

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Finance and Revenue

MEASURE: SB 161
CARRIER: Sen. Whitsett

Fiscal: Has minimal fiscal impact
Revenue: Has minimal revenue impact

Action Date: 03/18/15

Action: Do Pass.

Meeting Dates: 03/09, 03/18

Vote:

Yeas: 5 - Baertschiger Jr, Boquist, Edwards, Hass, Riley

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WHAT THE MEASURE DOES:

Allows county tax collector to electronically file warrants for delinquent property taxes on business personal property. Requires Secretary of State (SoS) to mark, hold, and index filed warrants in accordance with provisions of Universal Commercial Code (UCC). Requires tax collector to electronically file release or cancellation of warrants to SoS. Requires SoS to maintain public access to notices and cancellations. Allows SoS to charge fee for accepting electronic notices and allows county tax collector to add SoS fee to amount due on a warrant. Fee amount is not specified. Specifies tax collector must still properly record warrant. Provides that notice of warrant expires 10 years from date of filing, unless extended for additional 10 years with properly filed certificate of extension.

Requires seller of business personal property to provide purchaser with discloser notice that includes whether property taxes were assessed against property, liens against property, other counties that have assessed tax against property, other who have had possession, control, or ownership of property, and requirements of bona fide purchaser of business personal property. Specifies bona fide business property purchaser is not liable for assessed taxes if purchased in good faith, for value, at arms-length, and without notice of delinquent taxes. Lists criteria for meeting “without notice” standard. Allows tax collector to accept equitable compromise payment on property from purchaser. Maintains right to recovery against former owner personally.

ISSUES DISCUSSED:

- Protection from partnering with someone else to avoid tax
- Examples of when this issue has come up in practice
- Scope of requirement for Secretary of State and any related IT work
- Personal lien liability
- How equipment is identified

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

In Oregon, counties are authorized to collect taxes for business personal property. Business personal property includes machinery, equipment, furniture, books, noninventory supplies, etc, used by a business, whether currently in use, in storage, or held for sale. Purely personal use items, farm animals, inventory, intangible personal property, such as interest or stock, are tax-exempt personal property. When personal property taxes become delinquent, the tax collector must give written notice of the taxes due and delinquency, the date of delinquency, the interest rate, and the date at which a warrant may be served. 30 days later, a warrant may

be issued to enforce payment. A properly served and noticed warrant acts as a judgment against the property owner, who may then be subject to liens, garnishment, or seizure.

Senate Bill 161 allows the tax collector to send notice of the electronic warrant to the Secretary of State. It does not relieve the obligation of the tax collector to properly serve the warrant or to record the lien. The Secretary of State must provide public access to warrant notices and cancellation of warrants in a manner similar to that used for financing statements. The measure requires sellers to give notice to buyers of liens that may be against the personal business property and sets up a structure for relieving a bona fide purchaser from the tax delinquency of a former owner.