

Senate Bill 902

Sponsored by Senator BENTZ

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**.

Declares policy of state to encourage sustainable growth by funding reduction of certain taxes with imposition of tax on amount of carbon dioxide equivalent emissions from combustion of certain carbon-based fuels.

Imposes tax on each fuel supplier and utility based on amount of carbon dioxide equivalent emissions from combustion of carbon-based fuel that is sold by fuel supplier to consumers in state or that is used to produce carbon-generated electricity supplied by utility to consumers in state. Limits tax on certain oil and natural gas to six percent of market value of oil or natural gas.

Distributes moneys collected from tax to General Fund, unless other distribution required under Oregon Constitution.

Modifies personal income tax rates for certain taxpayers by modifying income tax brackets.

First applies beginning on or after January 1, 2019.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to taxation; amending ORS 316.037; creating new provisions; and prescribing an effective
3 date.

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

5 **SECTION 1. The Legislative Assembly finds and declares that it is the policy of this state**
6 **to encourage sustainable economic growth with a reduction of Oregon personal income tax**
7 **rates, a reduction of Oregon corporate excise and income taxes and an increase in the**
8 **Oregon earned income credit, all funded by a tax on fuel suppliers and utilities under sections**
9 **2 to 6 of this 2019 Act, based on the amount of carbon dioxide equivalent emitted through**
10 **the combustion of carbon-based fuel that is sold by fuel suppliers to consumers in this state**
11 **or that is used to produce carbon-generated electricity supplied by a utility to consumers in**
12 **this state.**

13 **SECTION 2. As used in sections 2 to 6 of this 2019 Act:**

14 (1) **“Carbon-based fuel” means coal, natural gas, petroleum products and any other**
15 **product used for fuel that contains carbon and emits greenhouse gases when combusted.**
16 **“Carbon-based fuel” does not include any product used for fuel that is from a resource that**
17 **is less than 1,000 years old in its natural state.**

18 (2) **“Carbon dioxide equivalent” means the amount of carbon dioxide by weight that would**
19 **produce the same global warming impact as a given weight of another greenhouse gas.**

20 (3) **“Carbon-generated electricity” means electric energy that is produced using a**
21 **carbon-based fuel.**

22 (4) **“Consumer price index” means the U.S. City Average Consumer Price Index for All**
23 **Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United**
24 **States Department of Labor.**

25 (5) **“Fuel supplier” means a person that sells carbon-based fuel to consumers.**

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 (6) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
2 perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.

3 (7) "Utility" means a public utility operating under ORS chapter 757, a people's utility
4 district operating under ORS chapter 261, a municipal utility operating under ORS chapter
5 225 or any other entity that supplies carbon-generated electricity to consumers.

6 **SECTION 3.** (1) A tax is imposed on each fuel supplier and utility assessed per metric ton
7 of carbon dioxide equivalent emitted through combustion of a carbon-based fuel that is:

8 (a) Sold by a fuel supplier to consumers in this state; or

9 (b) Used to produce carbon-generated electricity that is supplied by a utility to consum-
10 ers in this state.

11 (2) The tax under subsection (1) of this section shall be imposed at a rate of:

12 (a) \$15 per metric ton of carbon dioxide equivalent emitted through combustion of a
13 carbon-based fuel sold or used during the tax year beginning on July 1, 2020.

14 (b) \$25 per metric ton of carbon dioxide equivalent emitted through combustion of a
15 carbon-based fuel sold or used during the tax year beginning on July 1, 2021.

16 (c) For carbon dioxide equivalent emitted through combustion of a carbon-based fuel sold
17 or used during the tax year beginning on July 1, 2022 and for subsequent tax years, \$25 plus
18 an annual increase of three and one-half percent per tax year, plus inflation as measured
19 using the consumer price index for the most recent year for which data is available each
20 year beginning July 1st, but not to exceed a rate of \$100 per metric ton in 2019 dollars.

