

# House Bill 2723

Sponsored by Representative CLEM; Representative GILLIAM (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes county or city to designate any urbanized area of county or city as urban agriculture incentive zone. Authorizes county or city to enter into agreement with owner of unimproved land within zone pursuant to which owner agrees to restrict use of land to small-scale urban agricultural production in exchange for special assessment of land.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to urban agriculture; creating new provisions; amending ORS 308A.703 and 308A.718; and  
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) A county or city may designate any urbanized area of the county or city**  
6 **as an urban agriculture incentive zone.**

7 **(2) A county or city may enter into an agreement with an owner of unimproved land**  
8 **within an urban agriculture incentive zone pursuant to which the owner agrees to restrict**  
9 **the use of the unimproved land to small-scale urban agricultural production for five consec-**  
10 **utive years, during which the unimproved land shall be subject to special assessment in the**  
11 **same manner as farmland is assessed under ORS 308A.107.**

12 **(3)(a) Unimproved land subject to special assessment under this section shall be disqual-**  
13 **ified from special assessment upon discovery by the county assessor that the unimproved**  
14 **land is no longer being used for urban agricultural production.**

15 **(b) Disqualification under this subsection shall occur as of the January 1 assessment date**  
16 **of the assessment year in which the discovery is made if the notice of disqualification re-**  
17 **quired under ORS 308A.718 is mailed by the county assessor before August 15 of the property**  
18 **tax year for which the disqualification is asserted.**

19 **(4) The Department of Revenue may adopt rules necessary for administration of urban**  
20 **agriculture incentive zone special assessment.**

21 **SECTION 2. ORS 308A.703 is amended to read:**

22 308A.703. (1) This section applies to land upon the land's disqualification from special assess-  
23 ment under any of the following sections:

24 (a) Exclusive farm use zone farmland under ORS 308A.113;

25 (b) Nonexclusive farm use zone farmland under ORS 308A.116;

26 (c) Western Oregon designated forestland under ORS 321.359;

27 (d) Eastern Oregon designated forestland under ORS 321.842;

28 (e) Wildlife habitat special assessment under ORS 308A.430; *[or]*

29 (f) Conservation easement special assessment under ORS 308A.465; **or**

30 **(g) Urban agriculture incentive zone special assessment under section 1 of this 2015**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **Act.**

2 (2) Following a disqualification listed in subsection (1) of this section, an additional tax shall  
 3 be added to the tax extended against the land on the next assessment and tax roll, to be collected  
 4 and distributed in the same manner as other ad valorem property tax moneys. The additional tax  
 5 shall be equal to the difference between the taxes assessed against the land and the taxes that would  
 6 otherwise have been assessed against the land, for each of the number of years determined under  
 7 subsection (3) of this section.

8 (3) The number of years for which additional taxes shall be calculated shall equal the lesser of  
 9 the number of consecutive years the land had qualified for the special assessment program for which  
 10 disqualification has occurred or:

11 (a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately  
 12 following disqualification, remains outside an urban growth boundary;

13 (b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm  
 14 use zone, but only if the land, immediately following disqualification, remains outside an urban  
 15 growth boundary;

16 (c) Ten years, in the case of conservation easement special assessment land within an exclusive  
 17 farm use zone, but only if the land, immediately following disqualification, remains outside an urban  
 18 growth boundary; or

19 (d) Five years, in the case of:

20 (A) Nonexclusive farm use zone farmland;

21 (B) Western Oregon designated forestland;

22 (C) Eastern Oregon designated forestland;

23 (D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection;

24 (E) Wildlife habitat special assessment land that is not described in paragraph (b) of this sub-  
 25 section; [or]

26 (F) Conservation easement special assessment land that is not described in paragraph (c) of this  
 27 subsection; **or**

28 **(G) Urban agriculture incentive zone special assessment land.**

29 (4)(a) Except as provided in paragraph (b) of this subsection, if disqualification under subsection  
 30 (1)(a) or (b) of this section occurs within five years after the end of a period of farm use special  
 31 assessment pursuant to a remediation plan as defined in ORS 308A.053, the number of years for  
 32 which the additional tax shall be calculated shall be the number of years determined under sub-  
 33 section (3) of this section plus the number of years during which farm use special assessment was  
 34 granted pursuant to the remediation plan.

