

B-Engrossed
House Bill 2113

Ordered by the Senate July 1
Including House Amendments dated May 9 and Senate Amendments dated
July 1

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Transportation)

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.

Deletes requirements for certain reports by Department of Transportation. Deletes some required details of accounting and budgeting systems for department. Makes related changes.

A BILL FOR AN ACT

1
2 Relating to the Department of Transportation; creating new provisions; amending ORS 184.633,
3 184.651, 184.656, 184.658, 184.664, 367.622, 802.120 and 824.016; and repealing ORS 184.660,
4 184.662 and 366.509.

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

6 **SECTION 1.** ORS 184.633 is amended to read:

7 184.633. (1) Subject to policy direction by the Oregon Transportation Commission, the Director
8 of Transportation shall:

9 (a) Be the administrative head of the Department of Transportation;

10 (b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter
11 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties
12 and fix their compensation, subject to the State Personnel Relations Law;

13 (c) Administer the laws of the state concerning transportation; and

14 (d) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure,
15 in the proceedings of state and federal agencies which may substantially affect the interest of the
16 consumers and providers of transportation within Oregon.

17 (2) In addition to duties otherwise required by law, the director shall prescribe regulations for
18 the government of the department, the conduct of its employees, the assignment and performance
19 of its business and the custody, use and preservation of its records, papers and property in a manner
20 consistent with applicable law.

21 (3) The director may delegate to any of the employees of the department the exercise or dis-
22 charge in the director's name of any power, duty or function of whatever character, vested in or
23 imposed by law upon the director, including powers, duties or functions delegated to the director
24 by the commission pursuant to ORS 184.635. The official act of any such person so acting in the
25 director's name and by the authority of the director shall be considered to be an official act of the
26 director.

27 (4) The director shall have authority to require a fidelity bond of any officer or employee of the

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 department who has charge of, handles or has access to any state money or property, and who is
2 not otherwise required by law to give a bond. The amounts of the bond shall be fixed by the direc-
3 tor, except as otherwise provided by law, and the sureties shall be approved by the director. The
4 department shall pay the premiums on the bonds.

5 *[(5) The director shall prepare and submit to the commission on or about December 31 of each year*
6 *an annual report for the 12 months ending the prior June 30. The annual report shall set forth all that*
7 *the department has done during the year. The report shall contain a statement of the parts of the state*
8 *transportation system that were constructed, reconstructed or improved during the period, together with*
9 *a statement showing in a general way the status of the state transportation system and of programs for*
10 *educating and licensing drivers.]*

11 [(6)(a)] **(5)(a)** Subject to local government requirements and the provisions of ORS 197.830 to
12 197.845, the director may participate in and seek review of a land use decision or limited land use
13 decision as defined in ORS 197.015, or an expedited land division as defined in ORS 197.360. The
14 director shall report to the commission on each case in which the department participates and on
15 the positions taken by the director in each case.

16 (b) If a meeting of the commission is scheduled prior to the close of the period for seeking re-
17 view of a land use decision, expedited land division or limited land use decision, the director shall
18 obtain formal approval from the commission prior to seeking review of the decision. However, if the
19 land use decision, expedited land division or limited land use decision becomes final less than 15
20 days before a meeting of the commission, the director shall proceed as provided in paragraph (c) of
21 this subsection. If the director requests approval from the commission, the applicant and the affected
22 local government shall be notified in writing that the director is seeking commission approval. The
23 director, the applicant and the affected local government shall be given reasonable time to address
24 the commission regarding the director's request for approval to seek review. No other testimony
25 shall be taken by the commission.

26 (c) If a meeting of the commission is not scheduled prior to the close of the period for seeking
27 review of a land use decision, expedited land division or limited land use decision, at the next
28 commission meeting the director shall report to the commission on each case for which the depart-
29 ment has sought review. The director shall request formal approval to proceed with each appeal.
30 The applicant and the affected local government shall be notified of the commission meeting in
31 writing by the director. The director, the applicant and the affected local government shall be given
32 reasonable time to address the commission regarding the director's request for approval to proceed
33 with the appeal. No other testimony shall be taken by the commission. If the commission does not
34 formally approve an appeal, the director shall file a motion with the appropriate tribunal to dismiss
35 the appeal.

36 (d) A decision by the commission under this subsection is not subject to appeal.

37 (e) For purposes of this subsection, "applicant" means a person seeking approval of a permit,
38 as defined in ORS 215.402 or 227.160, expedited land division or limited land use decision.

