

A-Engrossed
House Bill 3295

Ordered by the House June 10
Including House Amendments dated June 10

Sponsored by Representatives KROPF, ZIKA; Representative MORGAN

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.

Modifies [*city and*] county eligibility requirements for transfer of moneys from [*marijuana revenue*] **Oregon Marijuana Account. Requires county to convene cannabis advisory panel before county adopts specified ordinance related to marijuana to be eligible for transfers of moneys. Creates exception to convening of county cannabis advisory panel before ordinance adoption for certain counties.**

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to marijuana revenue; creating new provisions; amending ORS 475B.759 and section 5,
3 chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)); and prescribing an effective date.

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

5 **SECTION 1.** ORS 475B.759, as amended by section 10, chapter 2, Oregon Laws 2021 (Ballot
6 Measure 110 (2020)), 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 **(b) Before making other transfers of moneys required by this section, the department**
13 **shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in**
14 **the Oregon Marijuana Account in excess of \$11,250,000.**

15 [(b)] **(c)** Subject to subsection (4) of this section, and after making the transfer of moneys re-
16 quired by [*subsection (7) of this section*] **paragraph (b) of this subsection**, the department shall
17 transfer quarterly 20 percent of the moneys in the Oregon Marijuana Account as follows:

18 (A) Ten percent of the moneys in the account must be transferred to the cities of this state in
19 the following shares:

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

25 (ii) Twenty-five percent of the 10 percent must be transferred in shares that reflect the number
26 of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the last business day

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 of the calendar quarter preceding the date of the transfer for premises located in each city compared
2 to the number of licenses held pursuant to ORS 475B.070, 475B.090, 475B.100 and 475B.105 on the
3 last business day of that calendar quarter for all premises in this state located in cities; and

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

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

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

17 [(c)] **(d)** After making the transfer of moneys required by [subsection (7) of this section, eighty]
18 **paragraph (b) of this subsection, 80** percent of the remaining moneys in the Oregon Marijuana
19 Account must be used as follows:

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

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

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

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

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

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

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

37 **(d)(A) Paragraphs (b) and (c) of this subsection do not apply to a county ordinance**
38 **adopted on or after January 1, 2018, that prohibits the establishment of a premises for which**
39 **a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required but allows in the**
40 **unincorporated area of the county the continued operation of an existing premises for which**
41 **a license under ORS 475B.070, 475B.090, 475B.100 or 475B.105 is required.**

42 **(B) A county that adopts an ordinance described in subparagraph (A) of this paragraph**
43 **shall certify the adoption of the ordinance under subsection (6) of this section.**

44 (5)(a) A city or county that is ineligible under subsection (4) of this section to receive a transfer
45 of moneys from the Oregon Marijuana Account during a given quarter but has received a transfer

1 of moneys for that quarter shall return the amount transferred to the Department of Revenue, with
 2 interest as described under paragraph (f) of this subsection. An ineligible city or county may vol-
 3 untarily transfer the moneys to the Department of Revenue immediately upon receipt of the ineligi-
 4 ble transfer.

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

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

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

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

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

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

27 (6)(a) Not later than July 1 of each year, each city and county in this state shall certify with
 28 the Oregon Department of Administrative Services whether the city or county has an ordinance
 29 prohibiting the establishment of a premises for which issuance of a license under ORS 475B.070,
 30 475B.090, 475B.100 or 475B.105 is required **and whether the county has an ordinance described**
 31 **in subsection (4)(d) of this section.** The certification shall be made concurrently with the certif-
 32 ications under ORS 221.770, in a form and manner prescribed by the Oregon Department of Admin-
 33 istrative Services.

34 (b) If a city fails to comply with this subsection, the city is not eligible to receive transfers of
 35 moneys under subsection [(3)(b)(A)] **(3)(c)(A)** of this section. If a county fails to comply with this
 36 subsection, the county is not eligible to receive transfers of moneys under subsection [(3)(b)(B)]
 37 **(3)(c)(B)** of this section.

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

44 [(7) Before making the transfer of moneys required by subsection (3) of this section, the department
 45 shall transfer quarterly to the Drug Treatment and Recovery Services Fund all moneys in the Oregon

1 *Marijuana Account in excess of \$11,250,000.]*

2 **SECTION 2.** Section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), is amended
3 to read:

4 **Sec. 5.** (1) The Drug Treatment and Recovery Services Fund is established in the State Treas-
5 ury, separate and distinct from the General Fund. Interest earned by the **Drug Treatment and**
6 **Recovery Services Fund** shall be credited to the fund.

