

House Bill 2531

Sponsored by Representatives READ, HUNT; Representatives BRUUN, C EDWARDS, ROBLAN, SCHAUFLEER, Senators DEVLIN, MONROE, MORSE (at the request of Portland Timbers)

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**.

Expands purpose of Major League Stadium Grant Fund to include financing, developing, constructing and furnishing major league stadium designed for use by Major League Soccer team. Authorizes agreements granting incremental tax revenues for stadium designed for Major League Soccer. Prohibits transfer of revenues generated from members of soccer team to Major League Stadium Grant Fund until July 1, 2011.

Limits biennial expenditures of Oregon Department of Administrative Services for payment of grant to fund construction of stadium.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to financing of Major League Soccer stadium; creating new provisions; amending ORS
3 184.400, 184.402, 184.404, 184.406 and 316.213; limiting expenditures; and prescribing an effective
4 date.

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

6 **SECTION 1.** ORS 184.400 is amended to read:

7 184.400. (1) As used in ORS 184.400 to 184.408:

8 (a) "Incremental [*baseball*] **athletic** tax revenues" means:

9 (A) The Oregon personal income tax revenues that are generated from the Oregon personal in-
10 come tax liabilities shown on the income tax returns filed by the members of a professional athletic
11 team engaged in Major League Baseball **or Major League Soccer**, including revenues that are
12 generated from the tax liabilities of spouses of members of a professional athletic team engaged in
13 Major League Baseball **or Major League Soccer** if the tax liabilities are reported on a joint return;
14 or

15 (B) If Oregon personal income tax rates are reduced after the dates of the grant agreements
16 described in ORS 184.404 and the grant agreements provide that payments will be based on rates in
17 effect when the grant agreements are executed, the Oregon personal income tax liabilities, as de-
18 scribed in subparagraph (A) of this paragraph, that would have been due if the liabilities were cal-
19 culated using personal income tax rates in effect on the date of execution of the grant agreements.

20 (b) "Major league stadium" means:

21 (A) A baseball stadium located in the City of Portland that is designed for use by a Major
22 League Baseball team and that has an estimated cost of \$300 million or more; **or**

23 (B) **A soccer stadium located in the City of Portland that is designed for use by a Major**
24 **League Soccer team and that has an estimated cost of \$40 million or more.**

25 (c) "Member of a professional athletic team" means an athlete or other individual rendering
26 service to a professional athletic team if the compensation of the athlete or other individual exceeds
27 \$50,000 in a tax year.

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 (d) "Tax liabilities" means the tax determined under ORS chapter 316 for the tax year less the
 2 credits allowed for purposes of ORS chapter 316 for the tax year.

3 (2) The Department of Revenue may adopt administrative rules that the department determines
 4 are necessary to:

- 5 (a) Further define the terms defined in this section in a manner consistent with this section;
- 6 (b) Implement the duties of the department under ORS 184.400 to 184.408; and
- 7 (c) Carry out the purposes of ORS 184.400 to 184.408.

8 **SECTION 2.** ORS 184.402 is amended to read:

9 184.402. The Legislative Assembly finds and declares that the construction of a major league
 10 stadium and the location of a Major League Baseball **or Major League Soccer** franchise in
 11 Portland will bring jobs and economic development to Oregon and will benefit Oregon workers and
 12 businesses.

13 **SECTION 3.** ORS 184.404 is amended to read:

14 184.404. (1) The Director of the Oregon Department of Administrative Services, with the ap-
 15 proval of the State Treasurer, may enter into one or more agreements on behalf of the State of
 16 Oregon to grant the incremental [*baseball*] **athletic** tax revenues for a period of not more than 30
 17 years. The grant agreements must:

18 (a) Provide that the granted amounts may be used only to pay for the costs of financing, devel-
 19 oping, constructing and furnishing a major league stadium;

20 (b) Provide that:

21 (A) The total payments to the grantees are limited so that the grantees do not receive, in the
 22 aggregate, more than \$150 million for costs of developing, constructing and furnishing a major
 23 league stadium, plus the actual, reasonable financing costs incurred by the grantees for that amount;
 24 and

25 (B) If the incremental [*baseball*] **athletic** tax revenues in a year substantially exceed the amount
 26 reasonably required to amortize a loan of \$150 million over a period of 30 years with interest, the
 27 excess may be retained by the state;

28 (c) Terminate when:

29 (A) The State of Oregon has made all payments assigned to the state in the grant agreements
 30 for the costs allowed under this subsection; and

