

HOUSE AMENDMENTS TO HOUSE BILL 4138

By COMMITTEE ON REVENUE

February 18

1 On page 1 of the printed bill, delete lines 5 through 30 and delete page 2 and insert:

2 **“SECTION 1.** ORS 314.680 is amended to read:

3 “314.680. As used in ORS 314.680 to 314.690, unless the context requires otherwise:

4 “(1) ‘Broadcasting’ means the activity of transmitting any one-way electronic signal by radio
5 waves, microwaves, wires, coaxial cables, wave guides or other conduits of communications.

6 “(2) ‘Commercial domicile’ has the meaning given that term in ORS 314.610.

7 “(3) ‘Customer’ means an advertiser, a licensee or any other person that has a direct
8 contractual relationship with an interstate broadcaster under which revenue is derived by
9 the interstate broadcaster.

10 “[2] (4) ‘Gross receipts from broadcasting’ means *[all] income from advertising, licensing*
11 *or distributing video programming or audio programming and all other* gross receipts of an
12 interstate broadcaster from transactions and activities in the regular course of its trade or business
13 except receipts from sales of real or tangible personal property.

14 “[3] (5) ‘Interstate broadcaster’ means a taxpayer that engages in the for-profit business of
15 broadcasting to *[subscribers or to an audience] persons* located both within and without this state.
16 *[The audience or subscribers ratio shall be determined by rule of the Department of Revenue.]*

17 “(6) ‘Resident of this state’ has the meaning given that term in ORS 316.027.

18 **“SECTION 2.** ORS 314.684 is amended to read:

19 “314.684. (1) The sales factor for an interstate broadcaster shall be determined as provided in
20 this section.

21 “(2) The denominator of the sales factor shall include the total gross receipts derived by the
22 interstate broadcaster from transactions and activities in the regular course of its trade or business,
23 except receipts excluded under rules of the Department of Revenue.

24 “(3) The numerator of the sales factor shall include all gross receipts attributable to this state,
25 with gross receipts from broadcasting to be included as specified in subsection (4) of this section.

26 “(4) Gross receipts from broadcasting of an interstate broadcaster *[which] that* engages in
27 income-producing activity in this state shall be included in the numerator of the sales factor *[in the*
28 *ratio that the interstate broadcaster’s audience or subscribers located in this state bears to its total*
29 *audience and subscribers located both within and without] if the commercial domicile of the cus-*
30 *tomer is in this state or, in the case of an individual, the customer is a resident of this state.*

31 **“SECTION 3.** ORS 314.680, as amended by section 1 of this 2014 Act, is amended to read:

32 “314.680. As used in ORS 314.680 to 314.690, unless the context requires otherwise:

33 “(1) ‘Broadcasting’ means the activity of transmitting any one-way electronic signal by radio
34 waves, microwaves, wires, coaxial cables, wave guides or other conduits of communications.

35 “[2] ‘Commercial domicile’ has the meaning given that term in ORS 314.610.]

1 “[(3) ‘Customer’ means an advertiser, a licensee or any other person that has a direct contractual
2 relationship with an interstate broadcaster under which revenue is derived by the interstate
3 broadcaster.]

4 “[(4)] (2) ‘Gross receipts from broadcasting’ means [income from advertising, licensing or distrib-
5 uting video programming or audio programming and all other] **all** gross receipts of an interstate
6 broadcaster from transactions and activities in the regular course of its trade or business except
7 receipts from sales of real or tangible personal property.

8 “[(5)] (3) ‘Interstate broadcaster’ means a taxpayer that engages in the for-profit business of
9 broadcasting to [persons] **subscribers or to an audience** located both within and without this state.
10 **The audience or subscribers ratio shall be determined by rule of the Department of Revenue.**

11 “[(6) ‘Resident of this state’ has the meaning given that term in ORS 316.027.]

12 “**SECTION 4.** ORS 314.684, as amended by section 2 of this 2014 Act, is amended to read:

13 “314.684. (1) The sales factor for an interstate broadcaster shall be determined as provided in
14 this section.

15 “(2) The denominator of the sales factor shall include the total gross receipts derived by the
16 interstate broadcaster from transactions and activities in the regular course of its trade or business,
17 except receipts excluded under rules of the Department of Revenue.

18 “(3) The numerator of the sales factor shall include all gross receipts attributable to this state,
19 with gross receipts from broadcasting to be included as specified in subsection (4) of this section.

20 “(4) Gross receipts from broadcasting of an interstate broadcaster that engages in income-
21 producing activity in this state shall be included in the numerator of the sales factor [if the com-
22 mercial domicile of the customer is in this state or, in the case of an individual, the customer is a
23 resident of] **in the ratio that the interstate broadcaster’s audience or subscribers located in
24 this state bears to its total audience and subscribers located both within and without this
25 state.**

26 “**SECTION 5.** (1) **The amendments to ORS 314.680 and 314.684 by sections 1 and 2 of this
27 2014 Act apply to tax years beginning on or after January 1, 2014, and before January 1, 2020.**

28 “(2) **The amendments to ORS 314.680 and 314.684 by sections 3 and 4 of this 2014 Act apply
29 to tax years beginning on or after January 1, 2020.**

30 “**SECTION 6.** **Not later than February 1, 2019, the Legislative Revenue Officer, after
31 consultation with the Department of Revenue, shall make a report to an interim committee
32 of the Legislative Assembly related to revenue. The report shall address the amendments to
33 ORS 314.680 and 314.684 by sections 1 and 2 of this 2014 Act. The Legislative Revenue Officer
34 shall conduct an analysis, based on existing statutory authority, of the impact and utilization
35 of the affected method of apportionment.**

36 “**SECTION 7.** **This 2014 Act takes effect on the 91st day after the date on which the 2014
37 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.”.**