House Bill 2014

Sponsored by Representative OWENS (at the request of City of Ontario) (Presession filed.)

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 distribution of moneys in Oregon Marijuana Account to certain cities determined by population and location of city and based on share of retail sales of marijuana items in state, as exception to standard distributions based on city share of population and of licenses for marijuana-related businesses.

Applies to distributions from account occurring in calendar quarters beginning on or after January 1, 2022, and before July 1, 2027.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to distribution of revenues from taxes on marijuana items; creating new provisions; amending ORS 475B.759 and section 16, chapter 103, Oregon Laws 2018; and prescribing an effective date.

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

SECTION 1. ORS 475B.759 is amended to read:

475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475B.760.

(3) The Department of Revenue shall certify quarterly the amount of moneys available in the Oregon Marijuana Account.

(4) Subject to subsection (6) of this section, and after the transfer required in ORS 475B.895 (7), but before making any other transfer out of the Oregon Marijuana Account, the department shall make a quarterly transfer out of the Oregon Marijuana Account:

(a) To any city with a population exceeding 10,000 that is located in a combined statistical area, as designated by the United States Office of Management and Budget, with a population exceeding 600,000, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer.

(b) In a percentage of the amount certified under subsection (3) of this section that is calculated by taking the ratio, for the immediately preceding calendar quarter, of retail sales in the city compared to retail sales throughout the state, and dividing that ratio by 10.

[(b)] (5)(a) Subject to subsection [(4)] (6) of this section, the department shall transfer quarterly 20 percent of the moneys remaining in the Oregon Marijuana Account after the transfers required in subsection (4) of this section and section 16, chapter 103, Oregon Laws 2018, as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state, other than a city described in subsection (4) of this section, in the following shares:

(i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the popu-
lation of each city of this state that is not exempt from this paragraph pursuant to subsection [(4)(a) (6)(a)] of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection [(4)(a) (6)(a)] of this section, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of that calendar quarter for all premises in this state.

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state.

[(c)] (b) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for mental health treatment or for alcohol and drug abuse prevention, early intervention and treatment;

(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

[(4)(a)] (6)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection [(3)(b)(A)(i)] (5)(a)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection [(3)(b)(B)(i)] (5)(a)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection [(3)(b)(B)(ii)] (5)(a)(B)(ii) of this section.

[(5)(a)] (7)(a) A city or county that is ineligible under subsection [(4)] (6) of this section to receive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer of moneys for that quarter shall return the amount transferred to the Department of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or
country may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligible transfer.

(b) If the Director of the Oregon Department of Administrative Services determines that a city or county received a transfer of moneys under subsection [(3)/(b)] (5)(a) of this section but was ineligible to receive that transfer under subsection [(4)] (6) of this section, the director shall provide notice to the ineligible city or county and order the city or county to return the amount received to the Department of Revenue, with interest as described under paragraph (f) of this subsection. A city or county may appeal the order within 30 days of the date of the order under the procedures for a contested case under ORS chapter 183.

(c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall notify the Department of Revenue and the ineligible city or county. Upon notification, the Department of Revenue immediately shall proceed to collect the amount stated in the notice.

(d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in the notice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection described in this subsection is not precluded by any statute of limitations.

(e) If a city or county is subject to an order to return moneys from an ineligible transfer, the city or county shall be denied any further relief in connection with the ineligible transfer on or after the date that the order becomes final.

(f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on the date the ineligible transfer was made.

(g) Both the moneys and the interest collected from or returned by an ineligible city or county shall be redistributed to the cities or counties that were eligible to receive a transfer under subsection [(3)/(b)] (5)(a) of this section on the date the ineligible transfer was made.

[(6)/(a)] (8)(a) Not later than July 1 of each year, each city and county in this state shall certify with the Oregon Department of Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection [(3)/(b)/(A)] (5)(a)(A) of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection [(3)/(b)/(B)] (5)(a)(B) of this section.

(c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated certification with the Oregon Department of Administrative Services in a form and manner prescribed by the department, noting the effective date of the change. A city or county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under this section for quarters where the repeal is effective for the entire quarter and the updated certification was filed at least 30 days before the date of transfer.

SECTION 2. ORS 475B.759, as amended by section 1 of this 2021 Act, is amended to read:

475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the General Fund.

(2) The account shall consist of moneys transferred to the account under ORS 475B.760.

(3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the
Oregon Marijuana Account.

[(4) Subject to subsection (6) of this section, and after the transfer required in ORS 475B.895 (7), but before making any other transfer out of the Oregon Marijuana Account, the department shall make a quarterly transfer out of the Oregon Marijuana Account:]

[(a) To any city with a population exceeding 10,000 that is located in a combined statistical area, as designated by the United States Office of Management and Budget, with a population exceeding 600,000, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer.]

[(b) In a percentage of the amount certified under subsection (3) of this section that is calculated by taking the ratio, for the immediately preceding calendar quarter, of retail sales in the city compared to retail sales throughout the state, and dividing that ratio by 10.]