21 (3) Notwithstanding the rate designated under subsection (2) of this section, the amount
22 of tax imposed on oil or natural gas under this section may not exceed six percent of the
23 market value of oil or natural gas that is described in Article IX, section 3b, of the Oregon
24 Constitution. If the total of all taxes imposed by all laws on oil or natural gas described in
25 Article IX, section 3b, of the Oregon Constitution, exceeds six percent of the market value
26 of the oil or natural gas, the amount that is in excess because of taxes imposed by the laws
27 of this state, other than the tax imposed by this section, shall be refunded to the taxpayer.

28 (4) The Department of Revenue shall calculate the tax liability of a fuel supplier or utility
29 by multiplying the rate designated in subsection (2) of this section by the total amount of
30 carbon dioxide equivalent emitted through combustion of carbon-based fuels that are:

31 (a) Sold by the fuel supplier to consumers in this state in the previous calendar year; or

32 (b) Used to produce carbon-generated electricity supplied by the utility to consumers in
33 this state in the previous calendar year.

34 (5)(a) If a utility is unable to provide the information required for the calculation under
35 subsection (4) of this section, the Department of Revenue shall calculate the utility's tax li-
36 ability by multiplying the rate designated in subsection (2) of this section by the product of
37 the average amount of carbon dioxide equivalent emitted in the production of one kilowatt
38 of electricity supplied by the utility and the total number of kilowatts of electricity supplied
39 by the utility to consumers in this state.

40 (b) The State Department of Energy shall calculate the average amount of carbon dioxide
41 emitted in the production of one kilowatt of electricity supplied by the utility based upon the
42 proportion that each carbon-based fuel constitutes of the total amount of carbon-based fuel
43 used in the generation of the electricity by the utility and the amount of carbon dioxide
44 emitted in the production of one kilowatt of electricity for each carbon-based fuel. Each year,
45 the State Department of Energy shall recalculate and report to the Department of Revenue

1 the average amount of carbon dioxide equivalent emitted in the production of one kilowatt
2 of electricity supplied by the utility to take into account any changes in the relative pro-
3 portion of carbon-based fuels used in the generation of the electricity by the utility.

4 (6) The Department of Revenue and the State Department of Energy may adopt any rules
5 necessary for the calculation of tax liability and the collection of the tax imposed under this
6 section.

7 (7) The tax imposed under this section does not apply to:

8 (a) Carbon dioxide equivalent emissions from carbon-based fuel or carbon-generated
9 electricity that the state is prohibited from taxing under the Constitution or laws of the
10 United States or the Constitution or laws of the State of Oregon.

11 (b) Any fuel supplier or utility that is administered by a federal agency.

12 (c) Any carbon-based fuel or carbon-generated electricity that is transported through
13 this state, or produced in this state, but not consumed in this state.

14 **SECTION 4.** (1) Every fuel supplier and utility required to pay the tax imposed under
15 section 3 of this 2019 Act shall file a report with the Department of Revenue on or before
16 April 1 of each year.

17 (2) The report filed by a fuel supplier under this section shall include:

18 (a) The total amount of each carbon-based fuel sold by the fuel supplier to consumers in
19 this state in the previous calendar year;

20 (b) The market value of and any taxes paid for any oil or natural gas that is described
21 in Article IX, section 3b, of the Oregon Constitution, and sold by the fuel supplier to con-
22 sumers in this state in the previous calendar year; and

23 (c) Any other information required by the department by rule.

24 (3) The report filed by a utility under this section shall include:

25 (a) The total amount of each carbon-based fuel used to produce the carbon-generated
26 electricity supplied by the utility to consumers in this state in the previous calendar year;

27 (b) The market value of and any taxes paid for any oil or natural gas that is described
28 in Article IX, section 3b, of the Oregon Constitution, and used to produce carbon-generated
29 electricity supplied by the utility to consumers in this state in the previous calendar year;
30 and

31 (c) Any other information required by the department by rule.

32 (4) If a utility is unable to provide the information required under subsection (3) of this
33 section, the utility shall report:

34 (a) To the State Department of Energy the information required by the department by
35 rule to make the calculations under section 3 (5) of this 2019 Act; and

36 (b) To the Department of Revenue the total number of kilowatts of electricity generated
37 using carbon-based fuel and supplied by the utility to consumers in this state in the previous
38 calendar year.

