

House Bill 2163

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

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**.

Repeals prohibitions against local government imposition of certain taxes. Applies to imposition of taxes on or after January 1, 2020. Requires future prohibitions enacted by Legislative Assembly against local government imposition of taxes to sunset within four years.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to local government taxes; creating new provisions; amending ORS 305.822, 323.030, 323.640,
3 403.105, 403.120, 403.165, 403.240, 461.560 and 825.350; repealing ORS 305.823, 306.815, 473.190
4 and 696.365; and prescribing an effective date.

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

6 **SECTION 1.** ORS 305.822 is amended to read:

7 305.822. (1) As used in this section:

8 (a) "Internet" means the combination of computer and telecommunications facilities, including
9 equipment and operating software, that comprise the interconnected worldwide network of computer
10 networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or
11 successor protocols, to communicate information by wire or radio.

12 (b) "Internet access" means a service that enables users to access content, information, elec-
13 tronic mail or other services offered over the Internet. "Internet access" does not include telecom-
14 munications services or cable services.

15 (c) "Tax" means a charge imposed by a governmental entity for the purpose of generating re-
16 venues for governmental purposes. "Tax" does not include a fee imposed for a specific privilege,
17 service or benefit conferred to the payer of the charge.

18 (2) This state[, *and the municipal corporations and political subdivisions of this state,*] may not
19 impose, assess, collect or attempt to collect a tax on Internet access or the use of Internet access
20 if the tax was not in effect on October 6, 2001.

21 **SECTION 2.** The amendments to ORS 305.822 by section 1 of this 2015 Act apply to
22 Internet access occurring on or after January 1, 2020.

23 **SECTION 3.** ORS 305.823 is repealed.

24 **SECTION 4.** ORS 403.105, as amended by sections 1 and 1a, chapter 59, Oregon Laws 2014, is
25 amended to read:

26 403.105. As used in ORS [*305.823 and*] 403.105 to 403.250, unless the context requires otherwise:

27 (1) "Account" means the Emergency Communications Account.

28 (2) "Automatic location identification" means a component or capability of enhanced 9-1-1 tele-
29 phone service that provides automatic display in the designated public safety answering point of
30 geographic information about the location of the instrument used to originate an incoming 9-1-1 call.

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 (3) "Automatic number identification" means a component or capability of enhanced 9-1-1 tele-
 2 phone service that provides automatic display in the designated public safety answering point of a
 3 telephone number associated with the access line from which an incoming 9-1-1 call originates.

4 (4) "Call-back number" means a telephone number used by a primary public safety answering
 5 point to contact the location from which an incoming 9-1-1 call originates.

6 (5) "Central office" means a utility that houses the switching and trunking equipment serving
 7 telephones in a defined area.

8 (6) "Consumer" means a person that purchases prepaid wireless telecommunications service in
 9 a retail transaction.

10 (7) "Department" means the Department of Revenue.

11 (8) "Emergency call" means a telephone request that results from a situation in which prompt
 12 service is essential to preserve human life or property.

13 (9) "Emergency response location identifier" means a component or capability of enhanced 9-1-1
 14 telephone service that identifies a specific emergency response location.

15 (10) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a network,
 16 database and on-premises equipment that provides automatic display in the designated public safety
 17 answering point of a telephone number and geographic information about the location of the in-
 18 strument used to originate an incoming 9-1-1 call when the call is received.

19 (11) "Exchange access services" means:

20 (a) Telephone exchange access lines or channels that provide local access by a consumer or
 21 subscriber in this state to the local telecommunications network to effect the transfer of informa-
 22 tion; and

23 (b) Unless a separate tariff rate is charged therefor, any facility or service provided in con-
 24 nection with the services described in paragraph (a) of this subsection.

25 (12) "Governing body" means the board of county commissioners of a county, city council of a
 26 city, other governing body of a city or county, board of directors of a special district or a 9-1-1 ju-
 27 risdiction.

28 (13) "Interconnected Voice over Internet Protocol service" has the meaning given that term in
 29 47 C.F.R. 9.3, as amended on July 9, 2009. The Department of Revenue may by rule adjust this de-
 30 finition to conform to subsequent amendments to 47 C.F.R. 9.3.

