

Enrolled
House Bill 2267

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

CHAPTER

AN ACT

Relating to tourism; creating new provisions; amending ORS 285A.255, 285A.261, 285A.264, 285A.267, 285A.279, 285A.282, 285A.288 and 305.824; repealing ORS 285A.270, 285A.273, 285A.276 and 285A.285; appropriating money; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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

TRANSIENT LODGING TAXES

(Definitions)

SECTION 1. ORS 305.824 is amended to read:

305.824. [(1)] As used in this section **and sections 2 to 8a and 10 to 12 of this 2003 Act:**

[(a)] (1) "Collection reimbursement charge" means the amount a transient lodging provider may retain as reimbursement for the costs incurred by the provider in collecting and reporting a [local] transient lodging tax and in maintaining [local] transient lodging tax records.

[(b)] (2) "Conference center" means a facility that:

[(A)] (a) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and

[(B)] (b) Meets the current membership criteria of the International Association of Conference Centers.

[(c)] (3) "Convention center" means a new or improved facility that:

[(A)] (a) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including but not limited to banquet facilities, loading areas and lobby and registration areas;

[(B)] (b) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;

[(C)] (c) Generates a majority of its business income from tourists;

[(D)] (d) Has a room-block relationship with the local lodging industry; and

[(E)] (e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

[(d)] (4) "Local transient lodging tax" means a tax imposed by a unit of local government on the sale, service or furnishing of transient lodging.

(5) “State transient lodging tax” means the tax imposed under section 2 of this 2003 Act.

[(e)] **(6) “Tourism” means economic activity resulting from tourists.**

[(f)] **(7) “Tourism promotion” means any of the following activities:**

[(A)] **(a)** Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;

[(B)] **(b)** Conducting strategic planning and research necessary to stimulate future tourism development;

[(C)] **(c)** Operating tourism promotion agencies; and

[(D)] **(d)** Marketing special events and festivals designed to attract tourists.

[(g)] **(8) “Tourism promotion agency” includes:**

[(A)] **(a)** An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.

[(B)] **(b)** A nonprofit entity that manages tourism-related economic development plans, programs and projects.

[(C)] **(c)** A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.

[(h)] *“Tourism-related facility” means real property that has a useful life of 10 or more years and that is used to support tourism and to accommodate tourist activities. “Tourism-related facility” includes a conference center, convention center and visitor information center.*

(9) “Tourism-related facility”:

(a) Means a conference center, convention center or visitor information center; and

(b) Means other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

[(i)] **(10) “Tourist” means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person’s community of residence, and that trip:**

[(A)] **(a)** Requires the person to travel more than 50 miles from the community of residence; or

[(B)] **(b)** Includes an overnight stay.

[(j)] **(11) “Transient lodging” means hotel, motel and inn dwelling units that are designed for temporary overnight human occupancy, and includes spaces designed for parking recreational vehicles during periods of human occupancy of those vehicles.**

[(k)] **(12) “Unit of local government” has the meaning given that term in ORS 190.003.**

[(L)] **(13) “Visitor information center” means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.**

[(2) *On and after January 1, 2001, a unit of local government that imposed a local transient lodging tax on December 31, 2000, and allowed a transient lodging provider to retain a collection reimbursement charge on that tax, may not decrease the percentage of local transient lodging taxes that is used to fund collection reimbursement charges.*]

[(3) *A unit of local government that imposes a new local transient lodging tax on or after January 1, 2001, shall allow a transient lodging provider to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues. The percentage of the collection reimbursement charge may be increased by the unit of local government.*]

[(4) *A unit of local government that increases a local transient lodging tax on or after January 1, 2001, shall allow a transient lodging provider to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues. The collection reimbursement charge shall apply to all collected local transient lodging tax revenues, including revenues that would have been collected without the increase. The percentage of the collection reimbursement charge may be increased by the unit of local government.*]

[(5) *A unit of local government may not offset the loss of local transient lodging tax revenues caused by collection reimbursement charges required by this section by:*]

[(a) *Increasing the rate of the local transient lodging tax;*]

[(b) Decreasing the percentage of total local transient lodging tax revenues used to fund tourism promotion or tourism-related facilities; or]

[(c) Increasing or imposing a new fee solely on transient lodging providers or tourism promotion agencies that are funded by the local transient lodging tax.]

