

House Bill 2904

Sponsored by Representative KOTEK (at the request of Fazio Farms)

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**.

Includes implementation of plan to remediate or mitigate severe adverse conditions on farm parcel as eligible farm use for purposes of special assessment for property taxation.

Prohibits application of farm income requirements to property during period that plan is implemented.

Exempts from property taxation machinery and equipment used to implement plan.

Applies to tax years beginning on or after July 1, 2007.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property taxation; creating new provisions; amending ORS 307.394, 308A.056 and
3 308A.068; and prescribing an effective date.

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

5 **SECTION 1.** ORS 308A.056 is amended to read:

6 308A.056. (1) As used in ORS 308A.050 to 308A.128, "farm use" means the current employment
7 of land for the primary purpose of obtaining a profit in money by:

8 (a) Raising, harvesting and selling crops[;].

9 (b) Feeding, breeding, managing or selling livestock, poultry, fur-bearing animals or honeybees
10 or the produce thereof[;].

11 (c) Dairying and selling dairy products[;].

12 (d) Stabling or training equines, including but not limited to providing riding lessons, training
13 clinics and schooling shows[;].

14 (e) Propagating, cultivating, maintaining or harvesting aquatic species and bird and animal
15 species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission[;].

16 (f) On-site constructing and maintaining equipment and facilities used for the activities described
17 in this subsection[;].

18 (g) Preparing, storing or disposing of, by marketing or otherwise, the products or by-products
19 raised for human or animal use on land described in this section[; *or*].

20 **(h) Implementing a plan to remediate or mitigate severe adverse conditions on a farm**
21 **parcel, including disease, infestation and low elevation in a flood-prone area. The Department**
22 **of Revenue shall establish by rule a process for plans to be developed in conjunction with or**
23 **approved by the Oregon State University Extension Service or an agency designated by the**
24 **department.**

25 *[(h)]* (i) Using land described in this section for any other agricultural or horticultural use or
26 animal husbandry or any combination thereof.

27 (2) "Farm use" does not include the use of land subject to timber and forestland taxation under
28 ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land de-

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 scribed in ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain hardwood timber,
2 including hybrid cottonwood).

3 (3) For purposes of this section, land is currently employed for farm use if the land is:

4 (a) Farmland, the operation or use of which is subject to any farm-related government program;

5 (b) Land lying fallow for one year as a normal and regular requirement of good agricultural
6 husbandry;

7 (c) Land planted in orchards or other perennials, other than land specified in paragraph (d) of
8 this subsection, prior to maturity;

9 (d) Land not in an exclusive farm use zone that has not been eligible for assessment at special
10 farm use value in the year prior to planting the current crop and has been planted in orchards,
11 cultured Christmas trees or vineyards for at least three years;

12 (e) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically
13 tillable nor grazeable, lying in or adjacent to and in common ownership with farm use land and that
14 is not currently being used for any economic farm use;

15 (f) Except for land under a single family dwelling, land under buildings supporting accepted
16 farming practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u)
17 and the processing of farm crops into biofuel as commercial activities in conjunction with farm use
18 under ORS 215.213 (2)(c) and 215.283 (2)(a);

19 (g) Water impoundments lying in or adjacent to and in common ownership with farm use land;

20 (h) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the
21 owner of land specially valued for farm use even if the land constituting the woodlot is not utilized
22 in conjunction with farm use;

23 (i) Land lying idle for no more than one year when the absence of farming activity is the result
24 of the illness of the farmer or a member of the farmer's immediate family, including injury or
25 infirmity, regardless of whether the illness results in death;

26 (j) Land described under ORS 321.267 (3) or 321.824 (3) (relating to land used to grow certain
27 hardwood timber, including hybrid cottonwood);

28 (k) Land used for the primary purpose of obtaining a profit in money by breeding, raising,
29 kenneling or training greyhounds for racing; or

30 (L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

31 (i) Only the crops of the landowner are being processed;

32 (ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm
33 of the landowner; or

34 (iii) The landowner is custom processing crops into biofuel from other landowners in the area
35 for their use or sale.

36 (4) As used in this section:

37 (a) "Accepted farming practice" means a mode of operation that is common to farms of a similar
38 nature, necessary for the operation of these similar farms to obtain a profit in money and custom-
39 arily utilized in conjunction with farm use.

40 (b) "Cultured Christmas trees" means trees:

41 (A) Grown on lands used exclusively for that purpose, capable of preparation by intensive cul-
42 tivation methods such as plowing or turning over the soil;

43 (B) Of a marketable species;

44 (C) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as
45 specified by the Agricultural Marketing Service of the United States Department of Agriculture; and

1 (D) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed
 2 and brush control and one or more of the following practices:

- 3 (i) Basal pruning;
- 4 (ii) Fertilizing;
- 5 (iii) Insect and disease control;
- 6 (iv) Stump culture;
- 7 (v) Soil cultivation; or
- 8 (vi) Irrigation.

9 **SECTION 2.** ORS 308A.068 is amended to read:

10 308A.068. (1) Any land that is not within an exclusive farm use zone but that is being used, and
 11 has been used for the preceding two years, exclusively for farm use [*shall qualify*] **qualifies** for farm
 12 use special assessment:

- 13 (a) If the land meets the income requirements set forth in ORS 308A.071; and
- 14 (b) Upon compliance with the application requirements set forth in ORS 308A.077.

