

A-Engrossed
Senate Bill 514

Ordered by the Senate May 9
Including Senate Amendments dated May 9

Sponsored by Senator SCHRADER; Senator MORSE, Representatives BARNHART, BERGER, BURLEY,
DINGFELDER, ROSENBAUM

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.

Establishes property tax special assessment program for land subject to conservation easements. Allows land presently subject to farm use or forestland special assessment to be transferred to conservation easement special assessment without payment of additional tax. Requires owner of land placed under conservation easement to file written certification with county assessor. Permits owner or other qualified person to withdraw application within 30 days of applying for change in classification from conservation easement or wildlife habitat easement to other special assessment category.

Applies to tax years beginning on or after July 1, 2008.

A BILL FOR AN ACT

1
2 Relating to special assessments; creating new provisions; and amending ORS 215.236, 271.785,
3 308A.253, 308A.318, 308A.703, 308A.706, 308A.707, 308A.712, 308A.718, 308A.724, 308A.733,
4 308A.743 and 321.716.

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

6 **SECTION 1. Sections 2 to 7 of this 2007 Act are added to and made a part of ORS chapter**
7 **308A.**

8 **SECTION 2. As used in sections 2 to 7 of this 2007 Act:**

9 (1) "Conservation easement" has the meaning given that term in ORS 271.715.

10 (2) "Holder" has the meaning given that term in ORS 271.715.

11 (3) "Internal Revenue Code" means the federal Internal Revenue Code as amended and
12 in effect on December 31, 2006.

13 (4) "Lot" has the meaning given that term in ORS 92.010.

14 (5) "Parcel" has the meaning given that term in ORS 92.010, as further modified by ORS
15 215.010.

16 **SECTION 3. (1) Land subject to a conservation easement that is held by one or more**
17 **holders and that is managed in compliance with the terms of the easement, shall receive**
18 **conservation easement special assessment for ad valorem property tax purposes.**

19 (2) In order for land to be subject to assessment under sections 2 to 7 of this 2007 Act:

20 (a) The terms of the conservation easement must be capable of meeting the requirements
21 for being considered exclusively for conservation purposes under section 170(h) of the Inter-
22 nal Revenue Code if the land or easement were ever to be the subject of a contribution;

23 (b) The conservation easement must be recorded in the records of the clerk of the county
24 in which the land is located; and

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 (c) A written certification must be filed with the county assessor stating that the con-
2 servation easement satisfies the requirements of paragraph (a) of this subsection. The cer-
3 tification must be filed by:

4 (A) The owner of the land, if a deduction has been claimed for federal income tax pur-
5 poses under section 170 of the Internal Revenue Code for a qualified conservation contribu-
6 tion with respect to the conservation easement; or

7 (B) The holder, in all cases that are not described in subparagraph (A) of this paragraph.

8 **SECTION 4.** (1) Upon satisfying the requirements of section 3 of this 2007 Act, the owner
9 of land subject to a conservation easement may apply to the county assessor to receive
10 conservation easement special assessment.

11 (2) Application shall be made to the county assessor on forms prepared by the Depart-
12 ment of Revenue and supplied by the county assessor.

13 (3) Applications for conservation easement special assessment shall be made to the
14 county assessor on or before April 1 of the first assessment year for which the assessment
15 is desired. The application shall include:

16 (a) A copy of the conservation easement along with the property tax account number for
17 the land.

18 (b) Contact information for the landowner and the holder or holders of the conservation
19 easement.

20 (c) Representations, along with supporting documentation, that the requirements of
21 section 3 of this 2007 Act have been satisfied.

22 (d) A statement that the applicant is aware of the potential tax liability that arises under
23 ORS 308A.700 to 308A.733 upon disqualification from conservation easement special assess-
24 ment.

25 (e) An affirmation that the statements contained in the application are true.

26 (f) An application fee in the amount of \$250.

27 (4) The county assessor shall approve an application that includes all documents listed
28 in subsection (3) of this section. The assessor shall notify the landowner and the holder of
29 the assessor's decision to approve or wholly or partially deny an application.

30 (5) Whether land subject to a conservation easement qualifies for special assessment
31 under this section shall be determined as of January 1 of the assessment year. If land so
32 qualified becomes disqualified prior to July 1 of the same assessment year, the land shall be
33 valued under ORS 308.232 at its real market value as defined by law without regard to this
34 section and shall be assessed at its assessed value under ORS 308.156 or as otherwise pro-
35 vided by law. If the land becomes disqualified on or after July 1, the land shall continue to
36 qualify for special assessment as provided in this section for the current tax year.

37 (6) Application fees collected under this section shall be deposited in the county general
38 fund to the credit of the county assessor.

39 **SECTION 5.** (1) The county assessor shall value land for conservation easement special
40 assessment in accordance with this section.

41 (2) For property that was specially assessed during the previous assessment year under
42 a special assessment law listed in ORS 308A.706 (1)(d), the property shall have a specially
43 assessed value, a maximum assessed value and an assessed value determined under which-
44 ever of the following was an applicable method of valuation for the previous assessment year:

45 (a) ORS 308A.050 to 308A.128; or

1 (b) ORS 321.354 or 321.833.

