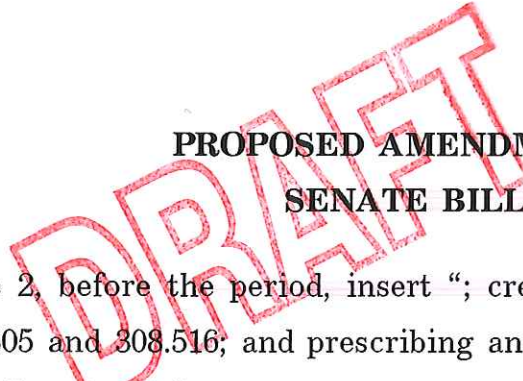


**PROPOSED AMENDMENTS TO
SENATE BILL 611**



1 In line 2, before the period, insert “; creating new provisions; amending
2 ORS 308.505 and 308.516; and prescribing an effective date”.

3 Delete line 4 and insert:

4 **“SECTION 1. Section 2 of this 2015 Act is added to and made a part
5 of ORS 308.505 to 308.665.**

6 **“SECTION 2. (1)(a)(A) Property of a company subject to assessment
7 under ORS 308.505 to 308.665 shall be granted an exemption in the
8 amount of the positive value, if any, arrived at by subtracting from
9 the real market value of the company’s real property and tangible and
10 intangible personal property included in the unit subject to central
11 assessment an amount equal to 130 percent of the historical or original
12 cost less depreciation of the company’s real property and tangible
13 personal property included in the unit subject to central assessment.**

14 **“(B) For purposes of the computation under this paragraph, depre-
15 ciation shall determined by a straight line method according to forms
16 filed with the Department of Revenue pursuant to rules adopted by the
17 department.**

18 **“(b) Notwithstanding paragraph (a) of this subsection, an exemption
19 granted under this section may not exceed an amount equal to 90
20 percent of the real market value of the company’s real property and
21 tangible and intangible personal property included in the unit subject
22 to central assessment.**

1 “(2)(a) If the property of a company is granted an exemption under
2 this section for a property tax year:

3 “(A) The exemption under ORS 307.126 for licenses granted by the
4 Federal Communications Commission is included in the exemption
5 granted under this section and may not otherwise be granted or cred-
6 ited to the property of the company or the company.

7 “(B) The property is not eligible for any other exemption from ad
8 valorem property taxation for the property tax year.

9 “(b) Notwithstanding paragraph (a) of this subsection, an exemption
10 granted under this section for a property tax year has no effect on the
11 benefits that the property of the company or the company may be
12 granted under ORS chapter 285C and ORS 307.123 for the property tax
13 year.

14 “SECTION 3. The Legislative Assembly declares that the intention
15 of the amendments to ORS 308.516 by section 4 of this 2015 Act is to
16 exclude data center property from central assessment.

17 “SECTION 4. ORS 308.516 is amended to read:

18 “308.516. (1) A company is not a company described in ORS 308.515 (1) to
19 the extent that the company furnishes undiluted liquefied or industrial gas
20 in bottles, tanks or similar containers.

21 “(2) A company is not a company described in ORS 308.515 (1) if:

22 “(a) The company generates electricity primarily for the company’s own
23 use and makes no more than incidental sales of the company’s surplus elec-
24 tricity to other persons; or

25 “(b)(A) The company’s generating facility is primarily fueled by wood
26 waste or other biomass fuel;

27 “(B) The generating facility has a maximum capacity of 20 megawatts; and

28 “(C) The company, if selling the generated electricity, does so only di-
29 rectly to an electric utility, as defined in ORS 758.505, for the electric
30 utility’s distribution to utility customers.

1 “(3) A company that **is in the business of communication as defined**
2 **in ORS 308.505** and is the owner or lessee of a data center is not a company
3 described in ORS 308.515 (1) if[.]

4 “[(a) *The company has entered into a written tax abatement agreement, or*
5 *is entitled by assignment or succession to the benefits of a tax abatement*
6 *agreement entered into, with the sponsors of an enterprise zone with respect*
7 *to a data center, pursuant to ORS 285C.050 to 285C.250 or 285C.400 to*
8 *285C.420; and]*

9 “[(b)(A) *the original cost of construction and installation of all real and*
10 *tangible personal property owned or leased by the company in Oregon other*
11 *than data centers does not equal more than five]* **the historical or original**
12 **cost of all real and tangible personal property, other than data centers,**
13 **that is owned, leased or used by the company in Oregon and used by**
14 **the company in the business of communication is less than or equal**
15 **to 10 percent of the historical or original cost of the real and tangible**
16 **personal property of all data centers owned, leased or used by the company**
17 **in Oregon and all additions to the data center property[; and].**

18 “[(B) *The property in Oregon other than data centers described in subpar-*
19 *agraph (A) of this paragraph consists of real or tangible personal property*
20 *used in the operation of an office or a warehouse or in connection with the*
21 *construction, installation or operation of data center property.]*

