

# House Bill 2239

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 Revenue)

## 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**.

Modifies procedures for reviewing assessment rolls, correcting clerical errors and omissions, and adding omitted property to assessment rolls that are prepared by Department of Revenue for assessment and apportionment of centrally assessed property.

Applies to assessment rolls initially prepared or corrected on or after effective date of Act.

## A BILL FOR AN ACT

1  
2 Relating to central assessment for property tax purposes; creating new provisions; and amending  
3 ORS 305.280, 308.540, 308.580, 308.585, 308.590, 308.595, 308.600, 308.605, 308.610 and 308.810.

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

5 **SECTION 1.** ORS 308.580 is amended to read:

6 308.580. (1) The Department of Revenue shall give public notice by [*three weekly publications in*  
7 *some*] **publication at least once a week for three successive weeks in a newspaper** printed at the  
8 state capital, setting forth that [*it will attend in its office at the capital of the state on the second*  
9 *Monday in June and*] **on June 15 of the assessment year the department shall:**

10 (a) Publicly examine **and review** the tentative assessment roll made by [*it and review the same,*  
11 *and*] **the department;**

12 (b) Correct all errors in valuation, description, [*quantities or qualities of property by it*  
13 *assessable*] **quantity and quality of property assessable by the department under ORS 308.505**  
14 **to 308.665;** and

15 (c) [*in apportionments of assessments made by it*] **Correct all errors in the apportionment to**  
16 **counties of the assessments made by the department under ORS 308.505 to 308.665.**

17 (2) [*The*] **Interested** persons and companies [*interested shall*] **may** appear at the time and place  
18 [*appointed*] **given in the notice.** Proof of the notice may be made by affidavit as **provided** by law  
19 [*provided,*] **and** filed with the Director **of the Department of Revenue** on or before the day on  
20 which the department [*shall convene*] **begins its examination and review.**

21 **SECTION 2.** (1) **In addition to the notice made by publication under ORS 308.580, the**  
22 **Department of Revenue shall mail a notice to each person or company assessed under ORS**  
23 **308.505 to 308.665 that states the amount the department intends to place on the assessment**  
24 **roll as the assessment of the property of the person or company that is assessable under**  
25 **ORS 308.505 to 308.665. The department shall mail the notice of tentative assessment no later**  
26 **than May 25 of the assessment year.**

27 (2) **The notice shall be mailed to the last-known address of the person or company.**

28 (3) **A failure by the department to properly give the notice required by this section does**  
29 **not invalidate any assessment made by the department.**

30 (4) **On and after the date that notice is mailed under this section and before the date of**

**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 completion of the review of the roll, the department shall make the tentative assessment roll  
 2 and the apportionment of the assessments to counties available for inspection by a person  
 3 or company receiving notice under this section.

4 **SECTION 3.** (1) A person or company receiving a notice of tentative assessment under  
 5 section 2 of this 2007 Act may make a request for a conference on the reduction in valuation  
 6 or modification of the apportionment of a tentative assessment set forth in the notice.

7 (2) The request shall be made to the Director of the Department of Revenue on or before  
 8 June 15 of the assessment year. If the Department of Revenue failed to properly mail the  
 9 notice described in section 2 of this 2007 Act to the person or company, a request for a  
 10 conference may be made on or before June 25 of the assessment year, but may not be made  
 11 thereafter.

12 (3) The director shall hold a conference under this section as soon as is practicable fol-  
 13 lowing the date a request is made and shall issue an order modifying the valuation or ap-  
 14 portionment of an assessment or affirming the tentative assessment on or before August 1  
 15 of the tax year.

16 (4) A conference with the director is an administrative remedy that must be exhausted  
 17 before an appeal of the valuation or apportionment of an assessment may be made to the  
 18 Oregon Tax Court. The valuation or apportionment of an assessment under ORS 308.505 to  
 19 308.665 may not be appealed to the tax court if the person or company does not file a timely  
 20 request for a conference under this section prior to seeking an appeal before the tax court.

