

HOUSE AMENDMENTS TO HOUSE BILL 2636

By COMMITTEE ON GENERAL GOVERNMENT AND CONSUMER PROTECTION

April 20

1 On page 1 of the printed bill, line 5, delete “to 4” and insert “and 3”.

2 Delete lines 7 through 29 and insert:

3 **“SECTION 2. (1) The office of the Taxpayer Ombudsman is established in the Department**
4 **of Revenue. The office shall be responsible for directly assisting taxpayers and their repre-**
5 **sentatives to ensure their understanding and utilization of the policies, processes and pro-**
6 **cedures available to them in the resolution of problems related to taxes collected by the**
7 **department. The Director of the Department of Revenue shall select the employees of the**
8 **office, who may include employees of the department and residents of this state with**
9 **knowledge of taxation.**

10 **“(2) The office shall assist taxpayers in:**

11 **“(a) Obtaining easily understandable tax information and information on audits, cor-**
12 **rections and appeals procedures of the department;**

13 **“(b) Answering questions regarding preparing and filing returns with the department;**
14 **and**

15 **“(c) Locating documents or payments filed with or submitted to the department by tax-**
16 **payers.**

17 **“(3) The office may also:**

18 **“(a) Receive and evaluate complaints of improper, abusive or inefficient service by em-**
19 **ployees of the department and recommend to the director appropriate action to correct such**
20 **service;**

21 **“(b) Identify policies and practices of the department that might be barriers to the eq-**
22 **uitable treatment of taxpayers and recommend alternatives to the director;**

23 **“(c) Provide expeditious service to taxpayers whose problems are not resolved through**
24 **ordinary channels;**

25 **“(d) Negotiate with department personnel to resolve the most complex and sensitive**
26 **taxpayer problems;**

27 **“(e) Take action to stop or prohibit the department from taking an action against a**
28 **taxpayer, if, in the determination of the office, the manner in which a law administered by**
29 **the department is being carried out is creating or will create an unjust and inequitable result**
30 **for the taxpayer;**

31 **“(f) Participate and represent taxpayers’ interests and concerns in planning meetings,**
32 **reviewing instructions and formulating department policies and procedures;**

33 **“(g) Compile data each year on the number and type of taxpayer complaints and evaluate**
34 **the actions taken to resolve complaints;**

35 **“(h) Survey taxpayers each year to obtain their evaluation of the quality of service pro-**

1 **vided by the department;**

2 **“(i) Monitor the number and type of seizures of property under ORS 314.419;**

3 **“(j) Notify and recommend appropriate action to the director if the office determines that**
4 **a seizure has occurred or will occur that has subjected or will subject the taxpayer to a**
5 **seizure of property without affording a reasonable opportunity for discussion of alternative**
6 **methods of payment of the obligation; and**

7 **“(k) Perform other functions that relate to taxpayer assistance as prescribed by the di-**
8 **rector.**

9 **“(4) Actions taken by the office may be reviewed only by the director upon request of the**
10 **department or a taxpayer. The director may modify action taken by the office.”.**

11 On page 2, delete lines 1 through 12.

12 In line 13, delete “4” and insert “3”.

13 In line 23, delete “5” and insert “4”.

14 In line 27, delete “6” and insert “5”.

15 On page 5, line 38, after “(v)” insert “The office of”.

16 In line 39, delete “to 4” and insert “and 3”.

17 On page 6, after line 18, insert:

18 **“SECTION 6.** ORS 314.840, as amended by section 5 of this 2011 Act, is amended to read:

19 **“314.840. (1) The Department of Revenue may:**

20 **“(a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS**
21 **305.230 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer,**
22 **representative or designee, with a copy of the taxpayer’s income tax return filed with the depart-**
23 **ment for any year, or with a copy of any report filed by the taxpayer in connection with the return,**
24 **or with any other information the department considers necessary.**

25 **“(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.**

26 **“(c) Publish statistics so classified as to prevent the identification of income or any particulars**
27 **contained in any report or return.**

28 **“(d) Disclose a taxpayer’s name, address, telephone number, refund amount, amount due, Social**
29 **Security number, employer identification number or other taxpayer identification number to the ex-**
30 **tent necessary in connection with collection activities or the processing and mailing of correspond-**
31 **ence or of forms for any report, return or claim required in the administration of ORS 310.630 to**
32 **310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-**
33 **come.**