(State Transient Lodging Tax)

SECTION 2. (1) A tax of one percent is imposed on any consideration rendered for the sale, service or furnishing of transient lodging. The tax imposed by this subsection shall be in addition to and not in lieu of any local transient lodging tax. The tax shall be collected by the transient lodging provider.

(2) The transient lodging provider shall withhold five percent of the amount the provider collects under subsection (1) of this section for the purpose of reimbursing the provider for the cost of tax collection, record keeping and reporting.

SECTION 3. Every transient lodging provider responsible for collecting the tax imposed by section 2 of this 2003 Act shall keep records, render statements and comply with rules adopted by the Department of Revenue with respect to the tax. The records and statements required by this section must be sufficient to show whether there is a tax liability under section 2 of this 2003 Act.

SECTION 4. (1) Every transient lodging provider is responsible for collecting the tax imposed under section 2 of this 2003 Act and shall file a return with the Department of Revenue, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter. The department shall prescribe the form of the return required by this section. The rules of the department shall require that returns be made under penalties for false swearing.

(2) When a return is required under subsection (1) of this section, the transient lodging provider required to make the return shall remit the tax due to the department at the time fixed for filing the return.

SECTION 5. If the amount paid by the transient lodging provider to the Department of Revenue under section 4 of this 2003 Act exceeds the amount of tax payable, the department shall refund the amount of the excess with interest thereon at the rate established under ORS 305.220 for each month or fraction of a month from the date of payment of the excess until the date of the refund. A refund may not be made to a transient lodging provider who fails to claim the refund within two years after the due date for filing the return to which the claim for refund relates.

SECTION 6. (1) Every transient lodging provider required to collect the tax imposed by section 2 of this 2003 Act shall be deemed to hold the amount collected in trust for the State of Oregon and for payment to the Department of Revenue in the manner and at the time provided by section 4 of this 2003 Act.

(2) At any time the transient lodging provider required to collect the tax fails to remit any amount deemed to be held in trust for the State of Oregon, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. The warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes.

SECTION 7. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of reports and returns, confidentiality of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto, apply to sections 2 to 8a of this 2003 Act, the same as if the tax were a tax imposed upon or measured by net income. All such provisions apply to the taxpayer liable for the tax and to the transient lodging provider required to collect the tax. As

to any amount collected and required to be remitted to the Department of Revenue, the tax shall be considered a tax upon the transient lodging provider required to collect the tax and that provider shall be considered a taxpayer.

SECTION 8. All moneys received by the Department of Revenue pursuant to sections 2 to 8a of this 2003 Act, and interest thereon, shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of refunds:

(1) Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering the state transient lodging tax, not to exceed two percent of state transient lodging tax collections, are continuously appropriated to the department; and

(2) The balance of the moneys received shall be transferred to the account of the Oregon Tourism Commission established under section 23 of this 2003 Act. The moneys transferred under this subsection are continuously appropriated to the Oregon Tourism Commission for the purposes set forth in section 23 of this 2003 Act.

SECTION 8a. (1) Public records of moneys received by the Department of Revenue pursuant to sections 2 to 8a of this 2003 Act are exempt from disclosure under ORS 192.410 to 192.505. Nothing in this section shall limit the use that can be made of such information for regulatory purposes or its use and admissibility in any enforcement proceedings.

(2) If a conflict is found to exist between subsection (1) of this section and ORS 314.835, ORS 314.835 controls.

SECTION 9. Sections 2 to 8a of this 2003 Act apply to transient lodging tax reporting periods beginning on or after January 1, 2004.

