

House Bill 2857

Sponsored by COMMITTEE ON JUDICIARY (at the request of State Court Facilities Task Force)

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**.

Creates State Court Facilities Account. Provides that moneys in account may be used only to pay costs of maintaining, improving, replacing or expanding state court facilities.

Imposes \$3 per page fee on recordings and filings made in County Clerk Lien Record.

Directs Secretary of State to collect annual fee of \$50 from each business corporation, limited liability company, limited liability partnership and limited partnership authorized to conduct business in state. Increases annual fee to \$100 on January 1, 2009. Requires that fees collected by secretary be deposited in State Court Facilities Account.

Authorizes use of lottery funds and certificates of participation to finance construction or renovation of state courthouse facilities.

Authorizes use of money from grant programs developed by Director of the Office of Emergency Management for seismic rehabilitation of court facilities.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to state court facilities; creating new provisions; amending ORS 56.041, 56.140, 205.323, 283.085, 401.300 and 461.540; appropriating money; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

STATE COURT FACILITIES ACCOUNT

SECTION 1. There is established in the General Fund of the State Treasury the State Court Facilities Account. The account shall consist of moneys deposited in the account under ORS 56.041 (5) and such other moneys as may be appropriated to the account by law. Moneys in the State Court Facilities Account are continuously appropriated to the Oregon Department of Administrative Services, and may be used only for the purpose of paying the costs of maintaining, improving, replacing or expanding state court facilities.

SECTION 2. During the 2007-2009 biennium, moneys in the State Court Facilities Account may be used only for the purpose of paying the costs of studying and preparing recommendations relating to maintaining, improving, replacing or expanding state court facilities.

COUNTY RECORDING FEES

SECTION 3. ORS 205.323 is amended to read:

205.323. (1) In addition to and not in lieu of the fees charged and collected under ORS 205.320 and other fees, the following fees shall be charged and collected for the recording or filing of any instrument described in ORS 205.130:

(a) A fee of \$1, to be credited as provided in subsection (3)(a) of this section; *[and]*

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.

(b) A fee of \$10, to be credited as provided in subsection (3)(b) of this section; **and**

(c) A fee of \$3, to be credited as provided in subsection (3)(c) of this section.

(2) Subsection (1) of this section does not apply to the recording or filing of the following:

(a) Instruments that are otherwise exempt from recording or filing fees under any provision of law;

(b) Any satisfaction of judgment or certificate of satisfaction of judgment; or

(c) Internal county government instruments not otherwise charged a recording or filing fee.

(3) Of the amounts charged and collected under this section:

(a) The recording or filing fee charged and collected under subsection (1)(a) of this section shall be deposited and credited to the Oregon Land Information System Fund established under ORS 306.132; *[and]*

(b) Of the recording or filing fee charged and collected under subsection (1)(b) of this section, five percent shall be credited for the benefit of the county, five percent shall be credited for the benefit of the county clerk for the purposes described in ORS 205.320 (18) and 90 percent shall be deposited and credited to the County Assessment and Taxation Fund created under ORS 294.187; **and**

(c) The recording or filing fee charged and collected under subsection (1)(c) of this section shall be deposited in the State Court Facilities Account established under section 1 of this 2007 Act.

SECTION 4. The amendments to ORS 205.323 by section 3 of this 2007 Act apply to instruments recorded or filed on or after January 1, 2008.

BUSINESS REGISTRATION FEES

SECTION 5. ORS 56.140 is amended to read:

56.140. (1) The Secretary of State shall collect a nonrefundable fee of \$50 for each document delivered for filing to the Secretary of State as part of the secretary's business registry functions described in ORS 56.022.

(2) In addition to the fee described in subsection (1) of this section, the Secretary of State shall collect a nonrefundable fee of \$50 from each business corporation, limited liability company, limited liability partnership and limited partnership authorized to conduct business in this state under ORS chapters 60, 63, 67 and 70 as part of the secretary's business registry functions under ORS 56.022. The secretary shall adopt rules prescribing the procedures and deadlines for paying the fee required by this subsection.

[(2)] (3) The Secretary of State by rule may establish fees, in addition to those provided for in [subsection (1)] **subsections (1) and (2)** of this section, for:

(a) Copying any public record maintained by the secretary and relating to the secretary's business registry functions, and for certifying the copy; and

(b) Certifying to other facts of record, including certificates of existence, relating to the secretary's business registry functions.

[(3)] (4) The Secretary of State shall collect a nonrefundable fee of \$20 each time process is served on the Secretary of State and the process relates to the secretary's business registry functions.

[(4)] (5) The Secretary of State may waive collection of any fee, charge or interest, or portion of a fee, charge or interest, that is collectible by the Secretary of State as part of the secretary's

1 business registry functions.