2 (3) For property that was not specially assessed during the previous assessment year, the
3 property shall have a specially assessed value, a maximum assessed value and an assessed
4 value:

5 (a) Determined under ORS 321.354 or 321.833 if, at the time of application, the land has
6 growing upon it trees of a marketable species and in numbers sufficient to meet require-
7 ments for designated forestland under ORS 321.358 or 321.839; or

8 (b) If the criteria set forth in paragraph (a) of this subsection are not satisfied, deter-
9 mined under ORS 308A.050 to 308A.128.

10 (4) For property subject to conservation easement special assessment, the county
11 assessor shall enter on the assessment and tax roll the notation "potential additional tax li-
12 ability" until the land is disqualified under section 7 of this 2007 Act.

13 **SECTION 6.** Subject to the terms of the applicable conservation easement, new and ex-
14 isting dwellings may be allowed on a lot or parcel subject to conservation easement special
15 assessment as follows:

16 (1) Lawfully existing dwellings, pursuant to ORS 215.130 (5) to (11), may remain.

17 (2) For a lot or parcel without an existing dwelling, dwellings may be allowed if each
18 dwelling for which the landowner seeks approval complies with all applicable requirements
19 under the county's acknowledged zoning ordinance.

20 **SECTION 7.** (1) Land that is receiving conservation easement special assessment shall
21 be inspected by a holder periodically to ensure that:

22 (a) The land is managed in accordance with the terms of the conservation easement to
23 which the land is subject;

24 (b) The conservation easement continues to meet the requirements of section 3 (2)(a) of
25 this 2007 Act; and

26 (c) The holder complies with subsection (2) of this section.

27 (2)(a) Every three years, or more frequently if requested in writing by the county
28 assessor, the holder shall provide written certification to the county assessor that the land
29 is being managed in accordance with the terms of the conservation easement to which the
30 land is subject and that the conservation easement continues to meet the requirements of
31 section 3 (2)(a) of this 2007 Act.

32 (b) If, upon inspection, the holder determines that the land is not being managed in ac-
33 cordance with the terms of the conservation easement to which the land is subject or that
34 the conservation easement no longer meets the requirements of section 3 (2)(a) of this 2007
35 Act, the holder shall notify the landowner and require compliance measures to be taken
36 within six months or a reasonable shorter period if permitted by the terms of the conserva-
37 tion easement. If the plan is still not being implemented as required by the holder at the end
38 of the six-month period or applicable shorter period, the holder shall notify the county
39 assessor that the land is not being managed in accordance with the terms of the conserva-
40 tion easement to which the land is subject.

41 (3) If the landowner has claimed a federal income tax deduction under section 170 of the
42 Internal Revenue Code and the claim is disallowed because the contribution on which the
43 claim is based is not a qualified conservation contribution under section 170(h) of the Inter-
44 nal Revenue Code, the landowner and holder shall immediately notify the county assessor
45 of the disallowance.

1 **(4) The county assessor shall disqualify the land from conservation easement special as-**
2 **essment upon:**

3 **(a) Failure of the holder to provide the certification described in subsection (2)(a) of this**
4 **section within 90 days following the close of the three-year period or the date of the written**
5 **request, whichever is earlier;**

6 **(b) Notice from the holder as described in subsection (2)(b) of this section;**

7 **(c) Notice from the landowner or holder as described in subsection (3) of this section;**

8 **(d) Notice of request for withdrawal by the landowner of the land from conservation**
9 **easement special assessment;**

10 **(e) Sale or transfer to an ownership making the land exempt from ad valorem property**
11 **taxation;**

12 **(f) The land qualifying for another special assessment listed in ORS 308A.706 (1)(d); or**

13 **(g) The act of recording a subdivision plat under ORS chapter 92.**

14 **(5) If, pursuant to subsection (4)(g) of this section, the county assessor disqualifies land**
15 **for conservation easement special assessment upon the act of recording a subdivision plat,**
16 **the land may requalify for conservation easement special assessment upon:**

17 **(a) Payment of all additional tax and interest that remain due and owing as a result of**
18 **the disqualification;**

19 **(b) Compliance with sections 2 to 7 of this 2007 Act; and**

20 **(c) Submission of an application for conservation easement special assessment under**
21 **section 4 of this 2007 Act and approval of the application by the county assessor.**

22 **(6) Upon disqualification, the county assessor shall compute an additional tax under ORS**
23 **308A.700 to 308A.733.**

24 **SECTION 8.** ORS 308A.253 is amended to read:

25 308A.253. (1) Land under a dwelling that is used in conjunction with the activities customarily
26 carried on in the management and operation of forestland held or used for the predominant purpose
27 of growing and harvesting trees of a marketable species shall qualify for special assessment under
28 ORS 308A.256.

29 (2) Land under dwellings located within an exclusive farm use zone and used in conjunction with
30 farm use shall qualify for special assessment under ORS 308A.256.

31 (3) Land under dwellings used in conjunction with the farm use of nonexclusive farm use zone
32 farmland shall qualify for special assessment under ORS 308A.256 if the farmland was operated as
33 a part of a farm unit that produced more than one-half of the adjusted gross income of the owner
34 or owners in the year prior to the year an application is filed under this section.

