

A-Engrossed
House Bill 3171

Ordered by the House April 25
Including House Amendments dated April 25

Sponsored by Representative SMITH G

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.

Provides that additional taxes upon disqualification from certain special assessment programs may not be imposed on land if, at time of disqualification, such land is public property that was leased or rented to taxable owner and reason for disqualification is termination of lease under which land was assessed. **Defines "the time of disqualification" to mean date on which lease was terminated.**

Applies to property tax years beginning on or after July 1, [2012] **2017**. [*Provides for refund of additional taxes paid under current law.*]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to abatement of additional taxes upon termination of lease; creating new provisions;
3 amending ORS 270.100, 308A.116, 308A.709 and 308A.712; and prescribing an effective date.

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

5 **SECTION 1.** ORS 308A.709 is amended to read:

6 308A.709. Notwithstanding that land may have been disqualified from special assessment, no
7 additional taxes may be imposed under ORS 308A.703 if[,]:

8 (1) As of the date the disqualification is taken into account on the assessment and tax roll, the
9 land is any of the following:

10 [(1)] (a) Acquired by a governmental agency as a result of the lawful exercise of the power of
11 eminent domain or the threat or imminence thereof.

12 [(2)] (b) Acquired by purchase, agreement or donation under ORS 390.121 (relating to State
13 Parks and Recreation Commission acquisitions).

14 [(3)] (c) Acquired by a city, county, metropolitan service district created under ORS chapter 268
15 or park and recreation district organized under ORS chapter 266 for public recreational purposes
16 or for the preservation of scenic or historic places.

17 [(4)] (d) Acquired for wildlife management purposes under ORS 496.146.

18 [(5)] *Public property that was leased or rented to a taxable owner as described in ORS 307.110 at*
19 *the time of disqualification, and the reason for the disqualification was the termination of the lease*
20 *under which the land was assessed.]*

21 [(6)] (e) Land that ceases to be located within the boundaries of an exclusive farm use zone as
22 the result of a change in the boundaries of the zone or removal of the zone following an action by
23 the governing body of the county or city that:

24 [(a)] (A) Was not requested or initiated by the owner of the land; or

25 [(b)] (B) Was requested by:

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 [(A)] (i) The State Parks and Recreation Department for public park purposes under ORS
2 390.121; or

3 [(B)] (ii) The State Fish and Wildlife Commission for wildlife management purposes under ORS
4 496.146.

5 [(7)] (f) Forestland acquired by a federal, state or local governmental agency. In the case of an
6 acquisition described in this [subsection] **paragraph**, a lien for additional taxes and interest may not
7 attach on the day preceding the day of transfer of the forestland to the governmental agency.

8 **(2)(a) At the time of disqualification, the land is public property that was leased or rented**
9 **to a taxable owner as described in ORS 307.110 and the reason for the disqualification is the**
10 **termination of the lease under which the land was assessed.**

11 **(b) As used in this subsection, “the time of disqualification” means the date on which the**
12 **lease was terminated.**

13 **SECTION 2.** ORS 308A.116 is amended to read:

14 308A.116. (1) Nonexclusive farm use zone farmland qualified for special assessment under ORS
15 308A.068 shall be disqualified from such special assessment upon:

16 (a) Notification by the taxpayer to the assessor to remove the special assessment;

17 (b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

18 (c) Removal of the special assessment by the assessor upon the discovery that the land is no
19 longer in farm use for failure to meet the income requirements under ORS 308A.071 or is no longer
20 in farm use; [or]

21 (d) The act of recording a subdivision plat under the provisions of ORS chapter 92[.]; **or**

22 **(e) Termination of a lease between a public owner of the farmland and a taxable lessee**
23 **described in ORS 307.110.**

24 (2) The county assessor shall not disqualify the land that has been receiving special assessment
25 upon the sale or transfer to a new owner or transfer by reason of death of a former owner to a new
26 owner if the land continues to be used solely for farm use.

27 (3) When, for any reason, the land or any portion thereof ceases to be used solely for farm use,
28 the owner at the time of the change in use shall notify the assessor of the change prior to the next
29 January 1 assessment date.

30 (4) If under subsection (1)(d) of this section, the county assessor disqualifies land for special
31 assessment upon the act of platting the land, the land, or a part of the land, may be requalified for
32 special assessment upon:

33 (a) Payment of all additional tax, interest or penalty that remains due and owing on the land;

34 (b) Submission by the owner of an application for special assessment under ORS 308A.077;

35 (c) Meeting all of the qualifications for farm use special assessment under ORS 308A.068; and

36 (d) Meeting the requirements, if any, of applicable local government zoning ordinances with re-
37 gard to minimum lot or parcel acreage for farm use.

38 (5) The county assessor shall not disqualify land that has been receiving special assessment if
39 the land is not being farmed because:

40 (a) The effect of flooding substantially precludes normal and reasonable farming during the year;

41 or

42 (b) Severe drought conditions are declared under ORS 536.700 to 536.780.