39 [(7)] **(6)** The director may intervene in an appeal of a land use decision brought by another
40 person in the manner provided for an appeal by the director under subsection [(6)] **(5)** of this section.

41 **SECTION 2.** ORS 184.651 is amended to read:

42 184.651. [(1)] The Department of Transportation shall develop, operate and maintain a full cost
43 accounting system that accurately and separately accounts for all direct, indirect and administrative
44 costs incurred by each of the following units of the department:

45 [(a)] **(1)** Oregon Board of Maritime Pilots.

1 [(b)] (2) Central services.

2 [(c)] (3) Driver and motor vehicle services.

3 [(d)] (4) Highways.

4 [(e)] (5) Motor carriers.

5 [(f)] (6) Rail.

6 [(g)] (7) Transit.

7 [(h)] (8) Transportation development.

8 [(i)] (9) Transportation safety.

9 (2) *In addition to meeting the requirements of subsection (1) of this section, the cost accounting*
10 *system shall accurately account for all direct, indirect and administrative costs allocated to the de-*
11 *partment's products and services, whether the moneys spent are from state or federal sources. For each*
12 *product or service, the system shall show separately the amount of payments made to outside contrac-*
13 *tors. For each product or service for which lane miles are a relevant measurement, the system shall*
14 *show the cost per lane mile of the product or service. As used in this subsection, products and services*
15 *include, but are not limited to, the following:]*

16 [(a)] *Bridges, which includes preservation of the bridges, tunnels and culverts on the state highway*
17 *system.]*

18 [(b)] *Emergency relief, which includes repair, as needed, of damage caused by disasters.]*

19 [(c)] *Highway planning, which includes establishing long-range and short-range highway plans and*
20 *designing and implementing highway plans with local governments.]*

21 [(d)] *Highway safety, which includes providing engineering solutions to accident problems on state*
22 *and local highways. Accounting in this category shall also include information about the safety pri-*
23 *ority indexing system maintained by the department.]*

24 [(e)] *Maintenance, which includes keeping existing highways safe and usable for the traveling public*
25 *through such means as repair, snow and ice removal, vegetation clearance, striping, signal repair and*
26 *lighting.]*

27 [(f)] *Modernization, which includes improvements that add capacity to highways, including but not*
28 *limited to new or widened lanes and new bypasses.]*

29 [(g)] *Operations, which includes improving the efficiency of existing highways through such means*
30 *as traffic signaling systems, driver communication and ramp metering.]*

31 [(h)] *Payments to local governments, which includes payments to cities, counties and metropolitan*
32 *planning organizations.]*

33 [(i)] *Preservation, which includes paving, striping and reconstruction designed to add useful life to*
34 *existing highways.]*

35 [(j)] *Special programs, which includes but is not limited to bicycle and pedestrian facility projects,*
36 *environmental services and salmon and watershed projects.]*

37 **SECTION 3.** ORS 184.656 is amended to read:

38 184.656. (1) The Governor shall submit to the Legislative Assembly a proposed biennial program
39 budget for the Department of Transportation that specifies how existing revenues from all sources
40 will be spent. **The program budget shall include proposed expenditures for each program or**
41 **item specifically listed in the budget bills for the department enacted during the preceding**
42 **regular session of the Legislative Assembly.** *[in the following categories:]*

43 [(a)] *Oregon Board of Maritime Pilots.]*

44 [(b)] *Central services.]*

45 [(c)] *Driver and motor vehicle services.]*

- 1 *[(d) Highways.]*
- 2 *[(e) Motor carriers.]*
- 3 *[(f) Rail.]*
- 4 *[(g) Transit.]*
- 5 *[(h) Transportation development.]*
- 6 *[(i) Transportation safety.]*
- 7 *[(j) Others, including:]*
- 8 *[(A) Capital construction.]*
- 9 *[(B) Capital improvements.]*
- 10 *[(C) Light rail debt service.]*
- 11 *[(D) Nonlimited.]*
- 12 *[(2) The budget presented for highways shall show projected expenditures in each of the following*
- 13 *categories:]*
- 14 *[(a) Bridges.]*
- 15 *[(b) Emergency relief.]*
- 16 *[(c) Highway planning.]*
- 17 *[(d) Highway safety.]*
- 18 *[(e) Maintenance.]*
- 19 *[(f) Modernization, including but not limited to expenditures for reduction of accidents in areas that*
- 20 *are known to have a high incidence of accidents.]*
- 21 *[(g) Operations.]*
- 22 *[(h) Payments to local governments.]*
- 23 *[(i) Preservation.]*
- 24 *[(j) Special programs, including but not limited to bicycle and pedestrian facilities.]*
- 25 **[(3)] (2)** The budget shall be accompanied by the Highway Construction Plan described in ORS
- 26 184.658.

