

SB 1507-8
(LC 179)
2/17/16 (CMT/ps)

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 1507**

1 On page 1 of the printed bill, line 2, after “amending” delete the rest of
2 the line and insert “ORS 284.367, 284.368, 305.792, 315.271, 315.514, 315.613,
3 316.116 and 469B.403 and section 6, chapter 739, Oregon Laws 2007;”.

4 On page 5, after line 42, insert:

5 **“SECTION 6.** ORS 284.367 is amended to read:

6 “284.367. (1) The Oregon Production Investment Fund is established in the
7 State Treasury, separate and distinct from the General Fund. Interest earned
8 by the Oregon Production Investment Fund shall be credited to the fund.

9 “(2) Moneys in the Oregon Production Investment Fund shall consist of:

10 “(a) Amounts donated to the fund;

11 “(b) Amounts appropriated or otherwise transferred to the fund by the
12 Legislative Assembly;

13 “(c) Other amounts deposited in the fund from any source; and

14 “(d) Interest earned by the fund.

15 “(3) [*Ninety-five*] **Eighty-nine and one-half** percent of moneys in the
16 fund are continuously appropriated to the Oregon Business Development
17 Department for the purposes of making:

18 “(a) Reimbursements to filmmakers **or local media production services**
19 **companies** under ORS 284.368;

20 “(b) Payments to a tax credit marketer for marketing services provided
21 by the marketer as described in ORS 284.369; and

1 “(c) Refunds described in ORS 315.514 (5).

2 “(4) [*Five*] **Seven and one-half** percent of moneys in the fund are con-
3 tinuously appropriated to the department for the purpose of making re-
4 imbursements to local filmmakers or local media production services
5 companies under ORS 284.368 (3). Total annual reimbursements to local me-
6 dia production services companies **under this subsection** may not exceed
7 [*five*] **seven and one-half** percent of the moneys deposited annually in the
8 fund. On July 1 of each fiscal year, any moneys that remain unexpended or
9 unallocated from the previous fiscal year may be used by the department for
10 the purpose of making reimbursements to filmmakers **or local media pro-**
11 **duction services companies** under ORS 284.368 (2).

12 “(5) **Three percent of moneys in the fund are continuously appro-**
13 **priated to the department for the purpose of making payments to**
14 **filmmakers under ORS 284.368 (4). Total annual payments to**
15 **filmmakers under this subsection may not exceed five percent of the**
16 **moneys deposited annually in the fund. On July 1 of each fiscal year,**
17 **any moneys that remain unexpended or unallocated from the previous**
18 **fiscal year may be used by the department for the purpose of making**
19 **payments to filmmakers under this section. Any excess over five per-**
20 **cent that remains unexpended or unallocated shall be used by the de-**
21 **partment for the purpose of making reimbursements to filmmakers**
22 **or local media production services companies under ORS 284.368 (2).**

23 “[*5*] (6) Expenditures from the fund are not subject to ORS 291.232 to
24 291.260.

25 “**SECTION 7.** ORS 284.368 is amended to read:

26 “284.368. (1) As used in this section:

27 “(a) ‘Actual Oregon expenses’ means the costs paid in Oregon for princi-
28 pal photography, production or postproduction in Oregon of a film, or for
29 media production services, including but not limited to the purchase or
30 rental cost of equipment, food, lodging, real property and permits and pay-

1 ments made for salaries, wages and benefits for work in Oregon.

2 “(b) ‘Film’ means a television movie or one or more episodes of a single
3 television series, or a movie produced for release to theaters, video or the
4 Internet. ‘Film’ does not include the production of a commercial or one or
5 more segments of a newscast or sporting event.

6 “(c) ‘Filmmaker’ means a person who owns a television or film production
7 company.

8 “(d) ‘Local filmmaker’ means a person who owns a television or film
9 production company that has its principal place of business in this state.

10 “(e) **‘Local media production project’ means, if made or performed**
11 **by a local media production services company, a single interactive**
12 **video game or a portion thereof, or postproduction services for a single**
13 **film.**

14 “[*e*] (f) ‘Local media production services company’ means a media pro-
15 duction services company that has its principal place of business in this
16 state.

17 “[*f*] (g) ‘Media production services’ includes postproduction services and
18 interactive video game development. ‘Media production services’ does not
19 include the production of a commercial or one or more segments of a
20 newscast or sporting event.

21 “[*g*] (h) ‘Media production services company’ means a person who is
22 engaged in media production services.

23 “(i) **‘Portland metropolitan zone’ means the area within a 30-mile**
24 **radius of the center of the Burnside Bridge in Portland.**

25 “[*h*] (j) ‘Resident of this state’ has the meaning given that term in ORS
26 316.027.

