose a tax on the privi-**
6 **lege of constructing improvements to real property except as provided in sections 2 to 8 of**
7 **this 2007 Act.**

8 **(2) Subsection (1) of this section does not apply to:**

9 **(a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such**
10 **a tax, provided that the rate of tax does not increase from the rate in effect as of May 1,**
11 **2007;**

12 **(b) A tax on which a public hearing was held before May 1, 2007; or**

13 **(c) The amendment or increase of a tax adopted by a county for transportation purposes**
14 **prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those**
15 **purposes.**

16 **(3) For purposes of this section and sections 2 to 8 of this 2007 Act, construction taxes**
17 **are limited to privilege taxes imposed under sections 2 to 8 of this 2007 Act and do not in-**
18 **clude any other financial obligations such as building permit fees, financial obligations that**
19 **qualify as system development charges under ORS 223.297 to 223.314 or financial obligations**
20 **imposed on the basis of factors such as income.**

21 **SECTION 2. (1) Construction taxes may be imposed by a school district, as defined in**
22 **ORS 330.005, in accordance with sections 2 to 8 of this 2007 Act.**

23 **(2) Notwithstanding subsection (1) of this section, construction taxes imposed by a school**

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 district may be collected by another local government, local service district or special gov-
2 ernment body pursuant to a written agreement with a school district.

3 **SECTION 3.** Construction taxes may not be imposed on the following:

4 (1) Private school improvements.

5 (2) Public improvements as defined in ORS 279A.010.

6 (3) Residential housing that is guaranteed to be affordable, under guidelines established
7 by the United States Department of Housing and Urban Development, to households that
8 earn no more than 80 percent of the median household income for the area in which the
9 construction tax is imposed, for a period of at least 60 years following the date of con-
10 struction of the residential housing.

11 (4) Public or private hospital improvements.

12 (5) Improvements to religious facilities primarily used for worship or education associ-
13 ated with worship.

14 (6) Agricultural buildings, as defined in ORS 455.315 (2)(a).

15 (7) Public or private improvements on brownfields, as defined in ORS 285A.185, that:

16 (a) Are located in cities that serve as county seats and have a population of more than
17 20,000 but fewer than 26,000 inhabitants, according to the latest federal decennial census; and

18 (b) Have known or potential contamination from hazardous substances as shown in the
19 Environmental Cleanup Site Information (ECSI) Database of the Department of Environ-
20 mental Quality.

21 **SECTION 4.** (1) Construction taxes imposed under sections 2 to 8 of this 2007 Act may
22 be imposed only on improvements to real property that result in a new structure or addi-
23 tional square footage in an existing structure and may not exceed:

24 (a) \$1 per square foot on structures or portions of structures intended for residential use,
25 including but not limited to single-unit or multiple-unit housing; and

26 (b) \$0.50 per square foot on structures or portions of structures intended for nonresi-
27 dential use, not including multiple-unit housing of any kind.

28 (2) In addition to the limitations under subsection (1) of this section, a construction tax
29 imposed on structures intended for nonresidential use may not exceed \$25,000 per building
30 permit or \$25,000 per structure, whichever is less.

31 (3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1)
32 and (2) of this section shall be adjusted for changes in construction costs by multiplying the
33 limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged
34 monthly construction cost index for the 12-month period ending June 30 of the preceding
35 calendar year over the averaged monthly construction cost index for the 12-month period
36 ending June 30, 2008.

37 (b) The Department of Revenue shall determine the adjusted limitations under this sec-
38 tion and shall report those limitations to entities imposing construction taxes. The depart-
39 ment shall round the adjusted limitation under subsection (2) of this section to the nearest
40 multiple of \$100.

41 (c) As used in this subsection, "construction cost index" means the Engineering News-
42 Record Construction Cost Index, or a similar nationally recognized index of construction
43 costs as identified by the department by rule.

44 **SECTION 5.** (1) A school district imposing a construction tax shall impose the tax by a
45 resolution adopted by the district board of the school district. The resolution shall state the

1 rates of tax, subject to section 4 of this 2007 Act.

2 (2) Prior to adopting a resolution under subsection (1) of this section, a school district
3 shall enter into an intergovernmental agreement with each local government, local service
4 district or special government body collecting the tax that establishes:

5 (a) Collection duties and responsibilities;

6 (b) The specific school district accounts into which construction tax revenues are to be
7 deposited and the frequency of such deposits; and

8 (c) The amount of the administrative fee that the entity collecting the tax may retain to
9 recoup its expenses in collecting the tax, not to exceed one percent of tax revenues.

10 **SECTION 6.** (1) After deducting the costs of administering a construction tax and pay-
11 ment of refunds of such taxes, a school district shall use net revenues only for capital im-
12 provements.

13 (2) A construction tax may not be imposed under sections 2 to 8 of this 2007 Act unless
14 the school district imposing the tax develops a long-term facilities plan for making capital
15 improvements. The plan shall be adopted by resolution of the district board of the school
16 district.

17 (3) As used in this section, “capital improvements”:

18 (a) Means:

19 (A) The acquisition of land;

20 (B) The construction, reconstruction or improvement of school facilities;

21 (C) The acquisition or installation of equipment, furnishings or other tangible property;

22 (D) The expenditure of funds for architectural, engineering, legal or similar costs related
23 to capital improvements and any other expenditures for assets that have a useful life of more
24 than one year; or

25 (E) The payment of obligations and related costs of issuance that are issued to finance
26 or refinance capital improvements.

27 (b) Does not include operating costs or costs of routine maintenance.

28 **SECTION 7.** A school district may pledge construction taxes to the payment of obli-
29 gations issued to finance or refinance capital improvements as defined in section 6 of this
30 2007 Act.

31 **SECTION 8.** Construction taxes shall be paid by the person undertaking the construction
32 at the time that a permit authorizing the construction is issued.

33 **SECTION 9.** Section 1 of this 2007 Act is repealed on January 2, 2018.

34 **SECTION 10.** This 2007 Act being necessary for the immediate preservation of the peace,
35 health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its
36 passage.

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