39 (5) Each fuel supplier and utility shall keep records, render statements, make returns
40 and comply with rules adopted by the Department of Revenue and the State Department of
41 Energy related to the tax imposed under section 3 of this 2019 Act.

42 **SECTION 5.** (1) On or before June 1 of each year, the Department of Revenue shall send
43 to each fuel supplier and utility an assessment that identifies the tax liability of the fuel
44 supplier or utility for the previous calendar year for the tax imposed under section 3 of this
45 2019 Act.

1 (2) On or before July 1 of each year, each fuel supplier and utility that receives an as-
 2 sessment under subsection (1) of this section shall pay the amount of the tax liability to the
 3 department.

4 (3) If the amount paid by the fuel supplier or utility under subsection (2) of this section
 5 exceeds the amount of tax payable, the department shall refund the amount of the excess
 6 with interest at the rate established under ORS 305.220 for each month or fraction of a
 7 month from the date of payment of the excess until the date of the refund. A refund is not
 8 available to a fuel supplier or utility that fails to claim the refund within two years after the
 9 due date for the filing of the return with respect to which the claim for refund relates.

10 (4) If a fuel supplier or utility fails to pay the tax assessed against it under subsection
 11 (1) of this section, the department may enforce collection by the issuance of a distraint
 12 warrant for the collection of the delinquent amount and all penalties, interest and collection
 13 charges. The warrant shall be issued, docketed and proceeded upon in the same manner and
 14 shall have the same force and effect as is prescribed with respect to warrants for the col-
 15 lection of delinquent income taxes.

16 **SECTION 6.** Moneys received by the Department of Revenue pursuant to the tax imposed
 17 under section 3 of this 2019 Act shall be deposited in a suspense account created pursuant
 18 to ORS 293.445. Moneys in that account shall be distributed as follows:

19 (1) All moneys collected that constitute revenues described in Article IX, section 3a, of
 20 the Oregon Constitution, shall be transferred to the State Highway Fund.

21 (2) All moneys collected that constitute revenues described in Article VIII, section 2
 22 (1)(g), of the Oregon Constitution, shall be deposited in the Common School Fund.

23 (3) All moneys collected from sources not described in subsections (1) and (2) of this
 24 section, minus any amounts the Department of Revenue or State Department of Energy may
 25 collect to cover costs incurred by the Department of Revenue or State Department of Energy
 26 in the administration of the tax and after deducting refunds, shall be paid over to the State
 27 Treasurer and held in the General Fund as miscellaneous receipts available generally to meet
 28 any expense or obligation of the State of Oregon lawfully incurred.

29 (4) A working balance of unreceipted revenue from the tax imposed under section 3 of
 30 this 2019 Act may be retained for the payment of refunds, but such working balance shall
 31 not at the close of any fiscal year exceed the sum of \$_____.

32 (5) Moneys are continuously appropriated to the Department of Revenue to make the
 33 refunds authorized under this section and section 5 of this 2019 Act.

34 **SECTION 7.** Except as otherwise provided in sections 2 to 6 of this 2019 Act, or where
 35 context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit
 36 and examination of returns, periods of limitation, determination of and notices of deficien-
 37 cies, assessments, collections, liens, delinquencies, claims for refund and refunds, confer-
 38 ences, appeals to the Oregon Tax Court, stays of collection pending appeal, confidentiality
 39 of returns and the penalties relative thereto, and the procedures relating thereto, apply to
 40 the determinations of taxes, penalties and interest under sections 2 to 6 of this 2019 Act.

41 **SECTION 8.** For the purpose of first calculating the tax liability of fuel suppliers and
 42 utilities under section 3 of this 2019 Act, the State Department of Energy shall determine the
 43 amount of carbon dioxide equivalent by weight emitted by combustion of each carbon-based
 44 fuel and report those determinations to the Department of Revenue.

