

Senate Bill 398

Sponsored by Senator FERRIOLI

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**.

Establishes tax recapture grant program under which rural school districts may receive income tax revenues generated from payment of prevailing wages in public school facility capital construction or improvement projects. Directs Department of Education to administer grant program. Requires rural school districts engaged in capital construction or improvement projects to report wage information.

Creates Tax Recapture Fund. Directs Department of Revenue to estimate personal income taxes raised on difference between prevailing wages paid by school district and market wages and transfer those revenues to Tax Recapture Fund.

Continuously appropriates fund to Department of Education to make tax recapture grants.

A BILL FOR AN ACT

1
2 Relating to school district payments for capital construction; creating new provisions; amending
3 ORS 316.502; and appropriating money.

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

5 **SECTION 1. As used in sections 1 to 4 of this 2007 Act:**

6 (1) **“Capital construction or improvements” means building construction, remodeling, al-**
7 **tering, furnishing and equipping of public school facilities and the acquisition of land for**
8 **public school facilities.**

9 (2) **“Market wages” means the cumulative amount of wages a school district would have**
10 **paid with respect to a capital construction or improvements project if the district was not**
11 **subject to ORS 279C.800 to 279C.870 or the Davis-Bacon Act (40 U.S.C. 276a).**

12 (3) **“Prevailing wages” means the cumulative amount of wages a school district pays with**
13 **respect to a capital construction or improvements project under ORS 279C.800 to 279C.870**
14 **or the Davis-Bacon Act.**

15 (4) **“Public school facility” includes facilities used for classroom instruction, multipurpose**
16 **activities, libraries or any other use associated with public education in kindergarten**
17 **through grade 12.**

18 (5) **“Rural school district” means a school district, at least 51 percent of the territory**
19 **of which is located in a county with a population of less than 35,000.**

20 (6) **“School district” means a common or union high school district.**

21 **SECTION 2. (1) A rural school district may apply for a tax recapture grant under this**
22 **section if:**

23 (a) **The district is engaged in a capital construction or improvements project with respect**
24 **to a public school facility;**

25 (b) **The cost of the capital construction or improvements project equals or exceeds one-**
26 **quarter of one percent of the value of all real property owned by the district;**

27 (c) **The district is required to pay prevailing wages with respect to the capital con-**

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 construction or improvements project; and

2 (d) At least 51 percent of the contractors involved in the capital construction or im-
3 provements project, as determined by contract value, are located outside of the school dis-
4 trict.

5 (2) The district shall apply to the Department of Education for a tax recapture grant
6 under this section and shall report any information required by the department, including:

7 (a) The amount paid or estimated to be paid as prevailing wages with respect to the
8 capital construction or improvements project;

9 (b) The location of all contractors engaged in the capital construction or improvements
10 project; and

11 (c) The estimated amount that would have been paid as market wages with respect to the
12 capital construction or improvements project.

13 (3) The department shall review the district's application and may investigate or audit
14 the information reported on the application. The department may consult with the Bureau
15 of Labor and Industries to determine the accuracy of estimates made under subsection (2)(a)
16 and (c) of this section. The department may modify estimates or other information reported
17 on an application to reflect accuracy. The decision to modify an application to reflect accu-
18 racy may be appealed as a contested case under ORS chapter 183.

19 (4) The department shall award a tax recapture grant from the Tax Recapture Fund
20 created in section 4 of this 2007 Act if the department determines that:

21 (a) The district has applied for a grant under this section;

22 (b) The district is a rural school district that is engaged in a capital construction or im-
23 provements project in which at least 51 percent of the contractors involved in the project,
24 as determined by contract value, are located outside of the school district;

25 (c) The district is engaged in a capital construction and improvements project, the cost
26 of which equals or exceeds one-quarter of one percent of the value of all real property owned
27 by the district; and

28 (d) The net amount of prevailing wages less market wages attributable to the capital
29 construction or improvements project is at least \$25,000.

30 (5) The amount of the grant shall equal:

31 (a) The net amount of prevailing wages less market wages that is attributable to the
32 capital construction or improvements project; or

33 (b) Any greater amount determined by the department.

34 **SECTION 3.** (1) Each rural school district in this state that is engaged in a capital con-
35 struction or improvements project that equals or exceeds one-quarter of one percent of the
36 value of all real property owned by the district shall report to the Department of Education
37 the district's estimate of prevailing wages paid with respect to the project during the fiscal
38 year and the district's estimate of market wages that would have been paid with respect to
39 the project during the fiscal year.

40 (2) The Department of Education, after consultation with the Bureau of Labor and In-
41 dustries, may modify the estimates reported under subsection (1) of this section to reflect
42 accuracy.

43 (3) The Department of Education shall compile the total net amount of prevailing wages
44 less market wages reported under this section for the fiscal year and shall report that total
45 to the Department of Revenue.

1 **(4) The Department of Revenue shall estimate the amount of personal income tax re-**
 2 **venues raised on the difference between total estimated prevailing wages and total estimated**
 3 **market wages and shall transfer that amount to the Tax Recapture Fund as prescribed in**
 4 **ORS 316.502 (3)(c).**

5 **SECTION 4. (1) The Tax Recapture Fund is created in the State Treasury, separate and**
 6 **distinct from the General Fund. Interest earned by the Tax Recapture Fund shall be credited**
 7 **to the Tax Recapture Fund.**

8 **(2) Moneys in the Tax Recapture Fund are continuously appropriated to the Department**
 9 **of Education for the purpose of making the grants described in section 2 of this 2007 Act.**

10 **SECTION 5.** ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, is
 11 amended to read:

12 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
 13 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
 14 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

15 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
 16 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
 17 exceed the sum of \$1 million.

18 (3) Moneys are continuously appropriated to the Department of Revenue to make:

19 (a) The refunds authorized under subsection (2) of this section; [*and*]

20 (b) The refund payments in excess of tax liability authorized under ORS 315.262 and 315.266;

21 **and**

22 **(c) The transfer to the Tax Recapture Fund created in section 4 of this 2007 Act.**

23 **SECTION 6.** ORS 316.502, as amended by section 4a, chapter 826, Oregon Laws 2005, and sec-
 24 tion 60, chapter 832, Oregon Laws 2005, is amended to read:

25 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds, shall
 26 be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts avail-
 27 able generally to meet any expense or obligation of the State of Oregon lawfully incurred.

28 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
 29 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
 30 exceed the sum of \$1 million.

31 (3) Moneys are continuously appropriated to the Department of Revenue to make:

32 (a) The refunds authorized under subsection (2) of this section; [*and*]

33 (b) The refund payments in excess of tax liability authorized under ORS 315.262; **and**

34 **(c) The transfer to the Tax Recapture Fund created in section 4 of this 2007 Act.**

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