

House Bill 2014

Sponsored by Representative OWENS (at the request of City of Ontario) (Pre-session 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**.

Provides for distribution of moneys in Oregon Marijuana Account to certain cities determined by population and location of city and based on share of retail sales of marijuana items in state, as exception to standard distributions based on city share of population and of licenses for marijuana-related businesses.

Applies to distributions from account occurring in calendar quarters beginning on or after January 1, 2022, and before July 1, 2027.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to distribution of revenues from taxes on marijuana items; creating new provisions;
3 amending ORS 475B.759 and section 16, chapter 103, Oregon Laws 2018; and prescribing an ef-
4 fective date.

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

6 **SECTION 1.** ORS 475B.759 is amended to read:

7 475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the
8 General Fund.

9 (2) The account shall consist of moneys transferred to the account under ORS 475B.760.

10 (3)[(a)] The Department of Revenue shall certify quarterly the amount of moneys available in the
11 Oregon Marijuana Account.

12 (4) **Subject to subsection (6) of this section, and after the transfer required in ORS**
13 **475B.895 (7), but before making any other transfer out of the Oregon Marijuana Account, the**
14 **department shall make a quarterly transfer out of the Oregon Marijuana Account:**

15 (a) **To any city with a population exceeding 10,000 that is located in a combined statistical**
16 **area, as designated by the United States Office of Management and Budget, with a population**
17 **exceeding 600,000, as determined by Portland State University under ORS 190.510 to 190.610,**
18 **on the date immediately preceding the date of the transfer.**

19 (b) **In a percentage of the amount certified under subsection (3) of this section that is**
20 **calculated by taking the ratio, for the immediately preceding calendar quarter, of retail sales**
21 **in the city compared to retail sales throughout the state, and dividing that ratio by 10.**

22 [(b)] (5)(a) Subject to subsection [(4)] (6) of this section, the department shall transfer quarterly
23 20 percent of the moneys **remaining** in the Oregon Marijuana Account **after the transfers re-**
24 **quired in subsection (4) of this section and section 16, chapter 103, Oregon Laws 2018,** as fol-
25 lows:

26 (A) Ten percent of the moneys in the account must be transferred to the cities of this state,
27 **other than a city described in subsection (4) of this section,** in the following shares:

28 (i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the popu-

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 lation of each city of this state that is not exempt from this paragraph pursuant to subsection
 2 [(4)(a)] **(6)(a)** of this section compared to the population of all cities of this state that are not exempt
 3 from this paragraph pursuant to subsection [(4)(a)] **(6)(a)** of this section, as determined by Portland
 4 State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the
 5 transfer; and

6 (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number
 7 of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day
 8 of the calendar quarter preceding the date of the transfer for premises located in each city compared
 9 to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the
 10 last business day of that calendar quarter for all premises in this state located in cities; and

11 (B) Ten percent of the moneys in the account must be transferred to counties in the following
 12 shares:

13 (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-
 14 cially available area of all grow canopies associated with marijuana producer licenses held pursuant
 15 to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer
 16 for all premises located in each county compared to the total commercially available area of all
 17 grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the
 18 last business day of that calendar quarter for all premises located in this state; and

19 (ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of li-
 20 censes held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the cal-
 21 endar quarter preceding the date of the transfer for premises located in each county compared to
 22 the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business
 23 day of that calendar quarter for all premises in this state.

24 [(c)] **(b)** Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

25 (A) Forty percent of the moneys in the account must be used solely for purposes for which
 26 moneys in the State School Fund established under ORS 327.008 may be used;

27 (B) Twenty percent of the moneys in the account must be used solely for mental health treat-
 28 ment or for alcohol and drug abuse prevention, early intervention and treatment;

29 (C) Fifteen percent of the moneys in the account must be used solely for purposes for which
 30 moneys in the State Police Account established under ORS 181A.020 may be used; and

31 (D) Five percent of the moneys in the account must be used solely for purposes related to al-
 32 cohool and drug abuse prevention, early intervention and treatment services.

33 [(4)(a)] **(6)(a)** A city that has an ordinance prohibiting the establishment of a premises for which
 34 issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible
 35 to receive transfers of moneys under subsection [(3)(b)(A)] **(5)(a)(A)** of this section.