35 (4) Land under a dwelling on a lot or parcel that is specially assessed under ORS 308A.403 to
36 308A.430 **or sections 2 to 7 of this 2007 Act** shall qualify for special assessment under ORS
37 308A.256 if the land associated with the homesite:

38 (a) Was the subject of an application for wildlife habitat special assessment under ORS 308A.424
39 **or conservation easement special assessment under section 4 of this 2007 Act** and includes an
40 existing homesite that was specially assessed under one of the special assessments listed in ORS
41 308A.703 (1) during the assessment year prior to application; or

42 (b)(A) Is zoned in the comprehensive plan for exclusive farm use, forest use or farm and forest
43 use; and

44 (B) The parcel has a minimum of 10 acres that meet the stocking and species requirements of
45 land specially assessed under ORS 321.354 or 321.833.

1 (5) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling “in conjunction with the
2 activities customarily carried on in the management and operation of forestland” includes but is not
3 limited to use of the dwelling under circumstances as follows:

4 (a) The dwelling is owned and occupied by a person who is engaged in the operation of the
5 forestland, is occupied by an employee of the owner of forestland who is employed in connection
6 with the forest operation or is occupied by a person who is involved in the forest operation; or

7 (b) The dwelling is owned and occupied by a person who is no longer engaged in the forest op-
8 eration but:

9 (A) Whose principal source of income is derived from the harvest of timber from the forestland
10 on which the dwelling is located;

11 (B) Who owned and occupied the dwelling, and was engaged in the forest operation, during the
12 five consecutive tax years before the tax year in which engagement in the forest operation ended;
13 and

14 (C) Who has owned and occupied the dwelling continuously during the period since engagement
15 in the forest operation ended. For purposes of this subparagraph, “continuous” includes any period
16 in which the dwelling is unoccupied because of health, vacation or other reason, if during the period
17 the dwelling is not leased or rented to another person.

18 (6) For purposes of ORS 308A.250 to 308A.259, the use of a dwelling “in conjunction with farm
19 use” of farm use land includes but is not limited to use of the dwelling under circumstances as fol-
20 lows:

21 (a) The dwelling is owned and occupied by a person who is engaged in the operation of the farm
22 use land, is occupied by an employee of the owner of farm use land who is employed in connection
23 with the farming operation or is occupied by a person who is involved in the farming operation; or

24 (b) The dwelling is owned and occupied by a person who is no longer engaged in the farm op-
25 eration on the farm use land but:

26 (A) Whose principal source of income is from the farm operation on the farm use land on which
27 the dwelling is located;

28 (B) Who owned and occupied the dwelling, and was engaged in the farm operation, during the
29 five consecutive tax years before the tax year in which engagement in the farm operation ended;
30 and

31 (C) Who has owned and occupied the dwelling continuously during the period since engagement
32 in the farm operation ended. For purposes of this subparagraph, “continuous” includes any period
33 in which the dwelling is unoccupied because of health, vacation or other reason, if during the period
34 the dwelling is not leased or rented to another person.

35 (7)(a) In order for land described in subsection (3) of this section to qualify for assessment under
36 ORS 308A.250 to 308A.259, the owner or owners shall file an application with the county assessor
37 on or before April 15 of each year the assessment is desired. The application shall be made on forms
38 prepared by the Department of Revenue and supplied by the assessor and shall include any infor-
39 mation as may be reasonably required to determine the entitlement of the applicant, including copies
40 of applicable state income tax returns. All information provided, including determinations made un-
41 der administrative and court proceedings where entitlement is in issue, shall be confidential infor-
42 mation of the assessor’s office and shall be used only for purposes of this subsection.

43 (b) There shall be attached to each application an affidavit or affirmation from the applicant
44 providing that the statements contained in the application are true.

45 **SECTION 9.** ORS 308A.318 is amended to read:

1 308A.318. (1) When land has once been classified under ORS 308A.300 to 308A.330, it shall re-
 2 main under such classification and it shall not be applied to any other use than as open space unless
 3 withdrawn from classification as provided in subsection (2) of this section, except that if the use as
 4 open space land changes from one open space use to another open space use, such as a change from
 5 park purposes to golf course land, the owner shall notify the assessor of such change prior to the
 6 next January 1 assessment date.

7 (2) During any year after classification, notice of request for withdrawal may be given by the
 8 owner to the county assessor or assessors of the county or counties in which such land is situated.
 9 The county assessor or assessors, as the case may be, shall withdraw such land from such classi-
 10 fication, and immediately shall give written notice of the withdrawal to the granting authority that
 11 classified the land; and additional real property taxes shall be collected on such land in an amount
 12 equal to the total amount of potential additional taxes computed under ORS 308A.312 (3) during each
 13 year in which the land was classified, together with interest at the rate of two-thirds of one percent
 14 a month, or fraction of a month, from the dates on which such additional taxes would have been
 15 payable had the land not been so classified, limited to a total amount not in excess of the dollar
 16 difference in the value of the land as open space land for the last year of classification and the real
 17 market value under ORS 308.205 for the year of withdrawal.

18 (3) If the owner fails to give the notice required under subsection (1) of this section during the
 19 period of classification, upon withdrawal under subsection (2) of this section, the assessor shall add
 20 to the tax extended against the land previously classified, an amount, if any, equal to the additional
 21 taxes that would have been collected had the assessor valued the classified land on the basis of the
 22 changed open space use, together with interest at the rate of two-thirds of one percent a month, or
 23 fraction of a month, from the dates on which such additional taxes would have been payable.

