

Enrolled
House Bill 2074

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

CHAPTER

AN ACT

Relating to the tax supervising and conservation commission; creating new provisions; amending ORS 294.361, 294.411, 294.421, 294.480, 294.625, 294.630, 294.635 and 311.390; and declaring an emergency.

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

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 294.605 to 294.705.

SECTION 2. (1) Not later than August 30 of each year, the tax supervising and conservation commission shall calculate the net cost of commission operations for the preceding fiscal year. The calculation shall include:

(a) Actual expenditures paid out of the tax supervising and conservation commission account established in ORS 294.630;

(b) A provision for the cost to the county of providing office space for use by the commission, as required by ORS 294.620; and

(c) A deduction for an estimate of the amount received by the county under ORS 294.175 to 294.187 attributable to the expenditures in the grant submitted by the county for activities, functions or services of the tax supervising and conservation commission.

(2) Municipal corporations, other than the county, that are within the county and that are subject to the jurisdiction of a tax supervising and conservation commission shall reimburse the county 50 percent of the net costs calculated under subsection (1) of this section. The amounts allocable to each municipal corporation required to reimburse the county under this subsection shall be determined as follows:

(a)(A) Fifty percent of the amount allocated shall be based on the taxes imposed for the preceding fiscal year for taxes certified to the county assessor under ORS 310.060 (2)(a) from the permanent rate limitations of the municipal corporations after reductions necessary to comply with section 11b, Article XI of the Oregon Constitution, and funds raised pursuant to the notice provided to the county assessor under ORS 457.440 (2) for an urban renewal agency located in a municipal corporation subject to this subsection.

(B) The amount allocated under this paragraph shall be prorated based on each municipal corporation's share of the total tax imposed from the permanent rate limitation of municipal corporations that are subject to the jurisdiction of the tax supervising and conservation commission.

(C) A minimum amount of \$250 shall be allocated to any municipal corporation under this paragraph.

(D) Municipal corporations that do not levy ad valorem taxes are exempt from proration under this paragraph.

(b)(A) Fifty percent of the amount allocated shall be based on the expenditures, as defined in ORS 294.311, for the current fiscal year for each municipal corporation required to reimburse the county under this subsection.

(B) The amount allocated under this paragraph shall be prorated based on each municipal corporation's share of the total expenditures for those municipal corporations that are under the jurisdiction of the tax supervising and conservation commission.

(C) A minimum amount of \$250 shall be allocated to any municipal corporation under this paragraph.

(D) Municipal corporations with budgeted expenditures of \$50,000 or less and urban renewal agencies formed under ORS chapter 457 are exempt from proration under this paragraph.

(E) If a municipal corporation has adopted a biennial budget, the calculation of the proration under this paragraph shall use fiscal year expenditures. If the budget document adopted by the municipal corporation does not indicate fiscal year expenditures, then 45 percent of the biennial expenditures shall be used for the proration in the first fiscal year of the municipal corporation's budget period and 55 percent of the biennial expenditures shall be used for the proration in the second year of the budget period.

(3) Not later than August 30 of each fiscal year, the tax supervising and conservation commission shall distribute to each municipal corporation an accounting of the calculations under this section showing:

(a) The net costs under subsection (1) of this section;

(b) The 50 percent of net costs allocable to municipal corporations, except the county, under subsection (2) of this section; and

(c) The amounts prorated to each municipal corporation under subsection (2) of this section.

(4) Not later than September 15 of each fiscal year, the tax supervising and conservation commission shall send to the county tax collector, or other county official responsible for preparing the percentage schedule under ORS 311.390, a list of municipal corporations subject to proration under this section and the amounts prorated under this section.

(5) If a municipal corporation subject to proration under this section does not certify a property tax to the county assessor under ORS 310.060, the county shall, not later than November 30 of each year, send the municipal corporation a billing for the amount prorated and owed to the county under this section.