36 (b) A county that has an ordinance prohibiting the establishment of a premises for which issu-
 37 ance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under
 38 subsection [(3)(b)(B)(i)] **(5)(a)(B)(i)** of this section.

39 (c) A county that has an ordinance prohibiting the establishment of a premises for which issu-
 40 ance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive
 41 transfers of moneys under subsection [(3)(b)(B)(ii)] **(5)(a)(B)(ii)** of this section.

42 [(5)(a)] **(7)(a)** A city or county that is ineligible under subsection [(4)] **(6)** of this section to re-
 43 ceive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has re-
 44 ceived a transfer of moneys for that quarter shall return the amount transferred to the Department
 45 of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or

1 county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt
2 of the ineligible transfer.

3 (b) If the Director of the Oregon Department of Administrative Services determines that a city
4 or county received a transfer of moneys under subsection [(3)(b)] (5)(a) of this section but was in-
5 eligible to receive that transfer under subsection [(4)] (6) of this section, the director shall provide
6 notice to the ineligible city or county and order the city or county to return the amount received
7 to the Department of Revenue, with interest as described under paragraph (f) of this subsection.
8 A city or county may appeal the order within 30 days of the date of the order under the procedures
9 for a contested case under ORS chapter 183.

10 (c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall
11 notify the Department of Revenue and the ineligible city or county. Upon notification, the Depart-
12 ment of Revenue immediately shall proceed to collect the amount stated in the notice.

13 (d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the
14 collection of income and excise taxes and may proceed to collect the amounts described in the no-
15 tice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection
16 described in this subsection is not precluded by any statute of limitations.

17 (e) If a city or county is subject to an order to return moneys from an ineligible transfer, the
18 city or county shall be denied any further relief in connection with the ineligible transfer on or after
19 the date that the order becomes final.

20 (f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on
21 the date the ineligible transfer was made.

22 (g) Both the moneys and the interest collected from or returned by an ineligible city or county
23 shall be redistributed to the cities or counties that were eligible to receive a transfer under sub-
24 section [(3)(b)] (5)(a) of this section on the date the ineligible transfer was made.

25 [(6)(a)] (8)(a) Not later than July 1 of each year, each city and county in this state shall certify
26 with the Oregon Department of Administrative Services whether the city or county has an ordinance
27 prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070,
28 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the
29 certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of
30 Administrative Services.

31 (b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of
32 moneys under subsection [(3)(b)(A)] (5)(a)(A) of this section. If a county fails to comply with this
33 subsection, the county is not eligible to receive transfers of moneys under subsection [(3)(b)(B)]
34 (5)(a)(B) of this section.

35 (c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated
36 certification with the Oregon Department of Administrative Services in a form and manner pre-
37 scribed by the department, noting the effective date of the change. A city or county that repeals an
38 ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under
39 this section for quarters where the repeal is effective for the entire quarter and the updated certi-
40 fication was filed at least 30 days before the date of transfer.

41 **SECTION 2.** ORS 475B.759, as amended by section 1 of this 2021 Act, is amended to read:

42 475B.759. (1) There is established the Oregon Marijuana Account, separate and distinct from the
43 General Fund.

44 (2) The account shall consist of moneys transferred to the account under ORS 475B.760.

45 (3)(a) The Department of Revenue shall certify quarterly the amount of moneys available in the

1 Oregon Marijuana Account.

2 [(4) Subject to subsection (6) of this section, and after the transfer required in ORS 475B.895 (7),
3 but before making any other transfer out of the Oregon Marijuana Account, the department shall make
4 a quarterly transfer out of the Oregon Marijuana Account:]

5 [(a) To any city with a population exceeding 10,000 that is located in a combined statistical area,
6 as designated by the United States Office of Management and Budget, with a population exceeding
7 600,000, as determined by Portland State University under ORS 190.510 to 190.610, on the date imme-
8 diately preceding the date of the transfer.]

9 [(b) In a percentage of the amount certified under subsection (3) of this section that is calculated
10 by taking the ratio, for the immediately preceding calendar quarter, of retail sales in the city compared
11 to retail sales throughout the state, and dividing that ratio by 10.]

