

House Bill 4070

Sponsored by Representative HUFFMAN; Representatives BREWER, CAMERON, ESQUIVEL, KRIEGER, PARRISH, SHEEHAN, THATCHER, WAND, WHISNANT, WINGARD, Senator OLSEN (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**.

Applies sunsets to filing fee provisions and certain corporate tax provisions of Ballot Measure 67 (2010).

Reduces corporate minimum tax on corporations with sales of \$1 million or more. Reduces corporate excise tax rates. Repeals \$150 entity tax on partnerships. Applies to tax years beginning on or after January 1, 2012.

Decreases filing fee for specified documents delivered to Secretary of State. Decreases maximum filing fee for financing statements and other records related to Uniform Commercial Code. Decreases maximum application fee for appointment as notary public. Applies to documents and records filed, applications made and fees collected on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to state finance; creating new provisions; amending ORS 56.041, 56.140, 79.0525, 194.020,
3 317.061 and 317.090 and section 8, chapter 745, Oregon Laws 2009; repealing ORS 314.725 and
4 section 10, chapter 745, Oregon Laws 2009; and prescribing an effective date.

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

6 **SECTION 1.** ORS 317.090 is amended to read:

7 317.090. (1) As used in this section:

8 (a) "Oregon sales" means:

9 (A) If the corporation apportions business income under ORS 314.650 to 314.665 for Oregon tax
10 purposes, the total sales of the taxpayer in this state during the tax year, as determined for purposes
11 of ORS 314.665;

12 (B) If the corporation does not apportion business income for Oregon tax purposes, the total
13 sales in this state that the taxpayer would have had, as determined for purposes of ORS 314.665, if
14 the taxpayer were required to apportion business income for Oregon tax purposes; or

15 (C) If the corporation apportions business income using a method different from the method
16 prescribed by ORS 314.650 to 314.665, Oregon sales as defined by the Department of Revenue by
17 rule.

18 (b) If the corporation is an agricultural cooperative that is a cooperative organization described
19 in section 1381 of the Internal Revenue Code, "Oregon sales" does not include sales representing
20 business done with or for members of the agricultural cooperative.

21 (2) Each corporation or affiliated group of corporations filing a return under ORS 317.710 shall
22 pay annually to the state, for the privilege of carrying on or doing business by it within this state,
23 a minimum tax as follows:

24 (a) If Oregon sales properly reported on a return are:

25 (A) [*Less than*] \$500,000 **or less**, the minimum tax is \$150.

26 (B) **More than** \$500,000 [*or more, but less than \$1 million*], the minimum tax is \$500.

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 [(C) \$1 million or more, but less than \$2 million, the minimum tax is \$1,000.]

2 [(D) \$2 million or more, but less than \$3 million, the minimum tax is \$1,500.]

3 [(E) \$3 million or more, but less than \$5 million, the minimum tax is \$2,000.]

4 [(F) \$5 million or more, but less than \$7 million, the minimum tax is \$4,000.]

5 [(G) \$7 million or more, but less than \$10 million, the minimum tax is \$7,500.]

6 [(H) \$10 million or more, but less than \$25 million, the minimum tax is \$15,000.]

7 [(I) \$25 million or more, but less than \$50 million, the minimum tax is \$30,000.]

8 [(J) \$50 million or more, but less than \$75 million, the minimum tax is \$50,000.]

9 [(K) \$75 million or more, but less than \$100 million, the minimum tax is \$75,000.]

10 [(L) \$100 million or more, the minimum tax is \$100,000.]

11 (b) If a corporation is an S corporation, the minimum tax is \$150.

12 (3) The minimum tax is not apportionable (except in the case of a change of accounting periods),
13 and is payable in full for any part of the year during which a corporation is subject to tax.

