

A-Engrossed
Senate Bill 21

Ordered by the Senate April 23
Including Senate Amendments dated April 23

Sponsored by Senator VERGER, Representatives MORGAN, ROBLAN; Senators ATKINSON, BATES, KRUSE, MONNES ANDERSON, PROZANSKI, WALKER, WHITSETT, Representatives BUCKLEY, CLEM, ESQUIVEL, GILMAN, HANNA, KRIEGER, MAURER, RICHARDSON

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.

Authorizes State Treasurer, at request of Economic and Community Development Department, to issue lottery bonds for payment of expenses of Coos Bay Channel Project.

Creates Coos Bay Channel Fund. Continuously appropriates moneys to department to pay expenses and bond-related costs related to deepening and widening lower Coos Bay deep draft navigation channel.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to allocation of lottery revenues for economic development; appropriating money; and de-
3 claring an emergency.

4 Whereas the deep draft navigation channel in Coos Bay is an asset of statewide importance that
5 provides Oregon shippers with competitive access to world markets; and

6 Whereas waterborne commerce originating in Oregon is valued in excess of \$5 billion and is
7 projected to increase substantially in coming years; and

8 Whereas in order to sustain and increase jobs and other economic benefits associated with
9 maritime trade, the Coos Bay navigation channel must be maintained at depths adequate to accom-
10 modate new generations of deep draft cargo vessels, which will have an annual economic impact on
11 the State of Oregon of more than \$500 million and will add substantially to the value of maritime
12 commerce moving through the state; and

13 Whereas the Oregon International Port of Coos Bay requires a project to deepen the lower Coos
14 Bay deep draft navigation channel, west of the Coos Bay railroad bridge, from a depth of minus 37
15 mean lower low water to minus 51 mean lower low water and widen the channel from 300 feet to
16 500 feet, or to standards determined by the primary sponsor based on feasibility studies required,
17 to anticipate future shipping needs of the port and Oregon; and

18 Whereas a clear and prompt financial commitment from the State of Oregon will allow the
19 Oregon International Port of Coos Bay to develop the Oregon Gateway, an intermodal container
20 terminal for the Coos Bay harbor; and

21 Whereas the Oregon Gateway will be a partnership between the public and private sectors for
22 significant landside terminal and infrastructure development leading to long-term employment and
23 increased opportunities for transport of containerized cargo, noncontainerized breakbulk and bulk
24 cargo through the Coos Bay harbor in the future; and

25 Whereas the issuance of lottery bonds to finance the Coos Bay Channel Project is an appropri-

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 ate use of state lottery funds; now, therefore,

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

3 **SECTION 1. As used in sections 1 to 5 of this 2007 Act:**

4 (1) "Coos Bay Channel Project" means a project to deepen and widen the lower Coos Bay
5 deep draft navigation channel, west of the Coos Bay railroad bridge, to perform ecosystem
6 investigation and restoration projects and to make additional navigational system improve-
7 ments including, but not limited to, structural work at the entrance jetties, navigation aids
8 and other design or engineering tasks.

9 (2) "Oregon sponsors" means the Oregon International Port of Coos Bay or any agency
10 acting as a financial contributor to the Coos Bay Channel Project.

11 (3) "Primary sponsor" means the Oregon International Port of Coos Bay as represen-
12 tative of the Oregon sponsors.

13 **SECTION 2. The Legislative Assembly finds that:**

14 (1)(a) The Coos Bay Channel Project will create jobs and further economic development
15 in Oregon because deepening and widening the lower Coos Bay deep draft navigation channel,
16 west of the Coos Bay railroad bridge, will allow the Oregon International Port of Coos Bay
17 to accommodate new generations of deep draft cargo vessels and to diversify the types of
18 cargo that can be processed through the port, increasing maritime and international trade
19 throughout Oregon, improving the attractiveness of Oregon to new businesses and support-
20 ing the operations and prosperity of existing businesses.

21 (b) Authorization for the issuance of lottery bonds will increase the likelihood of federal
22 funding for the project, encourage the development of public and private sector partnerships
23 to continue the modernization and expansion of the Oregon International Port of Coos Bay,
24 including the development and construction of an intermodal container terminal for Coos
25 Bay harbor, and add new income that will directly benefit Oregon's dredging, construction
26 or maritime industries.

27 (2) The factors described in subsection (1) of this section will encourage and promote
28 economic development within the state, and the issuance of lottery bonds to finance the Coos
29 Bay Channel Project is therefore an appropriate use of state lottery funds to pay the
30 amounts specified in section 3 of this 2007 Act, under section 4, Article XV of the Oregon
31 Constitution, and under ORS 461.510. Neither the faith and credit nor any of the taxing power
32 of the state is pledged or otherwise committed by sections 1 to 5 of this 2007 Act, and the
33 commitments of the state under sections 1 to 5 of this 2007 Act and ORS 777.277 to 777.287
34 do not constitute a debt or liability of the state within the meaning of section 7, Article XI
35 of the Oregon Constitution.

