

Senate Bill 486

Sponsored by Senator PROZANSKI (at the request of Maureen Hudson)

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**.

Limits additional taxes imposed on noncommercial properties withdrawn from open space special assessment to five years prior to withdrawal.

Applies to properties withdrawn from open space special assessment for tax years beginning on or after July 1, 2009.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to open space land special assessment; creating new provisions; amending ORS 308A.318,
3 308A.321 and 308A.727; and prescribing an effective date.

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

5 **SECTION 1.** ORS 308A.318 is amended to read:

6 308A.318. (1)(a) [*When land has once been*] **Land that is classified as open space land** under
7 ORS 308A.300 to 308A.330[, *it shall remain under such classification and it shall*] **may** not be applied
8 to any [*other*] use **other** than [*as*] open space unless withdrawn from classification as provided in
9 subsection (2) of this section[, *except that if the use as open space land changes from one open space*
10 *use to another open space use, such as a change from park purposes to golf course land,*].

11 **(b) Open space land that changes from one open space use to another open space use**
12 **remains under open space classification unless withdrawn from classification as provided in**
13 **subsection (2) of this section.** The owner shall notify the assessor **of the county in which the**
14 **open space land is located** of [*such change*] **any change from one open space use to another**
15 **open space use** prior to the next January 1 assessment date.

16 (2)(a) During any year after classification, [*notice of request for withdrawal may be given by the*
17 *owner to the county assessor or assessors of the county or counties in which such land is situated.*] **the**
18 **owner of open space land may give notice of request for withdrawal from open space land**
19 **classification to the assessor of the county in which the land is located. If the open space**
20 **land is located in more than one county, the owner shall send the notice to the assessors**
21 **of all counties in which the open space land is located.**

22 **(b) Upon receipt of a notice of request for withdrawal,** the county assessor [*or assessors, as*
23 *the case may be,*] shall withdraw [*such*] **the** land from [*such*] **open space land** classification, and
24 immediately shall give written notice of the withdrawal to the granting authority that classified the
25 land. [*; and*] Additional real property taxes shall be collected on [*such*] **the withdrawn** land in an
26 amount equal to the total amount of potential additional taxes computed under ORS 308A.312 (3)
27 during each year in which the land was classified, together with interest at the rate of two-thirds
28 of one percent a month, or fraction of a month, from the dates on which such additional taxes would
29 have been payable had the land not been so classified, limited to a total amount not in excess of the
30 dollar difference in the value of the land as open space land for the last year of classification 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 the real market value under ORS 308.205 for the year of withdrawal.

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

8 **(4) Notwithstanding subsections (2) and (3) of this section, if open space land is applied**
9 **to a noncommercial open space use during the period of classification for at least five con-**
10 **secutive years prior to withdrawal, the number of years for which additional taxes and in-**
11 **terest are calculated under subsections (2) and (3) of this section is five years.**

12 [(4)] (5) Notwithstanding subsection (2) of this section, open space lands that qualify for wildlife
13 habitat special assessment under ORS 308A.403 to 308A.430 or conservation easement special as-
14 sessment under ORS 308A.450 to 308A.465 may be disqualified from open space special assessment
15 and qualified for wildlife habitat special assessment or conservation easement special assessment
16 without payment of any additional tax under this section.

17 (a) The additional tax as determined under subsection (2) of this section shall remain a potential
18 liability notated on the assessment and tax roll, separate from and in addition to the wildlife habitat
19 potential additional tax described in ORS 308A.427 or the conservation easement potential additional
20 tax described in ORS 308A.459.

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

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

27 **SECTION 2.** ORS 308A.321 is amended to read:

28 308A.321. (1) When land which has been classified and assessed under ORS 308A.300 to 308A.330
29 as open space land is applied to some use other than as open space land, except through compliance
30 with ORS 308A.318 (2), or except as a result of the exercise of the power of eminent domain, the
31 owner shall within 60 days thereof notify the county assessor of such change in use. The assessor
32 or assessors shall withdraw the land from classification and immediately shall give written notice
33 of the withdrawal to the granting authority that classified the land; and additional real property
34 taxes shall be imposed upon such land in an amount equal to the amount that would have been due
35 under ORS 308A.318 if notice had been given by the owner as of the date of withdrawal, plus a
36 penalty equal to 20 percent of the amount so determined.

