

Senate Bill 21

Sponsored by Senator VERGER, Representatives MORGAN, ROBLAN; Senators ATKINSON, BATES, KRUSE, MONNES ANDERSON, PROZANSKI, 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 **as introduced**.

Creates Coos Bay Channel Fund to provide funds for deepening and widening Coos Bay deep draft navigation channel. Allocates nonallocated lottery bond funds not to exceed \$_____ million. Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to allocation of lottery revenues for economic development; appropriating money; limiting
3 expenditures; and declaring 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 deep draft
14 navigation channel from a depth of minus 37 mean lower low water to minus 51 mean lower low
15 water and widen the channel from 300 feet to 500 feet to anticipate future shipping needs of the port
16 and southern Oregon; and

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

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

24 Whereas the issuance of lottery bonds to finance the Coos Bay Channel Project is an appropri-
25 ate use of state lottery funds; now, therefore,

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

27 **SECTION 1. As used in sections 1 to 7 of this 2007 Act:**

28 (1) **"Coos Bay Channel Fund" means the fund created by section 3 of this 2007 Act.**

29 (2) **"Coos Bay Channel Project" means a project to deepen and widen the deep draft Coos
30 Bay navigation channel.**

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 (3) "Grant agreement" means the grant agreement described in section 3 of this 2007 Act.

2 (4) "Oregon sponsors" means the Oregon International Port of Coos Bay or any agency
3 acting on behalf of the state as a financial contributor to the Coos Bay Channel Project.

4 (5) "Primary sponsor" means the Oregon International Port of Coos Bay as represen-
5 tative of the Oregon sponsors.

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

7 (1)(a) The Coos Bay Channel Project will create jobs and further economic development
8 in Oregon because deepening and widening the Coos Bay navigation channel will allow the
9 Oregon International Port of Coos Bay to accommodate new generations of deep draft cargo
10 vessels and to diversify the types of cargo that can be processed through the port, increasing
11 maritime and international trade throughout southern Oregon, improving the attractiveness
12 of southern Oregon to new businesses and supporting the operations and prosperity of ex-
13 isting businesses.

14 (b) Authorization for the issuance of lottery bonds will increase the likelihood of federal
15 funding for the project, encourage the development of public and private sector partnerships
16 to continue the modernization and expansion of the Oregon International Port of Coos Bay,
17 including the development and construction of an intermodal container terminal for Coos
18 Bay harbor, and add new revenues that will directly benefit Oregon's dredging, construction
19 and maritime industries.

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

29 **SECTION 3.** (1) The Coos Bay Channel Fund is established separate and distinct from the
30 General Fund. Interest earned by the Coos Bay Channel Fund shall be credited to the fund.
31 The moneys in the Coos Bay Channel Fund are continuously appropriated to the Economic
32 and Community Development Department for the purpose described in subsection (2) of this
33 section. The fund shall consist of moneys deposited in the fund under section 4 of this 2007
34 Act and may include fees, moneys or other revenues available for payment of expenses of the
35 Coos Bay Channel Project, including federal funds collected or received as reimbursement for
36 expenses of the project.

37 (2) Subject to subsection (3) of this section, moneys in the fund shall be available for
38 immediate distribution to the primary sponsor to pay expenses of the project.

39 (3)(a) The Director of the Economic and Community Development Department shall enter
40 into a grant agreement with the primary sponsor that requires the department to disburse,
41 over the course of the project, an aggregate principal amount of \$60 million from the fund
42 to the primary sponsor. Disbursements from the fund shall be made as soon as deposits ac-
43 crue in the fund and shall commence when:

44 (A) Moneys are available;

45 (B) The primary sponsor has entered into one or more contracts for the dredging of the

1 Coos Bay navigation channel to the specifications of the project and the contracts have an
2 aggregate value of at least \$_____; and

3 (C) The director determines that the following conditions have been met:

4 (i) The primary sponsor has provided documentation that it will have sufficient financing
5 to complete the project; and

6 (ii) The primary sponsor has agreed in the grant agreement that the primary sponsor
7 will not request or accept any General Fund moneys for the project. Upon completion of the
8 project, if the aggregate expenditure of state and local moneys is less than \$_____ million,
9 the primary sponsor shall refund the difference to the Coos Bay Channel Fund.

10 (b) Upon satisfaction of the conditions described in paragraph (a) of this subsection, the
11 department shall disburse \$_____ million from the fund to the primary sponsor in the
12 biennium beginning July 1, 2007.

13 (c) Of the moneys deposited in the fund, the department may use \$_____ to pay the
14 department's expenses in entering into, modifying and administering the grant agreement.

15 (4)(a) The state is not liable to the lenders, vendors or contractors of the primary spon-
16 sor for any action or omission under sections 1 to 7 of this 2007 Act or under the grant
17 agreement, except for a failure to allocate and deposit to the fund amounts required by sec-
18 tion 4 of this 2007 Act or to disburse from the fund to the primary sponsor amounts required
19 by this section and by the grant agreement.