45 **SECTION 9.** (1) In addition to and not in lieu of any other appropriation, there is appro-

1 **priated to the Department of Revenue, for the biennium beginning July 1, 2019, out of the**
 2 **General Fund, the amount of \$_____ , which may be expended for the purpose of funding**
 3 **the first year of administration of the tax imposed under section 3 of this 2019 Act.**

4 **(2) In addition to and not in lieu of any other appropriation, there is appropriated to the**
 5 **State Department of Energy, for the biennium beginning July 1, 2019, out of the General**
 6 **Fund, the amount of \$_____ , which may be expended for the purpose of assisting the De-**
 7 **partment of Revenue in administering the first year of the tax imposed under section 3 of**
 8 **this 2019 Act.**

9 **SECTION 10.** ORS 316.037 is amended to read:

10 316.037. (1)(a) A tax is imposed for each taxable year on the entire taxable income of every
 11 resident of this state. The amount of the tax shall be determined in accordance with the following
 12 table:

15 If taxable income is:	15 The tax is:
17 Not over \$2,000	17 5% of 18 taxable 19 income
21 Over \$2,000 but not 22 over \$5,000	22 [\$100 plus 7%] _____ 23 of the excess 24 over \$2,000
26 Over \$5,000 but not 27 over \$125,000	27 [\$310 plus 9%] _____ 28 of the excess 29 over \$5,000
31 Over \$125,000	31 [\$11,110 plus 9.9%] _____ 32 of the excess 33 over \$125,000

35
 36 (b) For tax years beginning in each calendar year, the Department of Revenue shall adopt a
 37 table that shall apply in lieu of the table contained in paragraph (a) of this subsection, as follows:

38 (A) Except as provided in subparagraph (D) of this paragraph, the minimum and maximum dollar
 39 amounts for each bracket for which a tax is imposed shall be increased by the cost-of-living adjust-
 40 ment for the calendar year.

41 (B) The rate applicable to any rate bracket as adjusted under subparagraph (A) of this para-
 42 graph [shall] **may** not be changed.

43 (C) The amounts setting forth the tax, to the extent necessary to reflect the adjustments in the
 44 rate brackets, shall be adjusted.

45 (D) The rate [brackets] **bracket** applicable to taxable income in excess of \$125,000 may not be

1 adjusted.

2 (c) For purposes of paragraph (b) of this subsection, the cost-of-living adjustment for any calen-
 3 dar year is the percentage (if any) by which the monthly averaged U.S. City Average Consumer
 4 Price Index for the 12 consecutive months ending August 31 of the prior calendar year exceeds the
 5 monthly averaged index for the second quarter of the calendar year [1992] **2019**.

6 (d) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S. City
 7 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
 8 Labor Statistics of the United States Department of Labor.

9 (e) If any increase determined under paragraph (b) of this subsection is not a multiple of \$50,
 10 the increase shall be rounded to the next lower multiple of \$50.

11 (2) A tax is imposed for each taxable year upon the entire taxable income of every part-year
 12 resident of this state. The amount of the tax shall be computed under subsection (1) of this section
 13 as if the part-year resident were a full-year resident and shall be multiplied by the ratio provided
 14 under ORS 316.117 to determine the tax on income derived from sources within this state.

15 (3) A tax is imposed for each taxable year on the taxable income of every full-year nonresident
 16 that is derived from sources within this state. The amount of the tax shall be determined in ac-
 17 cordance with the table set forth in subsection (1) of this section.

18 **SECTION 13. (1) Sections 2 to 6 of this 2019 Act apply to carbon dioxide emissions from**
 19 **the combustion of carbon-based fuel sold to consumers in this state or used to produce**
 20 **carbon-generated electricity that is supplied to consumers in this state on or after January**
 21 **1, 2019.**

22 **(2) The amendments to ORS 316.037 by section 10 of this 2019 Act apply to tax years be-**
 23 **ginning on or after January 1, 2019.**

24 **SECTION 14. This 2019 Act takes effect on the 91st day after the date on which the 2019**
 25 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

26