21 (5) Subject to subsection (4) of this section, an appeal to the tax court may be made un-  
 22 der ORS 305.280.

23 (6) A petition may not be filed with a county board of property tax appeals for a reduction  
 24 in value of property assessed under ORS 308.505 to 308.665 or with respect to any other  
 25 matter arising under ORS 308.505 to 308.665.

26 **SECTION 4.** ORS 308.585 is amended to read:

27 308.585. *[The administrator of the division charged with the responsibility of preparing the annual*  
 28 *assessment roll required by ORS 308.515, shall appear at the office of the Director of the Department*  
 29 *of Revenue at the capital of the state on the second Monday of June in each year and shall then deliver*  
 30 *to the director]* **The Department of Revenue shall prepare** the tentative assessment roll *[prescribed*  
 31 *in ORS 308.540 to 308.575]* **of property subject to assessment under ORS 308.505 to 308.665 on**  
 32 **or before June 15 of the assessment year.**

33 **SECTION 5.** ORS 308.590 is amended to read:

34 308.590. (1) The Director of the Department of Revenue shall:

35 (a) Review, examine and correct the **tentative** assessment roll *[made pursuant to ORS 308.515]*  
 36 **prepared under ORS 308.585.**

37 (b) Increase or reduce the valuation of property assessed on the roll so that the valuation is the  
 38 assessed value of the property.

39 *[(c) Assess omitted taxable property that is assessable by the Department of Revenue in the manner*  
 40 *provided in subsection (4) of this section.]*

41 *[(d)]* (c) Correct errors in apportionments of assessments on the roll.

42 *[(e)]* (d) Correct errors in the ratio of average maximum assessed value to average real market  
 43 value calculated under ORS 308.153.

44 (2) If it appears to the director that there is any real or personal property that, by law, the  
 45 department is permitted to assess that has been assessed by the department *[multiple times]* **more**

1 **than one time**, or incorrectly assessed as to description, quantity or quality, or assessed in the  
 2 name of a person or company not the owner, lessee or occupant of the property, or assessed under  
 3 or beyond the actual assessed value of the property, the director may make proper corrections to  
 4 the roll.

5 (3) If it appears to the director that there *[has been any]* **is** real or personal property that has  
 6 been assessed by the department but that is not assessable by the department, the director may  
 7 make proper corrections to the roll.

8 (4) If it appears to the director that any real or personal property that is assessable by the de-  
 9 partment has not been assessed upon the *[assessment]* roll, *[or on any assessment roll for a year not*  
 10 *exceeding five years prior to the last roll certified,]* the director shall assess the property at its as-  
 11 sessed value.

12 (5) *[The]* Property *[assessable]* **assessed** by the department within any county shall be appor-  
 13 tioned by the department to the county *[at its assessed value as finally adopted under ORS*  
 14 *309.203]*.

15 **SECTION 6.** ORS 308.595 is amended to read:

16 308.595. *[(1)]* The Director of the Department of Revenue, while reviewing and apportioning the  
 17 **tentative** assessment roll, *[shall]* **may** not increase the valuation of any property on the  
 18 *[assessment]* roll *[or add omitted property thereto]* without giving to the company or person in whose  
 19 name *[it]* **the property** is assessed at least six days' written notice to appear and show cause, if any,  
 20 why the valuation of the assessable property of *[such]* **the** company or person, or some part thereof,  
 21 to be specified in the notice, *[shall]* **should** not be increased~~*[, or why the property should not be*~~  
 22 ~~*added to the roll; but]*~~. A notice *[shall not be]* **is not** necessary if the person or company appears  
 23 voluntarily before the director and is *[there]* notified by the director that the property of the person  
 24 or company, or some specified part thereof is, in the opinion of the director, assessed below its as-  
 25 sessed value *[or has been omitted from the roll]*.