31 (14) "Key telephone system" means a type of multiline telephone system designed to provide
 32 exchange access services through shared exchange access lines or channels that typically appears
 33 to offer direct line termination on a particular instrument.

34 (15) "Local government" has the meaning given that term in ORS 190.710.

35 (16) "Multiline telephone system" means a communications system, including network,
 36 premises-based, PBX, hybrid and key telephone systems, that offers two or more telephone exchange
 37 access lines and consists of a common control unit, instruments, control hardware and software and
 38 adjunct systems installed at a subscriber's premises to support the 9-1-1 emergency reporting system.

39 (17) "Prepaid wireless telecommunications service" means a telecommunications service that
 40 provides the right to use mobile wireless service as well as other nontelecommunications services
 41 including content, ancillary services and the download of digital products delivered electronically
 42 that must be paid for in advance, and that is sold in predetermined units or dollars.

43 (18) "Provider" means a utility or other vendor or supplier of telecommunications service or
 44 equipment that provides telecommunications with access to the 9-1-1 emergency reporting system
 45 through local exchange service, cellular service or other wired or wireless means.

1 (19) "Public or private safety agency" means any unit of state or local government, a special-
 2 purpose district or a private firm that provides or has authority to provide fire-fighting, police, am-
 3 bulance or emergency medical services.

4 (20) "Public safety answering point" means a 24-hour communications facility established as an
 5 answering location for 9-1-1 calls originating within a given service area. A "primary public safety
 6 answering point" receives all calls directly from the public. A "secondary public safety answering
 7 point" only receives calls from a primary public safety answering point on a transfer or relay basis.

8 (21) "Retail transaction" means each individual purchase, associated with an individual access
 9 number or capable of being associated with an individual access number, of prepaid wireless tele-
 10 communications service from a seller for any purpose other than resale.

11 (22) "Seller" means a person that sells prepaid wireless telecommunications service or access
 12 to prepaid wireless telecommunications service to a consumer.

13 (23) "Subscriber" means a person that has telecommunication access to the 9-1-1 emergency re-
 14 porting system through local exchange service, cellular service or other wired or wireless means.
 15 "Subscriber" does not include a person that uses prepaid wireless telecommunications service.

16 (24) "TTY" means a telephone-typewriter used by an individual with a hearing or speech
 17 impairment to communicate with another device or individual.

18 (25) "Utility" means a utility, as defined in ORS 759.005, a telecommunications carrier, as de-
 19 fined in ORS 133.721, a municipality or any provider of exchange access services.

20 (26) "Vendor" means a person providing telephone customer premises equipment or equipment
 21 specific to the operation of enhanced 9-1-1 telephone service.

22 (27) "Wireless telecommunications service" means commercial mobile radio service, as defined
 23 in 47 C.F.R. 20.3.

24 (28) "9-1-1 emergency reporting system" means a telephone service that provides the users of a
 25 public telephone system the ability to reach a primary public safety answering point by calling 9-1-1.

26 (29) "9-1-1 jurisdiction" means:

27 (a) An entity created under ORS chapter 190;

28 (b) A county service district established under ORS chapter 451 to provide an emergency com-
 29 munications system;

30 (c) An emergency communications district created under ORS 403.300 to 403.380; or

31 (d) A group of public or private safety agencies who have agreed in writing to jointly plan the
 32 installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

33 (30) "9-1-1 service area" means the geographical area that contains the entire central office
 34 serving area from which the primary public safety answering point will have the capability to an-
 35 swer calls placed to 9-1-1.

36 **SECTION 5.** ORS 403.120 is amended to read:

37 403.120. (1) The Office of Emergency Management shall:

38 (a) Adopt rules in accordance with ORS chapter 183 relating to the planning, administration and
 39 funding of 9-1-1 emergency reporting systems established pursuant to ORS 403.115.

