

# House Bill 4067

Sponsored by Representative MCLANE; Representatives BAILEY, BARNHART, BERGER, BREWER, BUCKLEY, CAMERON, CONGER, DOHERTY, ESQUIVEL, FREEMAN, GARRETT, GELSER, GILLIAM, HANNA, HOYLE, HUFFMAN, HUNT, JOHNSON, KENNEMER, KOMP, KOTEK, KRIEGER, MATTHEWS, OLSON, PARRISH, READ, ROBLAN, SCHAUFLER, SHEEHAN, SPRENGER, THATCHER, WAND, WHISNANT, WINGARD, WITT, Senators ATKINSON, BEYER, DEVLIN, EDWARDS, FERRIOLI, GIROD, HASS, JOHNSON, MONNES ANDERSON, MORSE, TELFER, WHITSETT, WINTERS (Presession filed.)

## 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**.

Excludes company owning or leasing data center in enterprise zone from central assessment during period of enterprise zone exemption.

Extends exclusion from central assessment after expiration of exemption if company continues to comply with certain provisions of enterprise zone agreement.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to exclusion from central assessment for data centers located in enterprise zones; creating  
3 new provisions; amending ORS 308.515; and prescribing an effective date.

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

5 **SECTION 1.** ORS 308.515 is amended to read:

6 308.515. (1) The Department of Revenue shall make an annual assessment of any property that  
7 has a situs in this state and that, except as provided in subsection (3) of this section, is used or held  
8 for future use by any company in performing or maintaining any of the following businesses or ser-  
9 vices or in selling any of the following commodities, whether in domestic or interstate commerce  
10 or in any combination of domestic and interstate commerce, and whether mutually or for hire, sale  
11 or consumption by other persons:

12 (a) Railroad transportation;

13 (b) Railroad switching and terminal;

14 (c) Electric rail transportation;

15 (d) Private railcar transportation;

16 (e) Air transportation;

17 (f) Water transportation upon inland water of the State of Oregon;

18 (g) Air or railway express;

19 (h) Communication;

20 (i) Heating;

21 (j) Gas;

22 (k) Electricity;

23 (L) Pipeline;

24 (m) Toll bridge; or

25 (n) Private railcars of all companies not otherwise listed in this subsection, if the private  
26 railcars are rented, leased or used in railroad transportation for hire.

27 (2) The assessment described in subsection (1) of this section shall be made on an assessment

**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 roll that is prepared by the division of the department charged with property tax administration.

2 (3) There may not be assessed under subsection (1) of this section:

3 (a) Any property used by or for water transportation companies whose watercraft ply exclu-  
4 sively on the high seas, or between the high seas and inland water ports or terminals, or any com-  
5 bination thereof.

6 (b) Any property used by or for water transportation companies exclusively for hire by other  
7 persons for booming and rafting, dredging, log or marine salvage, ship berthing, maintenance, sludge  
8 removal, cleaning or repair, marine or water-based construction, or guide service.

9 (c) Any property used by or for interstate ferries or by or for water transportation companies  
10 as ferries operating directly across interstate rivers.

11 (d) Any property of the National Railroad Passenger Corporation.

12 (e) Any aircraft that is required to be registered under ORS 837.040 for all or any part of the  
13 calendar year and that is not used to provide scheduled passenger service.

14 (4) Any corporation included within subsection (1) of this section, to the extent that it actively  
15 engages in any business or service not described therein or not incidental to any business or service  
16 or sale of a commodity described therein, may not to that extent be deemed a corporation whose  
17 properties are assessed under ORS 308.505 to 308.665.

18 *[(5) A company is not a company described in subsection (1) of this section to the extent that the*  
19 *company furnishes undiluted liquefied or industrial gas in bottles, tanks or similar containers.]*

20 *[(6) A company is not an electric company under subsection (1) of this section if:]*

21 *[(a) The company generates electricity primarily for the company's own use, but makes incidental*  
22 *sales of the company's surplus electricity; or]*

23 *[(b)(A) The company's generating facility is primarily fueled by wood waste or other biomass*  
24 *fuel;]*

25 *[(B) The generating facility has a maximum capacity of 20 megawatts; and]*

26 *[(C) The company, if selling the generated electricity, does so only directly to an electric utility for*  
27 *the utility's distribution to utility customers.]*

28 *[(7)]* (5) The department shall assess property owned, leased or occupied by a legal entity not  
29 yet engaged in a business, service or sale of a commodity that is described in subsection (1) of this  
30 section if the property is intended for operation or use in the business, service or sale of the com-  
31 modity.

32 *[(8) As used in this section, "electric utility" has the meaning given that term in ORS 758.505.]*

33 **SECTION 2. Section 3 of this 2012 Act is added to and made a part of ORS 308.505 to**  
34 **308.665.**

35 **SECTION 3. (1) A company is not a company described in ORS 308.515 (1) to the extent**  
36 **that the company furnishes undiluted liquefied or industrial gas in bottles, tanks or similar**  
37 **containers.**

38 **(2) A company is not a company described in ORS 308.515 (1) if:**

39 **(a) The company generates electricity primarily for the company's own use and makes**  
40 **no more than incidental sales of the company's surplus electricity to other persons; or**

41 **(b)(A) The company's generating facility is primarily fueled by wood waste or other**  
42 **biomass fuel;**

43 **(B) The generating facility has a maximum capacity of 20 megawatts; and**

44 **(C) The company, if selling the generated electricity, does so only directly to an electric**  
45 **utility, as defined in ORS 758.505, for the electric utility's distribution to utility customers.**