22 “[(4)(a) *Property of a company described in subsection (3) of this section*
23 *may not be assessed under ORS 308.505 to 308.665 during the term of an ex-*
24 *emption granted pursuant to an agreement described in subsection (3)(a) of this*
25 *section or during the term of any statutorily authorized extensions of the ex-*
26 *emption, waivers or periods of in lieu payments.]*

27 “[(b) *For purposes of the notations required under ORS 285C.175 (7) and*
28 *285C.409 (3), the county assessor shall record the real market value, the as-*
29 *essed value and the amount of potential additional taxes as determined*
30 *without regard to ORS 308.505 to 308.665.]*

1 “[(5) If a company described in subsection (3) of this section owns or leases
2 a data center in more than one county in this state, each data center must
3 satisfy all applicable requirements under subsection (3) of this section.]

4 “[(6)(a) As used in this section:]

5 “[(A) ‘Data center’ means an online service data center or an independent
6 data center.]

7 “[(B) ‘Independent data center’ means real and personal property consisting
8 of buildings or structures specifically designed or modified to house networked
9 computers and data and transaction processing equipment and related
10 infrastructure support equipment, including, without limitation, power and
11 cooling equipment, used primarily to provide, as a service to persons other than
12 the company operating the independent data center, data and transaction pro-
13 cessing services, outsource information technology services and computer
14 equipment colocation services.]

15 “[(C) ‘Online service data center’ means real and personal property con-
16 sisting of buildings or structures specifically designed or modified to house
17 networked computers and data and transaction processing equipment and re-
18 lated infrastructure support equipment, including, without limitation, power
19 and cooling equipment, used primarily to provide, to a single user, including
20 the user’s affiliates, customers, lessees, vendors and other persons authorized
21 by the user, data and transaction processing services.]

22 “[(b) For purposes of this subsection, the primary use of property is based
23 on the relative proportion of the original cost of property used for all
24 purposes.]

25 “(4) A company is not a company described in ORS 308.515 (1) solely
26 because the company is not a company described in subsection (3) of
27 this section.

28 “**SECTION 5.** Section 6 of this 2015 Act is added to and made a part
29 of ORS 308.505 to 308.665.

30 “**SECTION 6.** (1) The following real and tangible personal property

1 shall be locally assessed regardless of whether the property is used or
2 held for future use by a company described in ORS 308.515 (1):

3 “(a) Property constituting a data center;

4 “(b) Property used on property described in paragraph (a) of this
5 subsection to generate electricity; and

6 “(c) Electricity generated by property described in paragraph (b) of
7 this subsection.

8 “(2) For purposes of ORS 308.505 to 308.665, property described in
9 subsection (1) of this section that is used or held for future use by a
10 company described in ORS 308.515 (1) shall not be included in any unit
11 subject to central assessment.

12 “SECTION 7. ORS 308.505 is amended to read:

13 “308.505. As used in ORS 308.505 to 308.665:

14 “(1) ‘Car’ or ‘railcar’ means a vehicle adapted to the rails of a railroad.

15 “(2) ‘Centrally assessed’ means the assessment of property by the Depart-
16 ment of Revenue under ORS 308.505 to 308.665.

17 “(3)(a) ‘Communication’ [*includes*] means telephone communication and
18 data transmission services by whatever means provided.

19 “(b) ‘Communication’ does not include:

20 “(A) Providing or obtaining data transmission services or providing
21 an electronic mail account through a contractual agreement with an-
22 other company that owns or controls the transmission property.

23 “(B) Manufacturing or selling tangible personal property.

24 “(4) ‘Data center’ means an online service data center or an inde-
25 pendent data center.

26 “(5) ‘Historical or original cost’ means all costs incurred by a com-
27 pany in placing property in service for the property’s intended use by
28 the company, including, but not limited to, purchase price, freight,
29 engineering fees, legal fees, materials, labor, overhead, taxes, interest
30 and other fees, expenses and charges related to construction or in-

1 **stallation.**

2 **“(6) ‘Independent data center’ means real and personal property**
3 **consisting of buildings or structures specifically designed or modified**
4 **to house networked computers and data and transaction processing**
5 **equipment and related infrastructure support equipment, including,**
6 **without limitation, power and cooling equipment, used primarily to**
7 **provide, as a service to persons other than the company operating the**
8 **independent data center, data and transaction processing services,**
9 **outsource information technology services and computer equipment**
10 **colocation services. For purposes of this subsection, the primary use**
11 **of property is based on the relative proportion of the original cost of**
12 **property used for all purposes.**

13 **“[(4)] (7) ‘Inland water’ means all water or waters within the State of**
14 **Oregon, all interstate rivers touching Oregon and all tidewaters extending**
15 **to the ocean bars.**