27 **SECTION 4.** ORS 184.658 is amended to read:

28 184.658. (1) The Highway Construction Plan shall be developed by the Department of Transpor-

29 tation on a biennial basis to accompany the Governor’s proposed budget for the department. The

30 plan shall include a list of projects from the STIP that the department intends to work on in the

31 biennium for which the budget is submitted. The plan shall also include a list of projects that the

32 department intends to pursue in the biennium that are not yet in the STIP because they are in

33 planning stages. *[Each project included in the plan shall be shown in one of the sections listed in*

34 *subsection (3) of this section.]* **The plan shall indicate the current status of each project as**

35 **specified in subsection (3) of this section.**

36 (2) For the categories of bridges, highway safety, modernization, operations and preservation,

37 the plan shall include a description of specific projects to be funded, how much money will be spent

38 on each and the anticipated year of completion. For the categories of emergency relief, highway

39 planning, maintenance, payments to local governments and special programs, the plan shall include

40 a description of programs to be funded and projected expenditures.

41 **(3) For each project in the Highway Construction Plan, the department shall indicate**

42 **whether:**

- 43 **(a) The project is under construction;**
- 44 **(b) Funding is committed for construction or implementation of the project; or**
- 45 **(c) Funding is committed only for the planning of the project.**

1 [(3) *The department shall divide the plan into four sections, and each project shall be shown in the*
2 *appropriate section. The sections shall be:*]

3 [(a) *Projects under construction;*]

4 [(b) *Projects for which funding is committed for construction or implementation, with the expected*
5 *date on which the contract will be awarded;*]

6 [(c) *Projects being developed for construction for which funding is committed; and*]

7 [(d) *Projects in preliminary or planning phases.*]

8 [(4) *Projects shall be included in the plan only after a public process that includes consultation*
9 *with cities, counties and metropolitan planning organizations.*]

10 [(5) *Projects included in the plan shall be listed for each region designated by the department.*]

11 [(6) *In accordance with the criteria and procedures described in this section, the plan shall be*
12 *written by the department, approved by the Oregon Transportation Commission and reviewed by the*
13 *Governor.*]

14 [(7) *Nothing in this section prevents the plan and the STIP from being the same document, as long*
15 *as the document meets the requirements of this section.*]

16 [(8) *The Governor shall submit to the Legislative Assembly, with the plan, a document that pro-*
17 *vides a means to evaluate revenue proposals. The document shall show how the department would re-*
18 *commend spending additional revenue that might become available to the department, by showing the*
19 *department's program priorities and a list of modernization needs. The document shall be based on*
20 *increments in revenue equal to a one-cent increase in the motor vehicle fuel tax and equivalent increases*
21 *in the weight-mile and related taxes. This subsection does not require the Governor or department to*
22 *propose tax increases.*]

23 **SECTION 5.** ORS 184.664 is amended to read:

24 184.664. (1) The Department of Transportation shall create a concise status report for the Leg-
25 islative Assembly of projects listed in the Highway Construction Plan and in the previous status
26 report. The department shall include all of the following in the status report:

27 (a) An identification of each project, with enough specificity to enable readers of the report to
28 know where the project is located and what the project will accomplish.

29 (b) An indication of the total amount of moneys the department anticipates will be spent to
30 complete the project and the amount spent on the project as of the date of the status report.

31 (c) An indication that the project is on schedule, or an explanation if it is not on schedule.

32 (d) The expected year of completion for the project.

33 (e) An explanation of any change in priority of a project within the plan or the STIP since the
34 previous status report was issued.

35 (f) An explanation of any amendments to the STIP that have been made since the [*previous sta-*
36 *tus report*] **Highway Construction Plan** was issued.

37 (g) An explanation of any changes to the adopted budget made by the Emergency Board since
38 the [*previous status report*] **Highway Construction Plan** was issued.

39 (2) When a project has been completed or abandoned, that fact shall be shown in the first status
40 report presented after the completion or abandonment, but need not appear in status reports there-
41 after.

42 (3) The status report shall be submitted quarterly to the **Legislative Assembly in the manner**
43 **prescribed by ORS 192.245.** [*Speaker of the House of Representatives and to the President of the*
44 *Senate. The Speaker and the President shall forward the reports for review to the committees or task*
45 *forces the Speaker and the President deem appropriate.*]

1 *[(4) When the department submits the report to the Speaker and the President, the department shall*
2 *notify each member of the Legislative Assembly that the report is available.]*

3 **SECTION 6.** ORS 802.120 is amended to read:

4 802.120. (1) Motor vehicle fuel used and purchased for providing the motive power for
5 snowmobiles shall be considered a nonhighway use of fuel.

