

B-Engrossed
House Bill 2531

Ordered by the House June 5
Including House Amendments dated May 5 and June 5

Sponsored by Representatives READ, HUNT; Representatives BRUUN, ROBLAN, SCHAUFLEER, Senators DEVLIN, MONROE, MORSE (at the request of Portland Timbers)

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.

Expands purpose of Major League Stadium Grant Fund to include entering into agreements that grant incremental soccer tax revenues for purpose of financing, developing, constructing and furnishing major league stadium designed for use by Major League Soccer team located in Portland. Authorizes Director of Oregon Department of Administrative Services to enter into grant agreements. Specifies terms of grant agreements. Specifies determinations that director must make prior to executing grant agreement.

Subjects transfer of incremental soccer tax revenues to fund to Legislative Assembly making appropriation for that purpose. Specifies that appropriation must be amount equal to estimated or actual incremental soccer tax revenues. Makes disbursement of appropriation, if made pursuant to grant agreement, unconditional.

Prohibits transfer of revenues generated from members of soccer team to Major League Stadium Grant Fund until July 1, 2011.

Limits biennial expenditures of Oregon Department of Administrative Services for payment of grant to fund construction of stadium.

Sunset on date on which all bonds issued for purpose of financing, developing, constructing or furnishing soccer stadium are retired or July 1, 2014, whichever date is earlier.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to financing of Major League Soccer stadium; creating new provisions; amending ORS
3 184.408 and 316.213; limiting expenditures; and prescribing an effective date.

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

5 **SECTION 1. (1) As used in sections 1 to 4 of this 2009 Act:**

6 (a) **"Incremental soccer tax revenues" means:**

7 (A) **The Oregon personal income tax revenues that are generated from the Oregon per-**
8 **sonal income tax liabilities of the members of a professional soccer team engaged in Major**
9 **League Soccer, as shown on the income tax returns filed by the members or as adjusted by**
10 **the Department of Revenue, excluding revenues that are generated from the tax liabilities**
11 **of spouses of members of a professional soccer team engaged in Major League Soccer if the**
12 **tax liabilities are reported on a joint return; or**

13 (B) **If Oregon personal income tax rates are reduced after the dates of the grant agree-**
14 **ments described in section 3 of this 2009 Act and the grant agreements provide that pay-**
15 **ments will be based on rates in effect when the grant agreements are executed, the Oregon**
16 **personal income tax liabilities, as described in subparagraph (A) of this paragraph, that**
17 **would have been due if the liabilities were calculated using personal income tax rates in ef-**
18 **fect on the date of execution of the grant agreements.**

19 (b) **"Major league stadium" means a soccer stadium located in the City of Portland that**

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 is designed for use by a Major League Soccer team and that has an estimated cost of \$30
2 million or more.

3 (c) "Member of a professional soccer team" means an athlete or employee of a profes-
4 sional soccer team if the compensation of the athlete or employee exceeds \$40,000 in a tax
5 year.

6 (d) "Tax liabilities" means the tax determined under ORS chapter 316 for the tax year
7 less the credits allowed for purposes of ORS chapter 316 for the tax year.

8 (2) The Department of Revenue may adopt administrative rules that the department de-
9 termines are necessary to:

10 (a) Further define the terms defined in this section in a manner consistent with this
11 section;

12 (b) Implement the duties of the department under ORS 184.408 and sections 1 to 4 of this
13 2009 Act; and

14 (c) Carry out the purposes of ORS 184.408 and sections 1 to 4 of this 2009 Act.

15 **SECTION 2.** The Legislative Assembly finds and declares that the construction of a major
16 league stadium and the location of a Major League Soccer franchise in Portland will bring
17 jobs and economic development to Oregon and will benefit Oregon workers and businesses.

18 **SECTION 3.** (1) The Director of the Oregon Department of Administrative Services, with
19 the approval of the State Treasurer, may enter into one or more agreements on behalf of the
20 State of Oregon to grant the incremental soccer tax revenues for a period of not more than
21 30 years. The grant agreements must:

22 (a) Provide that the granted amounts may be used only to pay for the costs of financing,
23 developing, constructing and furnishing a major league stadium;

24 (b) Provide that:

25 (A) The total payments to the grantees are limited so that the grantees do not receive,
26 in the aggregate, more than \$5 million for costs of developing, constructing and furnishing
27 a major league stadium, plus the actual, reasonable financing costs incurred by the grantees
28 for that amount; and

29 (B) If the incremental soccer tax revenues in a year substantially exceed the amount
30 reasonably required to amortize a loan of \$5 million over a period of 30 years with interest,
31 the excess may be retained by the state;

32 (c) Terminate when:

33 (A) The State of Oregon has made all payments assigned to the state in the grant
34 agreements for the costs allowed under this subsection; and

35 (B) The grantees have returned any amounts required to be returned under paragraph
36 (i) of this subsection;