36 **SECTION 3. (1) In addition to amounts authorized under ORS 286.505 to 286.545, the State
37 Treasurer, at the request of the Director of the Economic and Community Development
38 Department, may issue lottery bonds pursuant to ORS 286.560 to 286.580:**

39 (a) In an amount of up to \$60 million for payment of the expenses of the Coos Bay
40 Channel Project in increments described in subsection (2) of this section; and

41 (b) An additional amount to be estimated by the State Treasurer for payment of bond-
42 related costs of the Oregon Department of Administrative Services, the Economic and
43 Community Development Department and the State Treasurer.

44 (2) The director shall request the State Treasurer to issue the amount of bonds described
45 in subsection (1)(a) of this section in increments that allow the director, at the request of

1 the primary sponsor, to transfer:

2 (a) In the biennium beginning July 1, 2007, up to \$5 million in net proceeds of lottery
3 bonds to the Coos Bay Channel Fund established in section 5 of this 2007 Act for distribution
4 to the primary sponsor after the primary sponsor provides documentation establishing to the
5 satisfaction of the director that the primary sponsor has entered into an agreement with a
6 cargo terminal developer, subject to termination based only on acts of God, natural disasters,
7 catastrophic events, acts of war or other unforeseen events, to develop and operate terminal
8 facilities on the Coos Bay channel.

9 (b) In the biennium beginning July 1, 2009, up to \$10 million in net proceeds of lottery
10 bonds to the fund established in section 5 of this 2007 Act for distribution to the primary
11 sponsor after the primary sponsor provides documentation establishing to the satisfaction
12 of the director that the Chief of Engineers of the United States Army Corps of Engineers
13 has provided a favorable recommendation to Congress to proceed with the Coos Bay Channel
14 Project and that federal moneys are available to meet the federal cost share of the project.
15 If federal moneys are not committed to the project, the documentation provided to the di-
16 rector by the primary sponsor must include a signed agreement committing private parties
17 to provide moneys substantially equivalent to the federal cost share, as determined by the
18 director, as a private cost share.

19 (c) In the biennium beginning July 1, 2011, up to \$45 million in net proceeds of lottery
20 bonds to the fund established in section 5 of this 2007 Act for distribution to the primary
21 sponsor after the primary sponsor provides documentation establishing to the satisfaction
22 of the director that the primary sponsor has entered into one or more agreements for
23 channel dredging or other construction on the project.

24 (3) Lottery bonds authorized under this section may not be issued on or after June 30,
25 2013.

26 SECTION 4. (1) The Oregon sponsors are each authorized to enter into agreements with
27 agencies of the United States for the Coos Bay Channel Project and, notwithstanding any
28 other provision of law, may each agree to be bound by any requirement imposed by an Act
29 of the United States Congress as a condition of federal participation in the project.

30 (2) The State of Oregon and its agencies and departments are not liable to the lenders,
31 vendors or contractors of the Oregon sponsors for any action or omission under sections 1
32 to 5 of this 2007 Act, except for a failure to allocate and deposit to the Coos Bay Channel
33 Fund established under section 5 of this 2007 Act the amounts required by section 3 of this
34 2007 Act or to disburse from the fund to the primary sponsor the amounts required by sec-
35 tion 3 of this 2007 Act.

36 (3) By receipt of any part of net proceeds of lottery bonds described in section 3 of this
37 2007 Act, the primary sponsor agrees to indemnify the state and its agencies and depart-
38 ments to the fullest extent permitted by law for liability the state or its agencies and de-
39 partments might incur in connection with any borrowing by the primary sponsor for the
40 project, except for a failure to allocate and deposit to the fund the amounts required by
41 section 3 of this 2007 Act or to disburse from the fund to the primary sponsor the amounts
42 required by section 3 of this 2007 Act.

43 SECTION 5. (1) The Coos Bay Channel Fund is established separate and distinct from the
44 General Fund. Interest earned by the Coos Bay Channel Fund shall be credited to the fund.
45 The moneys in the Coos Bay Channel Fund are continuously appropriated to the Economic

1 **and Community Development Department for the purpose described in subsection (2) of this**
2 **section. The fund shall consist of moneys deposited in the fund under section 3 of this 2007**
3 **Act and may include fees, moneys or other revenues, including federal funds collected or**
4 **received as reimbursement for expenses of the project, available for payment of expenses of**
5 **the Coos Bay Channel Project or bond-related costs.**

6 **(2) Moneys in the fund are available to the department for distribution to the primary**
7 **sponsor to pay the nonfederal cost share, or the nonprivate cost share, of expenses of the**
8 **project up to the amount specified in section 3 of this 2007 Act and to pay bond-related costs.**

9 **SECTION 6. This 2007 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
11 **July 1, 2007.**

12