14 **SECTION 2.** ORS 317.061, as amended by section 9, chapter 745, Oregon Laws 2009, is amended
15 to read:

16 317.061. The rate of the tax imposed by and computed under this chapter is[:]

17 [(1)] six and six-tenths percent. [*of the first \$10 million of taxable income, or fraction thereof;*
18 *and*]

19 [(2) *Seven and six-tenths percent of any amount of taxable income in excess of \$10 million.*]

20 **SECTION 3.** Section 8, chapter 745, Oregon Laws 2009, is amended to read:

21 **Sec. 8.** The amendments to ORS 317.061 by section 7, **chapter 745, Oregon Laws 2009**, [*of this*
22 *2009 Act*] apply to tax years beginning on or after January 1, 2011, and before January 1, [2013]
23 **2012.**

24 **SECTION 4. (1) The amendments to ORS 317.090 by section 1 of this 2012 Act and the**
25 **repeal of ORS 314.725 by section 13 of this 2012 Act apply to tax years beginning on or after**
26 **January 1, 2012.**

27 **(2) The amendments to ORS 317.061 by section 2 of this 2012 Act apply to tax years be-**
28 **ginning on or after January 1, 2012.**

29 **SECTION 5.** ORS 56.140 is amended to read:

30 56.140. [(1) *The Secretary of State shall collect a nonrefundable fee of \$100 for each of the following*
31 *documents delivered to the Secretary of State for filing:*]

32 [(a) *Articles of incorporation delivered for filing under ORS 58.085.*]

33 [(b) *Articles of incorporation delivered for filing under ORS 60.051.*]

34 [(c) *Articles of incorporation delivered for filing under ORS 62.511.*]

35 [(d) *Articles of organization delivered for filing under ORS 63.051.*]

36 [(e) *Applications for registration delivered for filing under ORS 67.590.*]

37 [(f) *Certificates of limited partnership delivered for filing under ORS 70.075.*]

38 [(g) *Trust documents delivered for filing under ORS 128.575.*]

39 [(h) *Articles of incorporation delivered for filing under ORS 554.020.*]

40 [(2) *The Secretary of State shall collect a nonrefundable fee of \$100 for annual reports delivered*
41 *for filing by an entity subject to a fee under subsection (1) of this section, and for any other related*
42 *document that the entity is allowed or required to file with the Secretary of State.*]

43 [(3) *The Secretary of State shall collect a nonrefundable fee of \$275 for each of the following doc-*
44 *uments delivered to the Secretary of State for filing:*]

45 [(a) *Applications for authority to transact business in this state delivered under ORS 58.134,*

1 60.707, 63.707 or 67.710.]

2 [(b) Applications for registration under ORS 70.355.]

3 [(c) Annual reports delivered for filing by an entity subject to a fee under paragraph (a) or (b) of
4 this subsection, and for any other related document that the entity is allowed or required to file with
5 the Secretary of State.]

6 [(4)] (1) [For documents other than those specified in subsections (1), (2) and (3) of this section,]
7 Except as provided in ORS 65.787 (6), the Secretary of State shall collect a nonrefundable fee of \$50
8 for each document delivered for filing to the Secretary of State as part of the secretary's business
9 registry functions described in ORS 56.022.

10 [(5)] (2) The Secretary of State by rule may establish fees, in addition to those provided for in
11 [subsections (1) to (4)] **subsection (1)** of this section, for:

12 (a) Copying any public record maintained by the secretary and relating to the secretary's busi-
13 ness registry functions, and for certifying the copy; and

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

16 [(6)] (3) The Secretary of State shall collect a nonrefundable fee of \$20 each time process that
17 is related to the Secretary of State's business registry functions is served on the Secretary of State.

18 [(7)] (4) The Secretary of State may waive collection of any fee, charge or interest or portion
19 of a fee, charge or interest that is collectible by the Secretary of State as part of the secretary's
20 business registry functions.

21 [(8)] (5) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
22 lowing services relating to the secretary's business registry functions:

23 (a) Computer generated lists on electronic data processing media.

