

A-Engrossed
House Bill 2847

Ordered by the House May 11
Including House Amendments dated May 11

Sponsored by COMMITTEE ON VETERANS' AFFAIRS

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.

Requires that Oregon Veterans' Home Account be permanently listed on individual tax return form for charitable contribution purposes.

Modifies provisions relating to how eligible entities may qualify for charitable contribution checkoff listing on tax return forms. Modifies provisions relating to listing of entities and designation of amounts contributed.

Applies to biennial years beginning on or after effective date of Act.

A BILL FOR AN ACT

1
2 Relating to charitable checkoff; creating new provisions; amending ORS 305.710, 305.720, 305.727,
3 305.735, 305.745, 305.749, 305.753 and 408.368; and repealing ORS 305.740.

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

5 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 316.**

6 **SECTION 2. (1) Individual taxpayers who file an Oregon income tax return for purposes**
7 **of this chapter and who will receive a tax refund from the Department of Revenue may**
8 **designate that a contribution be made to the Oregon Veterans' Home Account by marking**
9 **the appropriate box printed on the return pursuant to subsection (2) of this section.**

10 **(2) The Department of Revenue shall print on the face of the Oregon income tax form a**
11 **space for taxpayers to designate that a contribution be made to the Oregon Veterans' Home**
12 **Account from their income tax refund. The space for designating the contribution shall**
13 **provide for checkoff boxes as indicated under ORS 305.749.**

14 **(3) A designation under subsection (1) of this section shall be made with respect to any**
15 **tax year on the returns for that tax year, and once made shall be irrevocable.**

16 **SECTION 3. ORS 305.749 is amended to read:**

17 305.749. Except ORS 305.690 to 305.753 and as otherwise specifically provided, the following are
18 applicable to the various checkoff programs established under ORS 496.380 **and section 2 of this**
19 **2005 Act** and ORS chapter 316:

20 (1) Subject to subsection (4) of this section, the dollar amounts of contributions made by tax-
21 payer checkoff on Oregon tax returns shall be remitted by the Department of Revenue to the State
22 Treasurer who shall deposit them to a suspense account established under ORS 293.445.

23 (2) Of the contributions so deposited, a portion is continuously appropriated for use to reimburse
24 the General Fund for costs incurred in administering the various checkoff programs. No more than
25 10 percent of the moneys generated by each checkoff program per fiscal year ending June 30 may
26 be appropriated under this subsection.

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 (3) The remainder of the contributions shall be credited by the department to each checkoff
 2 program in proportion to the total amounts checked off for the tax year, the proportions to be de-
 3 termined on the basis of tax returns processed as of the June 30 following the tax year. The amounts
 4 so credited to each of the checkoff programs are continuously appropriated to the department for
 5 payment to the checkoff designee, or shall be transferred by the department to the checkoff
 6 designee, as specified under the law governing the particular checkoff program. The department may
 7 adopt rules governing the crediting and payment or transfer of checkoff moneys. In addition to any
 8 other provision, if adopted, the rules shall specify the time that the contributions to a program so
 9 credited are to be paid or transferred by the department.

10 (4)(a) Space for designating the dollar amount of a contribution made to each checkoff program
 11 shall be printed on the Oregon tax return. The space shall provide for checkoff boxes *[for the pro-*
 12 *gram in the amounts of \$1, \$5, \$10 or other dollar amount.] or as otherwise designed by the de-*
 13 **partment.**

14 (b) Overpayments of tax that are insufficient, due to ORS 293.250 or otherwise, to satisfy the
 15 total amount of checkoffs designated on a tax return shall be allocated among the designees on a
 16 pro rata basis as provided under ORS 305.745 (3).

17 *[(5)(a) If, as of June 30 of the calendar year immediately following the calendar year in which a*
 18 *particular tax year begins, the department determines that the total amount checked off for that tax year*
 19 *for a checkoff program is \$50,000 or less, the department shall notify a person administering the pro-*
 20 *gram or other appropriate person.]*

21 *[(b) If, as determined by the department under paragraph (a) of this subsection, the total amount*
 22 *checked off for a particular checkoff program is \$50,000 or less for each year in a period of two con-*
 23 *secutive tax years, a checkoff line and appropriate box for that program shall not be provided on the*
 24 *Oregon individual tax return for the tax year immediately following the later year of the two-year pe-*
 25 *riod nor for any tax year thereafter, except as otherwise provided by law.]*

26 *[(c) As used in this subsection, “total amount checked off” means the total amount checked off by*
 27 *taxpayers as reflected by tax returns for the tax year processed as of June 30 before any deduction for*
 28 *administrative costs as required under subsection (2) of this section has occurred but after any pro-*
 29 *ration under subsection (4) of this section.]*

30 **SECTION 4.** ORS 305.753 is amended to read:

31 305.753. (1) The State Treasurer may solicit and accept from private and public sources and
 32 cause to be credited and paid to any entity gifts, grants and other donations, in money or otherwise,
 33 if the entity is currently listed or entitled to be listed on the Oregon tax return for checkoff.