43 (6)(a) Disqualification under subsection (1)(c) of this section is reversed if the taxpayer:

44 (A) Notifies the assessor in writing pursuant to ORS 308A.718 of the taxpayer’s intention to seek
45 certification for a remediation plan; and

1 (B) Files an application for a certified remediation plan with the assessor within one year after
2 the date of disqualification.

3 (b) In addition to the grounds for disqualification under subsection (1)(c) of this section, the
4 assessor may disqualify land granted farm use special assessment pursuant to a remediation plan
5 upon:

6 (A) Discovery, or notice from an extension agent of the Oregon State University Extension
7 Service, that the plan is not being implemented substantially as certified; or

8 (B) Discovery, or notice from the owner, tenant or lessee or from an extension agent of the
9 Oregon State University Extension Service, that the plan as certified is no longer necessary, prac-
10 ticable or effective.

11 (7)(a) Notwithstanding ORS 308.210, 308A.068, 311.405 or 311.410, if disqualification occurs as a
12 result of the discovery that the land is no longer in farm use, then, regardless of when during the
13 assessment year discovery is actually made, disqualification by the county assessor shall occur as
14 of the January 1 assessment date of the assessment year in which discovery is made.

15 (b) Paragraph (a) of this subsection shall apply only if the notice of disqualification required
16 under ORS 308A.718 is mailed by the county assessor prior to August 15 of the tax year for which
17 the disqualification of the land is asserted.

18 (8) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to
19 308A.733.

20 **SECTION 3.** ORS 270.100, as amended by section 4, chapter 61, Oregon Laws 2016, is amended
21 to read:

22 270.100. (1)(a) Before offering for sale any real property or equitable interest in real property
23 that the state owns, the state agency acting for the state in the sales transaction shall report to the
24 Oregon Department of Administrative Services that the state agency intends to sell or transfer the
25 real property or the equitable interest. The department, or an agency the department specifically
26 designates, shall notify other state agencies authorized to own real property of the intended sale or
27 transfer to determine whether acquiring the real property or interest in the real property would be
28 advantageous to another state agency.

29 (b)(A) The department shall give the first opportunity after other state agencies to acquire,
30 purchase, exchange or lease real property or an interest in real property that the State of Oregon
31 disposes of or sells to:

32 (i) The following entities, on the condition that the entities will develop housing on the real
33 property that will be occupied by families and individuals with an income no greater than 80 percent
34 of the median family income for the county in which the real property is located:

35 (I) Nonprofit organizations; and

36 (II) Indian tribes, as defined in ORS 97.740; and

37 (ii) Political subdivisions, as defined in ORS 271.005.

38 (B) The state agency responsible for selling or transferring the property or the equitable interest
39 may require at the time of the sale or transfer that a political subdivision must use state real
40 property or an equitable interest in real property sold or transferred to the political subdivision for
41 a public purpose or benefit, and that the political subdivision may not resell the real property or the
42 equitable interest to a private purchaser.

43 (c) If a state agency that intends to sell or transfer real property or an equitable interest in real
44 property has not disposed of the real property or the equitable interest under paragraph (a) or (b)
45 of this subsection, the state agency shall cause the real property to be appraised by one or more

1 competent and experienced appraisers in accordance with rules the department adopts. Except as
2 provided in ORS 273.825, if the property has an appraised value exceeding \$5,000, the property or
3 an equitable interest in the property may not be sold to any private person except after notice
4 calling for such proposals as set forth in ORS 270.130.

5 (d) The department shall adopt rules to carry out the provisions of this section.

6 (2) Before a state agency acquires any real property or interest in real property, except for
7 highway right of way that the Department of Transportation acquires, park properties that the State
8 Parks and Recreation Department acquires and property within the approved projected campus
9 boundaries for public universities listed in ORS 352.002, the state agency shall report to the Oregon
10 Department of Administrative Services that the state agency intends to acquire the real property
11 or the interest in real property. The department shall notify other state agencies that own land that
12 the state agency intends to acquire real property or an interest in real property to determine
13 whether another state agency desires to sell or transfer property that would meet the needs of the
14 acquiring agency. In accordance with rules the Oregon Department of Administrative Services
15 adopts, if no other state agency desires to sell or transfer property that would meet the needs of the
16 agency that intends to acquire real property or an interest in real property, the agency may acquire
17 the real property or interest in real property, consistent with applicable provisions of law.

18 (3) Before any terminal disposition of real property or an interest in real property, the state
19 agency acting for the state in the transaction must secure approval of the transaction from the
20 Oregon Department of Administrative Services.

21 (4) Subsection (3) of this section does not apply to terminal disposition of the following real
22 property:

23 (a) Property that the State Department of Fish and Wildlife controls;

24 (b) State forestlands that the State Forestry Department controls;

25 (c) Property that the Department of Transportation controls;

26 (d) Property that the Department of State Lands controls;

27 (e) Property that public universities listed in ORS 352.002 control;

28 (f) Property that the legislative branch of state government controls;

29 (g) Property that the judicial branch of state government controls; and

30 (h) Property that the State Parks and Recreation Department controls.

