

Senate Bill 813

Sponsored by Senator MONROE

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**.

Authorizes Director of Oregon Department of Administrative Services, with approval of State Treasurer, to enter into agreements to grant incremental Oregon Convention Center headquarters hotel tax revenues for period of not more than 30 years. Specifies provisions of grants. Limits state liability.

Establishes Oregon Convention Center Headquarters Hotel Grant Fund. Continuously appropriates moneys in fund to Oregon Department of Administrative Services.

Specifies rate of withholding on taxable income of person employed in construction or operation of Oregon Convention Center headquarters hotel.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to Oregon Convention Center headquarters hotel; appropriating money; and prescribing an
3 effective date.

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

5 **SECTION 1. (1) As used in sections 1 to 4 of this 2009 Act:**

6 (a) **"Incremental Oregon Convention Center headquarters hotel tax revenues" means:**

7 (A) **The Oregon personal income tax revenues that are generated from the Oregon per-**
8 **sonal income tax liabilities shown on the income tax returns filed by persons employed in the**
9 **construction and operation of the Oregon Convention Center headquarters hotel, including**
10 **revenues that are generated from the tax liabilities of spouses of persons employed in the**
11 **construction and operation of the Oregon Convention Center headquarters hotel if the tax**
12 **liabilities are reported on a joint return; or**

13 (B) **If Oregon personal income tax rates are reduced after the dates of the grant agree-**
14 **ments described in section 2 of this 2009 Act and the grant agreements provide that pay-**
15 **ments will be based on rates in effect when the grant agreements are executed, the Oregon**
16 **personal income tax revenues generated from the tax liabilities, as described in subparagraph**
17 **(A) of this paragraph, that would have been due if the liabilities were calculated using per-**
18 **sonal income tax rates in effect on the date of execution of the grant agreements.**

19 (b) **"Oregon Convention Center headquarters hotel" means a hotel developed by the**
20 **metropolitan service district and intended to serve the Oregon Convention Center.**

21 (c) **"Tax liabilities" means the tax determined under ORS chapter 316 for the tax year**
22 **less the credits allowed for purposes of ORS chapter 316 for the tax year.**

23 (2) **The Department of Revenue may adopt administrative rules that the department de-**
24 **termines are necessary to:**

25 (a) **Further define the terms defined in this section in a manner consistent with this**
26 **section;**

27 (b) **Implement the duties of the department under sections 1 to 4 of this 2009 Act; and**

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 (c) Carry out the purposes of sections 1 to 4 of this 2009 Act.

2 **SECTION 2.** (1) The Director of the Oregon Department of Administrative Services, with
3 the approval of the State Treasurer, may enter into one or more agreements on behalf of the
4 State of Oregon to grant the incremental Oregon Convention Center headquarters hotel tax
5 revenues for a period of not more than 30 years. The grant agreements must:

6 (a) Provide that the granted amounts may be used only to pay for the costs of financing,
7 developing, constructing and furnishing the Oregon Convention Center headquarters hotel;

8 (b) Provide that:

9 (A) The total payments to the grantees are limited so that the grantees do not receive,
10 in the aggregate, more than \$150 million for costs of developing, constructing and furnishing
11 the Oregon Convention Center headquarters hotel, plus the actual, reasonable financing
12 costs incurred by the grantees for that amount; and

13 (B) If the incremental Oregon Convention Center headquarters hotel tax revenues in a
14 year substantially exceed the amount reasonably required to amortize a loan of \$150 million
15 over a period of 30 years with interest, the excess may be retained by the state;

16 (c) Terminate when:

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

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

21 (d) Require the Director of the Department of Revenue to specify the methodology for
22 estimating incremental Oregon Convention Center headquarters hotel tax revenues, estimate
23 incremental Oregon Convention Center headquarters hotel tax revenues and notify the Di-
24 rector of the Oregon Department of Administrative Services of the estimated incremental
25 Oregon Convention Center headquarters hotel tax revenues;

26 (e) Specify the methodology for determining the actual incremental Oregon Convention
27 Center headquarters hotel tax revenues;

28 (f) Require the Director of the Oregon Department of Administrative Services to request
29 that the Legislative Assembly appropriate an amount equal to the estimated incremental
30 Oregon Convention Center headquarters hotel tax revenues from the General Fund to the
31 Oregon Convention Center Headquarters Hotel Grant Fund established in section 4 of this
32 2009 Act so that those moneys may be disbursed under the grant agreements authorized by
33 this section;