27 “(2)(a) The Oregon Business Development Department may reimburse a
28 filmmaker **or local media production services company** for a portion of
29 the actual Oregon expenses incurred by the filmmaker **or local media pro-**
30 **duction services company.**

1 “(b) Maximum reimbursement for a single film **or a single local media**
2 **production project** shall be the total of:

3 “(A) 10 percent of payments made for employee salaries, wages and bene-
4 fits for work done in Oregon; and

5 “(B) 20 percent of all other actual Oregon expenses.

6 **“(c) Notwithstanding paragraph (b) of this subsection, maximum**
7 **reimbursement for a single film may not exceed 50 percent of total**
8 **moneys received by the Oregon Production Investment Fund during**
9 **the biennium in which the actual Oregon expenses are incurred.**

10 “~~[(c)]~~ (d) To qualify for reimbursement under this subsection, total actual
11 Oregon expenses for ~~[the]~~ **a film or a local media production project** must
12 equal or exceed \$1 million.

13 “(3)(a) The department may reimburse a local filmmaker or local media
14 production services company for all or a portion of the actual Oregon ex-
15 penses, up to \$1 million, incurred by the local filmmaker or local media
16 production services company.

17 “(b) To qualify for reimbursement under this subsection:

18 “(A) Total actual Oregon expenses paid for the film or media production
19 services must be at least \$75,000;

20 “(B) The local filmmaker or local media production services company
21 must have spent 80 percent of the film’s payroll on employees who are resi-
22 dents of this state; and

23 “(C) The local filmmaker or local media production services company
24 must have employed or contracted with a public accountant certified under
25 ORS 673.040 for the provision of payroll services.

26 **“(4) In combination with the reimbursements allowed under sub-**
27 **sections (2) and (3) of this section, the department may make an ad-**
28 **ditional payment to a filmmaker for one of the following:**

29 **“(a) A travel and living expenses rebate of \$200 per employee per**
30 **day, for any day that a film is shot entirely outside the Portland**

1 metropolitan zone, not to exceed \$10,000 per day or \$50,000 per film;
2 or

3 “(b) An increase of 10 percent of the amount otherwise allowable
4 under subsections (2) and (3) this section, if for at least six days and
5 at least one day more than half of its total shoot days in Oregon the
6 film is shot entirely outside the Portland metropolitan zone.

7 “[4] (5) Reimbursement under this section shall be made from moneys
8 credited to or deposited in the Oregon Production Investment Fund during
9 the biennium in which the actual Oregon expenses were paid or any prior
10 biennium. A reimbursement may not be made to the extent funds are not
11 available in the fund to make the reimbursement.

12 “[5)(a)] (6)(a) Total actual Oregon expenses supporting a claim for re-
13 imbursement under this section must be verified by the Oregon Film and
14 Video Office. The filmmaker or local media production services company
15 must submit to the office proof of the actual Oregon expenses. The proof
16 must include any documentation that may be required by the office in its
17 discretion to verify the actual Oregon expenses.

18 “(b) The office may charge the filmmaker or local media production ser-
19 vices company for costs reasonably incurred to verify the actual Oregon ex-
20 penses, including but not limited to the cost for a review or audit of the
21 supporting documentation by an accountant or auditor. The office may re-
22 quire the department to deduct the costs incurred by the office in performing
23 its review or audit from any reimbursement made to the filmmaker or local
24 media production services company under this section.

25 “(c) The office may adopt rules that establish a procedure for the sub-
26 mission and verification of actual Oregon expenses.

27 **“SECTION 8.** ORS 315.514 is amended to read:

28 “315.514. (1) A credit against the taxes that are otherwise due under ORS
29 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
30 318, is allowed to a taxpayer for certified film production development con-

1 tributions made by the taxpayer during the tax year to the Oregon Pro-
2 duction Investment Fund established under ORS 284.367.

3 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon
4 Film and Video Office, conduct an auction of tax credits under this section.
5 The department may conduct the auction in the manner that it determines
6 is best suited to maximize the return to the state on the sale of tax credit
7 certifications and shall announce a reserve bid prior to conducting the auc-
8 tion. The reserve amount shall be at least 95 percent of the total amount of
9 the tax credit. Moneys necessary to reimburse the department for the actual
10 costs incurred by the department in administering an auction, not to exceed
11 0.25 percent of auction proceeds, are continuously appropriated to the de-
12 partment. The department shall deposit net receipts from the auction re-
13 quired under this section in the Oregon Production Investment Fund.

