

A-Engrossed
Senate Bill 1036

Ordered by the Senate May 8
Including Senate Amendments dated May 8

Sponsored by Senator DECKERT; Senators BATES, BROWN, BURDICK, DEVLIN, JOHNSON, METSGER, MONNES ANDERSON, MONROE, MORRISETTE, MORSE, PROZANSKI, STARR, WALKER, WESTLUND, WINTERS, Representatives BEYER, BURLEY, DALLUM, FLORES, GILLIAM, GREENLICK, HANNA, KOMP, KRUMMEL, MORGAN, OLSON, RILEY, ROBLAN, SCOTT

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.

Restricts local government power to impose construction excise taxes. **Authorizes school districts to impose construction taxes.** Dedicates revenues from such taxes to *[school]* **capital** construction.

A BILL FOR AN ACT

1
2 Relating to local government construction excise taxes.

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

4 **SECTION 1. (1) A local government or local service district, as defined in ORS 174.116,**
5 **or a special government body, as defined in ORS 174.117, may not impose a tax on the privi-**
6 **lege of constructing improvements to real property except as provided in sections 2 to 7 of**
7 **this 2007 Act.**

8 **(2) Subsection (1) of this section does not apply to a tax that is in effect as of May 1, 2007,**
9 **or to a tax that was approved at a public hearing before May 1, 2007.**

10 **(3) For purposes of this section and sections 2 to 7 of this 2007 Act, construction taxes**
11 **do not include system development charges imposed under ORS 223.297 to 223.314 or any**
12 **other kind of fee, charge, tax or excise.**

13 **SECTION 2. (1) Construction taxes may be imposed by a school district, as defined in**
14 **ORS 330.005, in accordance with sections 2 to 7 of this 2007 Act.**

15 **(2) Notwithstanding subsection (1) of this section, construction taxes imposed by a school**
16 **district may be collected by another local government, local service district or special gov-**
17 **ernment body pursuant to a written agreement with a school district.**

18 **SECTION 3. Construction taxes may not be imposed on the following:**

19 **(1) Commercial tenant improvements.**

20 **(2) Public or private school improvements.**

21 **(3) Other public improvements, including but not limited to buildings, roads, rights of**
22 **way and sewer and water lines.**

23 **(4) Residential housing that is guaranteed to be affordable, under guidelines established**
24 **by the United States Department of Housing and Urban Development, to households that**
25 **earn no more than 60 percent of the median household income for the area in which the**
26 **construction tax is imposed, for a period of at least 60 years following the date of con-**

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 **struction of the residential housing.**

2 **SECTION 4. (1) Construction taxes imposed under sections 2 to 7 of this 2007 Act may**
3 **not exceed:**

4 (a) **\$1 per square foot of improvements to real property that are intended for residential**
5 **use, including but not limited to single-unit or multiple-unit housing;**

6 (b) **\$0.50 per square foot of improvements to real property that are intended for com-**
7 **mercial use, not including multiple-unit housing of any kind; and**

8 (c) **\$0.25 per square foot of improvements to real property that are intended for industrial**
9 **use.**

10 (2) **In addition to the limitations under subsection (1) of this section, a construction tax**
11 **imposed with respect to improvements to real property that are intended for industrial use**
12 **or commercial use may not exceed \$25,000 per industrial building permit or \$25,000 per com-**
13 **mercial structure.**

14 (3)(a) **For calendar years beginning on or after January 1, 2010, the limitations under**
15 **subsections (1) and (2) of this section shall be adjusted for changes in construction costs by**
16 **multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of**
17 **the averaged monthly construction cost index for the 12-month period ending June 30 of the**
18 **preceding calendar year over the averaged monthly construction cost index for the 12-month**
19 **period ending June 30, 2008.**

20 (b) **The department shall determine the adjusted limitations under this section and shall**
21 **report those limitations to entities imposing construction taxes. The department shall round**
22 **the adjusted limitation under subsection (2) of this section to the nearest multiple of \$100.**

23 (c) **As used in this subsection, “construction cost index” means the Engineering News-**
24 **Record Construction Cost Index, or a similar nationally recognized index of construction**
25 **costs as identified by the Department of Revenue by rule.**

26 **SECTION 5. (1) A school district imposing a construction tax shall impose the tax by a**
27 **resolution adopted by the district board of the school district. The resolution shall state the**
28 **rates of tax, subject to section 4 of this 2007 Act, and shall set forth any exemptions from**
29 **the tax that are in addition to the exemptions set forth in section 3 of this 2007 Act.**

30 (2) **Prior to adopting a resolution under subsection (1) of this section, a school district**
31 **shall enter into an intergovernmental agreement with each local government, local service**
32 **district or special government body collecting the tax that establishes:**

33 (a) **Collection duties and responsibilities;**

34 (b) **The specific school district accounts into which construction tax revenues are to be**
35 **deposited and the frequency of such deposits; and**

36 (c) **The level of the administrative fee that the entity collecting the tax may retain to**
37 **recoup its expenses in collecting the tax, not to exceed one percent of tax revenues.**

38 **SECTION 6. (1) After deducting the costs of administering a construction tax and pay-**
39 **ment of refunds of such taxes, a school district shall use net revenues only for capital im-**
40 **provements.**

41 (2) **A construction tax may not be imposed under sections 2 to 7 of this 2007 Act unless**
42 **the school district imposing the tax develops a long-term facilities plan for making capital**
43 **improvements. The plan shall be adopted by resolution of the district board of the school**
44 **district.**

45 (3) **As used in this section, “capital improvements”:**

- 1 **(a) Means:**
 - 2 **(A) The acquisition of land;**
 - 3 **(B) The construction, reconstruction or improvement of school facilities;**
 - 4 **(C) The acquisition or installation of equipment or furnishings; or**
 - 5 **(D) The expenditure of funds for any purpose, if the expenditure may be capitalized under**
 - 6 **generally accepted accounting principles.**
 - 7 **(b) Does not include operating costs or costs of routine maintenance.**
 - 8 **SECTION 7. Construction taxes shall be paid by the person undertaking the construction**
 - 9 **at the time that a permit authorizing the construction is issued.**
 - 10 **SECTION 8. Section 1 of this 2007 Act is repealed on January 2, 2018.**
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