34 (g) Require the Director of the Department of Revenue to determine the actual incre-
35 mental Oregon Convention Center headquarters hotel tax revenues and, if the actual incre-
36 mental Oregon Convention Center headquarters hotel tax revenues exceed the estimated
37 incremental Oregon Convention Center headquarters hotel tax revenues, notify the Director
38 of the Oregon Department of Administrative Services of the excess;

39 (h) Require the Director of the Oregon Department of Administrative Services, if notified
40 of an excess under paragraph (g) of this subsection, to request that the Legislative Assembly
41 appropriate an amount equal to the excess, adjusted for the limits and retentions described
42 in paragraph (b) of this subsection, from the General Fund to the Oregon Convention Center
43 Headquarters Hotel Grant Fund so that those moneys may be disbursed under the grant
44 agreements authorized by this section;

45 (i) Require the grantees to return to the Director of the Oregon Department of Admin-

1 **istrative Services for deposit in the General Fund amounts transferred to the grantees from**
2 **the Oregon Convention Center Headquarters Hotel Grant Fund that exceed the actual in-**
3 **cremental Oregon Convention Center headquarters hotel tax revenues;**

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

6 **(k) Require the Director of the Oregon Department of Administrative Services to dis-**
7 **burse amounts in the Oregon Convention Center Headquarters Hotel Grant Fund to the**
8 **grantees on particular dates;**

9 **(L) Provide assurances of full and fair participation in the construction, furnishing and**
10 **operation of the Oregon Convention Center headquarters hotel by women, minorities and**
11 **small businesses;**

12 **(m) Provide for the maximization of economic benefits for Oregon workers in the con-**
13 **struction, furnishing and operation of the Oregon Convention Center headquarters hotel to**
14 **the extent permitted by law; and**

15 **(n) Require the State of Oregon and the grantees to take any other action that the State**
16 **Treasurer, the Director of the Oregon Department of Administrative Services or the Direc-**
17 **tor of the Department of Revenue determines is desirable to ensure that:**

18 **(A) The granted funds are used for the purposes described in sections 1 to 4 of this 2009**
19 **Act;**

20 **(B) The grant agreements are administered efficiently and the interests of the State of**
21 **Oregon are protected; and**

22 **(C) The requests for appropriation of amounts equal to the incremental Oregon Conven-**
23 **tion Center headquarters hotel tax revenues are made as described in sections 1 to 4 of this**
24 **2009 Act.**

25 **(2) The obligation of the State of Oregon, under sections 1 to 4 of this 2009 Act and the**
26 **grant agreements authorized by this section, to transfer estimated or actual incremental**
27 **Oregon Convention Center headquarters hotel tax revenues to the Oregon Convention Center**
28 **Headquarters Hotel Grant Fund is subject to an appropriation being made for that purpose**
29 **by the Legislative Assembly. The State of Oregon is not liable to any party for any reason**
30 **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 Oregon Convention Center Headquarters**
32 **Hotel Grant Fund. However, if the Legislative Assembly does appropriate amounts for de-**
33 **posit in the Oregon Convention Center Headquarters Hotel Grant Fund and those amounts**
34 **are deposited in the Oregon Convention Center Headquarters Hotel Grant Fund pursuant to**
35 **the grant agreements authorized by this section, the obligation of the State of Oregon to**
36 **disburse the amounts in the Oregon Convention Center Headquarters Hotel Grant Fund is**
37 **unconditional. The grant agreements authorized by this section are not a pledge of the full**
38 **faith and credit or the taxing power of the State of Oregon, and the State of Oregon does**
39 **not pledge its full faith and credit or taxing power. The grant agreements do not create an**
40 **indebtedness of the State of Oregon for purposes of section 7, Article XI of the Oregon**
41 **Constitution. If a provision of a grant agreement is construed to have the effect of creating**
42 **a debt for purposes of section 7, Article XI of the Oregon Constitution, the provision is void.**

43 **(3) The Legislative Assembly does not have a legal obligation to appropriate any amounts**
44 **for disbursement under the grant agreements authorized by this section. However, the Leg-**
45 **islative Assembly declares its current intention to appropriate amounts equal to the esti-**

1 mated incremental Oregon Convention Center headquarters hotel tax revenues and amounts
 2 equal to the amount by which the actual incremental Oregon Convention Center headquar-
 3 ters hotel tax revenues exceed the estimated incremental Oregon Convention Center head-
 4 quarters hotel tax revenues from the General Fund to the Oregon Convention Center
 5 Headquarters Hotel Grant Fund, as provided in sections 1 to 4 of this 2009 Act, so that the
 6 amounts may be disbursed pursuant to the grant agreements authorized by this section.

