

House Bill 2034

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Department of Aviation)

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**.

Removes sunset of increase in aircraft fuel taxes made by House Bill 2075 (chapter 700, Oregon Laws 2015). Restructures distributions of aircraft fuel tax revenues that provides funding for airports and aviation-related business under Aviation System Action Program.

Allows Oregon Department of Aviation to enter into commercial arrangements for terms up to 50 years.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to aviation; creating new provisions; amending ORS 319.020, 319.330 and 836.055 and section
3 tion 7, chapter 700, Oregon Laws 2015; repealing sections 6 and 8, chapter 700, Oregon Laws
4 2015; prescribing an effective date; and providing for revenue raising that requires approval by
5 a three-fifths majority.

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

7 **SECTION 1.** ORS 319.020, as amended by section 4, chapter 700, Oregon Laws 2015, and section
8 41, chapter 750, Oregon Laws 2017, is amended to read:

9 319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise
10 provided for by law, every dealer engaging in the dealer's own name, or in the name of others, in
11 the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle
12 fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state
13 lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

14 (a) Not later than the 25th day of each calendar month, render a statement to the Department
15 of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn
16 by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state
17 by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the
18 applicable license tax during the preceding calendar month. The dealer shall render the statement
19 to the department in the manner provided by the department by rule.

20 (b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 34 cents per
21 gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used,
22 distributed or withdrawn as shown by such statement in the manner and within the time provided
23 in ORS 319.010 to 319.430.

24 (2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed
25 on the basis of *[nine]* **11** cents per gallon of fuel so sold, used or distributed, except that when air-
26 craft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distrib-
27 uted, the tax rate shall be *[one cent]* **three cents** per gallon.

28 (3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in

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 nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment
 2 of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a
 3 credit or deduction on the monthly statement and payment of tax.

4 (4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor
 5 vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or
 6 laws of the United States with respect to such tax.

7 **SECTION 2.** ORS 319.330, as amended by section 5, chapter 700, Oregon Laws 2015, is amended
 8 to read:

9 319.330. (1) Whenever any statement and invoices are presented to the Department of Trans-
 10 portation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating
 11 aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department
 12 shall refund the tax paid, but only after deducting from the tax paid [nine] **11** cents for each gallon
 13 of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine
 14 engines (turbo-prop or jet) the deduction shall be [one cent] **three cents** for each gallon. No de-
 15 duction provided under this subsection shall be made on claims presented by the United States or
 16 on claims presented where a satisfactory showing has been made to the department that such air-
 17 craft fuel has been used solely in aircraft operations from a point within the State of Oregon directly
 18 to a point not within any state of the United States. The amount so deducted shall be paid on war-
 19 rant of the Oregon Department of Administrative Services to the State Treasurer, who shall credit
 20 the amount to the State Aviation Account for the purpose of carrying out the provisions of the state
 21 aviation law. Moneys credited to the account under this section are continuously appropriated to
 22 the Oregon Department of Aviation.

23 (2) If satisfactory evidence is presented to the Department of Transportation showing that air-
 24 craft fuel upon which the tax has been paid has been purchased and used solely in aircraft oper-
 25 ations from a point within the State of Oregon directly to a point not within any state of the United
 26 States, the department shall refund the tax paid.

27 **SECTION 3.** (1) **The amendments to ORS 319.020 by section 1 of this 2021 Act apply to**
 28 **aircraft fuel sold, used or distributed on or after January 1, 2022.**

29 **(2) The amendments to ORS 319.330 by section 2 of this 2021 Act apply to fuel purchased**
 30 **and used in operating aircraft engines on or after January 1, 2022.**

31 **SECTION 4.** Section 7, chapter 700, Oregon Laws 2015, as amended by section 80a, chapter 750,
 32 Oregon Laws 2017, section 1, chapter 485, Oregon Laws 2019, and section 26, chapter 491, Oregon
 33 Laws 2019, is amended to read:

34 **Sec. 7.** (1) The following amounts shall be distributed in the manner prescribed in this section:

35 (a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is
 36 computed on a basis in excess of one cent per gallon and any amount of tax on all other aircraft fuel
 37 that is computed on a basis in excess of nine cents per gallon, under ORS 319.020 (2); and

38 (b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess
 39 of one cent per gallon and any amount of tax on all other aircraft fuel in excess of nine cents per
 40 gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

41 (2)(a) Applications for distributions under [subsections (5) and (6)] **subsection (5)** of this section
 42 may not be approved unless the applicant demonstrates a commitment to contribute at least five
 43 percent of the costs of the project to which the application relates. The Oregon Department of
 44 Aviation shall adopt rules for purposes of this paragraph.

45 (b) The department may adopt rules that:

1 (A) Set higher minimum contribution commitment requirements; or
 2 (B) Establish maximum grant amounts.

3 (3)(a) The State Aviation Board shall establish a review committee composed of one member
 4 from each of the area commissions on transportation chartered by the Oregon Transportation Com-
 5 mission.

6 (b) The review committee shall meet as necessary to review applications for distributions of
 7 amounts pursuant to this section. In reviewing applications, the review committee shall consider:

8 (A) Whether a proposed project:

9 (i) Reduces transportation costs for Oregon businesses or improves access to jobs and sources
 10 of labor in this state;

11 (ii) Results in an economic benefit to this state;

12 (iii) Connects elements of Oregon’s aviation system in a way that will measurably improve
 13 utilization and efficiency of the system;

14 (iv) Is ready for construction or implementation; and

15 (v) Has a useful life expectancy that offers maximum benefit to this state; and

16 (B) How much of the cost of the proposed project can be borne by the applicant from sources
 17 other than Oregon Department of Aviation funds or the Connect Oregon Fund.