37 (d) Require the Director of the Department of Revenue to estimate incremental soccer
38 tax revenues, specify the methodology for estimating incremental soccer tax revenues and
39 notify the Director of the Oregon Department of Administrative Services of the estimated
40 incremental soccer tax revenues;

41 (e) Specify the methodology for determining actual incremental soccer tax revenues;

42 (f) Require the Director of the Oregon Department of Administrative Services to request
43 that the Legislative Assembly appropriate an amount equal to the estimated incremental
44 soccer tax revenues from the General Fund to the Major League Stadium Grant Fund es-
45 tablished in ORS 184.408 so that those moneys may be disbursed under the grant agreements

1 authorized by this section;

2 (g) Require the Director of the Department of Revenue to determine the actual incre-
3 mental soccer tax revenues and, if the actual incremental soccer tax revenues exceed the
4 estimated incremental soccer tax revenues, notify the Director of the Oregon Department
5 of Administrative Services of the excess;

6 (h) Require the Director of the Oregon Department of Administrative Services, if notified
7 of an excess under paragraph (g) of this subsection, to request that the Legislative Assembly
8 appropriate an amount equal to the excess, adjusted for the limits and retentions described
9 in paragraph (b) of this subsection, from the General Fund to the Major League Stadium
10 Grant Fund so that those moneys may be disbursed under the grant agreements authorized
11 by this section;

12 (i) Require the grantees to return to the Director of the Oregon Department of Admin-
13 istrative Services for deposit in the General Fund amounts transferred to the grantees from
14 the Major League Stadium Grant Fund that exceed the actual incremental soccer tax re-
15 venues;

16 (j) Provide that the amounts requested for appropriations may not be reduced because
17 of any reduction that may be enacted in Oregon personal income tax rates;

18 (k) Require the Director of the Oregon Department of Administrative Services to dis-
19 burse amounts in the Major League Stadium Grant Fund to the grantees on particular dates;

20 (L) Provide assurances of full and fair participation in the construction, furnishing and
21 operation of the major league stadium by women, minorities and small businesses;

22 (m) Provide for the maximization of economic benefits for Oregon workers in the con-
23 struction, furnishing and operation of the major league stadium to the greatest extent per-
24 mitted by law; and

25 (n) Require the State of Oregon and the grantees to take any other action that the State
26 Treasurer, the Director of the Oregon Department of Administrative Services or the Direc-
27 tor of the Department of Revenue determines is desirable to ensure that:

28 (A) The granted funds are used for the purposes described in ORS 184.408 and sections 1
29 to 4 of this 2009 Act;

30 (B) The grant agreements are administered efficiently and the interests of the State of
31 Oregon are protected; and

32 (C) The requests for appropriation of amounts equal to the incremental soccer tax re-
33 venues are made as described in sections 1 to 4 of this 2009 Act.

34 (2) The obligation of the State of Oregon, under ORS 184.408 and sections 1 to 4 of this
35 2009 Act and the grant agreements authorized by this section, to transfer estimated or ac-
36 tual incremental soccer tax revenues to the Major League Stadium Grant Fund is subject to
37 an appropriation being made for that purpose by the Legislative Assembly. The State of
38 Oregon is not liable to any party for any reason if the Legislative Assembly fails to appro-
39 priate all or a portion of the amounts requested under subsection (1)(f) and (h) of this section
40 to the Major League Stadium Grant Fund. However, if the Legislative Assembly does appro-
41 priate amounts for deposit in the Major League Stadium Grant Fund and those amounts are
42 deposited in the Major League Stadium Grant Fund pursuant to the grant agreements au-
43 thorized by this section, the obligation of the State of Oregon to disburse the amounts in the
44 Major League Stadium Grant Fund is unconditional. The grant agreements authorized by
45 this section are not a pledge of the full faith and credit or the taxing power of the State of

1 Oregon, and the State of Oregon does not pledge its full faith and credit or taxing power.
2 The grant agreements do not create an indebtedness of the State of Oregon in violation of
3 section 7, Article XI of the Oregon Constitution. If a provision of a grant agreement is con-
4 strued to have the effect of creating a debt in violation of section 7, Article XI of the Oregon
5 Constitution, the provision is void.

6 (3) The Legislative Assembly does not have a legal obligation to appropriate any amounts
7 for disbursement under the grant agreements authorized by this section. However, the Leg-
8 islative Assembly declares its current intention to appropriate amounts equal to the esti-
9 mated incremental soccer tax revenues and amounts equal to the amount by which the
10 actual incremental soccer tax revenues exceed the estimated incremental soccer tax reven-
11 ues from the General Fund to the Major League Stadium Grant Fund, as provided in ORS
12 184.408 and sections 1 to 4 of this 2009 Act, so that the amounts may be disbursed pursuant
13 to the grant agreements authorized by this section.

