

**HB 3464**

**Relating to public borrowing for Coos Bay channel project**

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House Bill 3464 modifies the schedule for the issuance of lottery bonds for the Coos Bay channel project. The lottery bond authorization for this project was initially passed in 2007. This measure extends the dates of the bond issuance two more years and requires that bond proceeds be returned to the state if the project is not substantially completed by July 1, 2023.

There is no fiscal impact to state agencies as a result of this measure. The lottery bond debt service or expenditure limitation associated with these lottery bonds would be taken into consideration during the 2015 Legislative Session.

The Capital Construction Subcommittee recommends HB 3464 be amended and reported out do pass, as amended.

Joint Committee on Ways and Means

Carrier – House: Rep. McKeown  
Carrier – Senate: Sen. Roblan

**Revenue:**

**Fiscal:** Fiscal statement issued

**Action:** Do Pass as Amended and be Printed A-Engrossed

**Vote:**

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

**Prepared By:** John Terpening, Legislative Fiscal Office

**Meeting Date:** July 3, 2013

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**WHAT THE MEASURE DOES:** Modifies schedule and conditions for issuance of lottery bonds to pay costs of Coos Bay Channel Project. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Fiscal impact of the measure
- Proposed amendment

**EFFECT OF COMMITTEE AMENDMENT:** Requires the bond proceeds be returned to the state if the project is not substantially completed by July 1, 2023.

**BACKGROUND:** House Bill 5036-A (2007 Regular Session), established a mechanism to provide incremental funding for the Coos Bay Channel Project to support increased maritime commerce and new marine terminal development in the Coos Bay Harbor. At that time, the Oregon International Port of Coos Bay (Port) was in discussions with terminal developers and marine interests to pursue a variety of terminal projects in the Coos Bay Harbor. The Port initiated the required Feasibility Study and Environmental Impact Statement (FS/EIS) utilizing the first increment of financing, \$5 million, under the oversight of the U.S. Army Corps of Engineers, that process is ongoing.

However, the downturn in the international economy delayed new terminal development in the Coos Bay Harbor. House Bill 3464 is intended to revise the dates for distribution of funds in support of the Coos Bay Channel Project to match up with the schedule for the subsequent two project phases and anticipated increases in international commerce that would strengthen the local and Oregon economies. The international marine industry continues to demonstrate interest in the Coos Bay harbor.

The Port is continuing the Coos Bay Channel Project, and anticipates completion of the FS/EIS in early 2015. At that time, the Port will pursue the next increment of lottery bond funding to continue with the engineering design component of the Coos Bay Channel Project. Upon completion of that phase, the Port will seek the third increment of financing to support construction of the modified Coos Bay channel.

**FISCAL IMPACT OF PROPOSED LEGISLATION**

**Measure: HB 3464 - A**

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session  
Legislative Fiscal Office

***Only Impacts on Original or Engrossed  
Versions are Considered Official***

Prepared by: John Terpening  
Reviewed by: Daron Hill, John Borden, Steve Bender, Paul Siebert  
Date: 7/3/13

**Measure Description:**

Modifies schedule and conditions for issuance of lottery bonds to pay costs of Coos Bay Channel Project.

**Government Unit(s) Affected:**

Oregon State Treasurer, Business Development Department (Business Oregon), Department of Administrative Services (DAS)

**Summary of Expenditure Impact:** See Analysis

**Local Government Mandate:**

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

**Analysis:** The measure modifies the conditions and schedule for the issuance of lottery bonds for the Coos Bay Channel Project by the Oregon Business Development Department. Previously, HB 5036 (2007) authorized the issuance of \$15 million in lottery bonds in the 2011-13 biennium and \$40 million in lottery bonds in the 2013-15 biennium. The measure changes the date for the \$15 million in lottery bond issuance to the 2015-17 biennium, and the date for the \$40 million to 2017-19. Additionally, the measure requires that bond proceeds be returned to the state if the project is not substantially completed by July 1, 2023.

The measure is not anticipated to have a fiscal impact on state agencies. The lottery bond debt service and any expenditure limitation associated with these lottery bonds would be taken into consideration during the 2015 Legislative Session.

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3464**

1 On page 1 of the printed bill, line 2, delete “11,”.

2 Delete lines 5 through 18.

3 In line 19, delete “2” and insert “1”.

4 On page 2, delete lines 18 through 45.

5 On page 3, delete lines 1 through 41 and insert:

6 **“SECTION 2.** Section 14, chapter 746, Oregon Laws 2007, as amended by  
7 section 2, chapter 900, Oregon Laws 2009, is amended to read:

8 **“Sec. 14.** (1) The Director of the [*Economic and Community*] **Oregon**  
9 **Business** Development Department shall enter into one or more grant  
10 agreements with the primary sponsor that require the [*Economic and Com-*  
11 *munity*] **Oregon Business** Development Department to disburse, over the  
12 course of the project, an aggregate principal amount of \$60 million for pay-  
13 ment of the expenses of the Coos Bay Channel Project, in the increments  
14 described in section 13 (2), chapter 746, Oregon Laws 2007, from the Coos  
15 Bay Channel Fund established pursuant to section 15, chapter 746, Oregon  
16 Laws 2007, to the primary sponsor. The department shall make disbursements  
17 from the fund as soon as bond proceeds are deposited in the fund.

