

House Bill 3603

Sponsored by Representative WEIDNER (Pre-session filed.)

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 **as introduced**.

Repeals health insurance premium assessment.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to repeal of assessment on health insurance premiums; amending ORS 291.055, 414.721,
3 731.292, 731.840 and 743.990; repealing ORS 743.960, 743.961 and 743.965 and section 8, chapter
4 867, Oregon Laws 2009; and declaring an emergency.

5 Whereas Oregon's first provider tax was created in 2003 by the Seventy-second Legislative As-
6 sembly; and

7 Whereas the provider tax was assessed on large hospitals, long term care facilities, Medicaid
8 managed care organizations and each program of all-inclusive care for elderly persons; and

9 Whereas Oregon encourages individuals to purchase their own individual health insurance plan;
10 and

11 Whereas the large hospitals, long term care facilities and Medicaid managed care organizations
12 receive Medicaid funds, which help offset the provider tax, while the private insurers do not; now,
13 therefore,

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

15 **SECTION 1. ORS 743.960, 743.961 and 743.965 and section 8, chapter 867, Oregon Laws**
16 **2009, are repealed.**

17 **SECTION 2.** ORS 291.055 is amended to read:

18 291.055. (1) Notwithstanding any other law that grants to a state agency the authority to es-
19 tablish fees, all new state agency fees or fee increases adopted after July 1 of any odd-numbered
20 year:

21 (a) Are not effective for agencies in the executive department of government unless approved
22 in writing by the Director of the Oregon Department of Administrative Services;

23 (b) Are not effective for agencies in the judicial department of government unless approved in
24 writing by the Chief Justice of the Supreme Court;

25 (c) Are not effective for agencies in the legislative department of government unless approved
26 in writing by the President of the Senate and the Speaker of the House of Representatives;

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

29 (e) Are rescinded on July 1 of the next following odd-numbered year, or on adjournment sine
30 die of the regular session of the Legislative Assembly meeting in that year, whichever is later, un-
31 less otherwise authorized by enabling legislation setting forth the approved fees.

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 (2) This section does not apply to:
- 2 (a) Any tuition or fees charged by the State Board of Higher Education and state institutions
3 of higher education.
- 4 (b) Taxes or other payments made or collected from employers for unemployment insurance re-
5 quired by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contri-
6 butions and assessments calculated by cents per hour for workers' compensation coverage required
7 by ORS 656.506.
- 8 (c) Fees or payments required for:
- 9 (A) Health care services provided by the Oregon Health and Science University, by the Oregon
10 Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.
- 11 (B) Assessments and premiums paid to the Oregon Medical Insurance Pool established by ORS
12 735.614 and 735.625.
- 13 (C) Copayments and premiums paid to the Oregon medical assistance program.
- 14 (D) Assessments paid to the Department of Consumer and Business Services under ORS 743.951
15 [*and 743.961*].
- 16 (d) Fees created or authorized by statute that have no established rate or amount but are cal-
17 culated for each separate instance for each fee payer and are based on actual cost of services pro-
18 vided.
- 19 (e) State agency charges on employees for benefits and services.
- 20 (f) Any intergovernmental charges.
- 21 (g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the
22 Oregon Forest Land Protection Fund fees established by ORS 477.760.
- 23 (h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.
- 24 (i) Any charges established by the State Parks and Recreation Director in accordance with ORS
25 565.080 (3).
- 26 (j) Assessments on premiums charged by the Insurance Division of the Department of Consumer
27 and Business Services pursuant to ORS 731.804 or fees charged by the Division of Finance and
28 Corporate Securities of the Department of Consumer and Business Services to banks, trusts and
29 credit unions pursuant to ORS 706.530 and 723.114.
- 30 (k) Public Utility Commission operating assessments required by ORS 756.310 or charges paid
31 to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.
- 32 (L) Fees charged by the Housing and Community Services Department for intellectual property
33 pursuant to ORS 456.562.
- 34 (m) New or increased fees that are anticipated in the legislative budgeting process for an
35 agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted
36 budget for the agency.
- 37 (n) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.
- 38 (o) Convenience fees as defined in ORS 182.126 and established by the Oregon Department of
39 Administrative Services under ORS 182.132 (3) and recommended by the Electronic Government
40 Portal Advisory Board.
- 41 (3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unex-
42 pected and temporary revenue surpluses may be increased to not more than their prior level without
43 compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency
44 specifies the following:
- 45 (A) The reason for the fee decrease; and

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

2 (b) Fees that are decreased for reasons other than those described in paragraph (a) of this sub-
 3 section may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

4 **SECTION 3.** ORS 414.721 is amended to read:

5 414.721. The Oregon Health Authority shall promptly seek federal approval necessary to obtain
 6 federal financial participation in the costs of programs and services funded with assessments paid
 7 under ORS 743.951 [*and 743.961*] and section 9, chapter 867, Oregon Laws 2009.

