

Senate Bill 956

Sponsored by Senator THATCHER

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**.

Provides for annual distribution to Oregon residents of percentage of moneys received by certain state agencies for use or attempted use of state lands and waters, products from state lands and waters or other natural resources of state.

Establishes Resident Distribution Account. Continuously appropriates moneys in account to Department of Revenue for administering and carrying out departmental duties related to making annual distribution to Oregon residents.

Authorizes Department of Revenue to impose civil penalty against individual misrepresenting qualifications for distribution.

A BILL FOR AN ACT

1
2 Relating to distributions of state natural resource revenues to residents.

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

4 **SECTION 1. As used in sections 1 to 9 of this 2017 Act:**

5 (1) "Armed Forces of the United States" has the meaning given that term in ORS 316.792.

6 (2) "Distribution year" means the July 1 to June 30 period during which the state agen-
7 cies subject to section 2 of this 2017 Act received the moneys to be reported for distribution.

8 (3) "State government" has the meaning given that term in ORS 174.111.

9 **SECTION 2. (1) The State Department of Agriculture, the Department of Environmental**
10 **Quality, the State Department of Fish and Wildlife, the State Forestry Department, the De-**
11 **partment of State Lands and the State Parks and Recreation Department shall annually re-**
12 **port to the State Treasurer amounts that were received by those agencies during the 12**
13 **months ending June 30 in payment for the use or attempted use of state lands and waters,**
14 **products from state lands and waters or other natural resources of the state. The agencies**
15 **subject to this section shall file reports under this subsection with the State Treasurer no**
16 **later than September 1 each year.**

17 (2) An agency shall exclude from a report under subsection (1) of this section:

18 (a) Any amounts the State of Oregon is required by law to transfer or otherwise make
19 available to local governments or local programs, multistate entities or multistate entity
20 programs or the federal government or federal government programs;

21 (b) Any payments that the agency receives in compensation for damage to state lands
22 or waters, products from state lands or waters or other natural resources;

23 (c) Any payments received as fines or civil penalties;

24 (d) Any fees, special assessments or charges paid to the agency in direct exchange for
25 provided services; and

26 (e) Any payments received from another unit of state government.

27 (3) The State Treasure shall transfer the equivalent of ___ percent of the amounts re-
28 ported under subsection (1) of this section from the General Fund to the Resident Distrib-

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 **ution Account established under section 3 of this 2017 Act and notify the Department of**
 2 **Revenue of the amounts transferred to the account. The State Treasurer shall complete the**
 3 **transfers and send notification of the amounts no later than October 1 each year.**

4 **(4) Subsection (3) of this section does not authorize the State Treasurer to transfer**
 5 **moneys from a fund or account of a reporting agency to the Resident Distribution Account.**

6 **SECTION 3. The Resident Distribution Account is established in the State Treasury,**
 7 **separate and distinct from the General Fund. Interest earned by the Resident Distribution**
 8 **Account shall be credited to the account. Moneys in the account are continuously appropri-**
 9 **ated to the Department of Revenue for purposes of administering and carrying out duties**
 10 **of the department under sections 1 to 9 of this 2017 Act.**

11 **SECTION 4. (1) No later than 90 days after the Department of Revenue receives a no-**
 12 **tification from the State Treasurer that moneys have been transferred to the Resident Dis-**
 13 **tribution Account, the department shall determine a pro rata amount for distribution based**
 14 **on the moneys available in the account, the number of qualifying individuals and the cost to**
 15 **the department to make the distributions. The department shall make distributions to qual-**
 16 **ifying individuals between January 1 and January 31 following determination of the distrib-**
 17 **ution amount.**

18 **(2) If a distribution is returned to the department as undeliverable, and the department**
 19 **cannot after a good faith effort locate the qualifying individual within two years after the**
 20 **undelivered distribution is returned to the department, the distribution is deemed abandoned.**

21 **(3) If the department determines that a distribution was received by an individual who**
 22 **did not qualify for the distribution, the department shall undertake collection efforts to re-**
 23 **cover the amount of the improper distribution.**

24 **(4) Notwithstanding ORS 98.302 to 98.436, amounts from abandoned distributions and**
 25 **amounts the department recovers from the collection of improper distributions shall be de-**
 26 **posited to the Criminal Injuries Compensation Account established under ORS 147.225.**