24 (4) Notwithstanding subsection (2) of this section, open space lands that qualify for wildlife
 25 habitat special assessment under ORS 308A.403 to 308A.430 **or conservation easement special**
 26 **assessment under sections 2 to 7 of this 2007 Act** may be disqualified from open space special
 27 assessment and qualified for wildlife habitat special assessment **or conservation easement special**
 28 **assessment** without payment of any additional tax under this section.

29 (a) The additional tax as determined under subsection (2) of this section shall remain a potential
 30 liability notated on the assessment and tax roll, separate from and in addition to the wildlife habitat
 31 potential additional tax described in ORS 308A.427 **or the conservation easement potential ad-**
 32 **ditional tax described in section 5 of this 2007 Act.**

33 (b) The interest as described in subsection (2) of this section shall be frozen for as long as the
 34 land remains in wildlife habitat special assessment **or conservation easement special**
 35 **assessment.**

36 (c) If the land is disqualified from wildlife habitat special assessment **or conservation easement**
 37 **special assessment** and again becomes qualified for open space special assessment, the open space
 38 potential tax calculation shall resume as of the date of the renewed open space use special assess-
 39 ment qualification.

40 **SECTION 10.** ORS 308A.703 is amended to read:

41 308A.703. (1) This section applies to land upon the land's disqualification from special assess-
 42 ment under any of the following sections:

- 43 (a) Exclusive farm use zone farmland under ORS 308A.113;
- 44 (b) Nonexclusive farm use zone farmland under ORS 308A.116;
- 45 (c) Western Oregon designated forestland under ORS 321.359;

1 (d) Eastern Oregon designated forestland under ORS 321.842; [or]

2 (e) Wildlife habitat special assessment under ORS 308A.430[.]; **or**

3 **(f) Conservation easement special assessment under section 7 of this 2007 Act.**

4 (2) Following a disqualification listed in subsection (1) of this section, an additional tax shall
5 be added to the tax extended against the land on the next assessment and tax roll, to be collected
6 and distributed in the same manner as other ad valorem property tax moneys. The additional tax
7 shall be equal to the difference between the taxes assessed against the land and the taxes that would
8 otherwise have been assessed against the land, for each of the number of years determined under
9 subsection (3) of this section.

10 (3) The number of years for which additional taxes shall be calculated shall equal the lesser of
11 the number of consecutive years the land had qualified for the special assessment program for which
12 disqualification has occurred or:

13 (a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately
14 following disqualification, remains outside an urban growth boundary;

15 (b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm
16 use zone, but only if the land, immediately following disqualification, remains outside an urban
17 growth boundary; [or]

18 **(c) Ten years, in the case of conservation easement special assessment land within an**
19 **exclusive farm use zone, but only if the land, immediately following disqualification, remains**
20 **outside an urban growth boundary; or**

21 [(c)] **(d)** Five years, in the case of:

22 (A) Nonexclusive farm use zone farmland;

23 (B) Western Oregon designated forestland;

24 (C) Eastern Oregon designated forestland;

25 (D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection;
26 [or]

27 (E) Wildlife habitat special assessment land that is not described in paragraph (b) of this
28 subsection[.]; **or**

29 **(F) Conservation easement special assessment land that is not described in paragraph (c)**
30 **of this subsection.**

31 (4) The additional taxes described in this section shall be deemed assessed and imposed in the
32 year to which the additional taxes relate.

33 (5) If the disqualification of the land is the result of the sale or transfer of the land to an own-
34 ership making the land exempt from ad valorem property taxation, the lien for additional taxes shall
35 attach as of the day preceding the sale or transfer.

36 (6) The amount determined to be due under this section may be paid to the tax collector prior
37 to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

38 **SECTION 11.** ORS 308A.706 is amended to read:

39 308A.706. (1) Notwithstanding that land may have been disqualified from special assessment, the
40 additional taxes described under ORS 308A.703 shall not be imposed and shall remain a potential tax
41 liability if, as of the date the disqualification is taken into account on the assessment and tax roll,
42 the land is any of the following:

43 (a) Disqualified exclusive farm use zone farmland or nonexclusive farm use zone farmland that:

44 (A) Is not being used as farmland; and

45 (B) Is not being used for industrial, commercial, residential or other use that is incompatible

1 with a purpose to return the land to farm use.

2 (b) Acquired by a governmental agency or body as a result of an exchange of the land for land
3 of approximately equal value held by the governmental agency or body.

4 (c) Acquired and used for natural heritage purposes and all of the following additional require-
5 ments are met:

6 (A) The land is registered under ORS 273.581 as a natural heritage conservation area;

7 (B) The land is acquired by a private nonprofit corporation;

8 (C) The land is retained by the corporation, or transferred to the state by the corporation, for
9 the purpose of educational, scientific and passive recreational use consistent with conservation of
10 the ecological values and natural heritage elements of the area;

11 (D) If the land is retained by the corporation, it remains open to the public without charge for
12 the uses described in subparagraph (C) of this paragraph; and

13 (E) The land is managed pursuant to a voluntary management agreement under ORS 273.581 (5).

