

# House Bill 2480

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

## 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**.

Sunsetts prohibitions against local government imposition of certain taxes. Applies to imposition of taxes on or after January 1, 2018. Requires future prohibitions enacted by Legislative Assembly against local government imposition of taxes to sunset within four years.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to local government taxes; creating new provisions; amending ORS 305.822, 323.030, 323.640,  
3 403.105, 403.120, 403.165, 403.240, 461.560 and 825.350; repealing ORS 305.823, 306.815, 473.190  
4 and 696.365; and prescribing an effective date.

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

6 **SECTION 1.** ORS 305.822 is amended to read:

7 305.822. (1) As used in this section:

8 (a) "Internet" means the combination of computer and telecommunications facilities, including  
9 equipment and operating software, that comprise the interconnected worldwide network of computer  
10 networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or  
11 successor protocols, to communicate information by wire or radio.

12 (b) "Internet access" means a service that enables users to access content, information, elec-  
13 tronic mail or other services offered over the Internet. "Internet access" does not include telecom-  
14 munications services or cable services.

15 (c) "Tax" means a charge imposed by a governmental entity for the purpose of generating re-  
16 venues for governmental purposes. "Tax" does not include a fee imposed for a specific privilege,  
17 service or benefit conferred to the payer of the charge.

18 (2) This state[, *and the municipal corporations and political subdivisions of this state,*] may not  
19 impose, assess, collect or attempt to collect a tax on Internet access or the use of Internet access  
20 if the tax was not in effect on October 6, 2001.

21 **SECTION 2.** ORS 305.823 is repealed.

22 **SECTION 3.** ORS 403.105 is amended to read:

23 403.105. As used in ORS [*305.823 and*] 403.105 to 403.250, unless the context requires otherwise:

24 (1) "Account" means the Emergency Communications Account.

25 (2) "Central office" means a utility that houses the switching and trunking equipment serving  
26 telephones in a defined area.

27 (3) "Department" means the Department of Revenue.

28 (4) "Emergency call" means a telephone request that results from a situation in which prompt  
29 service is essential to preserve human life or property.

30 (5) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a network,

**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 database and on-premises equipment that provides automatic display of the incoming telephone  
 2 number and address in the designated public safety answering point at the time of receiving an in-  
 3 coming 9-1-1 call.

4 (6) "Exchange access services" means:

5 (a) Telephone exchange access lines or channels that provide local access by a subscriber in this  
 6 state to the local telecommunications network to effect the transfer of information; and

7 (b) Unless a separate tariff rate is charged therefor, any facility or service provided in con-  
 8 nection with the services described in paragraph (a) of this subsection.

9 (7) "Governing body" means the board of county commissioners of a county, city council of a  
 10 city, other governing body of a city or county, board of directors of a special district or a 9-1-1 ju-  
 11 risdiction.

12 (8) "Local government" has the meaning given that term in ORS 190.710.

13 (9) "Provider" means a utility or other vendor or supplier of telecommunications service or  
 14 equipment that provides telecommunications with access to the 9-1-1 emergency reporting system  
 15 through local exchange service, cellular service or other wired or wireless means.

16 (10) "Public or private safety agency" means any unit of state or local government, a special-  
 17 purpose district or a private firm that provides or has authority to provide fire-fighting, police, am-  
 18 bulance or emergency medical services.

19 (11) "Public safety answering point" means a 24-hour communications facility established as an  
 20 answering location for 9-1-1 calls originating within a given service area. A "primary public safety  
 21 answering point" receives all calls directly from the public. A "secondary public safety answering  
 22 point" only receives calls from a primary public safety answering point on a transfer or relay basis.

23 (12) "Subscriber" means a person who has telecommunication access to the 9-1-1 emergency re-  
 24 porting system through local exchange service, cellular service or other wired or wireless means.

25 (13) "TTY" means a telephone-typewriter used by an individual with a hearing or speech  
 26 impairment to communicate with another device or individual.

27 (14) "Utility" means a utility, as defined in ORS 759.005, a telecommunications carrier, as de-  
 28 fined in ORS 133.721, a municipality or any provider of exchange access services.