8 **SECTION 4.** ORS 731.292 is amended to read:

9 731.292. (1) Except as provided in subsections (2), (3) and (4) of this section, all fees, charges and
 10 other moneys received by the Department of Consumer and Business Services or the Director of the
 11 Department of Consumer and Business Services under the Insurance Code shall be deposited in the
 12 fund created by ORS 705.145 and are continuously appropriated to the department for the payment
 13 of the expenses of the department in carrying out the Insurance Code.

14 (2) All taxes, fines and penalties paid pursuant to the Insurance Code shall be paid to the di-
 15 rector and after deductions of refunds shall be paid by the director to the State Treasurer, at the
 16 end of every calendar month or more often in the director's discretion, for deposit in the General
 17 Fund to become available for general governmental expenses.

18 (3) All premium taxes received by the director pursuant to ORS 731.820 shall be paid by the
 19 director to the State Treasurer for deposit in the State Fire Marshal Fund.

20 (4) Assessments received by the department under ORS 743.951 [*and 743.961*] and penalties re-
 21 ceived by the department under ORS 743.990 and section 10, chapter 867, Oregon Laws 2009, shall
 22 be paid into the State Treasury and credited to the Health System Fund established in section 1,
 23 chapter 867, Oregon Laws 2009, after deducting the [*following amounts*]:

24 [(a)] amounts needed to reimburse the department for expenses in administering ORS 743.951
 25 [*to 743.965*] and 743.990. [*and*]

26 [(b) *Amounts needed to reimburse the General Fund for reductions in revenue caused by the effect*
 27 *of ORS 743.961 on the retaliatory tax imposed under ORS 731.854 and 731.859.*]

28 **SECTION 5.** ORS 731.840 is amended to read:

29 731.840. (1) The retaliatory tax imposed upon a foreign or alien insurer under ORS 731.854 and
 30 731.859, or the corporate excise tax imposed upon a foreign or alien insurer under ORS chapter 317,
 31 is in lieu of all other state taxes upon premiums, taxes upon income, franchise or other taxes
 32 measured by income that might otherwise be imposed upon the foreign or alien insurer except the
 33 fire insurance premiums tax imposed under ORS 731.820[,] **and** the tax imposed upon wet marine and
 34 transportation insurers under ORS 731.824 and 731.828[, *and the assessment imposed under ORS*
 35 *743.961*]. However, all real and personal property, if any, of the insurer shall be listed, assessed and
 36 taxed the same as real and personal property of like character of noninsurers. Nothing in this sub-
 37 section shall be construed to preclude the imposition of the assessments imposed under ORS 656.612
 38 upon a foreign or alien insurer.

39 (2) Subsection (1) of this section applies to a reciprocal insurer and its attorney in its capacity
 40 as such.

41 (3) Subsection (1) of this section applies to foreign or alien title insurers and to foreign or alien
 42 wet marine and transportation insurers issuing policies and subject to taxes referred to in ORS
 43 731.824 and 731.828.

44 (4) The State of Oregon hereby preempts the field of regulating or of imposing excise, privilege,
 45 franchise, income, license, permit, registration, and similar taxes, licenses and fees upon insurers

1 and their insurance producers and other representatives as such, and:

2 (a) No county, city, district, or other political subdivision or agency in this state shall so regu-
3 late, or shall levy upon insurers, or upon their insurance producers and representatives as such, any
4 such tax, license or fee; except that whenever a county, city, district or other political subdivision
5 levies or imposes generally on a nondiscriminatory basis throughout the jurisdiction of the taxing
6 authority a payroll, excise or income tax, as otherwise provided by law, such tax may be levied or
7 imposed upon domestic insurers; and

8 (b) No county, city, district, political subdivision or agency in this state shall require of any
9 insurer, insurance producer or representative, duly authorized or licensed as such under the Insur-
10 ance Code, any additional authorization, license, or permit of any kind for conducting therein
11 transactions otherwise lawful under the authority or license granted under this code.

12 **SECTION 6.** ORS 743.990 is amended to read:

13 743.990. (1) If the Public Employees' Benefit Board [*or an insurer*] fails to timely file a verified
14 form or to pay an assessment required under ORS 743.951 [*or 743.961*], [*the insurer or*] the board
15 shall be subject to a penalty of up to \$500 per day of delinquency. The total amount of penalties
16 imposed under this section for a calendar quarter may not exceed five percent of the assessment due
17 for that calendar quarter.

18 (2) Any penalty imposed under this section is in addition to and not in lieu of the assessment
19 imposed under ORS 743.951 [*and 743.961*].

20 **SECTION 7. This 2010 Act being necessary for the immediate preservation of the public**
21 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
22 **on its passage.**

23 _____