14 (d) Qualified for special assessment under:

15 (A) ORS 308A.062, relating to farm use special assessment of land in an exclusive farm use zone;

16 (B) ORS 308A.068, relating to farm use special assessment of nonexclusive farm use zone
17 farmland;

18 (C) ORS 321.358, relating to classification as designated forestland in western Oregon;

19 (D) ORS 321.839, relating to classification as designated forestland in eastern Oregon;

20 (E) ORS 321.709, relating to qualification as small tract forestland; [or]

21 (F) ORS 308A.424, relating to wildlife habitat special assessment[.] **or**

22 **(G) Section 4 of this 2007 Act, relating to conservation easement special assessment.**

23 (e) Disqualified nonexclusive farm use zone farmland, to the extent the additional taxes are de-
24 ferred or abated as provided in ORS 308A.119.

25 (2) In any case where the additional tax is deferred under the provisions of this section but may
26 subsequently be imposed under ORS 308A.712, the county assessor shall continue to enter the no-
27 tation "potential additional tax liability" on the assessment and tax roll.

28 **SECTION 12.** ORS 308A.718 is amended to read:

29 308A.718. (1) The county assessor shall send notice as provided in this section if land is dis-
30 qualified under any of the following special assessment programs:

31 (a) Farm use special assessment under ORS 308A.050 to 308A.128.

32 (b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.

33 (c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.

34 (d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.

35 (e) Small tract forestland special assessment under ORS 321.700 to 321.754.

36 (f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.

37 **(g) Conservation easement special assessment under sections 2 to 7 of this 2007 Act.**

38 (2) Notwithstanding that a change in use described in this section is not a disqualification, the
39 assessor shall send notice as provided in this section when the highest and best use of land changes
40 from forestland to a different highest and best use.

41 (3) Within 30 days after the date that land is disqualified from special assessment, the assessor
42 shall notify the taxpayer in writing of the disqualification and shall state the reason for the dis-
43 qualification.

44 (4) Following receipt of the notification, the taxpayer may appeal the assessor's determination
45 to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

1 (5)(a) When any land has been granted special assessment under any of the special assessment
2 laws listed in subsection (1) of this section and the land is disqualified from such special assessment,
3 the county assessor shall furnish the owner with a written explanation summarizing:

4 (A) ORS 308A.706 (1)(d) (relating to change in special assessment);

5 (B) ORS 308A.727 (relating to change in use to open space use special assessment for certain
6 golf courses);

7 (C) The administrative act necessary under ORS 308A.724 to change the property to another
8 classification described in this paragraph; and

9 (D) The imposition of any penalties that would result from the disqualification if no requali-
10 fication or reclassification is made under one of the other special assessment laws listed in this
11 paragraph.

12 (b) The written explanation required by this subsection shall be given in conjunction either with
13 the notice of disqualification required under this section or with an order or notice of disqualifica-
14 tion otherwise provided by law.

15 (c)(A) If no notice of disqualification is required to be made by this section or other provision
16 of law, the written explanation required by this subsection shall be made by the county assessor.

17 (B) A written explanation made under this paragraph shall be made by the assessor within 30
18 days of the effective date of the disqualification.

19 (6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

20 (a) The result of a request for disqualification by the property owner; or

21 (b) Because the property is being acquired by a government or tax-exempt entity.

22 **SECTION 13.** ORS 215.236 is amended to read:

23 215.236. (1) As used in this section, “dwelling” means a single-family residential dwelling not
24 provided in conjunction with farm use.

25 (2) The governing body or its designee may not grant final approval of an application made un-
26 der ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot or
27 parcel in an exclusive farm use zone that is, or has been, receiving special assessment without evi-
28 dence that the lot or parcel upon which the dwelling is proposed has been disqualified for special
29 assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under
30 ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax
31 imposed as the result of disqualification has been paid.

32 (3) The governing body or its designee may grant tentative approval of an application made
33 under ORS 215.213 (3) or 215.284 (1), (2), (3), (4) or (7) for the establishment of a dwelling on a lot
34 or parcel in an exclusive farm use zone that is specially assessed at value for farm use under ORS
35 308A.050 to 308A.128 upon making the findings required by ORS 215.213 (3) or 215.284 (1), (2), (3),
36 (4) or (7). An application for the establishment of a dwelling that has been tentatively approved shall
37 be given final approval by the governing body or its designee upon receipt of evidence that the lot
38 or parcel upon which establishment of the dwelling is proposed has been disqualified for special
39 assessment at value for farm use under ORS 308A.050 to 308A.128 **or other special assessment**
40 **under ORS 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855** and any addi-
41 tional tax imposed as the result of disqualification has been paid.

42 (4) The owner of a lot or parcel upon which the establishment of a dwelling has been tentatively
43 approved as provided by subsection (3) of this section shall, before final approval, simultaneously:

44 (a) Notify the county assessor that the lot or parcel is no longer being used as farmland **or for**
45 **other specially assessed uses described in subsection (2) or (3) of this section;**

1 (b) Request that the county assessor disqualify the lot or parcel from special assessment under
2 ORS 308A.050 to 308A.128, 308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855; and

3 (c) Pay any additional tax imposed upon disqualification from special assessment.

4 (5) Except as provided in subsection (6) of this section, a lot or parcel that has been disqualified
5 pursuant to subsection (4) of this section may not requalify for special assessment unless, when
6 combined with another contiguous lot or parcel, it constitutes a qualifying parcel.