29 (15) "Vendor" means a person providing telephone customer premises equipment or equipment  
 30 specific to the operation of enhanced 9-1-1 telephone service.

31 (16) "9-1-1 emergency reporting system" means a telephone service that provides the users of a  
 32 public telephone system the ability to reach a primary public safety answering point by calling 9-1-1.

33 (17) "9-1-1 jurisdiction" means:

34 (a) An entity created under ORS chapter 190;

35 (b) A county service district established under ORS chapter 451 to provide an emergency com-  
 36 munications system;

37 (c) An emergency communications district created under ORS 403.300 to 403.380; or

38 (d) A group of public or private safety agencies who have agreed in writing to jointly plan the  
 39 installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

40 (18) "9-1-1 service area" means the geographical area that contains the entire central office  
 41 serving area from which the primary public safety answering point will have the capability to an-  
 42 swer calls placed to 9-1-1.

43 **SECTION 4.** ORS 403.120 is amended to read:

44 403.120. (1) The Office of Emergency Management shall:

45 (a) Adopt rules in accordance with ORS chapter 183 relating to the planning, administration and

1 funding of 9-1-1 emergency reporting systems established pursuant to ORS 403.115.

2 (b) Assist, at the request of a 9-1-1 jurisdiction, local government or governing body, in planning  
 3 9-1-1 emergency reporting systems or may, at the request of a 9-1-1 jurisdiction, act as an agent of  
 4 the 9-1-1 jurisdiction for the purposes of purchasing and maintaining equipment and services re-  
 5 quired to fulfill the requirements of ORS 403.115.

6 (c) Report biennially to the Legislative Assembly the progress made in implementing ORS  
 7 [305.823 and] 403.105 to 403.250, including in the report:

8 (A) Financial information concerning the revenues collected, distributed and expended by state  
 9 agencies and 9-1-1 jurisdictions for the purposes of complying with ORS 403.105 to 403.250; and

10 (B) Account and subaccount balances.

11 (2) The office may establish advisory committees and study groups to study and advise on:

12 (a) The planning and administration of 9-1-1 emergency reporting systems;

13 (b) Multijurisdictional 9-1-1 emergency reporting systems; and

14 (c) Issues impacting 9-1-1 emergency reporting systems throughout the state.

15 **SECTION 5.** ORS 403.165 is amended to read:

16 403.165. (1) The Office of Emergency Management may institute proceedings against a public or  
 17 private safety agency, a 9-1-1 jurisdiction or other person to compel compliance with or to restrain  
 18 further violation of ORS [305.823 and] 403.105 to 403.250 or rules adopted pursuant to ORS 403.120.

19 (2) Proceedings authorized by subsection (1) of this section may be instituted without official  
 20 notice, hearing or order provided in ORS chapter 183. However, proceedings brought against a  
 21 telecommunications utility must be brought before the Public Utility Commission as provided by  
 22 ORS chapter 756.

23 **SECTION 6.** ORS 403.240, as amended by section 1, chapter 60, Oregon Laws 2012, is amended  
 24 to read:

25 403.240. (1) The Office of Emergency Management shall distribute quarterly the entire amount  
 26 of the moneys in the Emergency Communications Account. The office shall pay the following  
 27 amounts from the account:

28 (a) Administrative costs incurred during the preceding calendar quarter by the Department of  
 29 Revenue in carrying out ORS 403.200 to 403.230 in an amount that does not exceed one-half of one  
 30 percent of the amount in the account on the date of distribution, or actual expenses incurred by the  
 31 department, whichever is less.

32 (b) Administrative costs to be incurred during the calendar quarter by the Office of Emergency  
 33 Management in carrying out its duties under ORS [305.823 and] 403.105 to 403.250. The amount to  
 34 be paid under this paragraph may not exceed four percent of the amount in the account on the date  
 35 of distribution, and, on or before the next date of distribution, the office shall repay to the account  
 36 any amount received under this paragraph that exceeds the actual expenses incurred by the office  
 37 in the quarter.

38 (2) The office may:

39 (a) Provide funding for the Oregon Emergency Response System in an amount that does not  
 40 exceed 15 percent of the legislatively approved budget for the Oregon Emergency Response System  
 41 subject to availability of funds within the limit for administrative costs in subsection (1)(b) of this  
 42 section.

