

Requested by Representative DEXTER

**PROPOSED AMENDMENTS TO
HOUSE BILL 2814**

1 In line 2 of the printed bill, after the semicolon insert “creating new
2 provisions; amending ORS 291.055;”.

3 Delete lines 4 through 22 and insert:

4 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part
5 of ORS chapter 468A.**

6 **“SECTION 2. (1) As used in this section:**

7 **“(a) ‘Indirect source of air contamination’ includes, but is not lim-
8 ited to, indirect sources of air pollution described in 42 U.S.C.
9 7410(a)(5).**

10 **“(b) ‘Indirect source review program’ has the meaning given that
11 term in 42 U.S.C. 7410(a)(5).**

12 **“(2) The Environmental Quality Commission shall establish stan-
13 dards pursuant to ORS 468A.025 for indirect sources of air contam-
14 ination and shall adopt rules establishing an indirect source review
15 program to control emissions of particulate matter, oxides of nitrogen
16 and other air contaminants from or associated with indirect sources
17 of air contamination located within Clackamas, Multnomah and
18 Washington Counties. An indirect source review program established
19 under this section must:**

20 **“(a) Control emissions associated with the construction and opera-
21 tion of an indirect source of air contamination; and**

1 **“(b) Control the aggregate emissions from on-road vehicles and**
2 **nonroad vehicles and engines associated with indirect sources of air**
3 **contamination.**

4 **“(3) Rules implementing an indirect source review program under**
5 **subsection (2) of this section may include, but need not be limited to:**

6 **“(a) Provisions requiring an indirect source of air contamination**
7 **to obtain a permit under ORS 468A.040;**

8 **“(b) Public notification requirements for the owner or operator of**
9 **an indirect source of air contamination; and**

10 **“(c) Provisions requiring an indirect source of air contamination to**
11 **make an emissions mitigation payment, as described in subsection (4)**
12 **of this section.**

13 **“(4)(a) The commission may establish by rule an emissions miti-**
14 **gation payment. The emissions mitigation payment may be paid by the**
15 **owner or operator of an indirect source of air contamination based on**
16 **the emissions of the indirect source of air contamination that exceed**
17 **the standards established by the commission under this section. The**
18 **amount of the emissions mitigation payment shall be determined by**
19 **the Department of Environmental Quality after consideration of:**

20 **“(A) The expected cost of actions needed to offset the increase in**
21 **public health risks from air contaminant emissions associated with the**
22 **indirect source of air contamination; and**

23 **“(B) The expected cost of projects or programs to mitigate the ef-**
24 **fects of air pollution in communities negatively impacted by air pol-**
25 **lution from or associated with indirect sources of air contamination.**

26 **“(b) Any amounts collected by the department under this section**
27 **shall be deposited into the Indirect Source Emissions Mitigation Fund**
28 **established under section 4 of this 2021 Act.**

29 **“(c) The emissions mitigation payment is in addition to any fees**
30 **imposed by the department on an indirect source of air contamination**

1 **under ORS chapter 468 or 468A.**

2 **“(5) Nothing in this section limits the authority of the commission**
3 **under any other provision of ORS chapter 468A.**

4 **“SECTION 3.** Section 2 of this 2021 Act is amended to read:

5 **“Sec. 2.** (1) As used in this section:

6 “(a) ‘Indirect source of air contamination’ includes, but is not limited to,
7 indirect sources of air pollution described in 42 U.S.C. 7410(a)(5).

8 “(b) ‘Indirect source review program’ has the meaning given that term in
9 42 U.S.C. 7410(a)(5).

10 “(2) The Environmental Quality Commission shall establish standards
11 pursuant to ORS 468A.025 for indirect sources of air contamination and shall
12 adopt rules establishing an indirect source review program to control emis-
13 sions of particulate matter, oxides of nitrogen and other air contaminants
14 from or associated with indirect sources of air contamination [*located within*
15 *Clackamas, Multnomah and Washington Counties*]. An indirect source review
16 program established under this section must:

17 “(a) Control emissions associated with the construction and operation of
18 an indirect source of air contamination; and

19 “(b) Control the aggregate emissions from on-road vehicles and nonroad
20 vehicles and engines associated with indirect sources of air contamination.

21 “(3) Rules implementing an indirect source review program under sub-
22 section (2) of this section may include, but need not be limited to:

23 “(a) Provisions requiring an indirect source of air contamination to ob-
24 tain a permit under ORS 468A.040;

25 “(b) Public notification requirements for the owner or operator of an in-
26 direct source of air contamination; and

27 “(c) Provisions requiring an indirect source of air contamination to make
28 an emissions mitigation payment, as described in subsection (4) of this sec-
29 tion.

30 “(4)(a) The commission may establish by rule an emissions mitigation

1 payment. The emissions mitigation payment may be paid by the owner or
2 operator of an indirect source of air contamination based on the emissions
3 of the indirect source of air contamination that exceed the standards estab-
4 lished by the commission under this section. The amount of the emissions
5 mitigation payment shall be determined by the Department of Environmental
6 Quality after consideration of:

7 “(A) The expected cost of actions needed to offset the increase in public
8 health risks from air contaminant emissions associated with the indirect
9 source of air contamination; and

10 “(B) The expected cost of projects or programs to mitigate the effects of
11 air pollution in communities negatively impacted by air pollution from or
12 associated with indirect sources of air contamination.

13 “(b) Any amounts collected by the department under this section shall be
14 deposited into the Indirect Source Emissions Mitigation Fund established
15 under section 4 of this 2021 Act.

16 “(c) The emissions mitigation payment is in addition to any fees imposed
17 by the department on an indirect source of air contamination under ORS
18 chapter 468 or 468A.