7 (2) The Drug Treatment and Recovery Services Fund shall consist of:

8 (a) Moneys deposited into the fund pursuant to section 6, **chapter 2, Oregon Laws 2021 (Ballot**
9 **Measure 110 (2020))**;

10 (b) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

11 (c) Moneys allocated from the Oregon Marijuana Account, pursuant to ORS 475B.759 [(7)]
12 **(3)(b)**; and[,]

13 (d) All other moneys deposited [*in*] **into** the fund from any source.

14 (3) Moneys in the fund shall be continuously appropriated to the Oregon Health Authority for
15 the purposes set forth in section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

16 [(4) *Unexpended moneys in the fund may not lapse and shall be carried forward and may be used*
17 *without regard to fiscal year or biennium.*]

18 [(5)(a)] **(4)(a)** Pursuant to subsection (2)(b) of this section, the Legislative Assembly shall ap-
19 propriate or transfer to the fund an amount sufficient to fully fund the grants program required by
20 section 2, **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**.

21 (b) The total amount deposited and transferred into the fund shall not be less than \$57 million
22 for the first year [*this Act*] **chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020))**, is in effect.

23 (c) In each subsequent year, [*that*] **the minimum transfer** amount set forth in **paragraph (b)**
24 **of this** subsection [(5)(b) *of this section*] shall be increased by not less than **the sum of**:

25 [(i)] **(A) \$57 million multiplied by** the percentage [(*if any*)], **if any**, by which the monthly av-
26 eraged U.S. City Average Consumer Price Index for the 12 consecutive months ending [*December*]
27 **August 31** of the prior calendar year exceeds the monthly index for the fourth quarter of the cal-
28 endar year 2020; and[,]

29 [(ii)] **(B)** [*An amount not less than the increase*] **The annual increase, if any**, in moneys dis-
30 tributed pursuant to ORS 475B.759 [(7)] **(3)(b)**.

31 **SECTION 3.** (1) **Prior to adopting an ordinance described in ORS 475B.759 (4)(d), a county**
32 **shall convene a cannabis advisory panel to provide recommendations to the county commis-**
33 **sion regarding the county's regulation of marijuana and use of moneys transferred to the**
34 **county under ORS 475B.759 (4). The county commission shall appoint the following members**
35 **to the county cannabis advisory panel:**

36 (a) **A person who holds a license issued under ORS 475B.070 for a premises located in the**
37 **county;**

38 (b) **A person who holds a license issued under ORS 475B.105 for a premises located in the**
39 **county;**

40 (c) **A designee of the county sheriff;**

41 (d) **A designee of the county commission;**

42 (e) **A member of the public;**

43 (f) **A watermaster, as described in ORS 540.020, who is appointed for a water district in,**
44 **partially in or near the county; and**

45 (g) **A representative of the county who is knowledgeable about economic development in**

1 the county.

2 (2) A county cannabis advisory panel shall provide recommendations to the county com-
3 mission on at least the following:

4 (a) The use of moneys transferred to the county under ORS 475B.759;

5 (b) Increases in public safety measures related to marijuana use and marijuana entities
6 in the county; and

7 (c) Issues presented by the production, processing, wholesaling and distribution of
8 marijuana in the unincorporated area subject to the jurisdiction of the county.

9 (3)(a) A county cannabis advisory panel shall meet at least quarterly during the time in
10 which the county receives transfers of moneys under ORS 475B.759, beginning not later than
11 the date on which an ordinance described under ORS 475B.759 (4)(d) is proposed by the
12 county.

13 (b) A county that adopts an ordinance described in ORS 475B.759 (4)(d) and that does not
14 appoint a county cannabis advisory panel under this section is not eligible to receive trans-
15 fers of moneys under ORS 475B.759.

16 SECTION 4. Notwithstanding section 3 (3) of this 2021 Act, a county that adopts an or-
17 dinance described in ORS 475B.759 (4)(d) between January 1, 2018, and September 1, 2021, is
18 eligible to receive transfers of moneys under ORS 475B.759 when the county appoints a
19 county cannabis advisory panel, as described in section 3 of this 2021 Act.

20 SECTION 5. (1) Sections 3 and 4 of this 2021 Act and the amendments to ORS 475B.759
21 and section 5, chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), by sections 1 and 2
22 of this 2021 Act become operative on January 1, 2022.

23 (2) The Department of Revenue and a county may take any action before the operative
24 date specified in subsection (1) of this section that is necessary to enable the department and
25 the county to exercise, on and after the operative date specified in subsection (1) of this
26 section, all of the duties, functions and powers conferred on the department and the county
27 by sections 3 and 4 of this 2021 Act and the amendments to ORS 475B.759 and section 5,
28 chapter 2, Oregon Laws 2021 (Ballot Measure 110 (2020)), by sections 1 and 2 of this 2021 Act.

29 SECTION 6. This 2021 Act takes effect on the 91st day after the date on which the 2021
30 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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