



SENATE BILL 304

Comments by Gil Riddell, Policy Coordinator, Association of Oregon Counties, before the House Revenue Committee, April 6, 2011.

The Association of Oregon Counties respectfully urges you **amend SB 304, as described below, or, in the alternative, to vote "no" on the bill.**

What SB 304 would do

Requires counties/local districts to pay attorney fees and expenses when awarded by the Tax Court in a property tax proceeding involving locally assessed property.

Amend SB 304: Why and how

- The Legislature has provided **no standards** in ORS 305.490 to guide the court in allowing these costs.
- The door on awards under ORS 305.490 does **not** swing both ways. There is no corresponding provision for the court to order attorney fees and costs to the **respondent, representing taxpayers collectively.**
- The subsection in current law amended by the bill (ORS 305.490(4)) is **unnecessary. There is already a statute that applies to these disputes and provides a standard to guide the Court.** ORS 20.105 (1): "In any ...proceeding in ...the Oregon Tax Court...the court shall award reasonable attorney fees to a party against whom a claim, defense or ground for appeal is asserted, if that party is the prevailing party in the proceeding...upon a finding by the court...that there was **no objectively reasonable basis** for asserting the claim, defense or ground for appeal." Notice, as well, that **this provision applies fairly to appellant and respondent.**

AOC requests that the committee **amend SB 304 by deleting Subsection (4) of ORS 305.490.**

In the alternative, vote 'no' on SB 304: Why

- For all the reasons listed above and below.
- The allowed attorney fees and costs permitted by SB 304 are paid out of the unsegregated property tax account. In other words, they are **paid by other taxpayers.**
- Counties are not necessarily a separate entity in the property tax context. In property tax assessment, counties are agents of the State. Counties are supervised by the Department of Revenue. County appraisers must have continuing education.
- Counties are in no better position than the State to pay these awards.