1       **(3) A company that is the owner or lessee of a data center is not a company described**  
 2 **in ORS 308.515 (1) if:**

3       **(a) The company has entered into a written tax abatement agreement, or is entitled by**  
 4 **assignment or succession to the benefits of a tax abatement agreement entered into, with**  
 5 **the sponsors of an enterprise zone, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to**  
 6 **285C.420; and**

7       **(b) The original cost of construction and installation of the real and tangible personal**  
 8 **property of all data centers owned, leased or used by the company in Oregon, and all addi-**  
 9 **tions to the property, exceeds the original cost of construction and installation of all other**  
 10 **real and tangible personal property owned or leased by the company in Oregon.**

11       **(4)(a) Property of a company described in subsection (3) of this section may not be as-**  
 12 **essed under ORS 308.505 to 308.665 during the term of an exemption granted pursuant to**  
 13 **an agreement described in subsection (3)(a) of this section or during the term of any**  
 14 **statutorily authorized extensions of the exemption, waivers or periods of in lieu payments.**

15       **(b) Property of a company described in subsection (3) of this section or its assignees or**  
 16 **successors may not be assessed under ORS 308.505 to 308.665 after expiration of an exemption**  
 17 **granted pursuant to ORS 285C.050 to 285C.250 or 285C.400 to 285C.420 during each consecutive**  
 18 **property tax year in which the company or its assignees or successors continue to satisfy**  
 19 **the provisions of an agreement described in subsection (3)(a) of this section in effect imme-**  
 20 **diately before the expiration relating to employment of a minimum number of employees,**  
 21 **minimum levels of annual average employee compensation and the minimum cost of property**  
 22 **constituting the data center.**

23       **(c)(A) During a period in which a company may not be assessed under ORS 308.505 to**  
 24 **308.665 pursuant to this subsection, the Department of Revenue may require the company**  
 25 **to file annual statements pursuant to ORS 308.520 and 308.525.**

26       **(B) Notwithstanding subparagraph (A) of this paragraph, a company may not be required**  
 27 **to report intangible property within or without Oregon.**

28       **(C) An annual statement filed pursuant to this paragraph may not be interpreted as an**  
 29 **admission or acknowledgment that the company is subject to assessment under ORS 308.505**  
 30 **to 308.665.**

31       **(D) For purposes of the notations required under ORS 285C.175 (7) and 285C.409 (3), the**  
 32 **county assessor shall record the real market value, the assessed value and the amount of**  
 33 **potential additional taxes as determined without regard to ORS 308.505 to 308.665.**

34       **(5) If a company described in subsection (3) of this section owns or leases a data center**  
 35 **in more than one county in this state, each data center must satisfy all applicable require-**  
 36 **ments under subsections (3) and (4) of this section.**

37       **(6)(a) As used in this section:**

38       **(A) “Data center” means an online service data center or an independent data center.**

39       **(B) “Independent data center” means real and personal property consisting of buildings**  
 40 **or structures specifically designed or modified to house networked computers and data and**  
 41 **transaction processing equipment and related infrastructure support equipment, including,**  
 42 **without limitation, power and cooling equipment, used primarily to provide, as a service to**  
 43 **persons other than the company operating the independent data center, data and transaction**  
 44 **processing services, outsource information technology services and computer equipment**  
 45 **colocation services.**

1 (C) "Online service data center" means real and personal property consisting of buildings  
2 or structures specifically designed or modified to house networked computers and data and  
3 transaction processing equipment and related infrastructure support equipment, including,  
4 without limitation, power and cooling equipment, used primarily to provide, to a single user,  
5 including the user's affiliates, customers, lessees, vendors and other persons authorized by  
6 the user, data and transaction processing services.

7 (b) For purposes of this subsection, the primary use of property is based on the relative  
8 proportion of the original cost of property used for all purposes.

9 **SECTION 4.** Section 3 of this 2012 Act applies to:

10 (1)(a) Property tax years beginning on or after July 1, 2011; and

11 (b) Property tax years beginning before July 1, 2011, with respect to property for which  
12 a correction is made to the assessment roll after July 1, 2011.

13 (2) A company described in section 3 (3) of this 2012 Act that:

14 (a) Is a party, assignee or successor to an agreement described in section 3 (3)(a) of this  
15 2012 Act entered into pursuant to ORS 285C.160 or 285C.403 (3)(c) on or after January 1, 2009;  
16 and

17 (b) Did not use or hold for future use any property that was assessed under ORS 308.505  
18 to 308.665 on any assessment and tax roll for a property tax year beginning before July 1,  
19 2011.

20 **SECTION 5.** For property tax years beginning before July 1, 2012:

21 (1) If tax on any value that is exempt from property taxation by operation of section 3  
22 (3) and (4) of this 2012 Act has not been paid, the tax and any interest are abated.

23 (2) If tax on any exempt value described in subsection (1) of this section has been paid,  
24 the tax collector shall notify the governing body of the county of the refund required under  
25 section 3 (3) and (4) of this 2012 Act. Upon receipt of notice from the tax collector, the gov-  
26 erning body shall cause a refund of the tax and any fee and interest paid to be made from  
27 the refund reserve account, if the county has established a refund reserve account under  
28 ORS 311.807, or from the unsegregated tax collections account described in ORS 311.385. The  
29 refund under this subsection shall be made without interest. The county assessor and the  
30 tax collector shall make the necessary corrections in the records of their offices.

31 **SECTION 6.** This 2012 Act takes effect on the 91st day after the date on which the 2012  
32 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

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