SECTION 3. ORS 294.411 is amended to read:

294.411. (1) *[Each]* A municipal corporation having a population not exceeding 200,000, located in a county having a tax supervising and conservation commission, **not making an election under ORS 294.625 (2)** and not submitting its budget document to the tax supervising and conservation commission for a public hearing[,] pursuant to ORS 294.430 (3)[,] shall submit its approved budget document to the tax supervising and conservation commission in the county at least 30 days prior to the date of the public hearing in accordance with ORS 294.430. If its territory lies in two or more counties, the municipal corporation shall submit its budget to the commission if the real market value of all property subject to taxation by the municipal corporation in the county having a commission is greater than the real market value of all property subject to taxation by the municipal corporation in any other county. Real market value is the real market value computed according to ORS 308.207 from the assessment rolls last in the process of collection.

(2) Before adopting the budget, the governing body for a municipal corporation **that submits its approved budget to the commission as** described in subsection (1) of this section shall consider and take appropriate action on any orders, recommendations or objections made by the tax supervising and conservation commission.

SECTION 4. ORS 294.421 is amended to read:

294.421. (1) Subject to subsections (3) to (6) of this section, the summary of the budget document approved by the budget committee shall be published at least once prior to the time appointed for the proposed meeting of the governing body in accordance with ORS 294.430.

(2) Subject to subsections (3) to (6) of this section, the notice of the time and place at which the budget document as approved by the budget committee may be discussed shall be published by one or more of the methods described in ORS 294.311 (34) not less than five days and not more than 30 days prior to the date of the meeting required by ORS 294.430.

(3) If no newspaper is published in the municipal corporation, a municipal corporation whose aggregate of estimated budget expenditures for the ensuing fiscal year does not exceed \$50,000 or for the ensuing budget period does not exceed \$100,000 may, in lieu of the publication and notice provided in subsections (1) and (2) of this section and in lieu of publication by one or more of the methods described in ORS 294.311 (34), post the summaries and notices provided by ORS 294.416 or 294.418 in three conspicuous places in the municipal corporation for at least 20 days prior to the date of the meeting provided in ORS 294.430 and publish the notice provided by subsection (4) of this section.

(4) If notice is given as provided in subsection (3) of this section, the municipal corporation shall publish, by one or more of the methods described in ORS 294.311 (34), a notice of the following:

(a) The date, time and place of the meeting provided by ORS 294.430;

(b) The place where the complete budget document is available for inspection by the general public during regular office hours;

(c) Total budget requirements and taxes proposed to be levied;

(d) Changes in the amount or rate of proposed ad valorem property taxes; and

(e) The place where copies of the complete budget or parts thereof may be obtained.

(5) The notice provided in subsection (4) of this section shall be published not less than five days and not more than 30 days prior to the date of the meeting provided in ORS 294.430.

(6) A municipal corporation having a population exceeding 200,000 inhabitants, or a municipal corporation with 200,000 or fewer inhabitants **that has not made an election under ORS 294.625 (2) and** that requests the tax supervising and conservation commission to conduct the public hearing outlined in ORS 294.430, shall, in lieu of the publication and notice prescribed in subsection (1) of this section, submit its budget document, as approved by the budget committee, to the tax supervising and conservation commission within its county, if there is such a commission, at least 20 days prior to the legal date of the public hearing before the tax supervising and conservation commission on the budget, and the budget document shall thereupon be open to inspection by any taxpayer or citizen. The municipal corporation shall also publish a notice as provided in subsections (4) and (5) of this section.

SECTION 5. ORS 294.480 is amended to read:

294.480. (1) Notwithstanding requirements as to estimates of and limitation on expenditures, the governing body of any municipal corporation may make a supplemental budget for the fiscal year or budget period for which the regular budget has been prepared under one or more of the following circumstances:

(a) An occurrence or condition which had not been ascertained at the time of the preparation of a budget for the current year or current budget period which requires a change in financial planning.