12 [(5)(a)] (b) Subject to subsection [(6)] (4) of this section, the department shall transfer quarterly
13 20 percent of the moneys [remaining] in the Oregon Marijuana Account [after the transfers required
14 in subsection (4) of this section and section 16, chapter 103, Oregon Laws 2018,] as follows:

15 (A) Ten percent of the moneys in the account must be transferred to the cities of this state[,
16 other than a city described in subsection (4) of this section,] in the following shares:

17 (i) Seventy-five percent of the 10 percent must be transferred in shares that reflect the popu-
18 lation of each city of this state that is not exempt from this paragraph pursuant to subsection
19 [(6)(a)] (4)(a) of this section compared to the population of all cities of this state that are not exempt
20 from this paragraph pursuant to subsection [(6)(a)] (4)(a) of this section, as determined by Portland
21 State University under ORS 190.510 to 190.610, on the date immediately preceding the date of the
22 transfer; and

23 (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number
24 of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day
25 of the calendar quarter preceding the date of the transfer for premises located in each city compared
26 to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the
27 last business day of that calendar quarter for all premises in this state located in cities; and

28 (B) Ten percent of the moneys in the account must be transferred to counties in the following
29 shares:

30 (i) Fifty percent of the 10 percent must be transferred in shares that reflect the total commer-
31 cially available area of all grow canopies associated with marijuana producer licenses held pursuant
32 to ORS 475B.070 on the last business day of the calendar quarter preceding the date of the transfer
33 for all premises located in each county compared to the total commercially available area of all
34 grow canopies associated with marijuana producer licenses held pursuant to ORS 475B.070 on the
35 last business day of that calendar quarter for all premises located in this state; and

36 (ii) Fifty percent of the 10 percent must be transferred in shares that reflect the number of li-
37 censes held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business day of the cal-
38 endar quarter preceding the date of the transfer for premises located in each county compared to
39 the number of licenses held pursuant to ORS 475B.090, 475B.100 and 475B.105 on the last business
40 day of that calendar quarter for all premises in this state.

41 [(b)] (c) Eighty percent of the moneys in the Oregon Marijuana Account must be used as follows:

42 (A) Forty percent of the moneys in the account must be used solely for purposes for which
43 moneys in the State School Fund established under ORS 327.008 may be used;

44 (B) Twenty percent of the moneys in the account must be used solely for mental health treat-
45 ment or for alcohol and drug abuse prevention, early intervention and treatment;

1 (C) Fifteen percent of the moneys in the account must be used solely for purposes for which
 2 moneys in the State Police Account established under ORS 181A.020 may be used; and

3 (D) Five percent of the moneys in the account must be used solely for purposes related to al-
 4 cohol and drug abuse prevention, early intervention and treatment services.

5 [(6)(a)] **(4)(a)** A city that has an ordinance prohibiting the establishment of a premises for which
 6 issuance of a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required is not eligible
 7 to receive transfers of moneys under subsection [(5)(a)(A)] **(3)(b)(A)** of this section.

8 (b) A county that has an ordinance prohibiting the establishment of a premises for which issu-
 9 ance of a license under ORS 475B.070 is required is not eligible to receive transfers of moneys under
 10 subsection [(5)(a)(B)(i)] **(3)(b)(B)(i)** of this section.

11 (c) A county that has an ordinance prohibiting the establishment of a premises for which issu-
 12 ance of a license under ORS 475B.090, 475B.100 or 475B.105 is required is not eligible to receive
 13 transfers of moneys under subsection [(5)(a)(B)(ii)] **(3)(b)(B)(ii)** of this section.

14 [(7)(a)] **(5)(a)** A city or county that is ineligible under subsection [(6)] **(4)** of this section to re-
 15 ceive a transfer of moneys from the Oregon Marijuana Account during a given quarter but has re-
 16 ceived a transfer of moneys for that quarter shall return the amount transferred to the Department
 17 of Revenue, with interest as described under paragraph (f) of this subsection. An ineligible city or
 18 county may voluntarily transfer the moneys to the Department of Revenue immediately upon receipt
 19 of the ineligible transfer.

20 (b) If the Director of the Oregon Department of Administrative Services determines that a city
 21 or county received a transfer of moneys under subsection [(5)(a)] **(3)(a)** of this section but was in-
 22 eligible to receive that transfer under subsection [(6)] **(4)** of this section, the director shall provide
 23 notice to the ineligible city or county and order the city or county to return the amount received
 24 to the Department of Revenue, with interest as described under paragraph (f) of this subsection.
 25 A city or county may appeal the order within 30 days of the date of the order under the procedures
 26 for a contested case under ORS chapter 183.