43 (b) Prescribe the manner in which funding is provided to the Oregon Emergency Response Sys-  
 44 tem under this subsection.

45 (3) The office shall use funds in the Enhanced 9-1-1 Subaccount to pay for costs incurred during

1 the preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS  
2 403.115. The office may not disburse funds in the Enhanced 9-1-1 Subaccount to a 9-1-1 jurisdiction  
3 that does not have an approved final plan as required in section 7, chapter 743, Oregon Laws 1991.  
4 The office shall make payments for reimbursement only after a reimbursement request has been  
5 submitted to the office in the manner prescribed by the office. Reimbursement requests for recurring  
6 and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.115  
7 must be submitted directly to the office. The costs reimbursable under this subsection are only those  
8 incurred for:

9 (a) Modification of central office switching and trunking equipment;

10 (b) Network development, operation and maintenance;

11 (c) Database development, operation and maintenance;

12 (d) On-premises equipment procurement, maintenance and replacement;

13 (e) Conversion of pay station telephones required by ORS 403.140;

14 (f) Collection of the tax imposed by ORS 403.200 to 403.230; and

15 (g) Addressing if the reimbursement request is consistent with rules adopted by the office.

16 (4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions that  
17 have enhanced 9-1-1 telephone service operational prior to December 31, 1991, based on cost infor-  
18 mation provided in their final plan required in section 7, chapter 743, Oregon Laws 1991. The office  
19 shall approve final plans submitted that meet the minimum requirements set forth in ORS 403.115  
20 (2) and (4). The office shall limit funding for costs incurred prior to the preceding calendar quarter  
21 to charges associated with database development, network and on-premises equipment that satisfies  
22 the requirements of ORS 403.115 (2) and (4). The office shall prescribe the manner in which funding  
23 is provided under this subsection.

24 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from any account described  
25 in ORS 403.235 to repay loans from the Special Public Works Fund if the loans were used for pur-  
26 poses that are allowable under ORS 403.105 to 403.250.

27 (6) The office shall retain amounts remaining in the Enhanced 9-1-1 Subaccount and may dis-  
28 tribute the amounts in a subsequent quarter for those purposes set forth in subsections (3), (4) and  
29 (5) of this section.

30 (7) The office shall review reimbursement requests for modification of central office switching  
31 and trunking equipment, conversion of pay station telephones, and network development, operation  
32 and maintenance costs necessary to comply with ORS 403.115 for the appropriateness of the costs  
33 claimed. The office shall approve or disapprove the reimbursement requests.

34 (8) The office shall review reimbursement requests for database development, operation and  
35 maintenance, and on-premises equipment procurement, maintenance and replacement costs necessary  
36 to comply with ORS 403.115 for the appropriateness of the costs claimed.

37 (9) After all amounts under subsections (1) and (2) of this section and ORS 403.235 (2) have been  
38 paid, the office shall allocate the balance of the Emergency Communications Account to cities on  
39 a per capita basis and to counties on a per capita basis of each county's unincorporated area for  
40 distribution directly to 9-1-1 jurisdictions as directed by the city or county. However, each county  
41 must be credited a minimum of one percent of the balance of the account after the amounts under  
42 subsections (1) and (2) of this section and ORS 403.235 (2) have been paid.

43 (10) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report must  
44 be provided in the manner prescribed by the office and must include but not be limited to:

45 (a) Funds received and expended under subsection (9) of this section for the purposes of fulfilling

1 the requirements of ORS 403.115;

2 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS  
3 403.115; and

4 (c) Local funds received and expended for the purposes of providing emergency communications  
5 services.

6 **SECTION 7. The repeal of ORS 305.823 by section 2 of this 2013 Act and the amendments**  
7 **to ORS 403.105, 403.120, 403.165 and 403.240 by sections 3 to 6 of this 2013 Act apply to**  
8 **amounts paid for exchange access or other telephone services on or after January 1, 2018.**

9 **SECTION 8. ORS 306.815 is repealed.**

10 **SECTION 9. The repeal of ORS 306.815 by section 8 of this 2013 Act applies to transfers**  
11 **of real property occurring on or after January 1, 2018.**

12 **SECTION 10.** ORS 323.030 is amended to read:

13 323.030. (1) Every distributor shall pay a tax upon distributions of cigarettes at the rate of 29  
14 mills for the distribution of each cigarette in this state.