(b) A pressing necessity which was not foreseen at the time of the preparation of the budget for the current year or current budget period which requires prompt action.

(c) Funds were made available by another unit of federal, state or local government and the availability of such funds could not have been ascertained at the time of the preparation of the budget for the current year or current budget period.

(d) A request for services or facilities, the cost of which shall be supplied by a private individual, corporation or company or by another governmental unit and the amount of the request could not have been accurately ascertained at the time of the preparation of the budget for the current year or current budget period.

(e) Proceeds from the involuntary destruction, involuntary conversion, or sale of property has necessitated the immediate purchase, construction or acquisition of different facilities in order to carry on the governmental operation.

(f) Ad valorem property taxes are received during the fiscal year or budget period in an amount sufficiently greater than the amount estimated to be collected that the difference will significantly affect the level of government operations to be funded by those taxes as provided in the budget for the current year or current budget period.

(g) A local option tax described in ORS 294.437 is certified for extension on the assessment and tax roll under ORS 310.060 for the fiscal year or budget period in which the local option tax measure is approved by voters.

(2) A supplemental budget may not extend beyond the end of the fiscal year or budget period during which it is submitted.

(3) When the estimated expenditures contained in a supplemental budget for a fiscal year or budget period differ by less than 10 percent of any one of the individual funds contained in the regular budget for that fiscal year or budget period that is being changed in the supplemental budget, the governing body of the municipal corporation may adopt the supplemental budget at a regular meeting of the governing body. Notice of such regular meeting, including sufficient detail on revenues and expenditures, shall be published by one or more of the methods permitted under ORS 294.311 (34) not less than five days prior to the meeting. Following such meeting, the governing body shall make additional appropriations and may thereafter make additional expenditures as authorized by such appropriations.

(4) When the estimated expenditures contained in a supplemental budget for a fiscal year or budget period differ by 10 percent or more of any one of the individual funds contained in the regular budget for that fiscal year or budget period that is being changed in the supplemental budget, the supplemental budget, or a summary thereof, shall be published[, or, in counties having a tax supervising and conservation commission, shall be submitted to the tax supervising and conservation commission within the county]. The governing body[, or, where applicable, the tax supervising and conservation commission] shall then hold a public hearing on the supplemental budget. Publication of the budget and notice of the hearing shall be given in the manner provided in ORS 294.421. Following [such] the hearing, the governing body shall make additional appropriations and may thereafter make additional expenditures as authorized by [such] the appropriations. **In counties having a tax supervising and conservation commission, a supplemental budget is not required to be submitted to the commission prior to adoption and the commission is not required to hold a hearing on the supplemental budget.**

(5) Except as provided in ORS 294.437, the making of a supplemental budget does not authorize the governing body to increase the municipal corporation's total ad valorem property taxes above the amount or rate published with the regular budget and certified to the assessor under ORS 310.060 in conjunction with the regular budget for the fiscal year or for each fiscal year of the budget period to which the supplemental budget applies.

SECTION 6. ORS 294.625 is amended to read:

294.625. (1) The **tax supervising and conservation** commission [shall have] **has** jurisdiction over all municipal corporations [in the county] **that have a population exceeding 200,000 and that are** subject to the provisions of the Local Budget Law. If the territory of the municipal corporation lies in two or more counties, the municipal corporation shall be within the jurisdiction of the commission if the real market value of all property subject to taxation by the municipal corporation in a county having a commission is greater than the real market value of property subject to taxation by the municipal corporation in any other county. Real market value is the real market value computed according to ORS 308.207 from the assessment rolls last in the process of collection.

(2)(a) **The commission has jurisdiction over a municipal corporation with a population not exceeding 200,000 unless an election is made under this subsection.**

(b) **The governing body of a municipal corporation electing not to be under the jurisdiction of the commission must make the election and communicate its intention to the com-**

mission not later than January 1 of the calendar year in which the fiscal year for which the budget is proposed will begin.