20 (b) The grant agreement must:

21 (A) Obligate the department to deposit the net proceeds of lottery bonds described in
22 section 4 of this 2007 Act, or, if necessary, the amounts described in section 6 of this 2007
23 Act, into the fund.

24 (B) Obligate the primary sponsor to indemnify the state and its agencies and departments
25 to the fullest extent permitted by law for any liability the state or its agencies and depart-
26 ments might incur in connection with any borrowing by the primary sponsor for the project,
27 except for failure to allocate and deposit to the fund amounts required by section 4 of this
28 2007 Act or amounts described in section 6 of this 2007 Act or to disburse from the fund to
29 the primary sponsor amounts required by this section and by the grant agreement.

30 (c) The primary sponsor may assign and pledge its rights under the grant agreement to
31 lenders, vendors or contractors. The director shall pledge the moneys available in the fund
32 to the project.

33 **SECTION 4.** (1)(a) For the biennium beginning July 1, 2007, the State Treasurer is au-
34 thorized to issue lottery bonds pursuant to ORS 286.560 to 286.580 in the amount of
35 \$_____ for payment of the expenses of the Economic and Community Development De-
36 partment in entering into and administering the grant agreement for the Coos Bay Channel
37 Project, plus an additional amount to be estimated by the State Treasurer for payment of
38 bond-related costs of the Oregon Department of Administrative Services, the Economic and
39 Community Development Department and the State Treasurer.

40 (b) For the biennium beginning July 1, 2007, the State Treasurer is authorized to issue
41 lottery bonds pursuant to ORS 286.560 to 286.580 in the amount of \$30 million for payment
42 of the expenses of the primary sponsor for the Coos Bay Channel Project, plus an additional
43 amount to be estimated by the State Treasurer for payment of bond-related costs of the
44 Oregon Department of Administrative Services, the Economic and Community Development
45 Department and the State Treasurer.

1 (c) For the biennium beginning July 1, 2009, the State Treasurer is authorized to issue
2 lottery bonds pursuant to ORS 286.560 to 286.580 in the amount of \$_____ for payment of
3 the expenses of the Economic and Community Development Department in entering into and
4 administering the grant agreement for the Coos Bay Channel Project, plus an additional
5 amount to be estimated by the State Treasurer for payment of bond-related costs of the
6 Oregon Department of Administrative Services, the Economic and Community Development
7 Department and the State Treasurer.

8 (d) For the biennium beginning July 1, 2009, the State Treasurer is authorized to issue
9 lottery bonds pursuant to ORS 286.560 to 286.580 in the amount of \$30 million for payment
10 of the expenses of the primary sponsor for the Coos Bay Channel Project, plus an additional
11 amount to be estimated by the State Treasurer for payment of bond-related costs of the
12 Oregon Department of Administrative Services, the Economic and Community Development
13 Department and the State Treasurer.

14 (2) Lottery bonds issued under this section shall be issued at the request of the Director
15 of the Economic and Community Development Department.

16 (3)(a) Net proceeds of lottery bonds issued under subsection (1)(a) and (b) of this section
17 in the amount of \$_____ million shall be deposited in the Coos Bay Channel Fund estab-
18 lished by section 3 of this 2007 Act not later than June 30, 2009.

19 (b) Net proceeds of lottery bonds issued under subsection (1)(c) and (d) of this section in
20 the amount of \$_____ million shall be deposited in the Coos Bay Channel Fund established
21 by section 3 of this 2007 Act not later than June 30, 2011.

22 **SECTION 5.** The aggregate principal amount of lottery bonds issued pursuant to section
23 4 of this 2007 Act to assist in the funding of the Coos Bay Channel Project may not exceed
24 the sum of \$60 million and an additional amount estimated by the State Treasurer to be
25 necessary to pay bond-related costs. Lottery bonds issued pursuant to section 4 of this 2007
26 Act shall be issued only at the request of the Director of the Economic and Community De-
27 velopment Department. The director may not request the issuance of lottery bonds pursuant
28 to section 4 of this 2007 Act until the primary sponsor certifies in writing that all necessary
29 permits for the proposed project construction have been obtained and the director and the
30 primary sponsor have entered into the grant agreement described in section 3 of this 2007
31 Act.

32 **SECTION 6.** If the state has not deposited an aggregate amount of \$_____ million in
33 the Coos Bay Channel Fund by June 30, 2009, the state shall allocate to the Economic and
34 Community Development Department an amount equal to the difference between
35 \$_____ million and the aggregate deposits to the fund as of June 30, 2009, from the first
36 available residual lottery revenues.

37 **SECTION 7.** The Oregon sponsors are each authorized to enter into agreements with
38 agencies of the United States for the Coos Bay Channel Project and, notwithstanding any
39 other provision of law, may each agree to be bound by any requirement imposed by an Act
40 of the United States Congress as a condition of federal participation in the project.

41 **SECTION 8.** This 2007 Act being necessary for the immediate preservation of the public
42 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
43 July 1, 2007.