[(5)(a)] Subject to subsection [(6)] (4) of this section, the department shall transfer quarterly 20 percent of the moneys remaining in the Oregon Marijuana Account [after the transfers required in subsection (4) of this section and section 16, chapter 103, Oregon Laws 2018,] as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state, other than a city described in subsection (4) of this section, in the following shares:

(i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the population of each city of this state that is not exempt from this paragraph pursuant to subsection [(6)(a)] (4)(a) of this section compared to the population of all cities of this state that are not exempt from this paragraph pursuant to subsection [(6)(a)] (4)(a) of this section, as determined by Portland State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the transfer; and

(ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each city compared to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state located in cities; and

(B) Ten percent of the moneys in the account must be transferred to counties in the following shares:

(i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer for all premises located in each county compared to the total commercially available area of all grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the last business day of that calendar quarter for all premises in this state; and

(ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the calendar quarter preceding the date of the transfer for premises located in each county compared to the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of that calendar quarter for all premises in this state.

[(b)] (c) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

(A) Forty percent of the moneys in the account must be used solely for purposes for which moneys in the State School Fund established under ORS 327.008 may be used;

(B) Twenty percent of the moneys in the account must be used solely for mental health treatment or for alcohol and drug abuse prevention, early intervention and treatment;
(C) Fifteen percent of the moneys in the account must be used solely for purposes for which moneys in the State Police Account established under ORS 181A.020 may be used; and

(D) Five percent of the moneys in the account must be used solely for purposes related to alcohol and drug abuse prevention, early intervention and treatment services.

[(6)(a)] (4)(a) A city that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection [(5)(a)(A)] (3)(b)(A) of this section.

(b) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under subsection [(5)(a)(B)(i)] (3)(b)(B)(i) of this section.

(c) A county that has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive transfers of moneys under subsection [(5)(a)(B)(ii)] (3)(b)(B)(ii) of this section.

[(7)(a)] (5)(a) A city or county that is ineligible under subsection [(6)] (4) of this section to receive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer of moneys for that quarter shall return the amount transferred to the Department of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligible transfer.

(b) If the Director of the Oregon Department of Administrative Services determines that a city or county received a transfer of moneys under subsection [(5)(a)] (3)(a) of this section but was ineligible to receive that transfer under subsection [(6)] (4) of this section, the director shall provide notice to the ineligible city or county and order the city or county to return the amount received to the Department of Revenue, with interest as described under paragraph (f) of this subsection. A city or county may appeal the order within 30 days of the date of the order under the procedures for a contested case under ORS chapter 183.

(c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall notify the Department of Revenue and the ineligible city or county. Upon notification, the Department of Revenue immediately shall proceed to collect the amount stated in the notice.

(d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the collection of income and excise taxes and may proceed to collect the amounts described in the notice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection described in this subsection is not precluded by any statute of limitations.

(e) If a city or county is subject to an order to return moneys from an ineligible transfer, the city or county shall be denied any further relief in connection with the ineligible transfer on or after the date that the order becomes final.

(f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on the date the ineligible transfer was made.

(g) Both the moneys and the interest collected from or returned by an ineligible city or county shall be redistributed to the cities or counties that were eligible to receive a transfer under subsection [(5)(a)] (3)(b) of this section on the date the ineligible transfer was made.

[(8)(a)] (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with the Oregon Department of Administrative Services whether the city or county has an ordinance prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the
certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Administrative Services.

(b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of moneys under subsection [(5)(a)(A) (3)(b)(A)] of this section. If a county fails to comply with this subsection, the county is not eligible to receive transfers of moneys under subsection [(5)(a)(B) (3)(b)(B)] of this section.

(c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated certification with the Oregon Department of Administrative Services in a form and manner prescribed by the department, noting the effective date of the change. A city or county that repeals an ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under this section for quarters where the repeal is effective for the entire quarter and the updated certification was filed at least 30 days before the date of transfer.

SECTION 3. Section 16, chapter 103, Oregon Laws 2018, is amended to read:

Sec. 16. (1) Notwithstanding ORS 475B.759 (5), after making the transfers required under ORS 475B.759 (4) and 475B.895 (7), but before making any other distribution from the Oregon Marijuana Account established under ORS 475B.759, the Department of Revenue shall first distribute quarterly from the account the following:

(a) $875,000 to the Oregon Liquor Control Commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296; and

(b) $375,000 to the Oregon Criminal Justice Commission for deposit into the Illegal Marijuana Market Enforcement Grant Program Fund established under section 15, chapter 103, Oregon Laws 2018, [of this 2018 Act] for the purposes of paying the costs incurred by the commission in carrying out the provisions of section 13, chapter 103, Oregon Laws 2018 [of this 2018 Act].

(2) The final distribution made under subsection (1) of this section shall be made in the fiscal quarter beginning on October 1, 2023.

SECTION 4. (1) The amendments to ORS 475B.759 by section 1 of this 2021 Act apply to distributions from the Oregon Marijuana Account occurring in calendar quarters beginning on or after January 1, 2022, and before July 1, 2027.

(2) The amendments to ORS 475B.759 by section 2 of this 2021 Act apply to distributions from the Oregon Marijuana Account occurring in calendar quarters beginning on or after July 1, 2027.

SECTION 5. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.