

House Bill 2428

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of former Representative Jeff Kropf)

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**.

Expands property tax exemption for ethanol production facilities to include biofuel production facilities, including oil seed crushing facilities. Provides that local taxing district may elect not to participate in biofuel production facility property tax exemption.

Applies to biofuel production facilities for which claim for exemption is first filed on or after January 1, 2007, for tax years beginning on or after July 1, 2007.

Extends sunset date for exemptions.

Takes effect on 91st day after adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property tax exemptions for fuel production facilities; creating new provisions; amending
3 ORS 307.701 and section 4, chapter 475, Oregon Laws 1993; and prescribing an effective date.

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

5 **SECTION 1.** ORS 307.701 is amended to read:

6 307.701. (1) As used in this section:

7 (a) **"Biofuel" means liquid or gaseous fuel produced from a biological source, including**
8 **but not limited to waste and residue from agriculture, forestry or related industries or other**
9 **industrial or municipal waste.**

10 (b) **"Biofuel production facility" includes an oil seed crushing facility that is used to**
11 **produce biofuel or an ingredient of biofuel.**

12 (c) "Ethanol" has the meaning given [*the term under*] **that term in** ORS 646.905.

13 (2) Upon compliance with subsection (4) of this section, the real and personal property of an
14 ethanol **or biofuel** production facility that meets the requirements of subsection (3) of this section
15 is exempt from taxation. The exemption shall be 50 percent of the assessed value of the property
16 determined under ORS 308.146. The exemption under this section may be claimed for five assessment
17 years.

18 (3) An ethanol **or biofuel** production facility may qualify for exemption from taxation under this
19 section if the facility:

20 (a) Is first in the process of construction, erection or installation as a new facility after July
21 1, 1993;

22 (b) Is or will be placed in service to produce ethanol **or biofuel** within four years after January
23 1 of the first assessment year for which [*the*] **an** exemption [*under this section*] is claimed **under this**
24 **section or ORS 285C.170 or 285C.175;** and

25 (c) Within four years after January 1 of the first assessment year for which [*the exemption under*
26 *this section*] **an exemption described in paragraph (b) of this subsection** is claimed, is or will be
27 certified by the State Department of Agriculture as a facility that produces **either of the following:**

28 (A) Ethanol capable of blending or mixing with gasoline. The blend or mixture shall meet the

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 specifications or registration requirements established by the United States Environmental Pro-
 2 tection Agency pursuant to section 211 of the Clean Air Act, 42 U.S.C. 7545 and 40 C.F.R. Part 79.

3 **(B) Biofuel.**

4 (4)(a)(A) In order to claim an exemption from taxation under this section for any assessment
 5 year, the owner of an ethanol **or biofuel** production facility shall file with the county assessor, on
 6 or before April 1 of the year for which exemption is claimed, a statement verified by the oath or
 7 affirmation of the owner listing all real and personal property claimed to be exempt and showing the
 8 purpose for which the property will be or is used.

9 **(B) In the case of a biofuel production facility, in addition to the requirements of sub-**
 10 **paragraph (A) of this paragraph, the claim for exemption must include the following:**

11 **(i) A list of the taxing districts in which the property is located; and**

12 **(ii) A copy of a written notice mailed to each taxing district.**

13 **(C) The written notice required under subparagraph (B) of this paragraph must:**

14 **(i) State that the claimant is seeking a property tax exemption under this section;**

15 **(ii) State that a taxing district may elect not to participate in the exemption, in which**
 16 **case taxes of the district will continue to be imposed on the property of the claimant; and**

17 **(iii) Comply with any other requirements established by the Department of Revenue.**

18 (b) If the ownership and use of the **ethanol or biofuel production facility** property included in
 19 the statement **described in paragraph (a)(A) of this subsection** and filed for a prior year remain
 20 the same, a new statement [*shall not be*] **is not** required. However, if the ownership or use changes,
 21 or if the facility property is added to or retired, a new statement is required and the property
 22 [*shall*] **may** not be exempt under this section if the statement is not filed. The new statement
 23 [*shall*] **must** be filed no later than December 31 of the year to which the statement pertains.