34 (2) In accordance with ORS chapter 183, the Department of Revenue may adopt rules to carry
 35 out the purposes of ORS 305.690 to 305.753.

36 (3) Except ORS 305.749, ORS 305.690 to 305.753 do not apply to **the Oregon Veterans’ Home**
 37 **Account created under ORS 408.368**, the Nongame Wildlife Fund established under ORS 496.385,
 38 the Alzheimer’s Disease Research Fund established under section 3, chapter 902, Oregon Laws 1987,
 39 the subaccount created pursuant to section 36 (2), chapter 1084, Oregon Laws 1999, or its successor,
 40 or other checkoff program established by statute other than ORS 305.690 to 305.753.

41 **SECTION 5.** ORS 408.368 is amended to read:

42 408.368. (1) There is created in the State Treasury, separate and distinct from the General Fund,
 43 the Oregon Veterans’ Home Account. Moneys credited to the account are appropriated continuously
 44 to the Director of Veterans’ Affairs to pay expenses that the director determines are appropriate for
 45 developing, operating and maintaining each Oregon Veterans’ Home including, but not limited to,

1 providing care and services to the residents of each home and the costs of administration incurred
2 by the director.

3 (2) The account shall consist of moneys:

4 (a) Received by the director that relate to the development, operation or maintenance of each
5 Oregon Veterans' Home, including but not limited to residents' fees and charges, per diem payments
6 received from the United States Department of Veterans Affairs and Medicare payments[.];

7 (b) *[The director may transfer moneys]* **Transferred** to the account **by the director** from the
8 Oregon War Veterans' Fund and from other funds and accounts administered by the director[.]; **and**

9 (c) **Credited to the account under ORS 305.749 and transferred by the Department of**
10 **Revenue to the account.**

11 (3) Earnings on moneys in the account shall be credited to the account.

12 (4) Disbursements from the account may be made by the director for the purposes set forth in
13 subsection (1) of this section. The director may also transfer moneys from the account to the Oregon
14 War Veterans' Fund.

15 **SECTION 6.** ORS 305.727 is amended to read:

16 305.727. (1) In addition to the opportunity to apply to the Oregon Charitable Checkoff Commis-
17 sion for listing on the Oregon individual tax return forms under ORS 305.725, an entity may apply
18 to the commission for listing in the Department of Revenue instructions and eligibility for tax return
19 checkoff contribution as provided in this section.

20 (2) In order to qualify for instruction listing, the entity must apply to the commission in the
21 manner in which an entity applies for listing on the individual tax forms under ORS 305.725.

22 (3) In order to qualify for instruction listing, the entity must meet the qualifications described
23 in ORS 305.720, collect 10,000 or more signatures from electors of this state attesting that the
24 electors support the entity qualifying for instruction listing and be:

25 *[(a) The Oregon Veterans' Home;]*

26 *[(b)]* (a) A nonprofit organization described in section 501(c)(3) of the Internal Revenue Code
27 with a gross income of at least \$1 million for the year prior to application; or

28 *[(c)]* (b) The central office for a group of affiliated nonprofit organizations with a collective gross
29 income of at least \$1 million in the year prior to the year of application.

30 (4) The commission shall review applications and approve those that meet the qualifications of
31 ORS 305.720 and this section. An entity that is approved by the commission shall thereafter qualify
32 for instruction listing for six years and thereafter must reapply under this section for continued
33 listing in additional six-year periods.

34 (5) The commission shall certify those entities that the commission has approved in the interim
35 since the last preceding certification to the Department of Revenue for listing in the instructions
36 to the forms described in ORS 305.710.

37 (6) The department shall include in the instructions to the forms described in ORS 305.710 a list
38 of entities that have been certified by the commission under this section as of the date the in-
39 structions for the forms must be prepared.

40 (7) The department shall cause a line to be included on the Oregon individual tax return forms
41 following the listing of the entities described in ORS 305.715 (2). The line may be used by a taxpayer
42 to designate an entity that has qualified for instruction listing under this section as the recipient
43 of a checkoff contribution by the taxpayer. *[The space for designation shall also provide for checkoff*
44 *boxes in the amount of \$1, \$5, \$10 or other dollar amounts.]*

45 (8) Amounts contributed by charitable checkoff to an instruction-listed entity shall be subject

1 to and distributed as provided in ORS 305.747.

