

SENATE AMENDMENTS TO SENATE BILL 797

By COMMITTEE ON JUDICIARY

May 1

1 On page 1 of the printed bill, line 2, after “Justice;” insert “creating new provisions;”.

2 Delete lines 5 through 30.

3 On page 2, delete lines 1 through 14 and insert:

4 “**SECTION 1.** ORS 180.095 is amended to read:

5 “180.095. *[(1) There hereby is appropriated out of the General Fund in the State Treasury \$250,000*
6 *for the purpose of providing funds to pay for personal services, travel, meals and lodging, and all costs,*
7 *disbursements and other litigation expenses incurred by the Department of Justice in preparing, com-*
8 *mencing and prosecuting actions and suits under the state and federal antitrust laws and under ORS*
9 *646.605 to 646.656.]*

10 “*[(2) The money appropriated by subsection (1) of this section shall be transferred to an account*
11 *in the General Fund in the State Treasury to be known as the Consumer Protection and Education*
12 *Revolving Account. All moneys in such revolving account are appropriated and constitute a continuous*
13 *appropriation out of the General Fund for the purposes of this section. The creation of the revolving*
14 *account shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.]*

15 “**(1) The Department of Justice Protection and Education Revolving Account is created**
16 **in the General Fund. All moneys in the account are continuously appropriated to the De-**
17 **partment of Justice and may be used to pay for only the following activities:**

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

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

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

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

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

27 “**(C) Criminal prosecutions under state and federal environmental laws; and**

28 “**(D) Actions commenced under ORS 59.331.**

29 “**(2) Moneys in the Department of Justice Protection and Education Revolving Account**
30 **are not subject to allotment. Upon request of the Attorney General, the State Treasurer**
31 **shall create subaccounts within the account for the purposes of managing moneys in the**
32 **account and allocating those moneys to the activities described in subsection (1) of this**
33 **section.**

34 “**(3) Except as otherwise provided by law, all sums of money received by the Department of**
35 **Justice under a judgment, settlement, compromise or assurance of voluntary compliance, including**

1 damages, **restitution, refunds**, attorney fees, costs, disbursements and other recoveries, but ex-
2 cluding civil penalties under ORS 646.642, in [*actions and suits under the state and federal antitrust*
3 *laws and ORS 646.605 to 646.656*] **proceedings described in subsection (1)(c) of this section** shall,
4 upon receipt, be deposited with the State Treasurer to the credit of the [*Consumer*] **Department**
5 **of Justice** Protection and Education Revolving Account. However, if the action or suit was based
6 on an expenditure or loss from a public body or a dedicated fund, the amount of such expenditure
7 or loss, after deduction of attorney fees and expenses awarded to the department [*of Justice*] by the
8 court or agreed to by the parties, if any, shall be credited to the public body or dedicated fund and
9 the remainder thereof credited to the [*Consumer*] **Department of Justice** Protection and Education
10 Revolving Account.

11 **“(4) If the Department of Justice recovers restitution or refunds in a proceeding de-**
12 **scribed in subsection (1)(c) of this section, and the department cannot determine the persons**
13 **to whom the restitution or refunds should be paid or the amount of the restitution or refund**
14 **payable to individual claimants is de minimis, the restitution or refunds may not be deposited**
15 **in the Department of Justice Protection and Education Revolving Account and shall be de-**
16 **posited in the General Fund.**

17 **“(5) Before July 1 of every second odd-numbered year, the Department of Justice shall**
18 **estimate the department’s anticipated costs and expenses under subsection (1)(b) and (c) of**
19 **this section for the subsequent two biennia. If at any time the department determines that**
20 **the balance in the Department of Justice Protection and Education Revolving Account, ex-**
21 **clusive of amounts held as restitution or refunds, exceeds the estimated costs and expenses**
22 **for the four-year period, the department shall deposit the excess funds in the General**
23 **Fund.”.**

24 On page 4, after line 30, insert:

25 **“SECTION 5. On the effective date of this 2009 Act, the State Treasurer shall transfer**
26 **all funds in the Consumer Protection and Education Revolving Account into the Department**
27 **of Justice Protection and Education Revolving Account created by the amendments to ORS**
28 **180.095 by section 1 of this 2009 Act. Amounts transferred under this section may be used for**
29 **the purposes specified by ORS 180.095, as amended by section 1 of this 2009 Act.**

30 **“SECTION 6. The amendments to ORS 180.095 by section 1 of this 2009 Act apply only to**
31 **judgments entered on or after the effective date of this 2009 Act and to settlements, com-**
32 **promises and assurances of voluntary compliance entered into on or after the effective date**
33 **of this 2009 Act.**

34 **“SECTION 7. The Department of Justice shall prepare the first estimate required under**
35 **ORS 180.095 (5) before July 1, 2009, or, if this 2009 Act does not take effect until on or after**
36 **July 1, 2009, the Department of Justice shall prepare the first estimate required under ORS**
37 **180.095 (5) as soon as possible after the effective date of this 2009 Act.”.**

38 In line 31, delete “5” and insert “8”.