

HB 3171 -2 STAFF MEASURE SUMMARY

House Committee On Revenue

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Meeting Dates: 3/29, 4/20

WHAT THE MEASURE DOES:

Modifies instances when additional taxes are not imposed upon leased public property disqualified from special assessment when reason for disqualification is termination of lease under which the land was assessed. Includes non substantive conforming language. Applies to tax years beginning on or after July 1, 2012. Allows for refund of previous paid additional tax or abatement of tax liability if additional tax was not paid. Specifies application and fee requirements for refund. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Court case between Port of Morrow and County Assessor
- -1 amendment removes the retroactive portions of the introduced version, in an effort to hold harmless the taxing districts that would have been required to refund the previous imposed and collected property taxes
- Further clarification being proposed by county assessors to make measure's current language even clearer, no fundamental policy change though

EFFECT OF AMENDMENT:

-2 Clarifies that time of disqualification means the date on which the lease was terminated. Eliminates retroactive portion of measure and associated refund/abatement components.

BACKGROUND:

Generally, when farm or forestlands, wildlife habitat or conservation easement lands are disqualified from special assessment, the land becomes taxable and additional taxes are imposed in an amount equal to the difference between the taxes assessed against the land and the taxes that would otherwise have been assessed against the land had the land not been specially assessed. The additional tax owed is computed for the previous ten or five years depending upon the type of land and the circumstances for the special assessment disqualification. However, specific circumstances exist where no additional tax is imposed.

On August 6, 2012, the Port of Morrow terminated its lease of 99.9 acres of land being leased to Frederickson Farming LLC whose use of the land qualified it for nonexclusive farm use special assessment. On August 10, 2012, the property was acquired by Boardman Acquisition LLC. Following lease termination, the Morrow County Assessor disqualified the land from property tax special assessment and imposed five years worth of additional back taxes. The levying of additional tax was upheld by Magistrate Division of Oregon Tax Court in Boardman Acquisition LLC v. Morrow County Assessor. The decision was largely supported based upon the court's interpretation of the timing of the disqualification and how the timing aligns with parameters in ORS 308A.709, which prohibits additional taxes from being imposed in specified circumstances. The court reasoned that the timing of the disqualification from special assessment was January 1, 2013, not the time of lease termination. Because of this, ORS 308A.709(5) was not applicable and Morrow County Assessor acted within the law in imposing additional tax upon the land removed from special assessment.

House Bill 3171 as amended by the -2 amendment modifies statute and causes the date of disqualification to be the date of lease termination.