(c) An election under this subsection is effective for a period of not less than three years.

SECTION 7. ORS 294.630 is amended to read:

294.630. (1) There hereby is created an account to be known as the tax supervising and conservation commission account in the general fund of each county subject to ORS 294.605 to 294.705.

(2)(a) The tax supervising and conservation commission shall on or before April 1 of each year submit certified budgets for the ensuing fiscal year to the county court or board of county commissioners. The budget shall contain a complete and detailed estimate of the proposed expenditures of the commission for all purposes.

(b) Following the receipt of the budget, the county court or board of county commissioners shall include the budget as submitted as a part of the county budget and shall make an appropriation for the tax supervising and conservation commission account sufficient to cover the proposed expenditures, but no appropriation shall be made in any county in any year for such purpose in excess of \$280,000. **The maximum amount of the appropriation shall be increased by three percent each fiscal year, beginning with the fiscal year starting July 1, 2011.** The county court or board of county commissioners shall not reduce the amount of the budget as presented by the tax supervising and conservation commission, within the amount stated in this section, nor shall it refuse to approve any lawful request for disbursement of money from the tax supervising and conservation commission account.

SECTION 8. ORS 294.635 is amended to read:

294.635. (1) In each county that has a tax supervising and conservation commission, the levying boards of all municipal corporations **that have a population exceeding 200,000 and municipal corporations that have not made an election under ORS 294.625 (2)** shall, on or before May 15 of each fiscal year or on or before May 15 of the first fiscal year of a budget period, submit their detailed estimates of the budget deemed necessary to be expended by the municipal corporations, respectively, for all purposes for the next ensuing fiscal year or ensuing budget period. The tax supervising and conservation commission may, if a good and sufficient reason exists therefor and if application is made to the commission in writing, grant any municipal corporation such extension of time for filing its budget as may seem to the commission just and reasonable.

(2) The budget estimates required by this section to be filed with the commission shall be in writing and shall be certified to as correct and shall be so prepared and arranged as to show in plain and succinct language each particular item of proposed expenditure. There shall be attached to each budget, and made a part thereof, the levying board's estimate of the probable receipts of the municipal corporation from all other sources than direct tax levy and bond issues during the fiscal years for which the budget has been prepared. The budget estimates shall show in parallel columns the actual expenditures for the two fiscal years next preceding the current year, the estimated expenditures for the current year and the estimated expenditures for the next ensuing fiscal year.

SECTION 9. ORS 294.361 is amended to read:

294.361. (1) Each municipal corporation shall estimate in detail its budget resources for the ensuing year or ensuing budget period by funds and sources.

(2) Budget resources include but are not limited to:

(a) The balance of cash, cash equivalents and investments (in the case of a municipal corporation on the cash basis) or the net working capital (in the case of a municipal corporation on the accrual or modified accrual basis of accounting) that will remain in each fund on the last day of the current year or current budget period;

(b) Taxes;

(c) Fees;

(d) Licenses;

(e) Fines;

(f) Interest on deposits or on securities of any kind;

(g) Endowments;

- (h) Annuities;
 - (i) Penalties;
 - (j) Sales of property or other assets or products of any kind;
 - (k) Delinquent taxes;
 - (L) Judgments;
 - (m) Damages;
 - (n) Rent;
 - (o) Premiums on sales of bonds;
 - (p) Reimbursement for services, road or other work performed for others;
 - (q) Transfer or reverter of unused balances of any kind;
 - (r) Reimbursement for services provided other funds;
 - (s) Rebates;
 - (t) Refunds of moneys heretofore paid on any account;
 - (u) Apportionment, grant, contribution, payment or allocation from the federal or state government or any unit of government;
 - (v) Taxes for the ensuing year or ensuing budget period;
 - (w) Interfund revenue transfers; and
 - (x) Revenues from any and all other sources of whatsoever kind or character.
- (3) Budget resources do not include:
- (a) The estimate for the ensuing year or ensuing budget period of discounts under ORS 311.505.
 - (b) The estimate of uncollectible amounts of taxes, fees or charges for the ensuing year or ensuing budget period.
 - (c) Moneys accumulated under an approved employee deferred compensation plan and interest or investment returns earned on such moneys.
 - (d) Grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific uses in the year of transfer. However, such grants, gifts, bequests or devises shall be included as budget resources if, by the time the budget committee approves the budget, the amount thereof that will be received in the ensuing year or ensuing budget period can be reasonably estimated. Such grants, gifts, bequests or devises may be placed in a trust and agency fund, to then be appropriated from such fund or funds.