31 (5) Notwithstanding the provisions of subsection (4) of this section, prior approval by the Oregon
32 Department of Administrative Services is required for the terminal disposition of public land for less
33 than the fair market value of the public land.

34 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to
35 273.436, 273.551 and 308A.709 [(1) to (4)] **(1)(a) to (d)** do not apply to:

36 (a) A home or farm that the Department of Veterans' Affairs acquires or sells under ORS 88.720,
37 406.050, 407.135, 407.145, 407.375 or 407.377.

38 (b) Real property that the Housing and Community Services Department acquires or sells under
39 the provisions of ORS 456.515 to 456.725 or ORS chapter 458 or sections 1 to 3, chapter 61, Oregon
40 Laws 2016.

41 (c) Real property that the Oregon Health Authority or the Department of Human Services ac-
42 quires or sells under ORS 410.075 or 416.340.

43 **SECTION 4.** ORS 308A.712 is amended to read:

44 308A.712. (1) If the disqualification of land from special assessment results in the deferral of
45 additional taxes under ORS 308A.706:

1 (a) The amount of deferred additional taxes shall be determined as provided for in this section
2 in lieu of ORS 308A.703; and

3 (b) The deferred additional taxes shall be added to the assessment and tax roll for the year in
4 which the event described in subsections (2) to (6) of this section is first taken into account for
5 property tax purposes, to be collected and distributed in the same manner as other ad valorem
6 property taxes.

7 (2) If additional taxes are deferred under ORS 308A.706 (1)(a) (relating to compatible nonuse of
8 farmland) and subsequently the land is changed to an industrial, commercial, residential or other
9 use incompatible with a return of the land to farm use, then:

10 (a) The amount of additional tax due for each year to which the additional tax applies shall be
11 the difference between the taxes assessed against the land and the taxes that would have been as-
12 sessed against the land in that year had the land not been in special assessment; and

13 (b) The number of years for which the additional tax shall be collected shall be the total number
14 of years (whether or not continuous) that the farm use special assessment was in effect for the land,
15 not to exceed:

16 (A) In the case of disqualified exclusive farm use zone farmland located outside an urban growth
17 boundary, 10 tax years, or such lesser number of years, corresponding to the number of years of
18 farm use zoning applicable to the property; or

19 (B) In the case of all other farmland disqualified from farm use special assessment, five tax
20 years.

21 (3)(a) If additional taxes are deferred under ORS 308A.706 (1)(b) (relating to government ex-
22 change of land), additional taxes shall be collected when the land acquired as a result of the ex-
23 change is disqualified from special assessment. The additional taxes shall equal the total amount of
24 additional taxes under ORS 308A.703 (2) attributable to the number of years the land transferred to
25 the governmental agency or body received the special assessment before the exchange plus the
26 number of years, if any, the land acquired from the governmental agency or body received a special
27 assessment after the exchange.

28 (b) The total number of years taken into account shall not exceed the maximum number of years
29 for which additional taxes may be collected under the provision of law applicable to either the ex-
30 changed land (immediately before the exchange) or the acquired land, whichever is greater.

31 (4) If additional taxes are deferred under ORS 308A.706 (1)(c) (relating to state natural areas),
32 the additional taxes that would have been imposed under ORS 308A.703 at the time of disqualifica-
33 tion shall be collected when the land is no longer used as described in ORS 308A.706 (1)(c).

34 (5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special as-
35 sessment), the additional taxes that would have been collected at the time of disqualification shall
36 be collected at the time the land is disqualified from any other special assessment law listed in ORS
37 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

38 (a) The amount of the additional tax due for each year to which the additional tax applies shall
39 be the difference between the taxes assessed against the land and the taxes that would have been
40 assessed against the land in that year had the land not been in special assessment; and

41 (b) The number of years for which the additional tax shall be collected shall be the total number
42 of continuous tax years that a special assessment listed in ORS 308A.706 (1)(d) was in effect for the
43 land, not to exceed:

44 (A) Five tax years; or

45 (B) If the property had, within the past 10 tax years, been disqualified from a special assessment

1 program described in ORS 308A.703 (3)(a) to (c) and had been continuously subject to special as-
2 sessment, then 10 tax years. However, the number of continuous preceding years of special assess-
3 ment under the special assessment programs listed in ORS 308A.703 (3)(d) that may be taken into
4 consideration for purposes of computing the additional tax may not exceed five years.

5 (6) In determining the additional tax under subsection (5) of this section, the number of contin-
6 uous preceding years of special assessment counted shall not include those years in which the land
7 was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior
8 to a disqualification of the land for special assessment as exclusive farm use zone farmland under
9 the conditions described in ORS 308A.709 [(6)] (1)(e).

10 **SECTION 5. The amendments to ORS 270.100, 308A.116, 308A.709 and 308A.712 by sections**
11 **1 to 4 of this 2017 Act apply to property tax years beginning on or after July 1, 2017.**

12 **SECTION 6. This 2017 Act takes effect on the 91st day after the date on which the 2017**
13 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

14