14 (4) Before commencing negotiations on a grant agreement authorized by this section, the
15 Oregon Department of Administrative Services shall obtain one or more agreements from
16 benefited parties to pay the state's costs associated with negotiating and executing the grant
17 agreement.

18 **SECTION 4.** The Director of the Oregon Department of Administrative Services may not
19 execute a grant agreement authorized by section 3 of this 2009 Act until the director has
20 determined that:

21 (1) The City of Portland has made a written request to the director, received by the di-
22 rector before July 1, 2010, to execute and deliver the grant agreement;

23 (2) A Major League Soccer franchise has agreed to locate and be based in Portland and
24 has entered into a legally binding commitment to remain in Portland for at least the term
25 of the grant agreement;

26 (3) All funding to build the major league stadium that is not based on the grant agree-
27 ment has been committed;

28 (4) No grantee is both a public body and a guarantor for the repayment of bonds or other
29 indebtedness that is to be repaid through use of grant moneys;

30 (5) The Oregon Department of Administrative Services has provided a written report re-
31 garding the estimated and actual incremental soccer tax revenues to, and has solicited
32 comments from, the advisory committee described in subsection (6) of this section relating
33 to the following provisions of the proposed grant agreement:

34 (a) The methodology for estimating the incremental soccer tax revenues;

35 (b) The methodology for determining the actual incremental soccer tax revenues; and

36 (c) The requirement that estimated and actual incremental soccer tax revenues be based
37 on the Oregon personal income tax rates in effect when the grant agreement is executed or
38 for the period for which the taxes are collected, whichever is greater, even if those rates are
39 subsequently reduced; and

40 (6) An advisory committee, consisting of two legislators appointed by the President of the
41 Senate, two legislators appointed by the Speaker of the House of Representatives and one
42 person appointed by the Governor, has reviewed the provisions of the proposed grant agree-
43 ment listed in subsection (5) of this section.

44 **SECTION 5.** ORS 316.213 is amended to read:

45 316.213. (1) As used in ORS 316.213 to 316.219:

1 (a) "Duty days" means the days during the tax year from the beginning of the official preseason
2 training period of a professional athletic team through the last game in which the professional ath-
3 letic team competes or is scheduled to compete during the tax year.

4 (b) "Member of a professional athletic team" means an athlete or other individual rendering
5 service to a professional athletic team if the compensation of the athlete or other individual
6 exceeds:

7 (A) \$50,000 in a tax year; or

8 (B) \$40,000 in a tax year, if the team is engaged in Major League Soccer.

9 (2) The Department of Revenue may further define by rule the terms defined in this section in
10 a manner consistent with this section.

11 **SECTION 6.** ORS 184.408 is amended to read:

12 184.408. The Major League Stadium Grant Fund is established in the State Treasury, separate
13 and distinct from the General Fund. Amounts in the fund are continuously appropriated to the
14 Oregon Department of Administrative Services for the purpose of making the grants required by the
15 grant agreements entered into under ORS 184.404 and section 3 of this 2009 Act and paying the
16 costs and expenses of the State Treasurer, the Oregon Department of Administrative Services and
17 the Department of Revenue in connection with the implementation and administration of ORS
18 184.400 to 184.408 [and], 316.213 to 316.219 and sections 1 to 4 of this 2009 Act. Interest earned
19 by the Major League Stadium Grant Fund must be credited to the fund.

20 **SECTION 7.** Notwithstanding any other law limiting expenditures, the amount of \$1 is
21 established for the biennium beginning July 1, 2009, as the maximum limit for payment by
22 the Oregon Department of Administrative Services from the Major League Stadium Grant
23 Fund of amounts required under the grant agreements authorized in section 3 of this 2009
24 Act.

25 **SECTION 8.** Notwithstanding any other law limiting expenditures, the amount of \$1 is
26 established for the biennium beginning July 1, 2009, as the maximum limit for payment by
27 the Oregon Department of Administrative Services from the Major League Stadium Grant
28 Fund of the costs and expenses of the State Treasurer, the Oregon Department of Adminis-
29 trative Services and the Department of Revenue to implement and administer ORS 316.213
30 to 316.219 and sections 1 to 4 of this 2009 Act.

31 **SECTION 9.** Notwithstanding any other law, incremental soccer tax revenues generated
32 from the personal income tax liabilities of members of a professional soccer team may not
33 be transferred or deposited into the Major League Stadium Grant Fund established under
34 ORS 184.408 prior to July 1, 2011.

35 **SECTION 10.** Sections 1 to 4 of this 2009 Act are repealed on the earlier of:

36 (1) The date by which all bonds issued for the purpose of financing, developing, con-
37 structing and furnishing a soccer stadium as provided in sections 1 to 4 of this 2009 Act have
38 been retired; or

39 (2) July 1, 2041.

40 **SECTION 11.** This 2009 Act takes effect on the 91st day after the date on which the
41 regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

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