26 *[(2)]* *Not later than 20 days prior to the day the director is required by law to review the roll, the*  
 27 *Department of Revenue shall mail to each company assessed by it notice of the amount it has placed*  
 28 *or intends to place on the roll as the assessment of the company's property. The notice shall be mailed*  
 29 *to the last-known address of the company. Failure of the department to mail such notice shall not in-*  
 30 *validate any assessment. From and after the date of such notice the department shall maintain in its*  
 31 *office at Salem for the inspection of the company the tentative assessment and apportionment of its as-*  
 32 *essment to the several counties.]*

33 *[(3)]* *A request for a conference on the notice of assessment may be taken to the Director of the*  
 34 *Department of Revenue for reduction or correction in the valuation or apportionment of a particular*  
 35 *assessment. A request for a conference on the value contained in the notice must be filed no later than*  
 36 *the second Monday in June, prior to the July 1 beginning of the tax year. If the department fails to*  
 37 *mail the notice at the time provided in subsection (2) of this section, the time for filing a request for a*  
 38 *conference shall be extended for 10 days after the second Monday in June. The director shall hold*  
 39 *conferences and issue orders on all conferences under this subsection. The director shall issue the or-*  
 40 *ders no later than the following August 1.]*

41 *[(4)]* *The provisions of ORS chapter 305 shall apply to appeals to the Oregon Tax Court.]*

42 **SECTION 7. (1) Following the date that an assessment roll prepared under ORS 308.505**  
 43 **to 308.665 is certified under ORS 308.635, the Director of the Department of Revenue may**  
 44 **correct a clerical error, or an error or omission in the certified roll, as prescribed in this**  
 45 **section.**

1 (2) For purposes of this section, a clerical error is an error on the roll that arises from  
2 an error in the records of the Department of Revenue and that, had it been discovered by  
3 the department prior to certification of the roll, would have been corrected as a matter of  
4 course, and for which the information necessary to correct the error is contained in the re-  
5 cords of the department. Clerical errors include, but are not limited to, arithmetic or copying  
6 errors or the omission or misstatement of a property value on the roll.

7 (3) Except as provided in subsection (4) of this section, the director may correct any  
8 other error or omission of any kind, including, but not limited to:

9 (a) The elimination of the assessment to one person or company of property owned or  
10 used by another person or company on the assessment date;

11 (b) The correction of a value changed on appeal;

12 (c) The correction of an error in the assessed value of property resulting from an error  
13 in the identification of a unit of property;

14 (d) An error in apportionment of assessments on the roll; and

15 (e) An error in the ratio of average maximum assessed value to average real market  
16 value determined under ORS 308.153.

17 (4) The director may not correct an error in valuation judgment. For purposes of this  
18 subsection, an error in valuation judgment is an error in the department's opinion of the  
19 value of property.

20 (5) Corrections may be made under this section to the roll last certified, or to the certi-  
21 fied roll for any prior year that does not exceed five years prior to the year for which the  
22 last roll was certified under ORS 308.635.

23 (6) If the director makes a correction under this section that has the effect of increasing  
24 the assessment to which the correction relates, except where the correction is made to  
25 correct a value changed on appeal, the department shall treat the correction as an addition  
26 of omitted property for purposes of giving the notice required under section 9 of this 2007  
27 Act.

28 **SECTION 8.** (1) If the Director of the Department of Revenue determines that any real  
29 or personal property that is assessable by the Department of Revenue under ORS 308.505 to  
30 308.665 has not been assessed on the assessment roll for the year in which the roll was last  
31 certified or on the roll for any prior year that does not exceed five years prior to the year  
32 for which the last roll was certified under ORS 308.635, the department shall give the notice  
33 prescribed in section 9 of this 2007 Act to the person or company in whose name the omitted  
34 property is to be assessed.

35 (2) Property shall be presumed to be omitted property subject to assessment under ORS  
36 308.505 to 308.665 whenever the department discovers or receives credible information that:

37 (a) The addition of any building, structure, improvement, machinery, equipment or other  
38 asset was not reported in a statement filed under ORS 308.520;

39 (b) The cost, as of the assessment date, of any building, structure, improvement, ma-  
40 chinery, equipment or other asset reported in a return required by the department exceeds  
41 the cost stated in the statement filed under ORS 308.520; or

42 (c) Any item listed in ORS 308.525 or under rules adopted to implement ORS 308.525 was  
43 underreported in the statement filed under ORS 308.520.