37 (2) If no notice is given as required by subsection (1) of this section, the assessor, upon discovery
38 of the change in use, shall compute the amount of taxes, penalty and interest described in subsection
39 (1) of this section, as though notice had been given, and shall add thereto an additional penalty
40 equal to 20 percent of the total amount so computed, for failure to give such notice.

41 (3) The limitation described in ORS 308A.318 [(2)] **(2)(b)** applies only to the computation of taxes
42 and interest, and not to the penalties described in subsections (1) and (2) of this section.

43 (4) The provisions of subsections (1) and (2) of this section [shall] **do** not apply [in the event
44 that] **if** the change in use results from the sale of a least 50 percent of [such land classified under
45 ORS 308A.300 to 308A.330] **open space land** within two years after the death of the owner.

1 **SECTION 3.** ORS 308A.727 is amended to read:

2 308A.727. (1) Land specially assessed under any of the special assessment laws listed in ORS
3 308A.706 (1)(d) shall be changed to open space use special assessment under ORS 308A.300 to
4 308A.330 if:

5 (a) Application for open space use special assessment is or has been made under ORS 308A.306;

6 (b) The land qualifies for open space use special assessment;

7 (c) The application for open space use special assessment is or has been approved under ORS
8 308A.309 and 308A.312;

9 (d) The open space use is for a golf course open to the general public with or without payment
10 of fee or charge; and

11 (e) All or a portion of the land is within or is contiguous to an urban growth boundary.

12 (2) Land described in subsection (1) of this section shall not, upon the change from farm or
13 forest use to open space use, be subject to any of the additional taxes ordinarily applicable when
14 land specially assessed under one of the special assessment laws listed under ORS 308A.706 (1)(d)
15 is disqualified, declassified or otherwise removed from such special assessment.

16 (3)(a)(A) When land that has been changed from special assessment as farm or forest land to
17 open space use special assessment under subsections (1) and (2) of this section is later withdrawn
18 or otherwise removed from open space use special assessment, all the provisions of ORS 308A.300
19 to 308A.330 [shall] apply.

20 **(B) If the land is applied to a noncommercial open space use during the period of open**
21 **space classification for at least five consecutive years prior to withdrawal or removal from**
22 **open space special assessment, the amount of the additional taxes that, except for sub-**
23 **sections (1) and (2) of this section, would have been added at the time of the change to open**
24 **space land, may not be added to the additional taxes imposed under ORS 308A.318 or 308A.321**
25 **and computed under ORS 308A.312 (3).**

26 **(C) If the land is not applied to a noncommercial open space use during the period of open**
27 **space classification for at least five consecutive years prior to withdrawal or removal from**
28 **open space special assessment, all the provisions of ORS 308A.300 to 308A.330 apply,** except
29 that there shall be added to the amount of additional taxes imposed under ORS 308A.318 or 308A.321
30 and computed under ORS 308A.312 (3), the amount of the additional taxes that, except for sub-
31 sections (1) and (2) of this section, would have been added at the time of the change. However, in
32 making the computation of the amount to be added under this [subsection,] **subparagraph,** the
33 number of years specified in ORS 308A.703 shall be reduced by the number of continuous years of
34 open space use special assessment in effect for the land pursuant to the change.

35 **(b)** At the time of the change to open space use and each year thereafter, the assessor shall
36 determine and note upon the assessment and tax rolls the added amount of potential additional
37 taxes, if any, that may become due under this subsection.

38 (4) For purposes of ORS 308A.324 and in construing any other provision of ORS 308A.300 to
39 308A.330, the amount of additional taxes added under subsection (3) of this section shall be treated
40 as additional taxes imposed under ORS 308A.318 or 308A.321.

41 (5) Upon receipt of any application for open space use special assessment under ORS 308A.300
42 to 308A.330, the public official or agency shall notify the owner of the provisions of this section.

43 **SECTION 4. The amendments to ORS 308A.318, 308A.321 and 308A.727 by sections 1 to 3**
44 **of this 2009 Act apply to properties withdrawn from open space special assessment for tax**
45 **years beginning on or after July 1, 2009.**

1 **SECTION 5.** This 2009 Act takes effect on the 91st day after the date on which the reg-
2 ular session of the Seventy-fifth Legislative Assembly adjourns sine die.
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