27 (c) As soon as the order under paragraph (b) of this subsection becomes final, the director shall
 28 notify the Department of Revenue and the ineligible city or county. Upon notification, the Depart-
 29 ment of Revenue immediately shall proceed to collect the amount stated in the notice.

30 (d) The Department of Revenue shall have the benefit of all laws of the state pertaining to the
 31 collection of income and excise taxes and may proceed to collect the amounts described in the no-
 32 tice under paragraph (c) of this subsection. An assessment of tax is not necessary and the collection
 33 described in this subsection is not precluded by any statute of limitations.

34 (e) If a city or county is subject to an order to return moneys from an ineligible transfer, the
 35 city or county shall be denied any further relief in connection with the ineligible transfer on or after
 36 the date that the order becomes final.

37 (f) Interest under this section shall accrue at the rate established in ORS 305.220 beginning on
 38 the date the ineligible transfer was made.

39 (g) Both the moneys and the interest collected from or returned by an ineligible city or county
 40 shall be redistributed to the cities or counties that were eligible to receive a transfer under sub-
 41 section [(5)(a)] **(3)(b)** of this section on the date the ineligible transfer was made.

42 [(8)(a)] **(6)(a)** Not later than July 1 of each year, each city and county in this state shall certify
 43 with the Oregon Department of Administrative Services whether the city or county has an ordinance
 44 prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070,
 45 475B.090, 475B.100 or 475B.105 is required. The certification shall be made concurrently with the

1 certifications under ORS 221.770, in a form and manner prescribed by the Oregon Department of
 2 Administrative Services.

3 (b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of
 4 moneys under subsection [(5)(a)(A)] **(3)(b)(A)** of this section. If a county fails to comply with this
 5 subsection, the county is not eligible to receive transfers of moneys under subsection [(5)(a)(B)]
 6 **(3)(b)(B)** of this section.

7 (c) A city or county that repeals an ordinance as provided in ORS 475B.496 shall file an updated
 8 certification with the Oregon Department of Administrative Services in a form and manner pre-
 9 scribed by the department, noting the effective date of the change. A city or county that repeals an
 10 ordinance as provided in ORS 475B.496 is eligible to receive quarterly transfers of moneys under
 11 this section for quarters where the repeal is effective for the entire quarter and the updated certi-
 12 fication was filed at least 30 days before the date of transfer.

13 **SECTION 3.** Section 16, chapter 103, Oregon Laws 2018, is amended to read:

14 **Sec. 16.** (1) Notwithstanding ORS 475B.759 (5), **after making the transfers required under**
 15 **ORS 475B.759 (4) and 475B.895 (7), but** before making any other distribution from the Oregon
 16 Marijuana Account established under ORS 475B.759, the Department of Revenue shall [*first*] dis-
 17 tribute quarterly from the account the following:

18 (a) \$875,000 to the Oregon Liquor Control Commission for deposit in the Marijuana Control and
 19 Regulation Fund established under ORS 475B.296; and

20 (b) \$375,000 to the Oregon Criminal Justice Commission for deposit into the Illegal Marijuana
 21 Market Enforcement Grant Program Fund established under section 15, **chapter 103, Oregon Laws**
 22 **2018**, [*of this 2018 Act*] for the purposes of paying the costs incurred by the commission in carrying
 23 out the provisions of section 13, **chapter 103, Oregon Laws 2018** [*of this 2018 Act*].

24 (2) The final distribution made under subsection (1) of this section shall be made in the fiscal
 25 quarter beginning on October 1, 2023.

26 **SECTION 4.** (1) **The amendments to ORS 475B.759 by section 1 of this 2021 Act apply to**
 27 **distributions from the Oregon Marijuana Account occurring in calendar quarters beginning**
 28 **on or after January 1, 2022, and before July 1, 2027.**

29 (2) **The amendments to ORS 475B.759 by section 2 of this 2021 Act apply to distributions**
 30 **from the Oregon Marijuana Account occurring in calendar quarters beginning on or after**
 31 **July 1, 2027.**

32 **SECTION 5.** **This 2021 Act takes effect on the 91st day after the date on which the 2021**
 33 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**