27 **SECTION 5. Notwithstanding section 4 of this 2017 Act, if the creditor of a qualifying**
 28 **individual delivers a writ of garnishment to the Department of Revenue, the department may**
 29 **pay all or part of the distribution due a qualifying individual to the creditor. Notwithstanding**
 30 **ORS 18.615 and except as provided in this section, 20 percent of a distribution is not**
 31 **garnishable property. All of a distribution is garnishable property if the garnishment is:**

32 **(1) Part of support enforcement services provided under ORS 25.080;**

33 **(2) Restitution to a crime victim ordered by a court under ORS 137.101 to 137.109;**

34 **(3) For the recovery of moneys due on a defaulted college or university education loan;**

35 **(4) For the recovery of damages from the parent of an unemancipated minor child under**
 36 **ORS 30.765;**

37 **(5) For the recovery of a public assistance or medical assistance overpayment as provided**
 38 **under ORS 411.703; or**

39 **(6) For the collection of an amount owed to a unit of state government.**

40 **SECTION 6. (1) To qualify for a distribution under section 4 of this 2017 Act, an individual**
 41 **must:**

42 **(a) Submit an application to the Department of Revenue;**

43 **(b) Be a resident of this state at the time the application is submitted;**

44 **(c) Have been a resident of this state during all of the distribution year;**

45 **(d) Have been physically present in this state for a continuous period of 72 hours or more**

1 during the two years immediately preceding the distribution year;

2 (e) Except as provided in section 7 of this 2017 Act, have been physically present in this
3 state during all of the distribution year;

4 (f) Be in compliance with United States Selective Service System registration require-
5 ments, if applicable; and

6 (g) Be:

7 (A) A United States citizen;

8 (B) An alien lawfully admitted for permanent residence in the United States;

9 (C) An alien with refugee status under federal law; or

10 (D) An alien that has been granted asylum under federal law.

11 (2) A parent, guardian or other authorized representative may submit an application and
12 claim a distribution on behalf of a qualifying unemancipated minor, person with a disability
13 or individual who has been declared incompetent.

14 (3) A personal representative may submit an application and collect a distribution for the
15 estate of a decedent who would have qualified for the distribution.

16 (4) Notwithstanding subsection (1)(b) to (d) of this section, a child who, two or more
17 years prior to the distribution year, is born to or adopted by a qualifying individual may also
18 qualify to receive a distribution.

19 (5) Notwithstanding subsections (1) to (4) of this section, an individual does not qualify
20 for a distribution if:

21 (a) The individual was at any time during the distribution year sentenced for a felony
22 committed in this state; or

23 (b) The individual was at any time during the distribution year incarcerated as a result
24 of:

25 (A) A felony committed in this state; or

26 (B) A misdemeanor committed in this state, and the individual was previously convicted
27 of a felony or two or more misdemeanors in this state.

28 **SECTION 7.** (1) Except as provided in this section, an application to receive a distribution
29 of moneys under section 4 of this 2017 Act must be filed with the Department of Revenue
30 no earlier than January 1 and no later than March 31 of the year prior to the January dis-
31 tribution by the department.

32 (2) If, at any time between January 1 and March 31 of the year prior to the January
33 distribution by the department, the individual was serving as a member of the Armed Forces
34 of the United States or the Oregon Military Department in a combat operations area, the
35 Department of Revenue:

36 (a) Shall accept an application filed by the individual no later than 90 days after the in-
37 dividual ceases to serve in a combat operations area; or

38 (b) May accept an application filed by the individual more than 90 days after the individ-
39 ual ceases to serve in a combat operations area if the individual shows good cause for the
40 delay.

41 (3) The Department of Revenue may request that an individual provide any information
42 the department requires to determine whether an individual qualifies for a distribution. The
43 department may suspend processing of an application pending the receipt of requested addi-
44 tional information. If the department suspends processing of an application under this sec-
45 tion, the individual may request a contested case hearing under ORS chapter 183.

1 (4) The Department of Revenue may delay a distribution if the department is notified by
2 a law enforcement agency that the qualified individual is required to register as a sex
3 offender and has not reported as required by law.

4 **SECTION 8.** The Department of Revenue may waive the requirement described in section
5 6 (1)(d) of this 2017 Act for the following individuals:

6 (1) An individual who was absent from this state on active duty orders during a declared
7 national emergency while serving in the Armed Forces of the United States or the Oregon
8 Military Department.

9 (2) A spouse or child of an individual described in subsection (1) of this section.

10 (3) An individual who by reason of court order was in the custody of the Oregon Health
11 Authority and placed outside this state by the authority for medical or behavioral treatment.

