

Testimony on House Bill 2129
Senate Committee on Finance and Revenue

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Presented by: Tom Linhares

Representing the Oregon State Association of County Assessors

Mr. Chair and members of the committee, thank you for this opportunity to speak on behalf of the Oregon State Association of County Assessors (OSACA) in support of House Bill (HB) 2129.

My name is Tom Linhares and my address is 740 Golden Pheasant Drive, Redmond, Oregon. I have worked in the assessment and taxation field for over 30 years and I am here today representing OSACA. With me today are three county assessors who will also testify as to why HB 2129 is needed to improve the property tax system in Oregon.

HB 2129 is being submitted for your consideration to allow for changes in the maximum assessed value of property under 1997's Ballot Measure 50. These changes would make the system more fair and equitable and in many cases result in lower taxes for property owners.

As you know, Measure 50 created essentially three values for each property in the state: 1) real market value (RMV) or the assessor's estimate of what the property would have sold for on the previous January 1st; 2) maximum assessed value (MAV) or the property's 1995 RMV reduced by 10 percent and then limited to no more than a three percent increase in each subsequent year unless certain exceptions had occurred during the previous year, and; 3) the assessed value or taxable assessed value (TAV) which is simply the lower of RMV or MAV.

Obviously the system is more complex than this over-simplified explanation but suffice it to say that this is the formula for the vast majority of properties.

MAV, as envisioned by the constitutional and statutory provisions of Measure 50 was simply a limitation. Property taxes are still calculated on the RMV unless the MAV is lower. And changes to annual changes to the MAV operate independently of RMV rather than being a ratio of RMV.

That is an important distinction because the original design of the new property tax system did not anticipate nor did it provide for any situations where the MAV could be reduced. Let me repeat that: Measure 50 as enacted in 1997 had no provisions where the MAV was to be reduced. Zero. None. Whatever calculations were made in 1997 or in any subsequent year to arrive at a property's MAV was essentially permanent.

It didn't take long for this to cause problems. For example, when one improvement such as a building was torn down and replaced by a new improvement in the same year, the new

exception value used to increase the MAV was the net increase in RMV. However, if the old building was torn down in one year but not replaced until the following year, the MAV was not reduced that first year. Again, there were no provisions for reducing MAV

To add insult to injury, the following year when the new building was added the full RMV of the new building was added as exception value. Thus the MAV essentially included both the old and the new buildings.

Over the years the statutes detailing how MAV is calculated have been updated, primarily at the request of OSACA and/or the Department of Revenue (HB 2440, 2001 Session; SB 697, 2007 Session and; SB 183, 2009 Session). These changes allowed for the MAV to be reduced in certain, limited situations. HB 2129 is simply a continuation of our efforts to level the playing field for all property owners.

HB 2129 allows for changes to MAV in three situations:

Change No. 1, amending ORS 311.234 (2) to add a subsection (b), page 1, lines 16 – 18.

This new language would allow a county assessor, upon petition by a property owner, to reduce the MAV if in a prior year the MAV had been increased in error for new property or new improvements to property (exception value) that did not exist. What is happening is that property owners bring these errors to the attention of the county one or two years after the assessor first added the value to the roll. The assessor can reduce the RMV but not the MAV so non-existent property ends up being taxed forever.

Change No. 2, amending ORS 311.234 (3), page 1, lines 19 – 27 and page 2, lines 1 – 3.

There is currently in statute a provision allowing for a reduction in MAV if it is proven that an error in square footage used by the assessor in calculating RMV and MAV. However, the reduction is required to be based on the “proportional difference between the original square footage ... and the actual square footage.” This results in some inaccurate calculations since not all square footage is of equal value and the MAV reflects all of the property, not just the component that is subject to the change in square footage. HB 2129 proposes to let the assessor determine the best method of recalculating the MAV to arrive at an accurate and fair result

Change No. 3, Amending ORS 308.153 to add a new section (3), page 2, lines 27 – 38.

This new language is the opposite of Change No. 1 in that it would allow for an increase in MAV if the assessor discovers that new property or new improvements to property have existed in prior years but was not being assessed for those prior years or for the current year. It avoids what currently happens far too often that property is not being taxed and will forever not be taxed.

The basic premise of all three of these changes is fairness. A property owner’s tax bill should not reflect errors made by an appraiser in the assessor’s office that are not caught until the

following tax year. And due to Measure 50's limitation on reducing MAV, those errors become permanent.