(Local Transient Lodging Taxes)

SECTION 10. (1) On or after January 1, 2001, a unit of local government that imposed a local transient lodging tax on December 31, 2000, and allowed a transient lodging provider to retain a collection reimbursement charge on that tax, may not decrease the percentage of local transient lodging taxes that is used to fund collection reimbursement charges.

(2) A unit of local government that imposes a new local transient lodging tax on or after January 1, 2001, shall allow a transient lodging provider to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues. The percentage of the collection reimbursement charge may be increased by the unit of local government.

(3) A unit of local government that increases a local transient lodging tax on or after January 1, 2001, shall allow a transient lodging provider to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues. The collection reimbursement charge shall apply to all collected local transient lodging tax revenues, including revenues that would have been collected without the increase. The percentage of the collection reimbursement charge may be increased by the unit of local government.

(4) A unit of local government may not offset the loss of local transient lodging tax revenues caused by collection reimbursement charges required by this section by:

(a) Increasing the rate of the local transient lodging tax;

(b) Decreasing the percentage of total local transient lodging tax revenues used to fund tourism promotion or tourism-related facilities; or

(c) Increasing or imposing a new fee solely on transient lodging providers or tourism promotion agencies that are funded by the local transient lodging tax.

SECTION 11. (1) A unit of local government that did not impose a local transient lodging tax on July 1, 2003, may not impose a local transient lodging tax on or after July 2, 2003, unless the imposition of the local transient lodging tax was approved on or before July 1, 2003.

(2) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not increase the rate of the local transient lodging tax on or after July 2, 2003, to a rate that is greater than the rate in effect on July 1, 2003, unless the increase was approved on or before July 1, 2003.

(3) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not decrease the percentage of total local transient lodging tax revenues that are actually expended to fund tourism promotion or tourism-related facilities on or after July 2, 2003. A unit of local government that agreed, on or before July 1, 2003, to increase the percentage of total local transient lodging tax revenues that are to be expended to fund tourism promotion or tourism-related facilities, must increase the percentage as agreed.

(4) Notwithstanding subsections (1) and (2) of this section, a unit of local government that is financing debt with local transient lodging tax revenues on the effective date of this 2003 Act must continue to finance the debt until the retirement of the debt, including any refinancing of that debt. If the tax is not otherwise permitted under subsection (1) or (2) of this section, at the time of the debt retirement:

(a) The local transient lodging tax revenue that financed the debt shall be used as provided in subsection (5) of this section; or

(b) The unit of local government shall thereafter eliminate the new tax or increase in tax otherwise described in subsection (1) or (2) of this section.

(5) Subsections (1) and (2) of this section do not apply to a new or increased local transient lodging tax if all of the net revenue from the new or increased tax, following reductions attributed to collection reimbursement charges, is used consistently with subsection (6) of this section to:

(a) Fund tourism promotion or tourism-related facilities;

(b) Fund city or county services; or

(c) Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing or refinancing that debt, provided that:

(A) The net revenue may be used for administrative costs only if the unit of local government provides a collection reimbursement charge; and

(B) Upon retirement of the debt, the unit of local government reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

(6) At least 70 percent of net revenue from a new or increased local transient lodging tax shall be used for the purposes described in subsection (5)(a) or (c) of this section. No more than 30 percent of net revenue from a new or increased local transient lodging tax may be used for the purpose described in subsection (5)(b) of this section.

SECTION 12. If a new or increased local transient lodging tax is imposed on or after July 2, 2003, and before the effective date of this 2003 Act, and the new or increased tax is not otherwise allowed under section 11 of this 2003 Act, the unit of local government imposing the tax, on or before January 1, 2005, shall:

(1) In the case of a new tax, use all of the revenue collected, minus any collection reimbursement charges required under section 10 of this 2003 Act, as prescribed in section 11 (5) and (6) of this 2003 Act.

(2) In the case of an increase in an existing local transient lodging tax, temporarily reduce the rate of tax otherwise allowable under section 11 of this 2003 Act so as to economically achieve a tax refund.