40 (b) Assist, at the request of a 9-1-1 jurisdiction, local government or governing body, in planning
 41 9-1-1 emergency reporting systems or may, at the request of a 9-1-1 jurisdiction, act as an agent of
 42 the 9-1-1 jurisdiction for the purposes of purchasing and maintaining equipment and services re-
 43 quired to fulfill the requirements of ORS 403.115.

44 (c) Report biennially to the Legislative Assembly the progress made in implementing ORS
 45 [305.823 and] 403.105 to 403.250, including in the report:

1 (A) Financial information concerning the revenues collected, distributed and expended by state
 2 agencies and 9-1-1 jurisdictions for the purposes of complying with ORS 403.105 to 403.250; and

3 (B) Account and subaccount balances.

4 (2) The office may establish advisory committees and study groups to study and advise on:

5 (a) The planning and administration of 9-1-1 emergency reporting systems;

6 (b) Multijurisdictional 9-1-1 emergency reporting systems; and

7 (c) Issues impacting 9-1-1 emergency reporting systems throughout the state.

8 **SECTION 6.** ORS 403.165 is amended to read:

9 403.165. (1) The Office of Emergency Management may institute proceedings against a public or
 10 private safety agency, a 9-1-1 jurisdiction or other person to compel compliance with or to restrain
 11 further violation of ORS [305.823 and] 403.105 to 403.250 or rules adopted pursuant to ORS 403.120.

12 (2) Proceedings authorized by subsection (1) of this section may be instituted without official
 13 notice, hearing or order provided in ORS chapter 183. However, proceedings brought against a
 14 telecommunications utility must be brought before the Public Utility Commission as provided by
 15 ORS chapter 756.

16 **SECTION 7.** ORS 403.240, as amended by section 14, chapter 59, Oregon Laws 2014, is amended
 17 to read:

18 403.240. (1) The Office of Emergency Management shall distribute quarterly the entire amount
 19 of the moneys in the Emergency Communications Account. The office shall pay the following
 20 amounts from the account:

21 (a) Administrative costs incurred during the preceding calendar quarter by the Department of
 22 Revenue in carrying out ORS 403.200 to 403.230 in an amount that does not exceed one percent of
 23 the amount in the account on the date of distribution, or actual expenses incurred by the depart-
 24 ment, whichever is less.

25 (b) Administrative costs to be incurred during the calendar quarter by the Office of Emergency
 26 Management in carrying out its duties under ORS [305.823 and] 403.105 to 403.250. The amount to
 27 be paid under this paragraph may not exceed four percent of the amount in the account on the date
 28 of distribution, and, on or before the next date of distribution, the office shall repay to the account
 29 any amount received under this paragraph that exceeds the actual expenses incurred by the office
 30 in the quarter.

31 (2) The office may:

32 (a) Provide funding for the Oregon Emergency Response System in an amount that does not
 33 exceed 15 percent of the legislatively approved budget for the Oregon Emergency Response System
 34 subject to availability of funds within the limit for administrative costs in subsection (1)(b) of this
 35 section.

36 (b) Prescribe the manner in which funding is provided to the Oregon Emergency Response Sys-
 37 tem under this subsection.

38 (3) The office shall use funds in the Enhanced 9-1-1 Subaccount to pay for costs incurred during
 39 the preceding calendar quarter for enhanced 9-1-1 telephone service established pursuant to ORS
 40 403.115. The office may not disburse funds in the Enhanced 9-1-1 Subaccount to a 9-1-1 jurisdiction
 41 that does not have an approved final plan as required in section 7, chapter 743, Oregon Laws 1991.
 42 The office shall make payments for reimbursement only after a reimbursement request has been
 43 submitted to the office in the manner prescribed by the office. Reimbursement requests for recurring
 44 and nonrecurring charges necessary to enable the 9-1-1 jurisdiction to comply with ORS 403.115
 45 must be submitted directly to the office. The costs reimbursable under this subsection are only those

1 incurred for:

- 2 (a) Modification of central office switching and trunking equipment;
- 3 (b) Network development, operation and maintenance;
- 4 (c) Database development, operation and maintenance;
- 5 (d) On-premises equipment procurement, maintenance and replacement;
- 6 (e) Conversion of pay station telephones required by ORS 403.140;
- 7 (f) Collection of the tax imposed by ORS 403.200 to 403.230; and
- 8 (g) Addressing if the reimbursement request is consistent with rules adopted by the office.