24 (b) Terminal access to the files of the office.

25 (c) Microfilm records of the files of the office.

26 (d) Microfilm processing and development services.

27 (e) Copies of the programs and files on paper or electronic data processing media.

28 **SECTION 6. The amendments to ORS 56.140 by section 5 of this 2012 Act apply only to**
29 **documents filed with the Secretary of State on or after the effective date of this 2012 Act.**

30 **SECTION 7.** ORS 56.041 is amended to read:

31 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

32 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
33 penalties and miscellaneous revenues from all sources relating to business registry functions, and
34 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
35 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
36 Treasurer and deposited at least monthly in the Operating Account.

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

41 (4) At the end of each month, the Secretary of State shall determine the number of business
42 registry filings during the month for which the Secretary of State collected the [fees] **fee** described
43 in ORS 56.140 (1) [to (4)]. An amount equal to [\$20] **\$30** for each of those filings shall be [deposited
44 by the Secretary of State in the Operating Account. The Secretary of State shall then deposit all other
45 moneys from the fees collected during the month under ORS 56.140 (1) to (4) in the General Fund.

1 *Amounts deposited to the General Fund under this subsection are* **transferred to the General Fund**
 2 **and shall become** available for general governmental expenses.

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

8 **SECTION 8. The amendments to ORS 56.041 by section 7 of this 2012 Act first apply to**
 9 **fees for business registry filings collected on or after the effective date of this 2012 Act.**

10 **SECTION 9.** ORS 79.0525 is amended to read:

11 79.0525. (1) Except as otherwise provided in subsection (4) of this section, the nonrefundable fee
 12 for filing and indexing a record under ORS 79.0501 to 79.0528 may not exceed [*\$15*] **\$10.**

13 (2) The number of names required to be indexed does not affect the amount of the fee in sub-
 14 section (1) of this section.

15 (3) The nonrefundable fee for responding to a request for information from the filing office, in-
 16 cluding for communicating whether there is on file any financing statement naming a particular
 17 debtor, may not exceed:

18 (a) \$10 for each distinct debtor name to be searched;

19 (b) \$5 for copies of Uniform Commercial Code documents relating to each distinct debtor name
 20 to be searched, in addition to the fee in paragraph (a) of this subsection; and

21 (c) \$5 for each request by document number for copies of Uniform Commercial Code documents.

22 (4) This section does not require a fee with respect to a record filed or recorded in the filing
 23 office described in ORS 79.0501 (1)(a). However, the recording and satisfaction fees that otherwise
 24 would be applicable to the record apply.

25 (5) The Secretary of State shall adopt rules prescribing fees for providing summaries and com-
 26 pilations that are not debtor specific and for providing copies of records, as described in ORS
 27 79.0523 (6), that are not debtor specific.

28 **SECTION 10. The amendments to ORS 79.0525 by section 9 of this 2012 Act apply only to**
 29 **records filed under ORS 79.0501 to 79.0528 on or after the effective date of this 2012 Act.**

30 **SECTION 11.** ORS 194.020 is amended to read:

31 194.020. (1) To defray costs incurred by the Secretary of State to process the application made
 32 under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the
 33 Secretary of State a nonrefundable application fee not to exceed [*\$40*] **\$20.**

34 (2) Any fee received by the Secretary of State under subsection (1) of this section shall be de-
 35 posited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in
 36 lieu of any fee charged under ORS 177.130.

37 **SECTION 12. The amendments to ORS 194.020 by section 11 of this 2012 Act apply only**
 38 **to applications made under ORS 194.014 on or after the effective date of this 2012 Act.**

39 **SECTION 13.** (1) ORS 314.725 is repealed.

40 (2) Section 10, chapter 745, Oregon Laws 2009, is repealed.

41 **SECTION 14. This 2012 Act takes effect on the 91st day after the date on which the 2012**
 42 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**