44 (3) Section 7 (4) of this 2007 Act does not apply to the addition of omitted property under  
45 subsection (1) of this section.

1       **SECTION 9.** (1) The Department of Revenue shall give notice to the company or person  
 2 in whose name property is assessed of the department's intention to add omitted property  
 3 to the assessment roll under section 8 of this 2007 Act.

4       (2) The notice must:

5       (a) Be in writing;

6       (b) Be mailed to the last-known address of the person or company;

7       (c) Describe in general terms the property to be added to the roll; and

8       (d) State that the person or company shall be given an opportunity, not less than 20 days  
 9 after the mailing of the notice, to appear before the department and show cause as to why  
 10 the property should not be added to the roll and assessed to the person or company.

11       **SECTION 10.** (1) If the person or company that is notified under section 9 of this 2007  
 12 Act does not appear before the Department of Revenue or appears but fails to show cause  
 13 as to why the assessment should not be made, the Director of the Department of Revenue  
 14 shall proceed to correct each certified assessment roll from which the property was omitted,  
 15 but may not correct a roll for a year that exceeds five years prior to the year for which the  
 16 last roll was certified.

17       (2) The director shall give notice of the correction to the assessor of each county to  
 18 which an assessment of omitted property is to be apportioned. Under ORS 311.205 (1)(c), the  
 19 officer in charge of the assessment and tax roll shall make the appropriate correction to the  
 20 roll.

21       (3) A person or company aggrieved by an assessment of omitted property under sections  
 22 8 and 9 of this 2007 Act and this section may appeal to the Oregon Tax Court, as prescribed  
 23 in ORS 305.275.

24       **SECTION 11.** ORS 305.280 is amended to read:

25       305.280. (1) Except as otherwise provided in this section, an appeal under ORS 305.275 (1) or (2)  
 26 shall be filed within 90 days after the act, omission, order or determination becomes actually known  
 27 to the person, but in no event later than one year after the act or omission has occurred, or the  
 28 order or determination has been made. An appeal under ORS 308.505 to 308.665 shall be filed within  
 29 *[the time prescribed under ORS 308.595]* **90 days after the date the order is issued under section**  
 30 **3 (3) of this 2007 Act.** An appeal from a supervisory order or other order or determination of the  
 31 Department of Revenue shall be filed within 90 days after the date a copy of the order or determi-  
 32 nation or notice of the order or determination has been served upon the appealing party by mail as  
 33 provided in ORS 306.805.

34       (2) An appeal under ORS 323.416 or 323.623 or from any notice of assessment or refund denial  
 35 issued by the Department of Revenue with respect to a tax imposed under ORS chapter 118, 308,  
 36 308A, 310, 314, 316, 317, 318, 321 or this chapter, or collected pursuant to ORS 305.620, shall be filed  
 37 within 90 days after the date of the notice. An appeal from a proposed adjustment under ORS  
 38 305.270 shall be filed within 90 days after the date the notice of adjustment is final.

39       (3) Notwithstanding subsection (2) of this section, an appeal from a notice of assessment of taxes  
 40 imposed under ORS chapter 314, 316, 317 or 318 may be filed within two years after the date the  
 41 amount of tax, as shown on the notice and including appropriate penalties and interest, is paid.

42       (4) Except as provided in subsection (2) of this section or as specifically provided in ORS chapter  
 43 321, an appeal to the tax court under ORS chapter 321 or from an order of a county board of  
 44 property tax appeals shall be filed within 30 days after the date of the notice of the determination  
 45 made by the department or date of mailing of the order, date of publication of notice of the order

1 or date of mailing of the notice of the order to the taxpayer, whichever is applicable.