2 [(5)] (6) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
 3 lowing services relating to the secretary's business registry functions:

- 4 (a) Computer generated lists on electronic data processing media.
- 5 (b) Terminal access to the files of the office.
- 6 (c) Microfilm records of the files of the office.
- 7 (d) Microfilm processing and development services.
- 8 (e) Copies of the programs and files on paper or electronic data processing media.

9 **SECTION 6. The amendments to ORS 56.140 by section 5 of this 2007 Act become opera-**
 10 **tive on January 1, 2008.**

11 **SECTION 7.** ORS 56.140, as amended by section 5 of this 2007 Act, is amended to read:

12 56.140. (1) The Secretary of State shall collect a nonrefundable fee of \$50 for each document
 13 delivered for filing to the Secretary of State as part of the secretary's business registry functions
 14 described in ORS 56.022.

15 (2) In addition to the fee described in subsection (1) of this section, the Secretary of State shall
 16 collect a nonrefundable fee of [\$50] **\$100** from each business corporation, limited liability company,
 17 limited liability partnership and limited partnership authorized to conduct business in this state
 18 under ORS chapters 60, 63, 67 and 70 as part of the secretary's business registry functions under
 19 ORS 56.022. The secretary shall adopt rules prescribing the procedures and deadlines for paying the
 20 fee required by this subsection.

21 (3) The Secretary of State by rule may establish fees, in addition to those provided for in sub-
 22 sections (1) and (2) of this section, for:

- 23 (a) Copying any public record maintained by the secretary and relating to the secretary's busi-
 24 ness registry functions, and for certifying the copy; and
- 25 (b) Certifying to other facts of record, including certificates of existence, relating to the secre-
 26 tary's business registry functions.

27 (4) The Secretary of State shall collect a nonrefundable fee of \$20 each time process is served
 28 on the Secretary of State and the process relates to the secretary's business registry functions.

29 (5) The Secretary of State may waive collection of any fee, charge or interest, or portion of a
 30 fee, charge or interest, that is collectible by the Secretary of State as part of the secretary's busi-
 31 ness registry functions.

32 (6) The Secretary of State by rule shall establish and collect reasonable fees for the following
 33 services relating to the secretary's business registry functions:

- 34 (a) Computer generated lists on electronic data processing media.
- 35 (b) Terminal access to the files of the office.
- 36 (c) Microfilm records of the files of the office.
- 37 (d) Microfilm processing and development services.
- 38 (e) Copies of the programs and files on paper or electronic data processing media.

39 **SECTION 8. The amendments to ORS 56.140 by section 7 of this 2007 Act become opera-**
 40 **tive on January 1, 2009.**

41 **SECTION 9.** ORS 56.041 is amended to read:

42 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

43 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
 44 penalties and miscellaneous revenues from all sources relating to business registry functions, and
 45 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,

1 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
 2 Treasurer and deposited at least monthly in the Operating Account.

3 (3) Moneys deposited to the credit of the Operating Account are continuously appropriated for
 4 the expenses of carrying out the functions and duties of the Secretary of State relating to business
 5 registry, and the functions and duties of the Secretary of State under ORS chapters 79 and 194 and
 6 ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831.

7 (4) At the end of each month:

8 (a) The Secretary of State shall determine for that month the number of business registry filings
 9 for which the Secretary of State collected the fee described in ORS 56.140 (1); and

10 (b) An amount equal to \$30 for each business registry filing described in paragraph (a) of this
 11 subsection shall be transferred to the General Fund and shall become available for general govern-
 12 mental expenses.

13 **(5) At the end of each month, the Secretary of State shall determine for that month the**
 14 **amount of fees received by the secretary under ORS 56.140 (2) and transfer that amount to**
 15 **the State Court Facilities Account established under section 1 of this 2007 Act.**

16 ~~[(5)]~~ (6) As of July 1 of each year, any unexpended and unobligated balance in the Operating
 17 Account that is in excess of the amount that is necessary to administer the functions and duties of
 18 the Secretary of State as described in subsection (3) of this section for two months, as certified by
 19 the Secretary of State, shall be transferred to the General Fund and shall become available for
 20 general governmental expenses.

21 **SECTION 10. (1) The amendments to ORS 56.041 by section 9 of this 2007 Act become**
 22 **operative January 1, 2008.**

23 **(2) The amendments to ORS 56.041 by section 9 of this 2007 Act apply to amounts de-**
 24 **posited in the Operating Account on or after January 1, 2008.**

25
 26 **LOTTERY FUNDS**
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28 **SECTION 11.** ORS 461.540 is amended to read:

29 461.540. (1) There hereby is established in the General Fund of the State Treasury the Admin-
 30 istrative Services Economic Development Fund. All moneys transferred from the State Lottery Fund,
 31 interest earnings credited to this fund and other moneys authorized to be transferred to this fund
 32 from whatever source are appropriated continuously for any of the following public purposes:

- 33 (a) Creating jobs;
- 34 (b) Furthering economic development in Oregon; or
- 35 (c) Financing public education.