12 **SECTION 9.** (1) An individual who otherwise qualifies under section 6 of this 2017 Act for
13 a distribution and was a resident of this state for the six months immediately preceding an
14 absence described in this section may receive a distribution for each year in which the indi-
15 vidual was absent from this state:

16 (a) For the purpose of full-time secondary or post-secondary education;

17 (b) For the purpose of full-time enrollment in a vocational, professional or other post-
18 secondary training program, if no similar program is available in this state;

19 (c) While serving on active duty as a member of the Armed Forces of the United States;

20 (d) While a spouse or dependent of an individual described in paragraph (c) of this sub-
21 section;

22 (e) While employed on an oceangoing vessel of the United States Merchant Marine;

23 (f) For the purpose of receiving continuous medical care or convalescing as recommended
24 by a physician, other than a physician recommendation for change in climate;

25 (g) For the purpose of accompanying a minor described in paragraph (f) of this sub-
26 section;

27 (h) For the purpose of providing care to a critically ill family member requiring medical
28 care outside this state;

29 (i) For the purpose of providing care for a terminally ill family member;

30 (j) While settling the estate of a deceased family member, if all of the absences in the
31 year do not total more than 220 days;

32 (k) While serving as a member, or as a staff person for a member, of the Oregon Con-
33 gressional Delegation;

34 (L) While assigned as a state employee to a location outside this state;

35 (m) While a spouse or dependent accompanying a person absent as provided under para-
36 graphs (a), (b), (e) to (L), (p) or (q) of this subsection;

37 (n) While serving in the federal Peace Corps program;

38 (o) For training or competition as a member of a United States Olympic team or a United
39 States national team for an Olympic sport;

40 (p) For educational participation in a student fellowship sponsored by the United States
41 Department of Education or the United States Department of State; or

42 (q) For any other purpose consistent with an intent to remain a resident of this state,
43 if all of the absences in the year do not total:

44 (A) More than 180 days in addition to any absence claimed to be exempt under paragraph
45 (c) of this subsection and the individual does not claim any other exempt absence under

1 paragraphs (a), (b) or (d) to (p) of this subsection;

2 (B) More than 120 days in addition to the total of any other exempt absences claimed
 3 under paragraphs (a) to (c) of this subsection and the individual does not claim an exempt
 4 absence under paragraphs (d) to (p) of this subsection but claims an exempt absence under
 5 paragraph (a) of this subsection; or

6 (C) More than 45 days in addition to all other exempt absences claimed under paragraphs
 7 (a) to (p) of this subsection and the individual claims an exempt absence under paragraphs
 8 (d) to (p) of this subsection.

9 (2) There is a rebuttable presumption that an individual who is absent from this state for
 10 more than 180 days in each of the preceding five years is not a resident of this state for
 11 purposes of sections 1 to 9 of this 2017 Act. An individual may rebut the presumption by
 12 demonstrating that the individual:

13 (a) Was present in this state during the five years for a total of 30 days or more;

14 (b) Intends to remain in this state indefinitely and maintain a principal residence in this
 15 state; and

16 (c) Has not claimed residency or any benefits of residency in another state.

17 (3) In evaluating whether an individual has demonstrated intent to remain in this state
 18 indefinitely and maintain a principal residence in this state, the Department of Revenue shall
 19 consider all relevant factors, including but not limited to:

20 (a) The length of the individual's absences from this state in comparison with the number
 21 of days the individual was present in this state;

22 (b) The frequency and duration of voluntary presence in this state by the individual
 23 during the preceding five years;

24 (c) Whether the intent to return and maintain a residence in this state is dependent on
 25 circumstances beyond the control of the individual; and

26 (d) The connections that the individual has established with any other states.

27 **SECTION 10.** In addition to any other penalty provided by law, the Department of Re-
 28 venue may assess a civil penalty against an individual who submits false information to the
 29 department for the purpose of misrepresenting the qualification of any individual for a dis-
 30 tribution under sections 1 to 9 of this 2017 Act. The amount of the civil penalty may not
 31 exceed \$10,000.

32 **SECTION 11.** Section 2 of this 2017 Act applies to moneys the State Department of Ag-
 33 riculture, the Department of Environmental Quality, the State Department of Fish and
 34 Wildlife, the State Forestry Department, the Department of State Lands and the State Parks
 35 and Recreation Department receive during each July 1 to June 30 period that ends on or af-
 36 ter June 30, 2018.

37 _____