18 **“(2)** The one or more grant agreements must:

19 **“(a)** Subject to subsection (4) of this section, establish appropriate trig-  
20 gers for the incremental biennial distribution of bond proceeds described in  
21 section 13 (2), chapter 746, Oregon Laws 2007, based on appropriate measures  
22 of progress in completion of the project that are satisfactory to the director

1 and consistent with prudent financial practices that reflect sound  
2 stewardship of public resources.

3 “(b) Require the primary sponsor to:

4 “(A) Return bond proceeds distributed and reimburse the State of Oregon  
5 for expenditures made pursuant to sections 11 to 15, chapter 746, Oregon  
6 Laws 2007, if the director determines that the project is not substantially  
7 completed by July 1, [2021] **2023**, unless the project is not substantially  
8 completed:

9 “(i) Due to an act of God; or

10 “(ii) Because the State of Oregon fails to distribute one or more of the  
11 increments of bond proceeds described in section 13 (2), chapter 746, Oregon  
12 Laws 2007, and required to substantially complete the project, for a reason  
13 other than a failure of the primary sponsor to take action to trigger the  
14 distribution or a failure of the project to meet federal or state environmental  
15 permitting standards necessary to complete the project.

16 “(B) Provide evidence satisfactory to the director that the primary spon-  
17 sor has obtained a letter of credit, entered into a surety bond agreement or  
18 provided other similar financial assurance to guarantee the return of bond  
19 proceeds and reimbursement for expenditures required by this paragraph.

20 “(3) Notwithstanding subsection (2)(b)(B) of this section, the primary  
21 sponsor may choose to guarantee the bond proceeds distributed and the state  
22 expenditures made in the biennium beginning July 1, 2007, by converting the  
23 amount into a loan subject to an agreement that allows the primary sponsor  
24 to repay the amount over time at terms provided for in the grant agreement.

25 “(4)(a) Prior to the distribution of bond proceeds described in section 13  
26 (2)(a), chapter 746, Oregon Laws 2007, the primary sponsor shall provide to  
27 the director a budget document outlining expenditures for the Coos Bay  
28 Channel Project and verify and certify to the director that:

29 “(A) The primary sponsor has entered into a commercially reasonable  
30 agreement with a cargo terminal developer to construct and operate cargo

1 terminal facilities on the Coos Bay channel;

2 “(B) The Secretary of the Army has authorized the performance of envi-  
3 ronmental studies on the channel pursuant to section 203 of the Water Re-  
4 sources Development Act of 1986 (P.L. 99-662); and

5 “(C) The cargo terminal developer has entered into, or made appropriate  
6 progress in negotiations toward, a contract with rail service providers to  
7 ensure adequate rail infrastructure and service capacity to serve the cargo  
8 terminal facilities to be developed as part of the Coos Bay Channel Project.

9 “(b) Prior to the distribution of bond proceeds described in section 13  
10 (2)(b), chapter 746, Oregon Laws 2007, the primary sponsor shall provide an  
11 updated budget document outlining expenditures for the Coos Bay Channel  
12 Project and verify and certify to the director that:

13 “(A) The Secretary of the Army has provided a favorable recommendation  
14 to Congress to proceed with the Coos Bay Channel Project; and

15 “(B) The primary sponsor has obtained, or has reasonable assurance of  
16 obtaining, adequate funding to complete permitting and engineering work on  
17 the Coos Bay Channel Project.

18 “(c) Prior to the distribution of bond proceeds described in section 13  
19 (2)(c), chapter 746, Oregon Laws 2007, the primary sponsor shall provide an  
20 updated budget outlining expenditures for the completion of the Coos Bay  
21 Channel Project and verify and certify to the director that:

22 “(A) The sponsor has received the necessary approvals and permits under  
23 ORS 196.600 to 196.905 and section 404 of the Federal Water Pollution Con-  
24 trol Act (33 U.S.C. 1251 et seq.) to allow the Coos Bay Channel Project to  
25 be completed; and

26 “(B) The primary sponsor has obtained, or has reasonable assurance of  
27 obtaining, adequate funding to complete the Coos Bay Channel Project.

28 “(5) The State of Oregon and its agencies and departments are not liable  
29 to the lenders, vendors or contractors of the Oregon sponsors for any action  
30 or omission under sections 11 to 15, chapter 746, Oregon Laws 2007.

1       “(6) By receipt of any part of net proceeds of lottery bonds described in  
2 section 13, chapter 746, Oregon Laws 2007, the primary sponsor agrees to  
3 indemnify the state and its agencies and departments to the fullest extent  
4 permitted by law for liability the state or its agencies and departments might  
5 incur in connection with any borrowing by the primary sponsor for the  
6 project.

7       **“(7) The director and the primary sponsor shall modify the existing  
8 grant agreement as may be necessary to incorporate the amendments  
9 to this section and section 13, chapter 746, Oregon Laws 2007, by  
10 sections 1 and 2 of this 2013 Act.”.**

11       In line 42, delete “4” and insert “3”.

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