



SB 967 - Evergreen Museum Exemption

The Evergreen Aviation Museum complex is difficult to fit into existing Oregon law for property tax exemptions because it is a complex with many different themes and uses. It has an aviation museum, a history and science component, it has a theater, a chapel, parking lots, extensive office space, gift shops, food service, sizable open space, a water park and plans for a hotel. There have been comparisons to OMSI and the High Desert Museum. They simply are not the same types of facilities and are not comparable. Historically, the use of these various components at Evergreen has been mixed with the for-profit company using portions of the facility for their corporate purpose. The blurring of these lines in terms of use makes it extremely difficult to ascertain both what the use of the property was for any given year and by whom.

Senator Boquist asked me to offer a simpler approach that could be more easily administered and more certain for the property owner to avoid ongoing litigation. Several of the ideas generated either by assessors or by me contain some level of policy choice so I will list them in no particular order and by no set preference. That said I attempt to at least cover the exemption goals of the proponents of the A3 amendment to HB 865 which have been introduced now as SB 967.

Last month I presented 5 options to Kevin Mannix that ranged in their policy objective. We met and talked through the options and Kevin selected parts of options 1, 3 and 5.

1. Make all the property exempt and don't worry about the use, keeping track of use, measuring use and appealing use.
2. Make the property taxable if any of the use is not directly related to the purpose of the museum.
3. Identify thresholds on use that are more easily measurable. State explicitly if certain uses are taxable such as a water park.
4. Allow the taking districts affected to decide if the Evergreen museum was to be taxable or exempt. This would relieve the rest of the state from having to bend around the needs of one very unique complex.
5. Explicitly state what is not exempt such as the water park, the chapel and any future hotel.

Understanding that this complex is unique in Oregon in its vision and scope at all levels the Department's proposed solution included the following:

1. The exemption would be crafted to specifically address the Evergreen Museum campus as applying to any "aviation, space, history and science museum complex" thereby not affecting other museums in the state.

2. The language would make it clear that a water park, hotel, chapel and commercially operated enterprises on campus are not included and would be taxable unless they qualified for some other exemption under law.
3. The exemption would apply broadly to property used to fulfill the mission of the museum as provided in the Articles of Incorporation and bylaws.
4. Specific improvements would be detailed and allowed under the exemption as “associated to the mission” and include displays, storage areas, food service, theaters, educational areas, stores, unimproved land, parking and meeting areas. While applying a “percentage test” for the exempt use is not ideal, it is more discernible than terms such as “primarily” and “exclusively”. The actual percentage itself is a policy choice.

What the bill does instead:

The bill is written with consideration for the uniqueness of the Evergreen Museum but as drafted would apply to all history and science museums. The problem arose from the manner in which the property was used by the nonprofit and the for profit aviation entities controlled by Del Smith in McMinnville, not from the operation of OMSI or the High Desert Museum. The “fix” is not needed for the other museums.

The issue that has faced Evergreen that is in part addressed by this bill will not help OMSI when they pursue their plans for growth. They have plans for an innovation hub as described in a recent story in the Oregonian.

OMSI's vision calls for creating a center for science and learning, teaming with educational institutions like OHSU and Portland Community College to create a "thriving innovation district" in the heart of the city.

"We need to stay current, we need to stay relevant, and we need to be able to take advantage of opportunities" like the imminent arrival of MAX light-rail service, Stueber said.

The Central Question: OMSI at odds with Portland, some neighbors, over housing in industrial area, The Oregonian/OregonLive By Andrew Then, April 12, 2015

It may be an unintended consequence of the bill that OMSI's land planned for development would be exempted, and the bill does not allow for a claw back should the land be utilized as planned. In fact, the bill as written could allow a property owner with very large holdings to avoid tax by constructing a very small museum.

My recommendation is:

1. Limit this bill in scope to the Evergreen Museum, by changing from the more general “history museum or science museum” to a more restrictive “aerospace history and science museum”.
2. If this change is **not** made, consider a limitation by size or value on the contiguous unimproved land provision and add language for a claw back upon development.
3. Seriously consider reviewing ORS 307.130 by way of an interim work group as it applies to “charitable” and “scientific” activity with the goal of clearly stating legislative policy.

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SB 967
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