16 **“[(5)] (8) ‘Interstate’ means transit between the State of Oregon and:**

17 **“(a) Another state;**

18 **“(b) A district, territory or possession of the United States; or**

19 **“(c) A foreign country.**

20 **“[(6)] (9) ‘Large private railcar company’ means a private railcar company**
21 **with personal property with a real market value for the tax year that exceeds**
22 **\$1 million.**

23 **“[(7)] (10) ‘Locally assessed’ means the assessment of property for prop-**
24 **erty tax purposes by the county assessor that is not conducted under ORS**
25 **308.505 to 308.665.**

26 **“(11) ‘Online service data center’ means real and personal property**
27 **consisting of buildings or structures specifically designed or modified**
28 **to house networked computers and data and transaction processing**
29 **equipment and related infrastructure support equipment, including,**
30 **without limitation, power and cooling equipment, used primarily to**

1 provide, to a single user, including the user's affiliates, customers,
2 lessees, vendors and other persons authorized by the user, data and
3 transaction processing services. For purposes of this subsection, the
4 primary use of property is based on the relative proportion of the ori-
5 ginal cost of property used for all purposes.

6 "[8] (12) 'Person,' 'company,' 'corporation' or 'association' means any
7 person, group of persons, whether organized or unorganized, firm, joint stock
8 company, association, cooperative or mutual organization, people's utility
9 district, joint operating agency as defined in ORS 262.005, syndicate, entity
10 formed to partner or combine public and private interests, partnership or
11 corporation engaged in performing or maintaining any business or service
12 or in selling any commodity as set forth in ORS 308.515, whether or not the
13 activity is pursuant to any franchise and whether or not the person or other
14 entity or combination of entities possesses characteristics of limited or un-
15 limited liability.

16 "[9] (13) 'Property':

17 "(a) Means all property of any kind, whether real, personal, tangible or
18 intangible, that is used or held by a company as owner, occupant, lessee or
19 otherwise, for the performance or maintenance of a business or service or for
20 the sale of a commodity, as described in ORS 308.515;

21 "(b) Includes, but is not limited to, the lands and buildings, rights of way,
22 roadbed, water powers, vehicles, cars, rolling stock, tracks, office furniture,
23 telephone and transmission lines, poles, wires, conduits, switchboards, ma-
24 chinery, appliances, appurtenances, docks, watercraft irrespective of the
25 place of registry or enrollment, merchandise, inventories, tools, equipment,
26 machinery, franchises and special franchises, work in progress and all other
27 goods or chattels; and

28 "(c) Does not include items of intangible property that represent:

29 "(A) Claims on other property, including money at interest, bonds, notes,
30 claims, demands or any other evidence of indebtedness, secured or unsecured;

1 or

2 “(B) Any shares of stock in corporations, joint stock companies or asso-
3 ciations.

4 “[~~(10)~~] (14) ‘Property having situs in this state’ means all property, real
5 and personal, of a company, owned, leased, used, operated or occupied by it
6 and situated wholly within this state, and, as determined under ORS 308.550
7 and 308.640, the proportion of the movable, transitory or migratory personal
8 property owned, leased, used, operated or occupied by a company, including
9 but not limited to watercraft, aircraft, rolling stock, vehicles and con-
10 struction equipment, as is used partly within and partly outside of this state.

11 “[~~(11)~~] (15) ‘Small private railcar company’ means a private railcar com-
12 pany with personal property with a real market value for the tax year that
13 does not exceed \$1 million.

14 “(16)(a) ‘Transmission property’ means property constituting a sys-
15 tem or network that carries a communication signal, including data,
16 from one device or computer to another device or computer. ‘Trans-
17 mission property’ includes coaxial cable, optical fiber, property used
18 to transmit radio waves and microwaves and other property used to
19 transmit data in the form of electromagnetic waves from one device
20 or computer to another device or computer.

21 “(b) ‘Transmission property’ does not include a device or computer
22 that sends or receives data.

23 “[~~(12)~~] (17) ‘Transportation’ means carrying, conveying or moving pas-
24 sengers or property from one place to another.

25 “[~~(13)~~] (18) ‘Vehicle’ means any wheeled or tracked device used in trans-
26 portation under, on or in connection with the physical surface of the earth.

27 **“SECTION 8. ORS 307.126 is added to and made a part of ORS 308.505**
28 **to 308.665.**

29 **“SECTION 9. Sections 2 and 6 of this 2015 Act and the amendments**
30 **to ORS 308.505 and 308.516 by sections 4 and 7 of this 2015 Act apply to**

1 property tax years beginning on or after July 1, 2016.

2 **“SECTION 10. Section 3 of this 2015 Act is repealed on January 2,**
3 **2021.**

4 **“SECTION 11. This 2015 Act takes effect on the 91st day after the**
5 **date on which the 2015 regular session of the Seventy-eighth Legisla-**
6 **tive Assembly adjourns sine die.”.**

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