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

11 **SECTION 3.** The Director of the Oregon Department of Administrative Services may not
 12 execute a grant agreement authorized by section 2 of this 2009 Act until the director has
 13 determined that:

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

16 (2) All funding to build the Oregon Convention Center headquarters hotel that is not
 17 based on the grant agreement has been committed;

18 (3) 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 (4) The Oregon Department of Administrative Services has provided a written report re-
 21 garding the estimated and actual incremental Oregon Convention Center headquarters hotel
 22 tax revenues to, and has solicited comments from, the advisory committee described in
 23 subsection (5) of this section relating to the following provisions of the proposed grant
 24 agreement:

25 (a) The methodology specified by the Director of the Department of Revenue for esti-
 26 mating the incremental Oregon Convention Center headquarters hotel tax revenues;

27 (b) The methodology specified by the Director of the Department of Revenue for deter-
 28 mining the actual incremental Oregon Convention Center headquarters hotel tax revenues;
 29 and

30 (c) The requirement that estimated and actual incremental Oregon Convention Center
 31 headquarters hotel tax revenues be based on the Oregon personal income tax rates in effect
 32 when the grant agreement is executed or for the period for which the taxes are collected,
 33 whichever is greater, even if those rates are subsequently reduced; and

34 (5) An advisory committee, consisting of two legislators appointed by the President of the
 35 Senate, two legislators appointed by the Speaker of the House of Representatives and one
 36 person appointed by the Governor, has reviewed the provisions of the proposed grant agree-
 37 ment listed in subsection (4) of this section.

38 **SECTION 4.** The Oregon Convention Center Headquarters Hotel Grant Fund is estab-
 39 lished in the State Treasury, separate and distinct from the General Fund. The Oregon
 40 Convention Center Headquarters Hotel Grant Fund consists of amounts deposited in the fund
 41 under section 2 of this 2009 Act. Amounts in the fund are continuously appropriated to the
 42 Oregon Department of Administrative Services for the purpose of making the grants re-
 43 quired by the grant agreements entered into under section 2 of this 2009 Act and paying the
 44 costs and expenses of the State Treasurer, the Oregon Department of Administrative Ser-
 45 vices and the Department of Revenue in connection with the implementation and adminis-

1 tration of sections 1 to 4 and 6 to 9 of this 2009 Act. Interest earned by the Oregon
 2 Convention Center Headquarters Hotel Grant Fund shall be credited to the fund.

3 **SECTION 5.** Sections 6 to 9 of this 2009 Act are added to and made a part of ORS 316.162
 4 to 316.221.

5 **SECTION 6.** As used in sections 6 to 9 of this 2009 Act, “Oregon Convention Center
 6 headquarters hotel” has the meaning given that term in section 1 of this 2009 Act.

7 **SECTION 7.** (1) A person who pays wages, salary, bonuses or other taxable income to a
 8 person employed in the construction or operation of the Oregon Convention Center head-
 9 quarters hotel, in lieu of the withholding requirements under ORS 316.167, shall withhold
 10 eight percent of the income as provided in this section and by rule of the Department of
 11 Revenue.

12 (2) The person withholding amounts under this section shall pay the amounts withheld
 13 to the Department of Revenue at the time and in the manner prescribed by the department
 14 by rule.

15 **SECTION 8.** In addition to other reports and returns required by law or rule, a person
 16 required to withhold compensation under section 7 of this 2009 Act shall file an annual report
 17 with the Department of Revenue reporting:

18 (1) The total amount of compensation paid during the year to persons employed in the
 19 construction or operation of the Oregon Convention Center headquarters hotel;

20 (2) The taxpayer identification number of each person employed by the person in the
 21 construction or operation of the Oregon Convention Center headquarters hotel;

22 (3) The compensation paid to each person employed by the person in the construction or
 23 operation of the Oregon Convention Center headquarters hotel; and

24 (4) The amount withheld under section 7 of this 2009 Act for each person employed by
 25 the person in the construction or operation of the Oregon Convention Center headquarters
 26 hotel.

27 **SECTION 9.** (1) The Department of Revenue may adopt administrative rules that the
 28 department determines are necessary to:

29 (a) Implement the duties of the department under sections 6 to 9 of this 2009 Act; and

30 (b) Carry out the purposes of sections 6 to 9 of this 2009 Act.

31 (2) The rules may include, but are not limited to rules construing ORS 316.162 to 316.221
 32 in a manner that is consistent and compatible with the withholding provisions of sections 6
 33 to 9 of this 2009 Act.

34 **SECTION 10.** This 2009 Act applies to tax years beginning on or after January 1, 2010.

35 **SECTION 11.** This 2009 Act takes effect on the 91st day after the date on which the
 36 regular session of the Seventy-fifth Legislative Assembly adjourns sine die.