7 (6)(a) A lot or parcel that has been disqualified pursuant to subsection (4) of this section may
8 requalify for wildlife habitat special assessment under ORS 308A.403 to 308A.430 **or conservation**
9 **easement special assessment under sections 2 to 7 of this 2007 Act** without satisfying the re-
10 quirements of subsection (5) of this section.

11 (b) Upon disqualification from wildlife habitat special assessment under ORS 308A.430 **or dis-**
12 **qualification from conservation easement special assessment under section 7 of this 2007**
13 **Act**, the lot or parcel shall be subject to the requirements of subsection (5) of this section.

14 (7) When the owner of a lot or parcel upon which the establishment of a dwelling has been
15 tentatively approved notifies the county assessor that the lot or parcel is no longer being used as
16 farmland and requests disqualification of the lot or parcel for special assessment at value for farm
17 use, the county assessor shall:

18 (a) Disqualify the lot or parcel for special assessment at value for farm use under ORS 308A.050
19 to 308A.128 or other special assessment by removing the special assessment;

20 (b) Provide the owner of the lot or parcel with written notice of the disqualification; and

21 (c) Impose the additional tax, if any, provided by statute upon disqualification.

22 (8) The Department of Consumer and Business Services, a building official, as defined in ORS
23 455.715 (1), or any other agency or official responsible for the administration and enforcement of the
24 state building code, as defined in ORS 455.010, may not issue a building permit for the construction
25 of a dwelling on a lot or parcel in an exclusive farm use zone without evidence that the owner of
26 the lot or parcel upon which the dwelling is proposed to be constructed has paid the additional tax,
27 if any, imposed by the county assessor under subsection (7)(c) of this section.

28 **SECTION 14.** ORS 308A.724 is amended to read:

29 308A.724. (1)(a) In order for additional taxes imposed under ORS 308A.703 to be deferred under
30 ORS 308A.706 (1)(d) (relating to change in special assessment), the owner must file an application
31 or claim for classification under another special assessment law.

32 (b) If the disqualification is effective prior to July 1 in any year, the owner shall file the re-
33 quired claim or application on or before August 1 of that year.

34 (c) If the disqualification is effective on or after July 1 in any year, the county taxing authorities
35 shall continue the classification on the current assessment and tax rolls, and the owner shall file
36 the required claim or application in the next calendar year in accordance with the laws governing
37 the particular special assessment program.

38 (2) If an owner of land disqualified under one of the special assessment laws listed in ORS
39 308A.706 (1)(d) seeks to qualify for farm use special assessment of nonexclusive farm use zone
40 farmland under ORS 308A.068, the owner shall have five years, beginning with the first year in
41 which application is made under this section, to qualify for the two-year farm use requirement of
42 ORS 308A.068 and the income requirement under ORS 308A.071.

43 (3) Notwithstanding subsection (1) of this section, an owner may make application under this
44 section at any time within 30 days of the date notice of disqualification is sent by the assessor under
45 ORS 308A.718.

1 (4) Notwithstanding subsections (1) to (3) of this section[.];

2 (a) An owner of land disqualified from wildlife habitat special assessment under ORS 308A.430
3 that was previously subject to ORS 215.236 (5), **except for conservation easement special as-**
4 **essment**, may not apply for another special assessment under this section without first satisfying
5 the requirements of ORS 215.236 (5)[.]; **and**

6 (b) **An owner of land disqualified from conservation easement special assessment under**
7 **section 7 of this 2007 Act, except for wildlife habitat special assessment, may not apply for**
8 **another special assessment under this section without first satisfying the requirements of**
9 **ORS 215.236 (5).**

10 **SECTION 15.** ORS 308A.743 is amended to read:

11 308A.743. (1) Land that is specially assessed under ORS 308A.050 to 308A.128, 308A.300 to
12 308A.330, 308A.403 to 308A.430, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 **or**
13 **sections 2 to 7 of this 2007 Act**, or land that is exempt from property tax under ORS 308A.350 to
14 308A.383, may not be disqualified from the special assessment or exemption, and may not be subject
15 to additional taxes under ORS 308A.700 to 308A.733 or other law, if the property owner has:

16 (a) Entered into a wildlife habitat conservation and management plan, as described in ORS
17 308A.403 to 308A.430, approved by the State Department of Fish and Wildlife; or

18 (b) Executed a conservation easement, as defined in ORS 271.715, or a deed restriction and the
19 land:

20 (A) Is managed in compliance with the conservation easement or deed restriction; and

21 (B) Continues to meet the requirements for special assessment or exemption. The existence of
22 the conservation easement or deed restriction may not cause the disqualification of the land from
23 special assessment or exemption or preclude the disqualification of the land from special assessment
24 or exemption for some other reason.

25 (2) A property owner who executes a conservation easement may convey the easement to a land
26 trust or other qualified entity without a loss of benefits under this section.

27 (3) In order for land to be subject to this section:

28 (a) The conservation easement, deed restriction or wildlife habitat conservation and management
29 plan must be recorded in the records of the clerk of the county in which the land is located; and

30 (b) A copy of the conservation easement, deed restriction or wildlife habitat conservation and
31 management plan, along with the property tax account number for the land, must be sent to the
32 county assessor.