31 (B) The grantees have returned any amounts required to be returned under paragraph (i) of this
 32 subsection;

33 (d) Require the Director of the Department of Revenue to estimate incremental [*baseball*] **ath-**
 34 **letic** tax revenues, specify the methodology for estimating incremental [*baseball*] **athletic** tax re-
 35 venues and notify the Director of the Oregon Department of Administrative Services of the
 36 estimated incremental [*baseball*] **athletic** tax revenues;

37 (e) Specify the methodology for determining actual incremental [*baseball*] **athletic** tax revenues;

38 (f) Require the Director of the Oregon Department of Administrative Services to request that
 39 the Legislative Assembly appropriate an amount equal to the estimated incremental [*baseball*] **ath-**
 40 **letic** tax revenues from the General Fund to the Major League Stadium Grant Fund established in
 41 ORS 184.408 so that those moneys may be disbursed under the grant agreements authorized by this
 42 section;

43 (g) Require the Director of the Department of Revenue to determine the actual incremental
 44 [*baseball*] **athletic** tax revenues and, if the actual incremental [*baseball*] **athletic** tax revenues ex-
 45 ceed the estimated incremental [*baseball*] **athletic** tax revenues, notify the Director of the Oregon

1 Department of Administrative Services of the excess;

2 (h) Require the Director of the Oregon Department of Administrative Services, if notified of an
3 excess under paragraph (g) of this subsection, to request that the Legislative Assembly appropriate
4 an amount equal to the excess, adjusted for the limits and retentions described in paragraph (b) of
5 this subsection, from the General Fund to the Major League Stadium Grant Fund so that those
6 moneys may be disbursed under the grant agreements authorized by this section;

7 (i) Require the grantees to return to the Director of the Oregon Department of Administrative
8 Services for deposit in the General Fund amounts transferred to the grantees from the Major League
9 Stadium Grant Fund that exceed the actual incremental [*baseball*] **athletic** tax revenues;

10 (j) Provide that the amounts requested for appropriations may not be reduced because of any
11 reduction that may be enacted in Oregon personal income tax rates;

12 (k) Require the Director of the Oregon Department of Administrative Services to disburse
13 amounts in the Major League Stadium Grant Fund to the grantees on particular dates;

14 (L) Provide assurances of full and fair participation in the construction, furnishing and operation
15 of the major league stadium by women, minorities and small businesses;

16 (m) Provide for the maximization of economic benefits for Oregon workers in the construction,
17 furnishing and operation of the major league stadium to the greatest extent permitted by law; and

18 (n) Require the State of Oregon and the grantees to take any other action that the State
19 Treasurer, the Director of the Oregon Department of Administrative Services or the Director of the
20 Department of Revenue determines is desirable to ensure that:

21 (A) The granted funds are used for the purposes described in ORS 184.400 to 184.408;

22 (B) The grant agreements are administered efficiently and the interests of the State of Oregon
23 are protected; and

24 (C) The requests for appropriation of amounts equal to the incremental [*baseball*] **athletic** tax
25 revenues are made as described in ORS 184.400 to 184.408.

26 (2) The obligation of the State of Oregon, under ORS 184.400 to 184.408 and the grant agree-
27 ments authorized by this section, to transfer estimated or actual incremental [*baseball*] **athletic** tax
28 revenues to the Major League Stadium Grant Fund is subject to an appropriation being made for
29 that purpose by the Legislative Assembly. The State of Oregon is not liable to any party for any
30 reason if the Legislative Assembly fails to appropriate all or a portion of the amounts requested
31 under subsection (1)(f) and (h) of this section to the Major League Stadium Grant Fund. However,
32 if the Legislative Assembly does appropriate amounts for deposit in the Major League Stadium
33 Grant Fund and those amounts are deposited in the Major League Stadium Grant Fund pursuant to
34 the grant agreements authorized by this section, the obligation of the State of Oregon to disburse
35 the amounts in the Major League Stadium Grant Fund is unconditional. The grant agreements au-
36 thorized by this section are not a pledge of the full faith and credit or the taxing power of the State
37 of Oregon, and the State of Oregon does not pledge its full faith and credit or taxing power. The
38 grant agreements do not create an indebtedness of the State of Oregon in violation of section 7,
39 Article XI of the Oregon Constitution. If a provision of a grant agreement is construed to have the
40 effect of creating a debt in violation of section 7, Article XI of the Oregon Constitution, the pro-
41 vision is void.

