

HOUSE AMENDMENTS TO HOUSE BILL 3464

By JOINT COMMITTEE ON WAYS AND MEANS

July 5

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 section 2, chapter 900,
7 Oregon Laws 2009, is amended to read:

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

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

17 “(a) Subject to subsection (4) of this section, establish appropriate triggers for the incremental
18 biennial distribution of bond proceeds described in section 13 (2), chapter 746, Oregon Laws 2007,
19 based on appropriate measures of progress in completion of the project that are satisfactory to the
20 director and consistent with prudent financial practices that reflect sound stewardship of public
21 resources.

22 “(b) Require the primary sponsor to:

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

27 “(i) Due to an act of God; or

28 “(ii) Because the State of Oregon fails to distribute one or more of the increments of bond pro-
29 ceeds described in section 13 (2), chapter 746, Oregon Laws 2007, and required to substantially
30 complete the project, for a reason other than a failure of the primary sponsor to take action to
31 trigger the distribution or a failure of the project to meet federal or state environmental permitting
32 standards necessary to complete the project.

33 “(B) Provide evidence satisfactory to the director that the primary sponsor has obtained a letter
34 of credit, entered into a surety bond agreement or provided other similar financial assurance to
35 guarantee the return of bond proceeds and reimbursement for expenditures required by this para-

1 graph.

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

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

9 “(A) The primary sponsor has entered into a commercially reasonable agreement with a cargo
10 terminal developer to construct and operate cargo terminal facilities on the Coos Bay channel;

11 “(B) The Secretary of the Army has authorized the performance of environmental studies on the
12 channel pursuant to section 203 of the Water Resources Development Act of 1986 (P.L. 99-662); and

13 “(C) The cargo terminal developer has entered into, or made appropriate progress in negoti-
14 ations toward, a contract with rail service providers to ensure adequate rail infrastructure and
15 service capacity to serve the cargo terminal facilities to be developed as part of the Coos Bay
16 Channel Project.

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

20 “(A) The Secretary of the Army has provided a favorable recommendation to Congress to pro-
21 ceed with the Coos Bay Channel Project; and

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

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

27 “(A) The sponsor has received the necessary approvals and permits under ORS 196.600 to
28 196.905 and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to allow
29 the Coos Bay Channel Project to be completed; and

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

32 “(5) The State of Oregon and its agencies and departments are not liable to the lenders, vendors
33 or contractors of the Oregon sponsors for any action or omission under sections 11 to 15, chapter
34 746, Oregon Laws 2007.

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

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

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