(e) Amounts deducted from taxes pursuant to section 2 of this 2009 Act.

SECTION 10. ORS 311.390 is amended to read:

311.390. (1)(a) When the tax collector receives the assessor's certificate pursuant to ORS 311.115, the tax collector shall prepare and file with the county treasurer a percentage schedule of the ratio of taxes on property, as defined in ORS 310.140, and other amounts to be collected, after reductions necessary to comply with section 11b, Article XI of the Oregon Constitution, after making adjustments in accordance with ORS 311.105 (1)(c), for each governmental unit as shown in such certificate, compared to the total of each of those amounts.

(b) If a tax supervising and conservation commission has submitted to the tax collector a list of municipal corporations subject to proration and the amounts prorated under section 2 of this 2009 Act, before the tax collector calculates the ratio of taxes on property under this subsection, the tax collector shall deduct the amounts submitted by the tax supervising and conservation commission from the amounts scheduled for distribution under this section for municipal corporations subject to the jurisdiction of the tax supervising and conservation commission. The amount deducted from the distribution to the municipal corporations shall be added to the amount distributed to the county.

(c) [Such] The schedule shall be approved by the county accountant, if one exists in the county, or by the county clerk before filing. Except as provided in subsections (2) and (3) of this section, the distribution of collections by the tax collector shall be made on the basis of the ratios computed pursuant to this section. The ratios computed pursuant to this section for a given fiscal year shall be used for the distribution of all taxes on property or penalties that have been imposed, collected and received for that fiscal year, regardless of the actual date of receipt, except for moneys retained

by a county to pay bankruptcy costs under ORS 311.484. Interest earned on moneys in the unsegregated tax collections account shall be distributed according to the ratio applicable to the year in which the moneys are distributed.

(2) If, after the ratios are computed pursuant to this section, the amount of a levy or other tax on property is changed, or a levy or other tax on property is filed with the assessor pursuant to ORS 310.060 that had not been included in the tax distribution schedule for that year, the tax collector shall revise the percentages provided in subsection (1) of this section to reflect the corrected or added levy or tax and shall adjust the amounts previously distributed and to be distributed thereafter to reflect the revision in percentages.

(3) If, in the opinion of the tax collector, it is not feasible to make the revisions described in subsection (2) of this section, the tax collector shall treat the amount of the change in levy or tax or the additional levy or tax as a separate tax collection and segregate the moneys collected for the particular district or districts in the periodic statement of tax collections given to the county treasurer pursuant to ORS 311.395.

(4) If the percentage schedule is revised, a copy shall be filed with the county treasurer after approval by the county accountant, if one exists in the county, or by the county clerk.

(5) If, after the ratios are computed under this section, a levy or tax is changed or a levy or tax is filed with the assessor pursuant to ORS 310.060, that was not included in the tax distribution schedule for that year, future distributions of interest shall be based on the revised percentages that reflect the corrected or added levy or tax. No adjustments shall be made for previously distributed interest.

SECTION 11. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House April 29, 2009

Received by Governor:

Repassed by House June 16, 2009

.....M.,....., 2009

Approved:

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Chief Clerk of House

.....M.,....., 2009

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Speaker of House

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Governor

Passed by Senate June 12, 2009

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2009

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Secretary of State