34 **“(2) The department also may disclose and give access to information described in ORS 314.835**
35 **to:**

36 **“(a) The Governor of the State of Oregon or the authorized representative of the Governor:**

37 **“(A) With respect to an individual who is designated as being under consideration for appoint-**
38 **ment or reappointment to an office or for employment in the office of the Governor. The information**
39 **disclosed shall be confined to whether the individual:**

40 **“(i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not**
41 **more than the three immediately preceding years for which the individual was required to file an**
42 **Oregon individual income tax return.**

43 **“(ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or**
44 **otherwise respond to a deficiency notice within 30 days of its mailing.**

45 **“(iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature**

1 of the penalty.

2 “(iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
3 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the pur-
4 pose of making the appointment, reappointment or decision to employ or not to employ the individ-
5 ual in the office of the Governor.

6 “(B) For use by an officer or employee of the Oregon Department of Administrative Services
7 duly authorized or employed to prepare revenue estimates, or a person contracting with the Oregon
8 Department of Administrative Services to prepare revenue estimates, in the preparation of revenue
9 estimates required for the Governor’s budget under ORS 291.201 to 291.226, or required for sub-
10 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
11 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
12 The Department of Revenue shall disclose and give access to the information described in ORS
13 314.835 for the purposes of this subparagraph only if:

14 “(i) The request for information is made in writing, specifies the purposes for which the request
15 is made and is signed by an authorized representative of the Oregon Department of Administrative
16 Services. The form for request for information shall be prescribed by the Oregon Department of
17 Administrative Services and approved by the Director of the Department of Revenue.

18 “(ii) The officer, employee or person receiving the information does not remove from the prem-
19 ises of the Department of Revenue any materials that would reveal the identity of a personal or
20 corporate taxpayer.

21 “(b) The Commissioner of Internal Revenue or authorized representative, for tax administration
22 and compliance purposes only.

23 “(c) For tax administration and compliance purposes, the proper officer or authorized represen-
24 tative of any of the following entities that has or is governed by a provision of law that meets the
25 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

26 “(A) A state;

27 “(B) A city, county or other political subdivision of a state;

28 “(C) The District of Columbia; or

29 “(D) An association established exclusively to provide services to federal, state or local taxing
30 authorities.

31 “(d) The Multistate Tax Commission or its authorized representatives, for tax administration and
32 compliance purposes only. The Multistate Tax Commission may make the information available to
33 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
34 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

35 “(e) The Attorney General, assistants and employees in the Department of Justice, or other legal
36 representative of the State of Oregon, to the extent the department deems disclosure or access
37 necessary for the performance of the duties of advising or representing the department pursuant to
38 ORS 180.010 to 180.240 and the tax laws of this state.

39 “(f) Employees of the State of Oregon, other than of the Department of Revenue or Department
40 of Justice, to the extent the department deems disclosure or access necessary for such employees
41 to perform their duties under contracts or agreements between the department and any other de-
42 partment, agency or subdivision of the State of Oregon, in the department’s administration of the
43 tax laws.

44 “(g) Other persons, partnerships, corporations and other legal entities, and their employees, to
45 the extent the department deems disclosure or access necessary for the performance of such others’

1 duties under contracts or agreements between the department and such legal entities, in the
2 department's administration of the tax laws.

3 “(h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
4 173.850. Such officer or representative shall not remove from the premises of the department any
5 materials that would reveal the identity of any taxpayer or any other person.

6 “(i) The Department of Consumer and Business Services, to the extent the department requires
7 such information to determine whether it is appropriate to adjust those workers' compensation
8 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
9 earned income received by an individual.

10 “(j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
11 or person to whom disclosure or access is given by state law and not otherwise referred to in this
12 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
13 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
14 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
15 attorney regarding cases for which they are providing support enforcement services under ORS
16 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
17 Accountancy, pursuant to ORS 673.415.

18 “(k) The Director of the Department of Consumer and Business Services to determine that a
19 person complies with ORS chapter 656 and the Director of the Employment Department to determine
20 that a person complies with ORS chapter 657, the following employer information:

21 “(A) Identification numbers.

22 “(B) Names and addresses.

23 “(C) Inception date as employer.

24 “(D) Nature of business.