OREGON TOURISM COMMISSION

SECTION 13. ORS 285A.255 is amended to read:

285A.255. As used in ORS 285A.255 to 285A.285, unless the context requires otherwise:

(1) [*Tourism*] "Commission" means the Oregon Tourism Commission.

(2) **“Executive director” means the executive director of the Oregon Tourism Commission.**

[(2) *“Tourism program” means the Oregon Tourism Program of the Economic and Community Development Department.*]

SECTION 14. ORS 285A.261 is amended to read:

285A.261. (1) There is established an Oregon Tourism Commission consisting of nine members **appointed by the Governor.** [Seven members shall be appointed by the Governor, one member shall be appointed by the President of the Senate and one member shall be appointed by the Speaker of the House of Representatives. At least 30 days prior to the expiration of the term of a member appointed by the Governor, the Travel Industry Council of Oregon may recommend to the Governor at least three industry representatives for appointment to the tourism commission.] Members of the [tourism] commission are appointed to perform the duties [described in ORS 285A.264] **of the commission as provided by law.** Members [appointed by the Governor] are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.

(2) In appointing members of the [tourism] commission **under subsection (1) of this section,** the Governor shall:

(a) Appoint members representing the state’s various regions and areas of tourism activity.

(b) Appoint [at least six of the] **three** members drawn from [the] travel agencies, tour operators, private transportation, restaurants[, hotels, motels, resorts,] **or businesses or organizations engaged in** tourism promotion for cities or counties, cultural attractions, historic attractions, ski facilities [and] **or** related recreational industries. **At least 30 days prior to the expiration of the term of a member appointed under this paragraph, the Tourism Industry Council of Oregon may recommend to the Governor one or more tourism industry representatives for the Governor’s consideration in filling the vacancy.**

(c) Appoint at least one member to represent the public at large.

(d) **Appoint five members drawn from the lodging industry. For purposes of this paragraph, the lodging industry consists of hotels, motels, resorts, bed and breakfast facilities, inns, recreational vehicle parks, campgrounds and guest ranches. At least 30 days prior to the expiration of the term of a member appointed under this paragraph, a statewide organization representing the lodging industry may recommend to the Governor one or more lodging industry representatives for the Governor’s consideration in filling the vacancy.**

[(2)] (3) [The term of office of each member is four years.] **A member of the commission shall be appointed for a term of four years that begins on July 1. A member shall hold office for the term of the appointment and after the end of the term until a successor is appointed and qualified.** Before the expiration of the term of a member, the [appointing authority] **Governor shall strive to** appoint a successor [whose term begins on July 1 next following]. A member is eligible for one reappointment except that a member appointed to fill a vacancy for a partial term may be reappointed to fill a total of two full terms in addition to the partial term. If there is a vacancy for any cause, the [appointing authority] **Governor shall make an appointment to become effective immediately for the unexpired term.**

[(3)] (4) A member of the [tourism] commission is entitled to compensation and expenses as provided in ORS 292.495.

[(4)] (5) The [tourism] commission shall select one of its members to chair the [tourism] commission[,] and shall select another member to serve as vice chair, for such terms and with duties and powers necessary to perform the functions of the offices as the [tourism] commission determines.

[(5)] (6) A majority of the members of the [tourism] commission constitutes a quorum for the transaction of business.

[(6)] (7) The [appointing authority] **Governor** may remove a member of the [tourism] commission for cause as provided in ORS 182.010 or 236.010.

SECTION 15. Notwithstanding ORS 285A.261, the members of the Oregon Tourism Commission serving on the commission on the effective date of this 2003 Act may continue to serve on the commission in accordance with their appointments. The Governor shall desig-

nate which members of the commission, of those who were appointed to the commission by the Governor, are intended to meet the requirements of ORS 285A.261 (2)(b).

NOTE: Section 16 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 17. (1) The Oregon Tourism Program is abolished. All records, assets and other property of the Oregon Tourism Program are transferred to the Oregon Tourism Commission.