9 (4) Subject to availability of funds, the office shall provide funding to 9-1-1 jurisdictions that
 10 have enhanced 9-1-1 telephone service operational prior to December 31, 1991, based on cost infor-
 11 mation provided in their final plan required in section 7, chapter 743, Oregon Laws 1991. The office
 12 shall approve final plans submitted that meet the minimum requirements set forth in ORS 403.115
 13 (2) and (4). The office shall limit funding for costs incurred prior to the preceding calendar quarter
 14 to charges associated with database development, network and on-premises equipment that satisfies
 15 the requirements of ORS 403.115 (2) and (4). The office shall prescribe the manner in which funding
 16 is provided under this subsection.

17 (5) 9-1-1 jurisdictions may use funds distributed to the jurisdiction from any account described
 18 in ORS 403.235 to repay loans from the Special Public Works Fund if the loans were used for pur-
 19 poses that are allowable under ORS 403.105 to 403.250.

20 (6) The office shall retain amounts remaining in the Enhanced 9-1-1 Subaccount and may dis-
 21 tribute the amounts in a subsequent quarter for those purposes set forth in subsections (3), (4) and
 22 (5) of this section.

23 (7) The office shall review reimbursement requests for modification of central office switching
 24 and trunking equipment, conversion of pay station telephones, and network development, operation
 25 and maintenance costs necessary to comply with ORS 403.115 for the appropriateness of the costs
 26 claimed. The office shall approve or disapprove the reimbursement requests.

27 (8) The office shall review reimbursement requests for database development, operation and
 28 maintenance, and on-premises equipment procurement, maintenance and replacement costs necessary
 29 to comply with ORS 403.115 for the appropriateness of the costs claimed.

30 (9) After all amounts under subsections (1) and (2) of this section and ORS 403.235 (2) have been
 31 paid, the office shall allocate the balance of the Emergency Communications Account to cities on
 32 a per capita basis and to counties on a per capita basis of each county's unincorporated area for
 33 distribution directly to 9-1-1 jurisdictions as directed by the city or county. However, each county
 34 must be credited a minimum of one percent of the balance of the account after the amounts under
 35 subsections (1) and (2) of this section and ORS 403.235 (2) have been paid.

36 (10) 9-1-1 jurisdictions shall submit an accounting report to the office annually. The report must
 37 be provided in the manner prescribed by the office and must include but not be limited to:

- 38 (a) Funds received and expended under subsection (9) of this section for the purposes of fulfilling
 39 the requirements of ORS 403.115;
- 40 (b) Local funds received and expended for the purposes of fulfilling the requirements of ORS
 41 403.115; and
- 42 (c) Local funds received and expended for the purposes of providing emergency communications
 43 services.

44 **SECTION 8. The repeal of ORS 305.823 by section 3 of this 2015 Act and the amendments**
 45 **to ORS 403.105, 403.120, 403.165 and 403.240 by sections 4 to 7 of this 2015 Act apply to**

1 **amounts paid for exchange access services or other telephone services on or after January**
2 **1, 2020.**

3 **SECTION 9. ORS 306.815 is repealed.**

4 **SECTION 10. The repeal of ORS 306.815 by section 9 of this 2015 Act applies to transfers**
5 **of real property occurring on or after January 1, 2020.**

6 **SECTION 11.** ORS 323.030, as amended by sections 15 and 16, chapter 5, Oregon Laws 2013
7 (special session), is amended to read:

8 323.030. (1) Every distributor shall pay a tax upon distributions of cigarettes at the rate of 29
9 mills for the distribution of each cigarette in this state.

10 (2) The taxes imposed by ORS 323.005 to 323.482 are in lieu of all other state[, *county or mu-*
11 *nicipal*] taxes on the sale or use of cigarettes.