15 (2) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state[, *county or mu-*  
16 *nicipal*] taxes on the sale or use of cigarettes.

17 (3) Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has oth-  
18 erwise once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distrib-  
19 ution to the taxes imposed by ORS 323.005 to 323.482.

20 **SECTION 11.** ORS 323.640 is amended to read:

21 323.640. (1) The taxes imposed by ORS 323.505 are in lieu of all other state[, *county or*  
22 *municipal*] taxes on the sale or use of tobacco products.

23 (2) Any tobacco product with respect to which a tax has once been imposed under ORS 323.505  
24 shall not be subject upon a subsequent distribution to the taxes imposed by ORS 323.505.

25 **SECTION 12. The amendments to ORS 323.030 and 323.640 by sections 10 and 11 of this**  
26 **2013 Act apply to cigarettes and tobacco products distributed on or after January 1, 2018.**

27 **SECTION 13.** ORS 461.560 is amended to read:

28 461.560. [(1) *No state or local taxes shall be imposed*] **This state may not impose a tax** upon  
29 the sale of lottery tickets or shares of the Oregon State Lottery established by this chapter or any  
30 prize awarded by the state lottery established by this chapter that does not exceed \$600. A prize  
31 awarded by the state lottery that is greater than \$600 shall be subject to tax under ORS chapters  
32 314 to 318 and any other applicable state or local tax. For purposes of this section, “prize awarded  
33 by the state lottery” includes a prize awarded by a multistate lottery association of which the  
34 Oregon State Lottery is a member if the ticket upon which the prize is awarded was sold in this  
35 state.

36 [(2) *A city, county or other political subdivision in this state may not impose, by charter provision*  
37 *or ordinance, or collect a tax that is imposed on lottery game retailers only and that is measured by*  
38 *or based upon the amount of the commissions or other compensation received by lottery game retailers*  
39 *for selling tickets or shares in lottery games. However, if a city, county or other political subdivision*  
40 *levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing au-*  
41 *thority an income, gross income or gross receipts tax, as otherwise provided by law, such tax may be*  
42 *levied or imposed upon lottery game retailers.*]

43 **SECTION 14. The amendments to ORS 461.560 by section 13 of this 2013 Act apply to the**  
44 **sale of lottery tickets or shares of the Oregon State Lottery occurring on or after January**  
45 **1, 2018.**

1       **SECTION 15.** ORS 473.190 is repealed.

2       **SECTION 16.** The repeal of ORS 473.190 by section 15 of this 2013 Act applies to alcoholic  
3 beverages manufactured or imported on or after January 1, 2018.

4       **SECTION 17.** ORS 696.365 is repealed.

5       **SECTION 18.** The repeal of ORS 696.365 by section 17 of this 2013 Act applies to licenses  
6 issued on or after January 1, 2018.

7       **SECTION 19.** ORS 825.350 is amended to read:

8           825.350. (1) No county, city or other municipal corporation may [*impose a tax on, or*] require a  
9 license for[,] a voluntary ridesharing arrangement using a motor vehicle with a seating capacity for  
10 not more than 15 persons.

11           (2) For the purposes of this section “voluntary ridesharing arrangement” has the meaning given  
12 that term in ORS 656.025.

13       **SECTION 20.** The amendments to ORS 825.350 by section 19 of this 2013 Act apply to li-  
14 censes issued on or after January 1, 2018.

15       **SECTION 21.** Any prohibition against the imposition of a tax by a local government that  
16 is enacted by the Legislative Assembly on or after January 1, 2014, shall apply for a maxi-  
17 mum of four years beginning with the initial year for which the preemption is applicable,  
18 unless the Legislative Assembly expressly provides for another period of applicability.

19       **SECTION 22.** This 2013 Act takes effect on the 91st day after the date on which the 2013  
20 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

21