

# House Bill 3477

Sponsored by Representative MANNIX

## 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**.

Removes tiers, based on length of track or public ownership of railroad, that establish distinction between types of short line railroads for purposes of determining amount of tax credit allowed for rehabilitation of short line railroad.

Applies to tax years beginning on or after January 1, 2024, and before January 1, 2026.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to railroads; amending ORS 315.591, 315.593 and 315.595 and section 17, chapter 579,  
3 Oregon Laws 2019; and prescribing an effective date.

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

5 **SECTION 1.** ORS 315.591 is amended to read:

6 315.591. As used in ORS 315.591 to 315.603:

7 (1) "Infrastructure" includes tracks, switches, sidings, roadbeds, railroad bridges and industrial  
8 leads owned or leased by a short line railroad.

9 (2) "Short line railroad" means a class II or class III railroad as defined in 49 C.F.R. 1201.

10 (3) "Short line railroad rehabilitation project" means a project that involves the maintenance,  
11 reconstruction or replacement of infrastructure.

12 (4) "Short line railroad rehabilitation project costs" means costs that are directly related to the  
13 work necessary to maintain, reconstruct or replace infrastructure. "Short line railroad rehabilitation  
14 project costs" does not include costs that are funded by or used to qualify for any state or federal  
15 grants, or costs that are used to claim a federal tax credit.

16 [(5) "*Tier I short line railroad*" means a short line railroad owned or leased by a person for whom  
17 the total length of short line railroad track owned or leased in Oregon is equal to or greater than 200  
18 miles. The total amount of short line railroad track in Oregon calculated under this subsection includes  
19 any short line railroad track owned or leased by the person, or if the person is a corporation, by the  
20 person's parent corporation or subsidiaries, regardless of whether the track is owned or leased by one  
21 or more railroads.]

22 [(6) "*Tier II short line railroad*" means a short line railroad that is not a tier I short line railroad  
23 or is a short line railroad owned or leased by the state, a city, a county, a port or any other public  
24 or municipal corporation.]

25 **SECTION 2.** ORS 315.593 is amended to read:

26 315.593. (1) A credit against taxes imposed by ORS chapter 316 (or, if the taxpayer is a corpo-  
27 ration, under ORS chapter 317 or 318) is allowed to a taxpayer, based upon short line railroad re-  
28 habilitation project costs actually paid or incurred by the taxpayer during the tax year for which  
29 the credit is claimed.

30 (2) The credit allowed under this section shall be the [*least*] **lesser** of:

**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        *[(a) In the case of a tier I short line railroad, \$1,000 multiplied by the number of miles of short line*  
 2 *railroad track the taxpayer owns or leases in this state on the day the short line railroad rehabilitation*  
 3 *project is completed;]*

4        *[(b) (a) [In the case of a tier II short line railroad,] \$3,500 multiplied by the number of miles of*  
 5 *short line railroad track the taxpayer owns or leases in this state on the day the short line railroad*  
 6 *rehabilitation project is completed; or*

7        *[(c) (b) Fifty percent of the short line railroad rehabilitation project costs paid or incurred by*  
 8 *the taxpayer during the tax year in which the credit is claimed.*

9        (3) For the credit to be allowed under this section:

10        (a) The infrastructure must be located in Oregon; and

11        (b) The taxpayer must:

12        (A) Own or lease the infrastructure;

13        (B) Be a short line railroad; and

14        (C) Receive a final written certification from the Department of Transportation before claiming  
 15 the credit.

16        (4) The amount of the credit claimed under this section for any one tax year may not exceed the  
 17 tax liability of the taxpayer.

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

27        (6) The credit allowed under this section is not in lieu of any depreciation or amortization de-  
 28 duction for the short line railroad rehabilitation project to which the taxpayer otherwise may be  
 29 entitled for purposes of ORS chapter 316, 317 or 318 for the tax year.

30        (7) The taxpayer's adjusted basis for determining gain or loss may not be decreased by any tax  
 31 credit allowed under this section.

32        (8) The credit shall be claimed on a form prescribed by the Department of Revenue that contains  
 33 the information required by the department.

34        (9) In the case of a credit allowed under this section:

35        (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
 36 ORS 316.117.

37        (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 38 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 39 ORS 316.117.

40        (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 41 Department of Revenue terminates a taxpayer's taxable year under ORS 314.440, the credit allowed  
 42 under this section shall be prorated or computed in a manner consistent with ORS 314.085.

43        (10) A person that has earned a tax credit under this section may transfer the credit to a tax-  
 44 payer subject to tax under ORS chapter 316, 317 or 318. The transfer must comply with ORS 315.056.

45        (11) The Director of Transportation may order the suspension or revocation of a certification

1 issued under this section, as provided in ORS 315.061.

2 **SECTION 3.** ORS 315.595 is amended to read:

3 315.595. (1) Prior to construction of a short line railroad rehabilitation project, a taxpayer may  
 4 apply to the Department of Transportation for preliminary certification of the project in the manner  
 5 prescribed by rules adopted under this section, which must include:

6 (a) Timelines and deadlines for submission of application materials;

7 (b) A description of the information required by the department to determine that the taxpayer  
 8 qualifies for the credit allowed under ORS 315.593;

9 (c) Criteria for determining the amount of the tax credit allowed under ORS 315.593, including  
 10 standards for what constitutes completion of a short line railroad rehabilitation project;

11 (d) The process by which an applicant will be notified of an incomplete application and the time  
 12 allowed for the applicant to provide the missing information; and

13 (e) The month and date by which the department must notify an applicant of the preliminary  
 14 certification decision and the potential amount of the tax credit for which the applicant has received  
 15 preliminary certification.

16 (2) If the total amount of potential tax credits allowed under ORS 315.593 for all taxpayers that  
 17 have applied for preliminary certification exceeds the limit in ORS 315.603, the department shall  
 18 *[allocate the tax credits allowed under ORS 315.593 as follows:]* **divide the available tax credits**  
 19 **among taxpayers proportionally, based on the amount each taxpayer would have otherwise**  
 20 **received under ORS 315.593.**

21 *[(a) By giving first priority to all tier II short line railroads that own or lease less than 75 miles*  
 22 *of short line railroad track in this state; and]*

23 *[(b) By giving second priority to all tier II short line railroads not described in paragraph (a) of*  
 24 *this subsection.]*

25 *[(3) If the department must allocate tax credits to a group of taxpayers in an amount that is less*  
 26 *than the amount the taxpayers would otherwise receive under ORS 315.593, the department shall divide*  
 27 *the available tax credits among the group proportionally, based on the amount each taxpayer would*  
 28 *have otherwise received under ORS 315.593.]*

29 **SECTION 4.** Section 17, chapter 579, Oregon Laws 2019, is amended to read:

30 **Sec. 17.** (1) *[Sections 7 to 14 of this 2019 Act]* **ORS 315.591 to 315.603** apply to tax years begin-  
 31 ning on or after January 1, 2020, and before January 1, 2026.

32 (2) Except as provided in *[section 8 (5) of this 2019 Act]* **ORS 315.593 (5)**, a credit may not be  
 33 claimed under *[section 8 of this 2019 Act]* **ORS 315.593** for tax years beginning on or after January  
 34 1, 2026.

35 **(3) The amendments to ORS 315.591, 315.593 and 315.595 by sections 1 to 3 of this 2023**  
 36 **Act apply to tax years beginning on or after January 1, 2024, and before January 1, 2026.**

37 **SECTION 5.** **This 2023 Act takes effect on the 91st day after the date on which the 2023**  
 38 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

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