6 (2) The Director of Transportation shall withhold, from taxes collected under ORS chapter 319
7 during June of each year, amounts the director determines to have been paid as tax under ORS
8 chapter 319 on fuel used in snowmobiles during the preceding 12-month period ending June 30 and
9 that were not refunded.

10 (3) Moneys withheld by the director under this section are subject to disposition as provided in
11 ORS 802.110.

12 (4) The director shall *[do all of the following:]*

13 *[(a)]* establish a reasonable manner to determine the amount of money to be withheld under this
14 section from the tax on motor vehicle fuels under ORS chapter 319.

15 *[(b) Determine the amount or proportion of moneys to be withheld under this section at least once*
16 *each four years.]*

17 *[(c) Report the manner used to determine the amount of money withheld under this section to the*
18 *Legislative Assembly at the end of each four-year period.]*

19 **SECTION 7.** ORS 824.016 is amended to read:

20 824.016. (1) The State Rail Rehabilitation Fund is established as an account in the General Fund
21 of the State Treasury. All moneys in the account are appropriated continuously to the Department
22 of Transportation for expenditures for any or all of the following:

23 (a) Acquisition of a railroad line.

24 (b) Rehabilitation or improvement of rail properties.

25 (c) Planning for rail services.

26 (d) Any other methods of reducing the costs of lost rail service in this state.

27 (2) The program developed by the Department of Transportation under this section to provide
28 funds for rail projects shall include:

29 (a) Development of a formula for determining a minimum cost to benefit ratio necessary for
30 project funding;

31 (b) Supervision and monitoring of railroad acquisitions and the awarding of rehabilitation con-
32 tracts;

33 (c) Continuing inspection of all railroad rehabilitation projects; and

34 (d) Auditing financial records of all railroad acquisition and rehabilitation projects.

35 (3) The Department of Transportation shall provide funds for railroad projects under this section
36 only with the approval of the Oregon Transportation Commission.

37 *[(4) The Department of Transportation shall prepare an annual report relating to its activities un-*
38 *der this section. Copies of each report shall be submitted to the Legislative Assembly.]*

39 **SECTION 8.** ORS 367.622 is amended to read:

40 367.622. (1) As used in this section:

41 (a) "Highway" has the meaning given that term in ORS 801.305.

42 (b) "Modernization" *[has the meaning given that term in ORS 184.651]* **means improvements**
43 **that add capacity to highways, including but not limited to new or widened lanes and new**
44 **bypasses.**

45 (c) "Preservation" *[has the meaning given that term in ORS 184.651]* **means paving, striping,**

1 **reconstruction and other activities designed to add useful life to existing highways.**

2 (2) Bonds described in ORS 367.620 (2) shall be used to finance preservation and modernization
3 projects chosen by the Oregon Transportation Commission. The commission shall select projects
4 from among the following:

5 (a) Highways that need increased lane capacity.

6 (b) Highways and bridges that have weight limitations.

7 (c) State and local bridges.

8 (d) Interchanges on multilane highways.

9 (e) District highways in cities and counties that require preservation. The Department of
10 Transportation shall adopt rules defining "district highway" for purposes of this paragraph.

11 (3) In choosing projects under subsection (2) of this section, the commission shall use the fol-
12 lowing criteria, in addition to any criteria developed under ORS 367.623:

13 (a) Lane capacity projects shall be chosen from a financially constrained list.

14 (b) Bridge projects shall be chosen on the basis of a bridge inventory or rating system recog-
15 nized by the commission.

16 (c) Priority for interchange projects shall be given to projects on multilane highways where
17 safety can be enhanced by constructing a grade-separated interchange to replace an at-grade cross-
18 ing.

19 (d) Priority for district highway preservation projects shall be given to those projects that may
20 facilitate transfer of jurisdiction over the highway from the state to a local government.

21 (e) Projects selected for financing under this section shall be equitably distributed throughout
22 the state, using the criteria for distribution of projects that are used for the Statewide Transporta-
23 tion Improvement Program.

24 **SECTION 9. The Department of Transportation shall appear before the Joint Legislative**
25 **Audit Committee established by ORS 171.580 at least once each biennium to report on inter-**
26 **nal audits and federal audits of the department.**

27 **SECTION 10. ORS 184.660, 184.662 and 366.509 are repealed.**

28