25 “(E) Entity changes.

26 “(F) Date of last payroll.

27 “(L) The Director of Human Services to determine that a person has the ability to pay for care
28 that includes services provided by the Eastern Oregon Training Center or the Department of Human
29 Services to collect any unpaid cost of care as provided by ORS chapter 179.

30 “(m) The Director of the Oregon Health Authority to determine that a person has the ability to
31 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon
32 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by
33 ORS chapter 179.

34 “(n) Employees of the Employment Department to the extent the Department of Revenue deems
35 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
36 to performance of their duties in administering the tax imposed by ORS chapter 657.

37 “(o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions
38 and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number
39 and standard industrial classification, if available.

40 “(p) Employees of the Department of State Lands for the purposes of identifying, locating and
41 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
42 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
43 refund amount.

44 “(q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
45 agencies to assist in the investigation or prosecution of the following criminal activities:

1 “(A) Mail theft of a check, in which case the information that may be disclosed shall be limited
2 to the stolen document, the name, address and taxpayer identification number of the payee, the
3 amount of the check and the date printed on the check.

4 “(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Depart-
5 ment of Revenue or issued by the Department of Revenue to a taxpayer, in which case the infor-
6 mation that may be disclosed shall be limited to the counterfeit, forged or altered document, the
7 name, address and taxpayer identification number of the payee, the amount of the check, the date
8 printed on the check and the altered name and address.

9 “(r) The United States Postal Inspection Service or a federal law enforcement agency, including
10 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
11 lowing criminal activities:

12 “(A) Mail theft of a check, in which case the information that may be disclosed shall be limited
13 to the stolen document, the name, address and taxpayer identification number of the payee, the
14 amount of the check and the date printed on the check.

15 “(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Depart-
16 ment of Revenue or issued by the Department of Revenue to a taxpayer, in which case the infor-
17 mation that may be disclosed shall be limited to the counterfeit, forged or altered document, the
18 name, address and taxpayer identification number of the payee, the amount of the check, the date
19 printed on the check and the altered name and address.

20 “(s) The United States Financial Management Service, for purposes of facilitating the reciprocal
21 offsets described in ORS 305.612.

22 “(t) A municipal corporation of this state for purposes of assisting the municipal corporation in
23 the administration of a tax of the municipal corporation that is imposed on or measured by income,
24 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
25 pursuant to a written agreement between the Department of Revenue and the municipal corporation
26 that ensures the confidentiality of the information disclosed.

27 “(u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
28 314.843.

29 “*[(v) The office of the Taxpayer Ombudsman, only at the request of the taxpayer and only to the*
30 *extent necessary to carry out the purposes of sections 2 and 3 of this 2011 Act.]*

31 “(3)(a) Each officer or employee of the department and each person described or referred to in
32 subsection (2)(a), (e) to (k) or (n) to (q) of this section to whom disclosure or access to the tax in-
33 formation is given under subsection (2) of this section or any other provision of state law, prior to
34 beginning employment or the performance of duties involving such disclosure or access, shall be
35 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
36 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
37 certificate for the department, in a form prescribed by the department, stating in substance that the
38 person has read these provisions of law, that the person has had them explained and that the person
39 is aware of the penalties for the violation of ORS 314.835.

40 “(b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
41 written agreement has been entered into between the Department of Revenue and the person de-
42 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
43 given, providing that:

44 “(A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
45 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-

1 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
2 this section;

3 “(B) The information shall be protected as confidential under applicable federal and state laws;
4 and

5 “(C) The United States Postal Inspection Service or the federal law enforcement agency shall
6 give notice to the Department of Revenue of any request received under the federal Freedom of In-
7 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

8 “(4) The Department of Revenue may recover the costs of furnishing the information described
9 in subsection (2)(k) to (m) and (o) to (q) of this section from the respective agencies.”.

10 In line 19, before “Sections” insert “(1)” and delete “to 4” and insert “and 3”.

11 In line 20, delete “6” and insert “5”.

12 After line 20, insert:

13 “(2) The amendments to ORS 314.840 by section 6 of this 2011 Act become operative January
14 1, 2016.

15 **“SECTION 8. Sections 2 and 3 of this 2011 Act are repealed on January 1, 2016.”.**

16 In line 21, delete “8” and insert “9” and after the second “2011” insert “regular”.

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