33 **SECTION 16.** ORS 308A.712 is amended to read:

34 308A.712. (1) If the disqualification of land from special assessment results in the deferral of
35 additional taxes under ORS 308A.706:

36 (a) The amount of deferred additional taxes shall be determined as provided for in this section
37 in lieu of ORS 308A.703; and

38 (b) The deferred additional taxes shall be added to the assessment and tax roll for the year in
39 which the event described in subsections (2) to (6) of this section is first taken into account for
40 property tax purposes, to be collected and distributed in the same manner as other ad valorem
41 property taxes.

42 (2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of
43 farmland) and subsequently the land is changed to an industrial, commercial, residential or other
44 use incompatible with a return of the land to farm use, then:

45 (a) The amount of additional tax due for each year to which the additional tax applies shall be

1 the difference between the taxes assessed against the land and the taxes that would have been as-
2 sessed against the land in that year had the land not been in special assessment; and

3 (b) The number of years for which the additional tax shall be collected shall be the total number
4 of years (whether or not continuous) that the farm use special assessment was in effect for the land,
5 not to exceed:

6 (A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth
7 boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of
8 farm use zoning applicable to the property; or

9 (B) In the case of all other farmland disqualified from farm use special assessment, five tax
10 years.

11 (3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government ex-
12 change of land), additional taxes shall be collected when the land acquired as a result of the ex-
13 change is disqualified from special assessment. The additional taxes shall equal the total amount of
14 additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to
15 the governmental agency or body received the special assessment before the exchange plus the
16 number of years, if any, the land acquired from the governmental agency or body received a special
17 assessment after the exchange.

18 (b) The total number of years taken into account shall not exceed the maximum number of years
19 for which additional taxes may be collected under the provision of law applicable to either the ex-
20 changed land (immediately before the exchange) or the acquired land, whichever is greater.

21 (4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to natural heritage), the
22 additional taxes that would have been imposed under ORS 308A.703 at the time of disqualification
23 shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

24 (5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special as-
25 sessment), the additional taxes that would have been collected at the time of disqualification shall
26 be collected at the time the land is disqualified from any other special assessment law listed in ORS
27 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

28 (a) The amount of the additional tax due for each year to which the additional tax applies shall
29 be the difference between the taxes assessed against the land and the taxes that would have been
30 assessed against the land in that year had the land not been in special assessment; and

31 (b) The number of years for which the additional tax shall be collected shall be the total number
32 of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the
33 land, not to exceed:

34 (A) Five tax years; or

35 (B) If the property had, within the past 10 tax years, been disqualified from a special assessment
36 program described in ORS 308A.703 (3)(a) [*or (b)*] **to (c)** and had been continuously subject to special
37 assessment, then 10 tax years. However, the number of continuous preceding years of special as-
38 sessment under the special assessment programs listed in ORS 308A.703 [(3)(c)] **(3)(d)** that may be
39 taken into consideration for purposes of computing the additional tax may not exceed five years.

40 (6) In determining the additional tax under subsection (5) of this section, the number of contin-
41 uous preceding years of special assessment counted shall not include those years in which the land
42 was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior
43 to a disqualification of the land for special assessment as exclusive farm use zone farmland under
44 the conditions described in ORS 308A.709 (6).

45 **SECTION 17.** ORS 308A.733 is amended to read:

1 308A.733. (1) Where any property has been granted special assessment for the purposes of
2 property taxation under any of the special assessment laws listed in subsection (2) of this section,
3 and the owner or other qualified person applies for a change in the classification under another
4 special assessment law, the applicant shall have 30 days thereafter within which to withdraw the
5 application, by giving written notice to the public official or agency to whom the applicant applied
6 for the change in classification. If no notice of withdrawal is given by the applicant, the application
7 shall be acted upon and the change in classification made, as otherwise provided by law.

8 (2) This section applies to the following special assessment laws:

9 (a) ORS 308A.050 to 308A.128 (relating to special assessment at value for farm use).

10 (b) ORS 321.257 to 321.390 (relating to special assessment as designated forestland in western
11 Oregon).

12 (c) ORS 321.805 to 321.855 (relating to special assessment as designated forestland in eastern
13 Oregon).

14 (d) ORS 321.700 to 321.754 (relating to special assessment as small tract forestland).

15 (e) ORS 308A.300 to 308A.330 (relating to classification as open space land).

16 (f) ORS 308A.350 to 308A.383 (relating to designation as riparian land).

17 **(g) ORS 308A.403 to 308A.430 (relating to special assessment as wildlife habitat).**

18 **(h) Sections 2 to 7 of this 2007 Act (relating to special assessment as conservation ease-**
19 **ment).**

20 **SECTION 18.** ORS 271.785 is amended to read:

21 271.785. For the purpose of taxation, real property that is subject to [*a conservation easement*
22 *or*] a highway scenic preservation easement shall be assessed on the basis of the real market value
23 of the property less any reduction in value caused by the [*conservation easement or a*] highway sce-
24 nic preservation easement. Such an easement shall be exempt from assessment and taxation the
25 same as any other property owned by the holder.