(2) The rights and obligations of the Oregon Tourism Program legally incurred under contracts, leases and business transactions executed, entered into or begun before the effective date of this 2003 Act are rights and obligations of the Oregon Tourism Commission. For the purpose of succession to these rights and obligations, the Oregon Tourism Commission is a continuation of the Oregon Tourism Program and is not a new authority.

(3) Notwithstanding subsection (1) of this section, the rules of the Economic and Community Development Department that were administered by the Oregon Tourism Program or the Oregon Tourism Commission on the day prior to the effective date of this 2003 Act shall continue in effect and be considered rules of the Oregon Tourism Commission until superseded, amended or repealed by the Oregon Tourism Commission.

(4) The administrator of the Oregon Tourism Commission on the day prior to the effective date of this 2003 Act shall be the initial executive director of the Oregon Tourism Commission.

SECTION 18. (1) Except as provided in subsection (2) of this section, the provisions of ORS 200.035 and ORS chapters 240, 276, 279, 282, 283, 291, 292 and 293 do not apply to the Oregon Tourism Commission. The commission is subject to all other statutes governing a state agency that do not conflict with ORS 285A.255 to ORS 285A.285, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS 183.310 to 183.550. The employees of the commission are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions apply to the commission:

(a) ORS 279.800 to 279.830;

(b) ORS 292.495; and

(c) ORS 293.235, 293.240, 293.245, 293.250, 293.611, 293.625 and 293.630.

(3) In carrying out the duties, functions and powers of the commission, the commission may contract with any state agency for the performance of duties, functions and powers as the commission considers appropriate. A state agency may not charge the commission an amount that exceeds the actual cost of those services. ORS 285A.255 to 285A.285 do not require a state agency to provide services to the commission other than pursuant to a voluntary interagency agreement or contract.

(4) The commission shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

(5) Except as otherwise provided by law, members and employees of the commission are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

SECTION 18a. If House Bill 2341 becomes law, section 18 of this 2003 Act is amended to read:

Sec. 18. (1) Except as provided in subsection (2) of this section, the provisions of ORS 200.035 and ORS chapters 240, 276, 279, 282, 283, 291, 292 and 293 and sections 1 to 46, 47 to 87 and 88 to 179, chapter _____, Oregon Laws 2003 (Enrolled House Bill 2341), do not apply to the Oregon Tourism Commission. The commission is subject to all other statutes governing a state agency that do not conflict with ORS 285A.255 to ORS 285A.285, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS 183.310 to 183.550. The employees of the commission are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions apply to the commission:

(a) [ORS 279.800 to 279.830] **Sections 36 to 44, chapter _____, Oregon Laws 2003 (Enrolled House Bill 2341);**

(b) ORS 292.495; and

(c) ORS 293.235, 293.240, 293.245, 293.250, 293.611, 293.625 and 293.630.

(3) In carrying out the duties, functions and powers of the commission, the commission may contract with any state agency for the performance of duties, functions and powers as the commission considers appropriate. A state agency may not charge the commission an amount that exceeds the actual cost of those services. ORS 285A.255 to 285A.285 do not require a state agency to provide services to the commission other than pursuant to a voluntary interagency agreement or contract.

(4) The commission shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and federal laws and collective bargaining contracts.

(5) Except as otherwise provided by law, members and employees of the commission are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

SECTION 18b. The amendments to section 18 of this 2003 Act by section 18a of this 2003 Act become operative on March 1, 2005.

SECTION 19. ORS 285A.264 is amended to read:

285A.264. The Oregon Tourism Commission shall perform the following duties:

(1) Serve as a body to advise governmental bodies and agencies and private persons on the development and implementation of state policies and programs relating to tourism and recreation and to assist in the coordination of these activities.

(2) Advise the Governor and direct the [*administrator*] **executive director** of the [*Oregon Tourism Program*] **commission** on all matters pertaining to tourism.