Some of the corrections allowed by HB 2129 will lead to an increase in MAV and therefore in property taxes. But many will result in a decrease in property taxes.

Citizens of Oregon deserve a property tax system that is fair and equitable where taxes are not based on non-existent property and property that does exist is properly assessed.

Below are simple examples of how HB 2129 would change the calculation of a hypothetical property's MAV

Mr. Chair and members of the committee, thank you for this opportunity to speak on behalf of OSACA in support of HB 2129. I would be happy to answer any questions.

Examples of How HB 2129 Change Calculations of Maximum Assessed Value

Typical Property, new house in a new subdivision for 2014-15

RMV:

Land;	\$65,000
Main Floor, 1,500 sq. ft. at \$110 / sq. ft.;	\$165,000
Finished Basement, 1,500 sq. ft. at \$65 / sq. ft.;	\$97,500
Attached Garage, 500 sq. ft. at \$35 / sq. ft.;	\$17,500
Outbuilding, 240 sq. ft. at \$11 / sq. ft.;	\$2,640

Total RMV; \$347,640

MAV:

RMV times Changed Property Ratio of .700; \$243,348

2ND year, prior year MAV times 1.03; \$250,648

Change No. 1, amending ORS 311.234 (2) to add a subsection (b), page 1, lines 16 – 18.

The property owner files a petition stating the outbuilding did not exist in either the prior year or the current year and he or she has no intention of adding an outbuilding. Under current law there is no provision for reducing the MAV to reflect that fact. Only the RMV can be reduced.

Under the new language of HB 2129 the assessor would have the authority of reducing the 2nd year MAV from \$250,648 to \$248,745 based on a reduced RMV of \$345,000 (\$347,640 - \$2,640) times CPR of .700 times 1.03 for current year (\$345,000 * .700 * 1.03). While this is only a reduction of \$1,903 (\$250,648 - \$248,745) the change is permanent and the \$1,903, if left included in the MAV, would increase three percent in each subsequent year.

Change No. 2, amending ORS 311.234 (3), page 1, lines 19 – 27 and page 2, lines 1 – 3.

The property owner files a petition stating the square footage of both the main floor and the basement is only 1,400 sq. ft. Under current law the assessor could adjust the MAV for the current year, but only proportional to the change in the square footage. In that case the MAV would be reduced from \$250,648 to \$233,854 ($1,800 / 3,000 = .933 * \$250,648$).

Under the new language of HB 2129 the assessor can determine how the reduction in MAV should be accomplished. In this case, since the entire property was considered exception value just one year ago the most logical approach would be to simply go back to last year, recalculate the RMV based on lower square footage of the main floor and the basement and then recalculate the MAV as shown below:

RMV:

Land;	\$65,000
Main Floor, 1,400 sq. ft. at \$110 / sq. ft.;	\$154,000
Finished Basement, 1,400 sq. ft. at \$65 / sq. ft.;	\$91,000
Attached Garage, 500 sq. ft. at \$35 / sq. ft.;	\$17,500
Outbuilding, 240 sq. ft. at \$11 / sq. ft.;	\$2,640

Total RMV; \$330,140

MAV:

RMV times Changed Property Ratio of .700; \$231,098

2ND year, prior year MAV times 1.03; \$238,030

While this results in a higher MAV than under the current statutory language (\$238,030 versus \$233,854) it is more accurate and logical.

Change No. 3, Amending ORS 308.153 to add a new section (3), page 2, lines 27 – 38.

I have stated that this is the opposite of Change No. 1, so let's assume that there were actually two identical outbuildings on the property and the appraiser for the county simply didn't see one of them. Under current law that simple mistake would be carried on forever.

Under HB 2129 the assessor could adjust MAV upwards to reflect the existing property, but only for the current and future years. The RMV of the second outbuilding would be considered an exception under ORS 308.153 in calculating the property MAV for the 2nd year. So the RMV of the outbuilding would be multiplied by the CPR for that year.

RMV:

2nd year RMV increase by five percent; \$2,772
(\$2,640 * 1.05)

MAV:

RMV times Changed Property Ratio of .687; \$1,904
(\$2,772 * .687)

Added to unchanged property's MAV; \$250,648

Total 2nd year MAV; \$252,552