26 **SECTION 19.** ORS 308A.707 is amended to read:

27 308A.707. (1) Notwithstanding ORS 308A.706, additional taxes shall be imposed on land that is
28 disqualified from small tract forestland assessment under ORS 321.712 or 321.716. If after disquali-
29 fication the land remains specially assessed under a special assessment program described in ORS
30 308A.706 (1)(d)(A) to (D), [*or*] (F) **or** (G), the additional taxes shall be computed under subsection (2)
31 of this section. If after disqualification the land is not specially assessed under a program described
32 in ORS 308A.706 (1)(d)(A) to (D), [*or*] (F) **or** (G), the additional taxes shall be computed under sub-
33 section (3) of this section.

34 (2)(a) The additional taxes for disqualified small tract forestland that is qualified for special as-
35 sessment under a program described in ORS 308A.706 (1)(d)(A) to (D), [*or*] (F) **or** (G) shall be equal
36 to the difference between the taxes assessed against the land under ORS 321.700 to 321.754 and the
37 taxes that would have been assessed against the land:

38 (A) Under ORS 321.257 to 321.390, if the land is located in western Oregon; or

39 (B) Under ORS 321.805 to 321.855, if the land is located in eastern Oregon.

40 (b) The number of years for which additional taxes shall be calculated shall equal the lesser of
41 10 years or the number of consecutive years the land has been assessed as small tract forestland.

42 (3)(a) The additional taxes for disqualified small tract forestland that is not qualified for special
43 assessment under a program described in ORS 308A.706 (1)(d)(A) to (D), [*or*] (F) **or** (G) shall be equal
44 to the sum of:

45 (A) The amount determined under subsection (2) of this section; and

1 (B) The difference between the taxes that would have been assessed against the land under ORS
2 321.257 to 321.390, if located in western Oregon, or ORS 321.805 to 321.855, if located in eastern
3 Oregon, and the taxes that would otherwise have been assessed against the land, for the lesser of
4 the number of consecutive years the land was forestland or five years.

5 (b) Notwithstanding paragraph (a)(B) of this subsection, if any provision of ORS 308A.700 to
6 308A.733 would cause the deferral or elimination of additional taxes that are imposed under ORS
7 308A.703 or 308A.712, that provision shall also cause the deferral or elimination of the additional
8 taxes imposed under paragraph (a)(B) of this subsection, under the same terms, requirements and
9 conditions that additional taxes under ORS 308A.700 to 308A.733 are deferred or eliminated.

10 (4) The additional taxes described in this section shall be imposed and collected at the same time
11 and in the same manner as additional taxes described in ORS 308A.703 are imposed and collected.

12 (5) The additional taxes described in this section shall be deemed assessed and imposed in the
13 year to which the additional taxes relate.

14 (6) The amount determined to be due under this section may be paid to the tax collector prior
15 to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

16 (7) As used in this section, “forestland,” “western Oregon” and “eastern Oregon” have the
17 meanings given those terms in ORS 321.700.

18 **SECTION 20.** ORS 321.716 is amended to read:

19 321.716. (1) The county assessor shall disqualify land as small tract forestland upon:

20 (a) Sale or transfer of the small tract forestland;

21 (b) Discovery by the assessor that the land is no longer forestland;

22 (c) The owner’s owning or holding in common ownership more than 5,000 acres of Oregon
23 forestland;

24 (d) The owner’s owning or holding in common ownership less than 10 acres of Oregon forestland;

25 (e) Written notice from the State Forestry Department that the land no longer meets the
26 stocking and species requirements applicable to small tract forestland under rules adopted by the
27 Department of Revenue;

28 (f) The land’s qualifying for another special assessment listed in ORS 308A.706 (1)(d)(A), (B),
29 [or] (F) **or** (G); or

30 (g) The recording of a subdivision plat under ORS chapter 92 that subdivides the land.

31 (2) If, pursuant to subsection (1)(g) of this section, the county assessor disqualifies small tract
32 forestland upon the recording of a subdivision plat, the land may requalify for small tract forestland
33 assessment upon:

34 (a) Payment of all additional tax and interest that remains due and owing as a result of the
35 disqualification;

36 (b) Submission of an application for small tract forestland assessment under ORS 321.706 and
37 approval of the application by the county assessor; and

38 (c) Compliance with any applicable local government zoning ordinances governing minimum lot
39 or parcel acreage for forest use.

40 (3)(a) If a sale or transfer of small tract forestland is the basis for disqualification under sub-
41 section (1)(a) of this section, the land may not be disqualified until 30 days after the county assessor
42 issues a notice of intent to disqualify to the purchaser or transferee of the small tract forestland.
43 The assessor shall issue a notice of intent to disqualify within 15 months after the date of the sale
44 or transfer.

45 (b) The land shall automatically qualify for special assessment under ORS 321.257 to 321.390 or

1 321.805 to 321.855, whichever is applicable, unless the assessor determines that the land does not
2 constitute forestland.

3 (4) Upon disqualification of land under subsection (1) of this section, additional taxes shall be
4 determined as provided in ORS 308A.700 to 308A.733.

5 **SECTION 21. Sections 2 to 7 of this 2007 Act and the amendments to ORS 215.236, 271.785,**
6 **308A.253, 308A.318, 308A.703, 308A.706, 308A.707, 308A.712, 308A.718, 308A.724, 308A.733,**
7 **308A.743 and 321.716 by sections 8 to 20 of this 2007 Act apply to tax years beginning on or**
8 **after July 1, 2008.**

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