

# House Bill 3295

Sponsored by Representative KROPF

## 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**.

Modifies city and county eligibility requirements for transfer of moneys from marijuana revenue.

## A BILL FOR AN ACT

Relating to marijuana revenue; creating new provisions; and amending ORS 475B.759.

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

**SECTION 1.** ORS 475B.759, as amended by section 10, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), 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.

(b) Subject to subsection (4) of this section, and after making the transfer of moneys required by subsection (7) of this section, the department shall transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:

(A) Ten percent of the moneys in the account must be transferred to the cities of this state 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 (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 (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

**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 last business day of that calendar quarter for all premises located in this state; and

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

7 (c) After making the transfer of moneys required by subsection (7) of this section, eighty percent  
 8 of the remaining moneys in the Oregon Marijuana Account must be used as follows:

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

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

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

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

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

20 (b) A county that has an ordinance prohibiting the establishment of a premises for which issu-  
 21 ance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under  
 22 subsection (3)(b)(B)(i) of this section.

23 (c) A county that [*has an ordinance prohibiting*] **prohibits by ordinance** the establishment of  
 24 [*a*] **all** premises for which issuance of a license under ORS 475B.090, 475B.100 or 475B.105 is re-  
 25 quired is not eligible to receive transfers of moneys under subsection (3)(b)(B)(ii) of this section.

26 **(d) Paragraphs (a) to (c) of this subsection apply to a city or county ordinance that pro-**  
 27 **hibits the continued operation of existing premises or the establishment of additional prem-**  
 28 **ises for which a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required.**

29 (5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer  
 30 of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer  
 31 of moneys for that quarter shall return the amount transferred to the Department of Revenue, with  
 32 interest as described under paragraph (f) of this subsection. An ineligible city or county may vol-  
 33 untarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligi-  
 34 ble transfer.

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

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

45 (d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the

1 collection of income and excise taxes and may proceed to collect the amounts described in the no-  
 2 tice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection  
 3 described in this subsection is not precluded by any statute of limitations.

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

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

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

12 (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with  
 13 the Oregon Department of Administrative Services whether the city or county has an ordinance  
 14 prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070,  
 15 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the  
 16 certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of  
 17 Administrative Services.

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

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

27 (7) Before making the transfer of moneys required by subsection (3) of this section, the depart-  
 28 ment shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the  
 29 Oregon Marijuana Account in excess of \$11,250,000.

30 **SECTION 2. The amendments to ORS 475B.759 by section 1 of this 2021 Act apply to city**  
 31 **and county ordinances in effect on and after the effective date of this 2021 Act.**

32