36 (2) Moneys shall be transferred from the Administrative Services Economic Development Fund
 37 to the Education Stability Fund established under ORS 348.696 as described in section 4, Article XV
 38 of the Oregon Constitution.

39 (3) As used in this section and section 4, Article XV of the Oregon Constitution:

40 (a) "Creating jobs" includes, but is not limited to:

- 41 (A) Supporting the creation of new jobs in Oregon;
- 42 (B) Helping prevent the loss of existing jobs in Oregon;
- 43 (C) Assisting with work transition to new jobs in Oregon; or
- 44 (D) Training or retraining workers.

45 (b) "Education" includes, but is not limited to, the Education Stability Fund established under

1 ORS 348.696 and specific programs that support the following:

- 2 (A) Prekindergartens;
- 3 (B) Elementary and secondary schools;
- 4 (C) Community colleges;
- 5 (D) Higher education;
- 6 (E) Continuing education;
- 7 (F) Workforce training and education programs; or
- 8 (G) Financial assistance to Oregon students.

9 (c) "Furthering economic development" includes, but is not limited to, providing:

10 (A) Services or financial assistance to for-profit and nonprofit businesses located or to be lo-
11 cated in Oregon;

12 (B) Services or financial assistance to business or industry associations to promote, expand or
13 prevent the decline of their businesses;

14 (C) **Services or financial assistance for construction or renovation of state court facili-**
15 **ties;** or

16 [(C)] (D) Services or financial assistance for facilities, physical environments or development
17 projects, as defined in ORS 285B.410, that benefit Oregon's economy.

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19 **CERTIFICATES OF PARTICIPATION**

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21 **SECTION 12.** ORS 283.085 is amended to read:

22 283.085. As used in ORS 283.085 to 283.092, 286.515 and 286.525:

23 (1) "Available funds" means funds appropriated or otherwise made available by the Legislative
24 Assembly to pay amounts due under a financing agreement for the fiscal period in which the pay-
25 ments are due, together with any unexpended proceeds of the financing agreement, and any reserves
26 or other amounts which have been deposited in trust to pay amounts due under the financing
27 agreement.

28 (2) "Credit enhancement agreement" means any agreement or contractual relationship between
29 the state and any bank, trust company, insurance company, surety bonding company, pension fund
30 or other financial institution providing additional credit on or security for a financing agreement
31 or certificates of participation authorized by ORS 283.085 to 283.092, 286.515 and 286.525.

32 (3) "Director" means the Director of the Oregon Department of Administrative Services.

33 (4)(a) "Financing agreement" means a lease purchase agreement, an installment sale agreement,
34 a loan agreement or any other agreement:

35 (A) To finance real or personal property that is or will be owned and operated by the state or
36 any of its agencies;

37 (B) To finance infrastructure related to a facility that is owned and operated by the state;

38 (C) To finance infrastructure components that are owned or operated by a local government
39 agency of this state if the director determines that financing the infrastructure will facilitate the
40 construction or operation of an adult or juvenile corrections facility or a public safety training fa-
41 cility owned and operated by the state or any of its agencies;

42 (D) To finance all or a portion of the state's pension liabilities for retirement, health care or
43 disability benefits, in an amount that produces net proceeds that do not exceed the State Treasurer's
44 estimate of those liabilities based on information provided to the State Treasurer by the Public
45 Employees Retirement System;

1 emergency functions provided by the structure and storage of hazardous materials.

2 (c) Allow an applicant to appeal any determination of grant funding to the director for reeval-
3 uation.

4 (d) Provide that applicants release the state, the director and the grant committee from any
5 claims of liability for providing funding for seismic rehabilitation.

6 (e) Provide separate rules for funding rehabilitation of structural and nonstructural building el-
7 ements.

8 (4) Subject to the grant rules established by the director and subject to reevaluation by the di-
9 rector, the grant committee has the responsibility to review and make determinations on grant ap-
10 plications under the grant program established pursuant to this section.

11
12 **MISCELLANEOUS**
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14 **SECTION 14. The Secretary of State and State Treasurer may take any action before the**
15 **operative date of the amendments to ORS 56.041 and 56.140 by sections 5 and 9 of this 2007**
16 **Act that is necessary to enable the secretary and treasurer to exercise, on and after the**
17 **operative date of the amendments to ORS 56.041 and 56.140 by sections 5 and 9 of this 2007**
18 **Act, all the duties, functions and powers conferred upon the secretary and treasurer by the**
19 **amendments to ORS 56.041 and 56.140 by sections 5 and 9 of this 2007 Act.**

20 **SECTION 15. The unit captions used in this 2007 Act are provided only for the conven-**
21 **ience of the reader and do not become part of the statutory law of this state or express any**
22 **legislative intent in the enactment of this 2007 Act.**

23 **SECTION 16. This 2007 Act takes effect on the 91st day after the date on which the**
24 **regular session of the Seventy-fourth Legislative Assembly adjourns sine die.**
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