

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO B-ENGROSSED SENATE BILL 797

By JOINT COMMITTEE ON WAYS AND MEANS

June 29

1 On page 1 of the printed B-engrossed bill, line 3, after “646A.284” insert “and section 7, chapter
2 292, Oregon Laws 2009 (Enrolled House Bill 2264); repealing section 10, chapter 292, Oregon Laws
3 2009 (Enrolled House Bill 2264)”.

4 On page 2, after line 42, insert:

5 **“SECTION 1a. If House Bill 2264 becomes law, section 10, chapter 292, Oregon Laws 2009**
6 **(Enrolled House Bill 2264) (amending ORS 180.095), is repealed and ORS 180.095, as amended**
7 **by section 1 of this 2009 Act, is amended to read:**

8 “180.095. (1) The Department of Justice Protection and Education Revolving Account is created
9 in the General Fund. All moneys in the account are continuously appropriated to the Department
10 of Justice and may be used to pay for only the following activities:

11 “(a) Restitution and refunds in proceedings described in paragraph (c) of this subsection;

12 “(b) Consumer and business education relating to the laws governing antitrust, unlawful trade
13 practices and the environment; and

14 “(c) Personal services, travel, meals, lodging and all other costs and expenses incurred by the
15 department in investigating, preparing, commencing and prosecuting the following actions and suits,
16 and enforcing judgments, settlements, compromises and assurances of voluntary compliance arising
17 out of the following actions and suits:

18 “(A) Actions and suits under the state and federal antitrust laws;

19 “(B) Actions and suits under ORS 646.605 to 646.656;

20 “(C) Criminal prosecutions under state and federal environmental laws; [*and*]

21 “(D) Actions commenced under ORS 59.331[.]; and

22 **“(E) Actions and suits under sections 1 to 8, chapter 292, Oregon Laws 2009 (Enrolled**
23 **House Bill 2264).**

24 “(2) Moneys in the Department of Justice Protection and Education Revolving Account are not
25 subject to allotment. Upon request of the Attorney General, the State Treasurer shall create sub-
26 accounts within the account for the purposes of managing moneys in the account and allocating
27 those moneys to the activities described in subsection (1) of this section.

28 “(3) Except as otherwise provided by law, all sums of money received by the Department of
29 Justice under a judgment, settlement, compromise or assurance of voluntary compliance, including
30 damages, restitution, refunds, attorney fees, costs, disbursements and other recoveries, but excluding
31 civil penalties under ORS 646.642, in proceedings described in subsection (1)(c) of this section shall,
32 upon receipt, be deposited with the State Treasurer to the credit of the Department of Justice Pro-
33 tection and Education Revolving Account. However, if the action or suit was based on an expendi-
34 ture or loss from a public body or a dedicated fund, the amount of such expenditure or loss, after
35 deduction of attorney fees and expenses awarded to the department by the court or agreed to by the

1 parties, if any, shall be credited to the public body or dedicated fund and the remainder thereof
2 credited to the Department of Justice Protection and Education Revolving Account.

3 “(4) If the Department of Justice recovers restitution or refunds in a proceeding described in
4 subsection (1)(c) of this section, and the department cannot determine the persons to whom the
5 restitution or refunds should be paid or the amount of the restitution or refund payable to individual
6 claimants is de minimis, the restitution or refunds may not be deposited in the Department of Justice
7 Protection and Education Revolving Account and shall be deposited in the General Fund.

8 “(5) Before April 1 of each odd-numbered year, the Department of Justice shall report to the
9 Joint Committee on Ways and Means:

10 “(a) The department’s projection of the balance in the Department of Justice Protection and
11 Education Revolving Account at the end of the biennium in which the report is made and at the end
12 of the following biennium;

13 “(b) The amount of the balance held for restitution and refunds; and

14 “(c) An estimate of the department’s anticipated costs and expenses under subsection (1)(b) and
15 (c) of this section for the biennium in which the report is made and for the following biennium.

16 “(6) The Joint Committee on Ways and Means, after consideration of recommendations made by
17 the Department of Justice, shall use the information reported under subsection (5) of this section to
18 determine an appropriate balance for the revolving account.

19 “**SECTION 1b.** Section 7, chapter 292, Oregon Laws 2009 (Enrolled House Bill 2264), is amended
20 to read:

21 “**Sec. 7.** (1) If a judgment is entered in favor of the state under section 3, **chapter 292, Oregon**
22 **Laws 2009 (Enrolled House Bill 2264)** [*of this 2009 Act*], the Attorney General shall first apply
23 amounts collected under the judgment to reimburse the state for the costs, attorney fees and ex-
24 penses, including investigative costs, incurred as a result of the violation of section 2, **chapter 292,**
25 **Oregon Laws 2009 (Enrolled House Bill 2264)** [*of this 2009 Act*].

26 “(2) After reimbursement under subsection (1) of this section, amounts collected under the
27 judgment must be paid to any public agency or fund that suffered a loss by reason of the violation
28 of section 2, **chapter 292, Oregon Laws 2009 (Enrolled House Bill 2264)** [*of this 2009 Act*].

29 “(3) Any amount remaining after distribution as provided in subsections (1) and (2) of this sec-
30 tion must be deposited in the [*Consumer*] **Department of Justice** Protection and Education Re-
31 volving Account.”.

32 On page 5, after line 22, insert:

33 “**SECTION 7.** If House Bill 2264 becomes law, section 5 of this 2009 Act is amended to read:

34 “**Sec. 5.** On the effective date of this 2009 Act, the State Treasurer shall transfer all funds in
35 the Consumer Protection and Education Revolving Account into the Department of Justice Pro-
36 tection and Education Revolving Account created by the amendments to ORS 180.095 by section 1
37 of this 2009 Act. Amounts transferred under this section may be used for the purposes specified by
38 ORS 180.095, as amended by [*section 1*] **sections 1 and 1a** of this 2009 Act.

39 “**SECTION 8.** If House Bill 2264 becomes law, section 6 of this 2009 Act is amended to read:

40 “**Sec. 6.** The amendments to ORS 180.095 by [*section 1*] **sections 1 and 1a** of this 2009 Act apply
41 only to judgments entered on or after the effective date of this 2009 Act and to settlements, com-
42 promises and assurances of voluntary compliance entered into on or after the effective date of this
43 2009 Act.”.

44 In line 23, delete “7” and insert “9”.