19 “(5) Nothing in this section limits the authority of the commission under
20 any other provision of ORS chapter 468A.

21 **“SECTION 4. The Indirect Source Emissions Mitigation Fund is es-**
22 **tablished in the State Treasury, separate and distinct from the General**
23 **Fund. The Indirect Source Emissions Mitigation Fund consists of**
24 **moneys deposited in the fund under section 2 of this 2021 Act and any**
25 **other moneys deposited in the fund from any other public or private**
26 **source. Moneys in the Indirect Source Emissions Mitigation Fund are**
27 **continuously appropriated to the Department of Environmental Qual-**
28 **ity to be used for actions to reduce public exposure to air contam-**
29 **inants emitted from mobile sources of air pollution that operate within**
30 **or are associated with or attracted to indirect sources of air contam-**

1 **ination as defined in section 2 of this 2021 Act.**

2 **“SECTION 5.** ORS 291.055 is amended to read:

3 “291.055. (1) Notwithstanding any other law that grants to a state agency
4 the authority to establish fees, all new state agency fees or fee increases
5 adopted during the period beginning on the date of adjournment sine die of
6 a regular session of the Legislative Assembly and ending on the date of
7 adjournment sine die of the next regular session of the Legislative Assembly:

8 “(a) Are not effective for agencies in the executive department of gov-
9 ernment unless approved in writing by the Director of the Oregon Depart-
10 ment of Administrative Services;

11 “(b) Are not effective for agencies in the judicial department of govern-
12 ment unless approved in writing by the Chief Justice of the Supreme Court;

13 “(c) Are not effective for agencies in the legislative department of gov-
14 ernment unless approved in writing by the President of the Senate and the
15 Speaker of the House of Representatives;

16 “(d) Shall be reported by the state agency to the Oregon Department of
17 Administrative Services within 10 days of their adoption; and

18 “(e) Are rescinded on adjournment sine die of the next regular session of
19 the Legislative Assembly as described in this subsection, unless otherwise
20 authorized by enabling legislation setting forth the approved fees.

21 “(2) This section does not apply to:

22 “(a) Any tuition or fees charged by a public university listed in ORS
23 352.002.

24 “(b) Taxes or other payments made or collected from employers for un-
25 employment insurance required by ORS chapter 657 or premium assessments
26 required by ORS 656.612 and 656.614 or contributions and assessments cal-
27 culated by cents per hour for workers’ compensation coverage required by
28 ORS 656.506.

29 “(c) Fees or payments required for:

30 “(A) Health care services provided by the Oregon Health and Science

1 University, by the Oregon Veterans' Homes pursuant to ORS 408.362 and
2 408.365 to 408.385 and by other state agencies and institutions pursuant to
3 ORS 179.610 to 179.770.

4 “(B) Copayments and premiums paid to the Oregon medical assistance
5 program.

6 “(C) Assessments paid to the Department of Consumer and Business Ser-
7 vices under sections 3 and 5, chapter 538, Oregon Laws 2017.

8 “(d) Fees created or authorized by statute that have no established rate
9 or amount but are calculated for each separate instance for each fee payer
10 and are based on actual cost of services provided.

11 “(e) State agency charges on employees for benefits and services.

12 “(f) Any intergovernmental charges.

13 “(g) Forest protection district assessment rates established by ORS 477.210
14 to 477.265 and the Oregon Forest Land Protection Fund fees established by
15 ORS 477.760.

16 “(h) State Department of Energy assessments required by ORS 456.595 and
17 469.421 (8).

18 “(i) Assessments on premiums charged by the Director of the Department
19 of Consumer and Business Services pursuant to ORS 731.804 or fees charged
20 by the director to banks, trusts and credit unions pursuant to ORS 706.530
21 and 723.114.

22 “(j) Public Utility Commission operating assessments required by ORS
23 756.310 or charges paid to the Residential Service Protection Fund required
24 by chapter 290, Oregon Laws 1987.

25 “(k) Fees charged by the Housing and Community Services Department
26 for intellectual property pursuant to ORS 456.562.

27 “(L) New or increased fees that are anticipated in the legislative budget-
28 ing process for an agency, revenues from which are included, explicitly or
29 implicitly, in the legislatively adopted budget or the legislatively approved
30 budget for the agency.

1 “(m) Tolls approved by the Oregon Transportation Commission pursuant
2 to ORS 383.004.

3 “(n) Portal provider fees as defined in ORS 276A.270 and established by
4 the State Chief Information Officer under ORS 276A.276 (3) and recommended
5 by the Electronic Government Portal Advisory Board.

6 “(o) Fees set by the State Parks and Recreation Director and approved
7 by the State Parks and Recreation Commission under ORS 390.124 (2)(b).

8 **“(p) Emissions mitigation payments paid to the Department of En-
9 vironmental Quality under section 2 of this 2021 Act.**

10 “(3)(a) Fees temporarily decreased for competitive or promotional reasons
11 or because of unexpected and temporary revenue surpluses may be increased
12 to not more than their prior level without compliance with subsection (1)
13 of this section if, at the time the fee is decreased, the state agency specifies
14 the following:

15 “(A) The reason for the fee decrease; and

16 “(B) The conditions under which the fee will be increased to not more
17 than its prior level.

18 “(b) Fees that are decreased for reasons other than those described in
19 paragraph (a) of this subsection may not be subsequently increased except
20 as allowed by ORS 291.050 to 291.060 and 294.160.

21 **“SECTION 6. The amendments to section 2 of this 2021 Act by sec-
22 tion 3 of this 2021 Act become operative on January 1, 2027.**

23 **“SECTION 7. This 2021 Act takes effect on the 91st day after the
24 date on which the 2021 regular session of the Eighty-first Legislative
25 Assembly adjourns sine die.”.**

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