14 “(b) The Oregon Film and Video Office shall adopt rules in order to
15 achieve the following goals:

16 “(A) Subject to paragraph (a) of this subsection, generate contributions
17 for which tax credits of [~~\$10~~] **\$12** million are certified for each fiscal year;

18 “(B) Maximize income and excise tax revenues that are retained by the
19 State of Oregon for state operations; and

20 “(C) Provide the necessary financial incentives for taxpayers to make
21 contributions, taking into consideration the impact of granting a credit upon
22 a taxpayer’s federal income tax liability.

23 “(3) Contributions made under this section shall be deposited in the
24 Oregon Production Investment Fund.

25 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
26 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-
27 tification of the amount certified for tax credit under this section to the
28 extent the amount certified for tax credit, when added to all amounts previ-
29 ously certified for tax credit under this section, does not exceed [~~\$10~~] **\$12**
30 million for the fiscal year in which certification is made.

1 “(b) The Oregon Film and Video Office and the department are not liable,
2 and a refund of a contributed amount need not be made, if a taxpayer who
3 has received tax credit certification is unable to use all or a portion of the
4 tax credit to offset the tax liability of the taxpayer.

5 “(5) To the extent the Oregon Film and Video Office does not certify
6 contributed amounts as eligible for a tax credit under this section, the tax-
7 payer may request a refund of the amount the taxpayer contributed, and the
8 office shall refund that amount.

9 “(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit
10 claimed under this section may not exceed the tax liability of the taxpayer
11 and may not be carried over to another tax year.

12 “(b) Any tax credit otherwise allowable under this section that is not used
13 by the taxpayer in a particular tax year may be carried forward and offset
14 against the taxpayer’s tax liability for the next succeeding tax year. Any
15 credit remaining unused in the next succeeding tax year may be carried
16 forward and used in the second succeeding tax year, and likewise, any credit
17 not used in that second succeeding tax year may be carried forward and used
18 in the third succeeding tax year but may not be carried forward for any tax
19 year thereafter.

20 “(c) A taxpayer is not eligible for a tax credit under this section if the
21 first tax year for which the credit would otherwise be allowed begins on or
22 after January 1, 2024.

23 “(7) If a tax credit is claimed under this section by a nonresident or
24 part-year resident taxpayer, the amount shall be allowed without proration
25 under ORS 316.117.

26 “(8) If the amount of contribution for which a tax credit certification is
27 made is allowed as a deduction for federal tax purposes, the amount of the
28 contribution shall be added to federal taxable income for Oregon tax pur-
29 poses.

30 “**SECTION 9.** ORS 315.514, as amended by section 8 of this 2016 Act, is

1 amended to read:

2 “315.514. (1) A credit against the taxes that are otherwise due under ORS
3 chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or
4 318, is allowed to a taxpayer for certified film production development con-
5 tributions made by the taxpayer during the tax year to the Oregon Pro-
6 duction Investment Fund established under ORS 284.367.

7 “(2)(a) The Department of Revenue shall, in cooperation with the Oregon
8 Film and Video Office, conduct an auction of tax credits under this section.
9 The department may conduct the auction in the manner that it determines
10 is best suited to maximize the return to the state on the sale of tax credit
11 certifications and shall announce a reserve bid prior to conducting the auc-
12 tion. The reserve amount shall be at least 95 percent of the total amount of
13 the tax credit. Moneys necessary to reimburse the department for the actual
14 costs incurred by the department in administering an auction, not to exceed
15 0.25 percent of auction proceeds, are continuously appropriated to the de-
16 partment. The department shall deposit net receipts from the auction re-
17 quired under this section in the Oregon Production Investment Fund.

18 “(b) The Oregon Film and Video Office shall adopt rules in order to
19 achieve the following goals:

20 “(A) Subject to paragraph (a) of this subsection, generate contributions
21 for which tax credits of [~~\$12~~] **\$14** million are certified for each fiscal year;

22 “(B) Maximize income and excise tax revenues that are retained by the
23 State of Oregon for state operations; and

24 “(C) Provide the necessary financial incentives for taxpayers to make
25 contributions, taking into consideration the impact of granting a credit upon
26 a taxpayer’s federal income tax liability.

27 “(3) Contributions made under this section shall be deposited in the
28 Oregon Production Investment Fund.

29 “(4)(a) Upon receipt of a contribution, the Oregon Film and Video Office
30 shall, except as provided in ORS 315.516, issue to the taxpayer written cer-

1 tification of the amount certified for tax credit under this section to the
2 extent the amount certified for tax credit, when added to all amounts previ-
3 ously certified for tax credit under this section, does not exceed [~~\$12~~] **\$14**
4 million for the fiscal year in which certification is made.