(3) Prepare, approve and periodically revise and submit to the Governor, the Director of the Economic and Community Development Department and tourism industry associations a recommended comprehensive marketing plan for review by the Governor, the Director **of the Economic and Community Development Department** and the tourism industry associations. The comprehensive marketing plan shall be directed toward the accomplishment of at least the following purposes:

(a) Maximizing the return on public and private investment in tourism.

(b) Encouraging longer stays by visitors to Oregon.

(c) Reducing seasonal fluctuations in travel and tourist related industries.

(d) Encouraging visitors to be destination oriented in this state by targeting high-yield visitor segments that may include cultural tourism, agri-tourism, nature-based tourism or sports and adventure tourism.

(e) Encouraging visitors from foreign countries to come to Oregon.

(f) Encouraging Oregonians to vacation in Oregon.

[*(4) Develop a biennial budget for all operations of the tourism commission and the tourism program and submit the budget to the Governor.*]

(4) Develop a biennial budget for all operations of the commission and submit the budget to the Governor.

(5) Seek and receive the views of all levels of government and the private sector with respect to state programs and policies for the promotion and assistance of tourism.

(6) Prepare and adopt administrative rules necessary for the operation of the programs of the [*tourism*] commission.

(7) Cooperate with educational institutions of the state in the development of educational programs preparing persons for supporting and leadership positions critical to the development of an economically strong and socially beneficial tourism industry in Oregon.

(8) Cooperate with and provide expertise for communities and tourism marketing associations in the development and promotion of their tourism attractions and businesses.

[*(9) At the discretion of the tourism commission, exercise directly any power or authority vested in the tourism program.*]

(9) Implement the comprehensive marketing plan described in subsection (3) of this section and promote tourism in the State of Oregon.

SECTION 20. To carry out the duties and purposes of the Oregon Tourism Commission, and in addition to other powers granted to the commission under ORS 285A.255 to 285A.285 or other law, the commission may:

(1) Make contracts and execute all instruments necessary or convenient for carrying out the duties of the commission;

(2) Acquire, own, hold, transfer, encumber or dispose of property of any kind, or any interest in that property;

(3) Enter into agreements or other transactions involving tourism with any federal, state, county or municipal agency or with any person or other entity;

(4) Appoint officers, consultants, agents or advisors, and prescribe their duties;

(5) Appear before boards, commissions, departments or other agencies of municipal or county governments, the state government or the federal government;

(6) Procure insurance against any losses incurred in connection with property of the commission in the amounts and from the insurers as the commission determines is necessary or desirable;

(7) Accept donations, grants, bequests or devises, conditional or otherwise, of money, property, services or other items of value, including any interest or earnings thereon, that may be received from the federal government or any agency of the federal government, any state or municipal government agency, or any institution or person, public or private, to be held, used or applied for any purpose of the commission, in accordance with the terms of the donation, grant, bequest or devise;

(8) Organize, conduct, sponsor, cooperate with or assist the private sector or other state agencies in the conduct of conferences and tours related to Oregon tourism;

(9) Provide and pay for advisory services and technical assistance that may be necessary or desirable to carry out the duties and purposes of the commission;

(10) Exercise any other powers necessary or desirable for the operation and functioning of the commission that is consistent with the purposes of the commission;

(11) Charge for products or services provided and receive revenue from any source to be used for the purposes of the commission;

(12) Enter into agreements and cooperate with political subdivisions of this state, state agencies, other states, the federal government, governments of foreign countries or private individuals, corporations or other persons in the publication or distribution of information relating to tourism, recreational activities and tourism facilities, or other information or materials of interest or service to the traveling public or relating to developing or promoting tourism in this state; and

(13) Accept or provide travel, lodging, meals, entertainment, meetings and other services from or to public or private entities or persons in order to carry out the duties of the commission.

