

Oregon State Capitol becomes Niketown for a day

By **DON MCINTOSH**
Associate Editor

SALEM — To give Nike assurance that its taxes won't go up, Oregon Gov. John Kitzhaber summoned the Oregon Legislature into a special one-day ses-

sion Dec. 14. The \$24-billion-a-year nonunion apparel brand is ready to announce a \$2 billion expansion of its headquarters in unincorporated Washington County, but it wanted lawmakers to first guarantee no change to how

its taxes are calculated.

The bill to do that passed 50-to-5 in the House, and 22-to-6 in the Senate. Known as the "Economic Impact Investment Act," it gives the governor what he called "a new economic de-

velopment tool" — the ability to sign a five-to-30-year contract guaranteeing continuation of the "single sales factor method" for any company willing to invest more than \$150 million and create 500 new jobs.

In his Dec. 10 press conference announcing the special session, Kitzhaber said "sideboards" to any such contracts would include promises that the jobs created would not be low paying.

Nike's build-out plans would create 12,000 new jobs, Kitzhaber said. That figure includes "indirect and induced" jobs as well as workers directly employed by Nike. The expansion would be completed by 2020, Kitzhaber said, and construction would account for \$440 million and 2,900 jobs.

The bill had strong support from the Oregon State Building and Construction Trades Council and qualified support from the Oregon AFL-CIO.

Building Trades Executive Secretary John Mohlis said he learned of the governor's plans a day before they were publicly announced. During the announcement, Mohlis stood behind the governor alongside Oregon Business Association President Ryan Deckert and Oregon Business Council President Duncan Wyse.

Nike has employed overwhelmingly union labor in past construction projects, Mohlis said. Though the company provided no assurance it will use union labor in its expansion, Mohlis said union building trades workers would likely do most of the work.

The piece of Oregon's tax code that the contracts would preserve is known as the "single sales factor." It's a 2001 change to the tax law which reduced Nike's state corporate income tax as much as 95 percent, according to estimates by the union-backed Oregon Center for Public Policy. The change has to do with how much of a multi-state corporation's profits are attributed to Oregon for the purpose of the state's corporate income tax. Before 1991, Oregon considered property, payroll, and sales equally in making that calcu-

lation. Under those old rules, if a shoemaker had 80 percent of its property in Oregon, 80 percent of its payroll in Oregon, and 1 percent of its sales in Oregon, the state would average those three percentages, and the company would pay state income tax on about 54 percent of its profit. But lawmakers in 1991 doubled the sales factor, and then in 2003 they passed a phase-in, and later sped up, to counting only sales. Thus since 2005, the hypothetical shoemaker pays Oregon's 6.6 percent corporate income tax on only 1 percent of its income — if Oregon sales are 1 percent of its total sales.

The actual amounts paid are not publicly disclosed. But the tax law change means a company like Nike gets the same corporate income tax treatment as a company that has no property or employees in Oregon.

In July, Health Net, a California-headquartered insurance company, filed suit seeking to overturn the change, saying it violates a multi-state tax compact that Oregon signed decades ago harmonizing how states calculate taxes. The suit is still pending.

For now, however, the Economic Impact Investment Act has no price tag, since it promises to keep the status quo.

"It doesn't create new tax breaks," Mohlis told the Labor Press, "and it won't cost the state a penny."

In a hearing on the bill the day before the legislative special session, Mohlis testified in support of the bill.

"The impact on business expansion and job creation, especially in the construction industry, is significant," Mohlis explained in a Dec. 13 press statement. "A \$441 million investment that creates 2,900 construction jobs is huge for the building trades. What a boost this would mean for many of our members whose families have experienced economic challenges or unemployment."

Meanwhile, Oregon AFL-CIO Political Director Graham Trainor asked lawmakers to make three amendments to the bill: a requirement that the jobs created pay at or above the state average wage, a requirement that companies reimburse the state if they don't uphold their end of a contract; and shortening the potential contracts from maximum of 40 years that was initially proposed. Lawmakers declined to make the first two amendments, but did reduce the maximum length to 30 years.

The day of the vote, the state labor federation sent legislators a letter of support for the bill, calling it "one of the better tools for recruiting investment in Oregon jobs that we could have."

The bill takes effect 91 days after passage — March 15 — at which point the governor could sign a contract freezing the method of calculation with Nike, or any other company willing to commit to \$150 million investment and 500 jobs over 20 years.

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