12 (3) Any cigarette with respect to which a tax has been prepaid under ORS 323.068 or has oth-
13 erwise once been imposed under ORS 323.005 to 323.482 is not subject upon a subsequent distrib-
14 ution to the taxes imposed by ORS 323.005 to 323.482.

15 (4) In addition to and not in lieu of any other tax imposed under ORS 323.005 to 323.482, every
16 distributor shall pay a tax upon distributions of cigarettes at the rate of 7.5 mills for the distribution
17 of each cigarette in this state.

18 **SECTION 12.** ORS 323.640 is amended to read:

19 323.640. (1) The taxes imposed by ORS 323.505 are in lieu of all other state[, *county or*
20 *municipal*] taxes on the sale or use of tobacco products.

21 (2) Any tobacco product with respect to which a tax has once been imposed under ORS 323.505
22 shall not be subject upon a subsequent distribution to the taxes imposed by ORS 323.505.

23 **SECTION 13. The amendments to ORS 323.030 and 323.640 by sections 11 and 12 of this**
24 **2015 Act apply to cigarettes and tobacco products distributed on or after January 1, 2020.**

25 **SECTION 14.** ORS 461.560 is amended to read:

26 461.560. [(1) *No state or local taxes shall be imposed*] **This state may not impose a tax** upon
27 the sale of lottery tickets or shares of the Oregon State Lottery established by this chapter or any
28 prize awarded by the state lottery established by this chapter that does not exceed \$600. A prize
29 awarded by the state lottery that is greater than \$600 shall be subject to tax under ORS chapters
30 314 to 318 and any other applicable state or local tax. For purposes of this section, "prize awarded
31 by the state lottery" includes a prize awarded by a multistate lottery association of which the
32 Oregon State Lottery is a member if the ticket upon which the prize is awarded was sold in this
33 state.

34 [(2) *A city, county or other political subdivision in this state may not impose, by charter provision*
35 *or ordinance, or collect a tax that is imposed on lottery game retailers only and that is measured by*
36 *or based upon the amount of the commissions or other compensation received by lottery game retailers*
37 *for selling tickets or shares in lottery games. However, if a city, county or other political subdivision*
38 *levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing au-*
39 *thority an income, gross income or gross receipts tax, as otherwise provided by law, such tax may be*
40 *levied or imposed upon lottery game retailers.*]

41 **SECTION 15. The amendments to ORS 461.560 by section 14 of this 2015 Act apply to the**
42 **sale of lottery tickets or shares of the Oregon State Lottery occurring on or after January**
43 **1, 2020.**

44 **SECTION 16. ORS 473.190 is repealed.**

45 **SECTION 17. The repeal of ORS 473.190 by section 16 of this 2015 Act applies to alcoholic**

1 **beverages manufactured or imported on or after January 1, 2020.**

2 **SECTION 18. ORS 696.365 is repealed.**

3 **SECTION 19. The repeal of ORS 696.365 by section 18 of this 2015 Act applies to licenses**
4 **issued on or after January 1, 2020.**

5 **SECTION 20. ORS 825.350 is amended to read:**

6 825.350. (1) [No] A county, city or other municipal corporation [*may impose a tax on, or*] **may**
7 **not** require a license for[,] a voluntary **commuter** ridesharing arrangement using a motor vehicle
8 with a seating capacity for not more than 15 persons.

9 (2) For the purposes of this section “voluntary **commuter** ridesharing arrangement” has the
10 meaning given that term in ORS 656.025.

11 **SECTION 21. The amendments to ORS 825.350 by section 20 of this 2015 Act apply to the**
12 **use of motor vehicles occurring on or after January 1, 2020.**

13 **SECTION 22. Any prohibition against the imposition of a tax by a local government that**
14 **is enacted by the Legislative Assembly on or after January 1, 2016, shall apply for a maxi-**
15 **imum of four years beginning with the initial year for which the preemption is applicable,**
16 **unless the Legislative Assembly expressly provides for another period of applicability.**

17 **SECTION 23. This 2015 Act takes effect on the 91st day after the date on which the 2015**
18 **regular session of the Seventy-eighth Legislative Assembly adjourns sine die.**

19