35 (b) Additional tax may not be collected for the number of years during which farm use special  
 36 assessment was granted pursuant to the remediation plan if the plan:

37 (A) Is implemented in good faith; and

38 (B) Fails to render continued farm use practicable.

39 (5) The additional taxes described in this section shall be deemed assessed and imposed in the  
 40 year to which the additional taxes relate.

41 (6) If the disqualification of the land is the result of the sale or transfer of the land to an own-  
 42 ership making the land exempt from ad valorem property taxation, the lien for additional taxes shall  
 43 attach as of the day preceding the sale or transfer.

44 (7) The amount determined to be due under this section may be paid to the tax collector prior  
 45 to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

**SECTION 3.** ORS 308A.718 is amended to read:

308A.718. (1) The county assessor shall send notice as provided in this section if land is disqualified under any of the following special assessment programs:

- (a) Farm use special assessment under ORS 308A.050 to 308A.128.
- (b) Farm or forest homesite special assessment under ORS 308A.250 to 308A.259.
- (c) Western Oregon designated forestland special assessment under ORS 321.257 to 321.390.
- (d) Eastern Oregon designated forestland special assessment under ORS 321.805 to 321.855.
- (e) Small tract forestland special assessment under ORS 321.700 to 321.754.
- (f) Wildlife habitat special assessment under ORS 308A.403 to 308A.430.
- (g) Conservation easement special assessment under ORS 308A.450 to 308A.465.

**(h) Urban agriculture incentive zone special assessment under section 1 of this 2015 Act.**

(2) Notwithstanding that a change in use described in this section is not a disqualification, the assessor shall send notice as provided in this section when the highest and best use of land changes from forestland to a different highest and best use.

(3) Within 30 days after the date that land is disqualified from special assessment, the assessor shall notify the taxpayer in writing of the disqualification and shall state the reason for the disqualification.

(4) Following receipt of the notification, the taxpayer may appeal the assessor's determination to the Oregon Tax Court within the time and in the manner provided in ORS 305.404 to 305.560.

(5)(a) When any land has been granted special assessment under any of the special assessment laws listed in subsection (1) of this section and the land is disqualified from such special assessment, the county assessor shall furnish the owner with a written explanation summarizing:

- (A) ORS 308A.706 (1)(d) (relating to change in special assessment);
- (B) ORS 308A.727 (relating to change in use to open space use special assessment for certain golf courses);
- (C) The administrative act necessary under ORS 308A.724 to change the property to another classification described in this paragraph; and
- (D) The imposition of any penalties that would result from the disqualification if no requalification or reclassification is made under one of the other special assessment laws listed in this paragraph.

(b) The written explanation required by this subsection shall be given in conjunction either with the notice of disqualification required under this section or with an order or notice of disqualification otherwise provided by law.

(c)(A) If no notice of disqualification is required to be made by this section or other provision of law, the written explanation required by this subsection shall be made by the county assessor.

(B) A written explanation made under this paragraph shall be made by the assessor within 30 days of the effective date of the disqualification.

(6) Subsections (1) to (5) of this section do not apply if the reason for the disqualification is:

- (a) The result of a request for disqualification by the property owner; or
- (b) Because the property is being acquired by a government or tax-exempt entity.

(7) Within 30 days after the date the notification required under subsection (3) of this section is mailed, a taxpayer intending to implement a remediation plan as defined in ORS 308A.053 on the disqualified land that is the subject of the notification must notify the assessor in writing of the taxpayer's intention to seek certification for the remediation plan.

**SECTION 4. Section 1 of this 2015 Act and the amendments to ORS 308A.703 and 308A.718**

1 by sections 2 and 3 of this 2015 Act apply to property tax years beginning on or after July  
2 1, 2016.

3 SECTION 5. This 2015 Act takes effect on the 91st day after the date on which the 2015  
4 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

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