42 (3) The Legislative Assembly does not have a legal obligation to appropriate any amounts for
43 disbursement under the grant agreements authorized by this section. However, the Legislative As-
44 sembly declares its current intention to appropriate amounts equal to the estimated incremental
45 [*baseball*] **athletic** tax revenues and amounts equal to the amount by which the actual incremental

1 [baseball] **athletic** tax revenues exceed the estimated incremental [baseball] **athletic** tax revenues
 2 from the General Fund to the Major League Stadium Grant Fund, as provided in ORS 184.400 to
 3 184.408, so that the amounts may be disbursed pursuant to the grant agreements authorized by this
 4 section.

5 (4) Before commencing negotiations on a grant agreement authorized by this section, the Oregon
 6 Department of Administrative Services shall obtain one or more agreements from benefited parties
 7 to pay the state’s costs associated with negotiating and executing the grant agreement.

8 **SECTION 4.** ORS 184.406 is amended to read:

9 184.406. The Director of the Oregon Department of Administrative Services may not execute a
 10 grant agreement authorized by ORS 184.404 until the director has determined that:

11 (1) The City of Portland has made a written request to the director to execute and deliver the
 12 grant agreement;

13 (2) A Major League Baseball **or Major League Soccer** franchise has agreed to locate and be
 14 based in Portland and has entered into a legally binding commitment to remain in Portland for at
 15 least the term of the grant agreement;

16 (3) All funding to build the major league stadium that is not based on the grant agreement has
 17 been committed;

18 (4) No grantee is both a public body and a guarantor for the repayment of bonds or other
 19 indebtedness that is to be repaid through use of grant moneys;

20 (5) The Oregon Department of Administrative Services has provided a written report regarding
 21 the estimated and actual incremental [baseball] **athletic** tax revenues to, and has solicited comments
 22 from, the advisory committee described in subsection (6) of this section relating to the following
 23 provisions of the proposed grant agreement:

24 (a) The methodology for estimating the incremental [baseball] **athletic** tax revenues;

25 (b) The methodology for determining the actual incremental [baseball] **athletic** tax revenues; and

26 (c) The requirement that estimated and actual incremental [baseball] **athletic** tax revenues be
 27 based on the Oregon personal income tax rates in effect when the grant agreement is executed or
 28 for the period for which the taxes are collected, whichever is greater, even if those rates are sub-
 29 sequently reduced; and

30 (6) An advisory committee, consisting of two legislators appointed by the President of the Sen-
 31 ate, two legislators appointed by the Speaker of the House of Representatives and one person ap-
 32 pointed by the Governor, has reviewed the provisions of the proposed grant agreement listed in
 33 subsection (5) of this section.

34 **SECTION 5.** ORS 316.213 is amended to read:

35 316.213. (1) As used in ORS 316.213 to 316.219:

36 (a) “Duty days” means the days during the tax year from the beginning of the official preseason
 37 training period of a professional athletic team through the last game in which the professional ath-
 38 letic team competes or is scheduled to compete during the tax year.

39 (b) “Member of a professional athletic team” means an athlete or other individual rendering
 40 service to a professional athletic team if the compensation of the athlete or other individual exceeds
 41 [\$50,000] **\$40,000** in a tax year.

42 (2) The Department of Revenue may further define by rule the terms defined in this section in
 43 a manner consistent with this section.

44 **SECTION 6. Notwithstanding any other law limiting expenditures, the amount of \$1 is**
 45 **established for the biennium beginning July 1, 2009, as the maximum limit for payment by**

1 the Oregon Department of Administrative Services from the Major League Stadium Grant
2 Fund of amounts required under the grant agreements authorized in ORS 184.404.

3 **SECTION 7.** Notwithstanding any other law limiting expenditures, the amount of \$1 is
4 established for the biennium beginning July 1, 2009, as the maximum limit for payment by
5 the Oregon Department of Administrative Services from the Major League Stadium Grant
6 Fund of the costs and expenses of the State Treasurer, the Oregon Department of Adminis-
7 trative Services and the Department of Revenue to implement and administer ORS 184.400
8 to 184.408 and 316.213 to 316.219.

9 **SECTION 8.** Notwithstanding any other law, incremental athletic tax revenues generated
10 from the personal income tax liabilities of members of a professional athletic team engaged
11 in Major League Soccer may not be transferred or deposited into the Major League Stadium
12 Grant Fund established under ORS 184.408 prior to July 1, 2011.

13 **SECTION 9.** This 2009 Act takes effect on the 91st day after the date on which the reg-
14 ular session of the Seventy-fifth Legislative Assembly adjourns sine die.

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