18 (c) The review committee shall recommend applications to the State Aviation Board for ap-
 19 proval.

20 (4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated
 21 to the Oregon Department of Aviation for the costs of the department and the State Aviation Board
 22 in administering this section.

23 (b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be
 24 distributed pursuant to subsections (5) *[to (7)]* **and (6)** of this section.

25 (5)(a) *[Fifty]* **Seventy-five** percent of the amounts described in subsection (4)(b) of this section
 26 shall be *[prioritized in the following order and]* distributed for the following purposes:

27 *[(a)]* (A) *[First,]* To assist airports in Oregon with match requirements for Federal Aviation
 28 Administration Airport Improvement Program grants.

29 *[(b)]* (B) *[Second,]* To make grants for emergency preparedness and infrastructure projects, in
 30 accordance with the Oregon Resilience Plan or the Oregon Aviation Plan.

31 *[(c)]* (C) *[Third,]* To make grants for:

32 *[(A)]* (i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water
 33 and weather equipment;

34 *[(B)]* (ii) Aviation-related business development, including, but not limited to, hangars, parking
 35 for business aircraft and related facilities; *[or]* **and**

36 *[(C)]* (iii) Airport development for local economic benefit, including, but not limited to, signs and
 37 marketing.

38 (D)(i) **To assist commercial air service to rural Oregon.**

39 (ii) **The Oregon Department of Aviation may adopt a definition of “rural Oregon” for**
 40 **purposes of this subparagraph.**

41 (b) **The State Aviation Board may establish by rule priorities for the distributions made**
 42 **pursuant to this subsection.**

43 *[(6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be dis-*
 44 *tributed for the purpose of assisting commercial air service to rural Oregon.]*

45 *[(7)]* (6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall

1 be distributed to state-owned airports for the purposes of:

2 (a) Safety improvements recommended by the State Aviation Board and local community air-
3 ports.

4 (b) Infrastructure projects at public use airports.

5 ~~[(8)(a)]~~ **(7)(a) Not later than September 15 of each year, the State Aviation Board shall**
6 **submit the reports described in paragraph (b) of this subsection, in the manner provided in**
7 **ORS 192.245, to the interim committees of the Legislative Assembly related to air transpor-**
8 **tation.**

9 ~~(b) [The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and~~
10 ~~paragraph (b) of this subsection, that]~~ **The reports required under this subsection shall** describe
11 in detail the projects for which applications have been submitted and approved, the airports affected,
12 the names of the applicants and the persons who will perform the work proposed in the applications,
13 the progress of projects for which applications have been approved and any other information the
14 board considers necessary for a comprehensive analysis of the implementation of this section.

15 ~~[(b) The reports described in paragraph (a) of this subsection shall be submitted:]~~

16 ~~[(A) Not later than February 10 of each year to the committees of the Legislative Assembly related~~
17 ~~to air transportation; and]~~

18 ~~[(B) Not later than September 30 of each year to the interim committees of the Legislative Assembly~~
19 ~~related to air transportation.]~~

20 **SECTION 5. The amendments to section 7, chapter 700, Oregon Laws 2015, by section 4**
21 **of this 2021 Act apply to applications for distributions submitted on or after the effective date**
22 **of this 2021 Act.**

23 **SECTION 6. Sections 6 and 8, chapter 700, Oregon Laws 2015, are repealed.**

24 **SECTION 7. ORS 836.055 is amended to read:**

25 836.055. (1) In operating an airport or air navigation facility owned or controlled by the state,
26 the Oregon Department of Aviation, as authorized by the State Aviation Board, may enter into
27 contracts, leases and other arrangements, for a term not exceeding 30 years ~~[with any persons]~~ **for**
28 **noncommercial arrangements or 50 years for commercial arrangements:**

29 (a) Granting the privilege of using or improving ~~[such]~~ **the** airport or air navigation facility, or
30 any portion or facility ~~[thereof]~~ **of,** or space ~~[therein]~~ **in, the airport or air navigation facility,** for
31 commercial purposes;

32 (b) Conferring the privilege of supplying goods, commodities, things, services or facilities at
33 ~~[such]~~ **the** airport or air navigation facility; or

34 (c) Making available services to be furnished by the department or its agents at ~~[such]~~ **the** air-
35 port or air navigation facility.

36 (2) In each ~~[such]~~ case the department may establish the terms and conditions and fix the
37 charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the
38 same class of privilege or service and shall be established with due regard to the property and im-
39 provements used and the expenses of operation to the state; provided, that in no case shall the
40 public be deprived of its rightful, equal and uniform use of the airport, air navigation facility, or
41 portion or facility ~~[thereof]~~ **of the airport or air navigation facility.**

42 **SECTION 8. The amendments to ORS 836.055 by section 7 of this 2021 Act apply to con-**
43 **tracts, leases and other arrangements entered into on or after the effective date of this 2021**
44 **Act.**

45 **SECTION 9. This 2021 Act takes effect on the 91st day after the date on which the 2021**

1 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

2