5 “(b) The Oregon Film and Video Office and the department are not liable,
6 and a refund of a contributed amount need not be made, if a taxpayer who
7 has received tax credit certification is unable to use all or a portion of the
8 tax credit to offset the tax liability of the taxpayer.

9 “(5) To the extent the Oregon Film and Video Office does not certify
10 contributed amounts as eligible for a tax credit under this section, the tax-
11 payer may request a refund of the amount the taxpayer contributed, and the
12 office shall refund that amount.

13 “(6)(a) Except as provided in paragraph (b) of this subsection, a tax credit
14 claimed under this section may not exceed the tax liability of the taxpayer
15 and may not be carried over to another tax year.

16 “(b) Any tax credit otherwise allowable under this section that is not used
17 by the taxpayer in a particular tax year may be carried forward and offset
18 against the taxpayer’s tax liability for the next succeeding tax year. Any
19 credit remaining unused in the next succeeding tax year may be carried
20 forward and used in the second succeeding tax year, and likewise, any credit
21 not used in that second succeeding tax year may be carried forward and used
22 in the third succeeding tax year but may not be carried forward for any tax
23 year thereafter.

24 “(c) A taxpayer is not eligible for a tax credit under this section if the
25 first tax year for which the credit would otherwise be allowed begins on or
26 after January 1, 2024.

27 “(7) If a tax credit is claimed under this section by a nonresident or
28 part-year resident taxpayer, the amount shall be allowed without proration
29 under ORS 316.117.

30 “(8) If the amount of contribution for which a tax credit certification is

1 made is allowed as a deduction for federal tax purposes, the amount of the
2 contribution shall be added to federal taxable income for Oregon tax pur-
3 poses.

4 **“SECTION 10. (1) The amendments to ORS 315.514 by section 8 of**
5 **this 2016 Act apply to fiscal years beginning on or after July 1, 2016,**
6 **and before July 1, 2017.**

7 **“(2) The amendments to ORS 284.367, 284.368 and 315.514 by sections**
8 **6, 7 and 9 of this 2016 Act apply to fiscal years beginning on or after**
9 **July 1, 2017.**

10 **“SECTION 11.** Section 6, chapter 739, Oregon Laws 2007, as amended by
11 section 5, chapter 590, Oregon Laws 2007, section 18, chapter 913, Oregon
12 Laws 2009, and section 2, chapter 730, Oregon Laws 2011, is amended to read:

13 **“Sec. 6. (1)(a) ORS 315.141, 315.144 and [469.790] 469B.403** apply to tax
14 credits for tax years beginning on or after January 1, 2007, and before Jan-
15 uary 1, [2018] **2022.**

16 **“(b) Notwithstanding paragraph (a) of this subsection, credits as**
17 **provided under ORS 469B.403 (1) to (7) are not allowed for tax years**
18 **beginning on or after January 1, 2018.**

19 **“(2) Notwithstanding subsection (1) of this section, a tax credit is not**
20 **allowed for wheat grain (other than nongrain wheat material) for tax years**
21 **beginning before January 1, 2009, or on or after January 1, 2018.**

22 **“SECTION 12.** ORS 469B.403 is amended to read:

23 **“469B.403.** To be eligible for the tax credit under ORS 315.141, the biomass
24 must be produced or collected in Oregon as a feedstock for bioenergy or
25 biofuel production in Oregon. The credit rates for biomass are:

26 **“(1) For oilseed crops, \$0.05 per pound.**

27 **“(2) For grain crops, including but not limited to wheat, barley and**
28 **triticale, \$0.90 per bushel.**

29 **“(3) For virgin oil or alcohol delivered for production in Oregon from**
30 **Oregon-based feedstock, \$0.10 per gallon.**

1 “(4) For used cooking oil or waste grease, \$0.10 per gallon.

2 “(5) For wastewater biosolids, \$10.00 per wet ton.

3 “(6) For woody biomass collected from nursery, orchard, agricultural,
4 forest or rangeland property in Oregon, including but not limited to
5 prunings, thinning, plantation rotations, log landing or slash resulting from
6 harvest or forest health stewardship, \$10.00 per bone dry ton.

7 “(7) For grass, wheat, straw or other vegetative biomass from agricultural
8 crops, \$10.00 per bone dry ton.

9 “(8) For animal manure or rendering offal, [~~\$5.00~~] **\$3.50** per wet ton.

10 **“SECTION 13. The amendments to ORS 469B.403 by section 12 of**
11 **this 2016 Act apply to tax years beginning on or after January 1, 2016,**
12 **and before January 1, 2022.”.**

13 In line 43, delete “6” and insert “14”.

14
