

HOUSE BILL 5035/DEPARTMENT OF REVENUE BUDGET

*Comments to the Joint Ways & Means General Government Subcommittee
by Gil Riddell, AOC Policy Director,
on behalf of the Association of Oregon Counties, March 12, 2015.*

AOC request: Return the State General Fund appropriation to the County Assessment Function Funding Assistance Account (CAFFAA) of \$5.2 million that was begun in 1999 but swept away in 2009.

There has been a significant reduction of state resources to property tax administration. The administrative processes required by Measures 5 (1990) and 50 (1997) are nearly indecipherable, yet the revenues they produce are critical to public services. With available resources counties lack the ability to fully discover new properties and improvements improperly missing from the tax rolls, which mean loss of potential for new revenues for education, public safety, physical and mental health, among other critical services.

A Department of Revenue study (11-04) with findings made before additional cutbacks in county A&T resources found: *“The current level of funding allows all counties to fulfill most but not all of their critical program requirements”* [emphasis added]; and funds are inadequate to maximize tax-generating revenue by maintaining active appraisal and omitted property discovery programs, to generate accurate or timely statistical data for system decision-makers, and to absorb significant statutorily mandated program changes.

County self-help: substantial, but not nearly enough.

- Counties spend \$99 million per year (FY 2014-15) to appraise, assess, and collect property taxes for all local taxing districts, while retaining a mere 17 percent of collections statewide. (Education receives 45% of collections statewide).
- Pilot projects with great promise statewide.

The Southwest Oregon Assessment & Taxation Coalition (Coos, Curry, Douglas, Jackson, Josephine, Lane, and Klamath) was formed to conduct pilot projects proposed by the counties. The pilots were kick-started in 2014 by a \$345,000 legislative appropriation. The pilots -- 1) compliance auditing of business personal property returns; and 2) sharing commercial and industrial appraisers – are intended to pay for themselves and then some.

In 1999, the Legislature began appropriating \$5 million plus CPI/biennium through the Department of Revenue budget to the state assessment and taxation account (CAFFAA)

to support assessment and collection of taxes for the state-funded education system. This advanced the policy that beneficiaries of the service will help pay the cost.

Unfortunately, in the 2009 session dominated by the Great Recession and its accompanying finance challenges, the Legislature eliminated its biennial appropriation to the A&T fund, “sweeping” the \$5.2 million for other state general fund programs.

The reasons for the sweep of these critical state-shared revenues have passed. Of the \$99 million spent by counties in FY 2014-15, CAFFAA provides merely 20% of that total. As conceived in 1989, CAFFAA was intended to pay 35% of county property tax administration costs.

CAFFAA has become so inadequate that the Governor’s Recommended Budget for 2015-17 includes \$1,836,000 of general funds for the Department of Revenue to fill the shortfall in the DOR share of 10% of CAFFAA to perform industrial and centrally assessed valuation.

AOC has a modest request, given other local public services needs that require state-shared funding. AOC asks simply that the Legislature resume its 10-year practice that was suddenly ended six years ago, and return the \$5.2 million plus CPI/biennium general fund appropriation to CAFFAA.

Note: Please review the accompanying submission titled, **A BRIEF HISTORY OF DIRECT PROPERTY TAX ADMINISTRATION COST SHARING (1-1-2015).**

A BRIEF HISTORY OF DIRECT PROPERTY TAX ADMINISTRATION COST SHARING

1989

Partial direct sharing by the State and local districts of counties' costs to administer the property assessment and taxation program began in 1989. After the recession of the 1980s and the end of federal general revenue sharing, and the severe across-the-board cutbacks that counties were forced to make as a result, property tax administration was in crisis. The Department of Revenue (DOR) documented this crisis in Disintegration of Oregon's Property Tax System (3-1987).

Stakeholders and the Legislature memorialized their initial solution in House Bill 2338 (1989).

The law:

- Created a state A&T fund (County Assessment Function Funding Assistance Account/CAFFA Account);
- Provided it new revenue (dedicated the new four percent interest on delinquent taxes [12-16%]; created a \$20 assessor processing fee on filing of documents with the county clerk that convey ownership, with five percent retained by the county for administration);
- Minimized revenue instability with a "floor" and "subfloor". If, as estimated by DOR, interest on delinquent property taxes will not produce at least \$10 million that year, interest revenue produced by the 'first' 12% will be used to ensure at least \$10 million flows to the fund ("floor"). Use of this revenue is limited to \$3 million/year ("subfloor").
- Required that the county A&T budget be approved by DOR as being in compliance with certain statutory requirements or that the county has a plan to come into compliance. A county out of compliance risks across-the-board reductions of non-dedicated state-shared revenues;
- Provided that at least 90% of the A&T fund be distributed to counties in proportion to their approved budgets;
- Dedicated up to 10% of the fund to DOR for supervisory expenses and to pay for appraisals of industrial properties valued from \$1 million to \$5 million (previously appraised by counties);
- Imposed continuing education requirements on appraisers and assessors;
- Prohibited until January 1, 1994, all local governments from imposing any new or increased fees or taxes on transfer of real property;
- Included a sunset date of June 30, 1998, for review of the program by the 1997 Legislature.