2 (5) If the tax court denies an appeal made pursuant to this section on the grounds that it does  
 3 not meet the requirements of this section or ORS 305.275 or 305.560, the tax court shall issue a  
 4 written decision rejecting the petition and shall set forth in the decision the reasons the tax court  
 5 considered the appeal to be defective.

6 **SECTION 12.** ORS 308.540 is amended to read:

7 308.540. **For each year**, the Department of Revenue shall prepare *[each year]* an assessment roll,  
 8 in which shall be assessed, as of January 1 at 1:00 a.m. of *[such]* **the** year, the assessed value of  
 9 *[all the properties of the several]* **the property of persons and** companies subject to taxation under  
 10 ORS 308.505 to 308.665. The assessment roll shall not be final until reviewed as provided in ORS  
 11 *[308.580 to 308.610]* **308.590 and certified as provided in ORS 308.635.**

12 **SECTION 13.** ORS 308.600 is amended to read:

13 308.600. The Director of the Department of Revenue, *sitting for the purpose of reviewing and*  
 14 *apportioning the assessment roll, shall continue sessions from day to day, exclusive of Sundays and*  
 15 *legal holidays, until the examination, review, correction, equalization and apportionment of the roll is*  
 16 *completed. The director]* shall complete the examination, review, correction, *[equalization]* and ap-  
 17 portionment of the **assessment roll under ORS 308.590** by August 1 of the tax year.

18 **SECTION 14.** ORS 308.605 is amended to read:

19 308.605. (1) Corrections, additions to or changes in the **assessment roll prepared under ORS**  
 20 **308.505 to 308.665** shall be entered in a separate part of the roll headed substantially, “as  
 21 reviewed,” and the entries in *[such]* **the** separate part shall be the record of the action of the De-  
 22 partment of Revenue. **The department may prescribe some other method to record the cor-**  
 23 **rections, additions to or changes in the roll.**

24 (2) The meetings, sittings and adjournment of the department, sitting for the purpose of review,  
 25 shall be recorded in *[its]* **the department’s journal or may be recorded as otherwise prescribed**  
 26 **by the department.**

27 **SECTION 15.** ORS 308.610 is amended to read:

28 308.610. Upon completion of the review of the roll as provided in ORS *[308.580 to 308.610]*  
 29 **308.590**, the Director of the Department of Revenue shall take and subscribe to an oath similar to  
 30 the oath required for assessors under ORS 308.320. The oath shall be filed with the Secretary of  
 31 State.

32 **SECTION 16.** ORS 308.810 is amended to read:

33 308.810. (1) Every association referred to in ORS 308.805 shall make and file with the Depart-  
 34 ment of Revenue, on or before February 1 of each year, in such form and on such blanks as the  
 35 department may prescribe and provide, the statement required under ORS 308.520 and 308.525, and  
 36 shall include therein the amount of all its gross revenue subject to the tax levied by ORS 308.805  
 37 for the calendar year preceding the making of such statement. The association shall compute and  
 38 forward on or before July 1 of each year the lesser of the tax calculated under ORS 308.807 (1) on  
 39 such gross revenue or the tax calculated under ORS 308.807 (2) on the real market value of the  
 40 transmission and distribution lines used or operated by the association.

41 (2) The department shall notify the association of the real market value of the transmission and  
 42 distribution lines used or operated by the association on or before the date fixed for notices of as-  
 43 sessment to be issued under **section 2 of this 2007 Act or** ORS 308.595 [(2)].

44 **SECTION 17. Sections 2, 3 and 7 to 10 of this 2007 Act and the amendments to ORS**  
 45 **305.280, 308.540, 308.580, 308.585, 308.590, 308.595, 308.600, 308.605, 308.610 and 308.810 by**

1 sections 1, 4 to 6 and 11 to 16 of this 2007 Act apply to assessment rolls initially prepared or  
2 corrected on or after the effective date of this 2007 Act.

3 SECTION 18. Sections 2, 3 and 7 to 10 of this 2007 Act are added to and made a part of  
4 ORS 308.505 to 308.665.

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