SECTION 21. ORS 285A.267 is amended to read:

285A.267. Upon receipt of a **comprehensive** marketing plan prepared or revised by the Oregon Tourism Commission under ORS 285A.264, the Governor, the Director of the Economic and Community Development Department and tourism industry associations may review the plan. If the Governor, the director or an industry association has any disagreement with the plan or if the Governor, director or an industry association desires anything included in the plan that is not in the plan when submitted, the Governor, director or industry association may submit recommendations for revision by the [*tourism*] commission.

SECTION 22. (1) The Oregon Tourism Commission shall adopt budgets on a biennial basis using classifications of expenditures and revenue required by ORS 291.206 (1). That portion of the budget that is funded by appropriations from the General Fund or by allocations of lottery funds is subject to review and approval by the Legislative Assembly and to future modification by the Emergency Board or the Legislative Assembly. The remainder of the budget is subject to review and recommendation by the Legislative Assembly.

(2) The commission shall adopt or modify a budget only after a public hearing on the budget. At least 15 days prior to a public hearing, the commission shall give notice of the hearing to all persons known to be interested in the proceedings of the commission and to any person who has requested a notice.

(3) The commission shall follow generally accepted accounting principles and keep such financial and statistical information as is necessary to completely and accurately disclose the financial condition and financial operations of the commission as may be required by the Secretary of State.

(4) The commission shall prepare an annual financial statement of commission revenues and expenses and shall make the statement available for public review.

SECTION 23. (1) All moneys collected, received by or appropriated to the Oregon Tourism Commission shall be deposited into an account established by the commission in a depository bank insured by the Federal Deposit Insurance Corporation. In a manner consistent with the requirements of ORS chapter 295, the chair of the commission shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the Federal Deposit Insurance Corporation's coverage.

(2) Subject to the approval of the chair, the commission may invest moneys collected or received by the commission. Investments made by the commission shall be limited to investments described in ORS 294.035 (1) to (9).

(3) Interest earned on any moneys invested under subsection (2) of this section shall be made available to the commission in a manner consistent with the biennial budget of the commission.

(4) State transient lodging tax moneys appropriated to the commission under section 8 of this 2003 Act shall be spent by the commission as follows:

(a) At least 80 percent shall be used to fund state tourism marketing programs.

(b) As much as 15 percent shall be used to implement a regional cooperative tourism marketing program. The program shall:

(A) Require that fund allocations focus on creating new business from out-of-state and international markets;

(B) Utilize a regional allocation formula that distributes revenue to regions, the boundaries of which are established by the commission, in proportion to the amount of transient lodging tax revenues collected in each region;

(C) Distribute revenue to recipients that are selected by the commission as organizations able to conduct tourism-related marketing for each region;

(D) Require that all advertising, publications, CD-ROMs, websites, videos and other tourism promotion materials funded through the regional cooperative tourism marketing program carry the Oregon Tourism Commission logo and marketing tag line; and

(E) Encourage funding recipients to incorporate design elements from commission advertising and promotional campaigns, such as fonts, images and other design elements.

(5) All moneys in the account that are not state transient lodging tax revenues are continuously appropriated to the commission for the purposes of carrying out the functions of the commission.

(6) All expenditures from the account are exempt from any state expenditure limitation.

SECTION 24. All moneys appropriated to the Economic and Community Development Department for the purposes of the Oregon Tourism Commission prior to the effective date of this 2003 Act that remain unspent and unobligated are transferred to the account of the

Oregon Tourism Commission established under section 23 of this 2003 Act on the effective date of this 2003 Act.

SECTION 25. ORS 285A.279 is amended to read:

285A.279. (1) The Oregon Tourism Commission shall administer a biennial matching grants program when the Legislative Assembly appropriates moneys therefor. The purpose of the matching grants program is to help develop and improve the economies of communities throughout Oregon by means of the improvement, expansion and promotion of the visitor industry.

(2) The [*tourism*] commission shall establish the maximum grant amount in the applicant guidelines prepared for the matching grants program in each biennium. No more than 50 percent of the total cost of a project may be paid for with moneys from the program. An applicant must show a minimum one-to-one match from private or public sources other than Economic and Community Development Department **or commission** programs. The applicant must also show a cash match of at least 50 percent of the amount requested under the matching grants program.