1997

The legislative review of the program yielded House Bill 2049 (1997). This law:

- Dedicated an additional 25% of interest revenue on delinquent property taxes to the A&T fund to the extent that this would not have been distributed to school districts or counties. It, therefore, advanced the policy that users of taxes collected pay their proportionate share of this service – but only with respect to local governments, not schools;
- Increased from \$10 million to \$13 million the minimum amount of estimated interest revenue dedicated to the fund (“floor”) that triggers an increase in the percentage dedicated to the fund;
- Directed that DOR review of county administration be results-based and reward innovation and efficiency;
- Changed the date counties must file their A&T budgets with DOR from April 15th to May 1st. Changed the date DOR must certify these budgets from June 1st to June 15th;
- Prohibited any local government from imposing a real estate transfer tax until July 1, 2000;
- Extended sunset for legislative review of the A&T program to June 30, 2000;
- Directed DOR to study the appropriate level of funding for A&T and appropriate funding sources, and report to the Legislature by November 1, 1998.

1999

Consulting with stakeholders, DOR produced the Oregon Department of Revenue Property Tax Administration Funding Report (11-98). The findings resulted in two significant developments in the 1999 legislative session: Revision of the A&T funding program and a State General Fund contribution to the A&T fund on behalf of assessment and collection for schools (\$5 million + CPI/biennium).

House Bill 2139:

- Made permanent the A&T funding program;
- Reduced the assessor processing fee from \$20 per document filed with the county clerk to \$10 plus \$1 per document. Increased the types of documents covered to virtually all, except fee marriage certificates, instruments otherwise exempt from fee, and internal county government instruments. Continued the provision that counties retain five percent of the assessor processing fee for administration. [Note: HB 3581 (1999) directed the retention of another five percent for document archiving and retrieval];
- Created the Oregon Land Information System Fund, to receive the \$1 portion of the filing fee. Appropriated these moneys to DOR to develop a base map system;
- Made permanent the preemption of new real estate transfer taxes or fees imposed by local government.
- Required DOR to study the appropriate level of funding for A&T and appropriate sources, and report to the Legislature by December 31, 2004.

Also in 1999, the Legislature began appropriating \$5 million to the A&T fund through the DOR budget to support assessment and collection of taxes for the state-funded school system. This further advanced the policy that beneficiaries of the service will help pay the cost.

2004

As directed by HB 2139 (1999), DOR produced the 2004 Assessment and Taxation Funding Study (11-04). Among other things, the study found that:

- Biennial legislative appropriation to the A&T fund was enacted “as an alternative method to acknowledge the fact that schools benefit from a healthy A&T system, but pay proportionately less for the benefits of that system when compared to other jurisdictions” (note 1, pg. 1);
- “The current level of funding allows all counties to fulfill most but not all of their critical program requirements” (emphasis added) (pg. 2);
- Current funding does not adequately fund: 1) Maximizing tax-generated revenue by maintaining active appraisal and omitted property discovery programs; 2) generating accurate or timely statistical data for system decision-makers; and 3) absorbing significant statutorily mandated program changes.

2007

For the 2007-09 biennium, the Legislature appropriated \$5.155M to the A&T fund through the DOR budget, continuing since 1999 the biennial appropriations to support assessment and collection of taxes for the state-funded school system. In addition, this appropriation included an increase reflecting the growth in the Consumer Price Index.

2008

During the fourth quarter of 2009, at the onset of the Great Recession and its sharp drop in income tax revenues, the Legislature reduced the 2007-09 appropriation to the A&T fund by \$515, 000, to \$4.64M. The reduction was “swept” into the state general fund.

In response to the federal forest payment crisis, Governor Kulongoski appointed the Task Force on Federal Forest Payments and County Services. The Task Force’s Final Report (January 2009) included three Recommendations on A&T.

- #23 – Place all delinquent interest on property taxes into the CAFFA fund within the next four years. Have the State make up the loss to K-12.
- #24 – Increase state general funding for A&T, within the next four years, to pick up full costs of schools’ use of those services.
- #42 – Raise the \$9 recording fee for A&T to \$15.

2009

In a session dominated by the Great Recession and its accompanying finance challenges, the Legislature:

- Eliminated its biennial appropriation to the A&T fund, “sweeping” the \$5M+ for other state general fund programs.
- Took no action on the three A&T-related recommendations of the GTF-FFP&CS. Senate Bill 563, which would have directed all delinquent interest to the CAFFA Account, did pass the Senate unanimously, but received no action in the House.

2010 and 2011

Economic recovery begins. Federal forest payments wither. No action on A&T funding.

2012

Legislature adopts House Bill 4177, which permits certain counties for FYs 2011-12 and 2012-13 to reduce expenditures in property tax administration and not lose its CAFFA grant, if the reduction does not exceed 15% and does not result in failure by the county to comply with equality and uniformity requirements. Counties affected are Benton, Columbia, Coos, Curry, Douglas, Grant, Jackson, Josephine, Klamath, Lane, Linn, Polk, and Tillamook.

2013

Legislature adopts two bills to address partial failure of county property tax administration.

- House Bill 3404, which applies HB 4177 (2012) to fiscal years 2013-14 and 2014-15.
- House Bill 2206, which in part:
 - Authorizes a county to request a declaration by the Governor of emergency that the county is providing less than minimally adequate property tax assessment and collection services;
 - Directs the Department of Revenue to provide those services until the Governor determines that the emergency no longer exists or for two years, whichever is first; and
 - Requires DOR to be reimbursed for its costs from the CAFFA grant funds of the county, then non-dedicated state-shared revenues of the county, then by a request to the Emergency Board.

1-1-2015.