2 **SECTION 7. (1) Notwithstanding any other provision of law, an entity that is eligible to**
3 **receive contributions by means of a checkoff on the Oregon individual income tax return**
4 **under ORS 305.690 to 305.753 or 496.380 or section 2 of this 2005 Act or ORS chapter 316, or**
5 **that is eligible for listing in the Department of Revenue instructions under ORS 305.727, shall**
6 **be shown as an equivalent option on the face of the income tax form.**

7 **(2) The Oregon Charitable Checkoff Commission shall provide annually to the department**
8 **a list of entities eligible for inclusion on the Oregon income tax form or in the department**
9 **instructions.**

10 **(3) The department shall maximize the number of eligible entities shown on the income**
11 **tax form, consistent with readability and format. If there is insufficient space on the form**
12 **to show all eligible entities, the department by rule shall establish a system for rotating eli-**
13 **gible entities for inclusion on either the tax form or the department instructions.**

14 **SECTION 8.** ORS 305.720 is amended to read:

15 305.720. Subject to ORS 305.710 and 305.745, an entity qualifies for listing on the Oregon indi-
16 vidual income tax return to receive contributions by means of checkoff if:

17 (1) The entity supports private charitable causes or engages in public activities that are con-
18 sistent with policies and programs of the state and:

19 (a) Checkoff resources are used to augment existing programs or provide new funding to related
20 activities of proven value. Checkoff funds are not to be used to meet the administrative expenses
21 of the entity;

22 (b) Programs funded by checkoff resources must result in substantial and direct benefits to the
23 human and natural resources of the state that the Oregon Charitable Checkoff Commission deter-
24 mines are unlikely to occur under existing public and private programs; and

25 (c) After checkoff resources are received by the entity, the entity shows a pattern over several
26 years of increasing its total revenues from other than checkoff sources or reaches the level where
27 no more than 50 percent of its revenues are from checkoff sources.

28 (2) The entity is qualified to receive contributions that are tax deductible under the following:

29 (a) Section 170 of the Internal Revenue Code (relating to contributions and gifts to charitable
30 and governmental entities).

31 (b) Section 501(k) of the Internal Revenue Code (relating to contributions to certain organiza-
32 tions providing child care).

33 (c) Section 7871 of the Internal Revenue Code (relating to contributions to Indian tribal gov-
34 ernments).

35 (d) Any other federal law allowing a deduction from federal individual income tax for charitable
36 contributions to an entity classified by rule of the Department of Revenue as being an entity be-
37 longing to the general class described in paragraphs (a) to (c) of this subsection.

38 (3) The entity makes application for listing within the time and in the manner prescribed by ORS
39 305.725.

40 (4) The entity files a financial report, and other information, with the commission as described
41 under ORS 305.730.

42 *[(5) The entity received \$50,000 or more in checkoff contributions in at least one of the two tax*
43 *years immediately preceding the tax year for which it is to be listed on the Oregon income tax return.*
44 *This subsection does not apply if the entity has not been included on the Oregon personal income tax*
45 *return for each of the two tax years immediately preceding the tax year for which determination for*

1 *purposes of this subsection is being made.]*

2 **SECTION 9.** ORS 305.745 is amended to read:

3 305.745. (1) Upon receipt of the list certified by the Oregon Charitable Checkoff Commission
4 under ORS 305.715 (2), the Department of Revenue shall cause the name of each entity so listed to
5 be included on the Oregon individual income tax return forms prepared for the biennial years as
6 certified.

7 (2) Individual taxpayers who file an Oregon income tax return and who will receive a tax refund
8 from the department may designate that a contribution be made to one or more entities listed.
9 Designation shall be made by marking the appropriate box which the department shall cause to be
10 printed on the return form. *[For each entity, the space for designating the contribution shall provide*
11 *for checkoff boxes in the amount of \$1, \$5, \$10 or other dollar amount.]*

12 (3) Overpayments of tax that are insufficient, due to ORS 293.250 or otherwise, to satisfy the
13 total amount of checkoffs designated on a tax return under subsection (2) of this section and under
14 statute other than ORS 305.690 to 305.753 shall be allocated among the entities designated on a pro
15 rata basis.

16 **SECTION 10.** ORS 305.710 is amended to read:

17 305.710. *[(1)]* The Department of Revenue shall notify the Oregon Charitable Checkoff Commis-
18 sion of the number of lines available for the material described in ORS 305.745 (2) without adding
19 a page to the various individual tax forms for full-year residents, nonresidents and part-year resi-
20 dents. The commission shall limit the number of entities to be listed on the form to conform to the
21 department's notice unless it determines that the number of eligible entities justifies adding a page
22 to the form.

23 *[(2) Any new entity added to the list must, in the judgment of the commission, have a high proba-*
24 *bility of meeting the requirement in ORS 305.720 (5).]*

25 **SECTION 11.** ORS 305.735 is amended to read:

26 305.735. (1) Upon determination, pursuant to initial application, that an entity qualifies for list-
27 ing on the Oregon individual income tax return to receive contributions by means of checkoff, the
28 Oregon Charitable Checkoff Commission, subject to ORS 305.710, shall cause the name of the entity
29 to be included on the list.

30 (2) If the commission determines that the entity is not qualified to be listed, the commission shall
31 give notice in the manner provided under ORS 183.415, as applicable, *and ORS 305.740 (3) shall*
32 *apply*.

33 **SECTION 12.** ORS 305.740 is repealed.

34 **SECTION 13.** Section 2 of this 2005 Act and the amendments to ORS 305.710, 305.720,
35 305.727, 305.735, 305.745, 305.749, 305.753 and 408.368 by sections 3 to 6 and 8 to 11 of this 2005
36 Act apply to biennial years, as defined in ORS 305.690, beginning on or after the effective date
37 of this 2005 Act.

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