SECTION 26. ORS 285A.282 is amended to read:

285A.282. (1) The Oregon Tourism Commission[, *upon the approval of the Governor, shall appoint an administrator of the tourism commission who*] **shall appoint an executive director. The appointment shall be subject to the approval of the Governor. The executive director shall serve at the pleasure of the members of the commission.**

[*(2) The administrator shall receive such salary as may be provided by law or as fixed by the tourism commission.*]

[*(3) The administrator shall be the administrative head of the Oregon Tourism Program.*]

[*(4) The administrator may recommend rules to the tourism commission for the governance of the tourism program, the conduct of its employees and the assignment and performance of its business and the custody, use and preservation of its records, papers and property.*]

(2) The commission shall set the compensation of the executive director.

(3) The executive director shall direct all administrative functions of the commission. The executive director may appoint all subordinate officers and employees of the commission and may prescribe their duties and set their compensation.

(4) Except as provided in subsection (5) of this section, the commission may delegate to the executive director any duty, function or power conferred or imposed on the commission and the executive director may delegate to any subordinate officer or employee of the commission any duty, function or power conferred, imposed on or delegated to the executive director.

(5) The commission may not delegate to the executive director the power to:

(a) Approve the comprehensive marketing plan described in ORS 285A.264;

(b) Approve the biennial budget required under section 22 of this 2003 Act; or

(c) Appoint and set the compensation of the executive director under ORS 285A.282.

SECTION 27. ORS 285A.288 is amended to read:

285A.288. The Oregon Tourism Commission shall establish and maintain official tourist information centers near the principal entrance points into the state, and at other locations it considers appropriate, to be used to provide information to the public about public accommodations, transportation, commercial services for the traveling public, campgrounds, parks, recreational areas and points of interest. The [*tourism program*] **commission** may contract for the construction, maintenance and operation of such tourist information centers.

SECTION 28. ORS 285A.255 to 285A.285 do not affect the duty and authority of the Secretary of State to audit public accounts. The Secretary of State shall enter into agreements with the Oregon Tourism Commission to set an appropriate audit schedule for the commission. In lieu of conducting an audit, the Secretary of State may elect to accept the report of an independent certified public accountant.

MISCELLANEOUS

SECTION 29. ORS 305.824 is added to and made a part of sections 2 to 8a and 10 to 12 of this 2003 Act.

SECTION 30. ORS 285A.288 and sections 18, 20, 22, 23 and 28 of this 2003 Act are added to and made a part of ORS 285A.255 to 285A.285.

SECTION 31. ORS 285A.270, 285A.273, 285A.276 and 285A.285 are repealed.

SECTION 31a. Notwithstanding section 237, chapter _____, Oregon Laws 2003 (Enrolled House Bill 2341) (amending ORS 285A.273), if House Bill 2341 becomes law, ORS 285A.273 is repealed.

SECTION 31b. Notwithstanding section 238, chapter _____, Oregon Laws 2003 (Enrolled House Bill 2341) (amending ORS 285A.276), if House Bill 2341 becomes law, ORS 285A.276 is repealed.

SECTION 32. The unit captions used in this 2003 Act are provided only for the convenience of the reader and do not become a part of the statutory law of this state or express any legislative intent in the enactment of this 2003 Act.

SECTION 33. This 2003 Act takes effect on the 91st day after the date on which the regular session of the Seventy-second Legislative Assembly adjourns sine die.

Passed by House August 19, 2003

Received by Governor:

Repassed by House August 23, 2003

.....M.,....., 2003

Approved:

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Chief Clerk of House

.....M.,....., 2003

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Speaker of House

.....
Governor

Passed by Senate August 22, 2003

Filed in Office of Secretary of State:

.....M.,....., 2003

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President of Senate

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Secretary of State