24 (5) If the **ethanol or biofuel production** facility property is not placed in service within the
 25 time required under subsection (3) of this section, or if the certification required under subsection
 26 (3) of this section is not obtained within the required time, then the facility property [*shall*] **may**
 27 not be exempt for any year under this section. For any year for which the property has been granted
 28 exemption under this section, the county assessor shall add the property to the assessment and tax
 29 roll as omitted property in the manner provided under ORS 311.216 to 311.232.

30 **SECTION 2. (1) A city, county or other local taxing district with property tax authority**
 31 **may elect not to participate in an exemption for a biofuel production facility granted under**
 32 **ORS 307.701.**

33 **(2) A taxing district may make the election by filing written notification of the election**
 34 **with the county assessor of the county in which the taxing district is located. The notifica-**
 35 **tion must be filed before July 1 of the first tax year for which the election is to be effective.**

36 **(3) An election made under this section is valid for all tax years following the year for**
 37 **which the election is first made, until the election is revoked by the taxing district.**

38 **(4) A taxing district may revoke an election made under this section by filing written**
 39 **notification of the revocation with the county assessor of the county in which the taxing**
 40 **district is located. The notification must be filed before July 1 of the first tax year for which**
 41 **the revocation is to be effective.**

42 **(5) The written notifications of election and revocation described in this section must**
 43 **contain the information and be in the form prescribed by the Department of Revenue.**

44 **(6) An election or revocation made under this section applies to all biofuel production**
 45 **facility property within the taxing district:**

1 (a) For which a claim for exemption has been filed under ORS 307.701; and

2 (b) That qualifies for exemption under ORS 307.701.

3 **SECTION 3.** The amendments to ORS 307.701 by section 1 of this 2007 Act apply to biofuel
4 production facilities for which a claim for exemption under ORS 307.701 is first filed for tax
5 years beginning on or after July 1, 2007.

6 **SECTION 4.** Section 4, chapter 475, Oregon Laws 1993, is amended to read:

7 **Sec. 4.** *[(1) An ad valorem property tax exemption provided by section 2 of this Act is first appli-
8 cable to the tax year beginning July 1, 1994.]*

9 *[(2) Section 2 of this Act is repealed on July 1, 2008. The repeal applies to tax years beginning on
10 or after July 1, 2008. Notwithstanding that an ethanol production facility has not received five years
11 of exemption under section 2 of this Act, no exemption for the facility shall be granted under section
12 2 of this Act for a tax year beginning on or after July 1, 2008.]* **An exemption for an ethanol or
13 biofuel production facility may not be granted under ORS 307.701 for any production facility
14 that has not qualified for at least one tax year of exemption before July 1, 2014.**

15 **SECTION 5.** (1) Notwithstanding the filing deadline set forth in ORS 307.701, for the tax
16 year beginning July 1, 2007, the owner of a biofuel production facility may file with the
17 county assessor a claim for exemption in writing no later than 90 days after the effective
18 date of this 2007 Act.

19 (2) Notwithstanding the filing deadline set forth in section 2 (2) of this 2007 Act, for the
20 tax year beginning July 1, 2007, a city, county or other local taxing district with property tax
21 authority may file written notification that the taxing district elects not to participate in an
22 exemption for a biofuel production facility with the county assessor in which the taxing dis-
23 trict is located no later than 60 days after the owner of a biofuel production facility files a
24 claim for exemption under subsection (1) of this section.

25 (3)(a) Any property taxes and interest that have been paid on behalf of a property granted
26 the exemption under ORS 307.701 for the tax year beginning July 1, 2007, shall be refunded
27 in the manner prescribed in paragraph (b) of this subsection. If the taxes have not been paid,
28 the taxes and any interest due on the taxes are abated.

29 (b) The county tax collector shall notify the governing body of the county of any refund
30 required under this subsection and the governing body shall cause a refund of the taxes and
31 any interest paid to be made from the unsegregated tax collections account described in ORS
32 311.385. The refund described in this subsection shall be made without interest. The county
33 assessor and the county tax collector shall make the necessary corrections in the records
34 of their offices.

35 **SECTION 6.** This 2007 Act takes effect on the 91st day after the date on which the reg-
36 ular session of the Seventy-fourth Legislative Assembly adjourns sine die.

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