15 (2)(a) The provisions of this section [*shall*] **do** not apply to any land with respect to which the
 16 owner has granted, and has outstanding, any lease or option to buy the surface rights for other than
 17 farm use.

18 (b) This subsection does not apply in the case of a lease or option to buy surface rights:

19 (A)(i) For the exploration of geothermal resources, as defined by ORS 522.005, mineral resources
 20 or other subsurface resources; or

21 (ii) For the use of land for hunting, fishing, camping or other recreational use; and

22 (B) If the exploration, use or possession engaged in pursuant to the lease or option to buy does
 23 not interfere with the farm use of the farmland.

24 **(3) During the period of time a plan to remediate or mitigate severe adverse conditions**
 25 **on a farm parcel described in ORS 308A.056 (1) is being implemented, the farm income re-**
 26 **quirements of ORS 308A.071 do not apply.**

27 [(3)] (4) Whether farmland qualifies for special assessment under this section [*shall be*] **is** de-
 28 termined as of January 1 of the assessment year. However, if land [*so qualified*] becomes disqualified
 29 prior to July 1 of the same assessment year, the land [*shall be*] **is** valued under ORS 308.232, at its
 30 real market value as defined by law without regard to this section, and [*shall be*] assessed at its
 31 assessed value under ORS 308.146 or as otherwise provided by law. If the land becomes disqualified
 32 on or after July 1, the land [*shall continue*] **continues** to qualify for special assessment as provided
 33 in this section for the current tax year.

34 **SECTION 3.** ORS 307.394 is amended to read:

35 307.394. (1) The following tangible personal property is exempt from ad valorem property taxa-
 36 tion:

37 (a) Farm machinery and equipment used primarily in the preparation of land, planting, raising,
 38 cultivating, irrigating, harvesting or placing in storage of farm crops;

39 (b) Farm machinery and equipment used primarily for the purpose of feeding, breeding, man-
 40 agement and sale of, or the produce of, livestock, poultry, fur-bearing animals or bees or for dairying
 41 and the sale of dairy products; [*or*]

42 **(c) Machinery and equipment used to implement a plan to remediate or mitigate severe**
 43 **adverse conditions on a farm parcel as provided in ORS 308A.056 (1); or**

44 [(c)] **(d)** Farm machinery and equipment used primarily in any other agricultural or horticultural
 45 use or animal husbandry or any combination of these activities.

1 (2)(a) Items of tangible personal property, including but not limited to tools, machinery and
2 equipment that are used predominantly in the construction, reconstruction, maintenance, repair,
3 support or operation of farm machinery, and equipment and other real or personal farm improve-
4 ments that are used primarily in animal husbandry, agricultural or horticultural activities, or any
5 combination of these activities, are exempt from ad valorem property taxation.

6 (b) An item of tangible personal property described in paragraph (a) of this subsection is exempt
7 from ad valorem property taxation only if the person that owns, possesses or controls the item also:

8 (A) Owns, possesses or controls the farm machinery, equipment and other real and personal farm
9 improvements for which the item is used; and

10 (B) Carries on the animal husbandry, agricultural or horticultural activity, or combination of
11 activities, in which the farm machinery, equipment or other real and personal farm improvements
12 are used.

13 **SECTION 4. (1) Notwithstanding the time periods set forth in ORS 307.162, a claim for**
14 **exemption under ORS 307.394 or 308A.056 related to implementation of a plan to remediate**
15 **or mitigate severe adverse conditions on a farm parcel for tax years beginning before July**
16 **1, 2009, may be filed in writing with the county assessor, on forms supplied by the assessor,**
17 **within 90 days after the effective date of this 2009 Act.**

18 (2) The claim for exemption must:

19 (a) Contain the information and verification required for filing the claim for exemption;
20 and

21 (b) Be accompanied by a late filing fee of \$200.

22 (3) If tax on the exempt value has not been paid, the tax and any interest are abated.

23 (4) If tax on the exempt value has been paid, the tax collector shall notify the governing
24 body of the county of the refund required under ORS 307.394 or 308A.056. Upon receipt of
25 notice from the tax collector, the governing body shall cause a refund of the tax and any fee
26 and interest paid to be made from the refund reserve account, if the county has established
27 a refund reserve account under ORS 311.807, or from the unsegregated tax collections ac-
28 count described in ORS 311.385. The refund under this subsection is made without interest.
29 The county assessor and tax collector shall make the necessary corrections in the records
30 of their offices.

31 **SECTION 5. (1) Except as provided in subsection (2) of this section, the amendments to**
32 **ORS 307.394, 308A.056 and 308A.068 by sections 1 to 3 of this 2009 Act apply to tax years be-**
33 **ginning on or after July 1, 2007.**

34 (2) The requirement under ORS 308A.056 that a plan to remediate or mitigate severe ad-
35 verse conditions on a farm parcel be developed in conjunction with or approved by the
36 Oregon State University Extension Service or an agency designated by the Department of
37 Revenue applies to tax years beginning on or after July 1, 2010.

38 **SECTION 6. This 2009 Act takes effect on the 91st day after the date on which the reg-**
39 **ular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

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