

# House Bill 3171

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 **as introduced**.

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.

Applies to property tax years beginning on or after July 1, 2012. 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)] (d) 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:

26 [(A)] (i) The State Parks and Recreation Department for public park purposes under ORS  
27 390.121; or

28 [(B)] (ii) The State Fish and Wildlife Commission for wildlife management purposes under ORS

**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.

1 496.146.

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

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

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

9 308A.116. (1) Nonexclusive farm use zone farmland qualified for special assessment under ORS  
 10 308A.068 shall be disqualified from such special assessment upon:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 or

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

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

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

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

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

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

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

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

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

13 (8) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to  
14 308A.733.

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

17 270.100. (1)(a) Before offering for sale any real property or equitable interest in real property  
18 that the state owns, the state agency acting for the state in the sales transaction shall report to the  
19 Oregon Department of Administrative Services that the state agency intends to sell or transfer the  
20 real property or the equitable interest. The department, or an agency the department specifically  
21 designates, shall notify other state agencies authorized to own real property of the intended sale or  
22 transfer to determine whether acquiring the real property or interest in the real property would be  
23 advantageous to another state agency.

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

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

- 30 (I) Nonprofit organizations; and
- 31 (II) Indian tribes, as defined in ORS 97.740; and
- 32 (ii) Political subdivisions, as defined in ORS 271.005.

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

38 (c) If a state agency that intends to sell or transfer real property or an equitable interest in real  
39 property has not disposed of the real property or the equitable interest under paragraph (a) or (b)  
40 of this subsection, the state agency shall cause the real property to be appraised by one or more  
41 competent and experienced appraisers in accordance with rules the department adopts. Except as  
42 provided in ORS 273.825, if the property has an appraised value exceeding \$5,000, the property or  
43 an equitable interest in the property may not be sold to any private person except after notice  
44 calling for such proposals as set forth in ORS 270.130.

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

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

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

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

- 18 (a) Property that the State Department of Fish and Wildlife controls;
- 19 (b) State forestlands that the State Forestry Department controls;
- 20 (c) Property that the Department of Transportation controls;
- 21 (d) Property that the Department of State Lands controls;
- 22 (e) Property that public universities listed in ORS 352.002 control;
- 23 (f) Property that the legislative branch of state government controls;
- 24 (g) Property that the judicial branch of state government controls; and
- 25 (h) Property that the State Parks and Recreation Department controls.

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

29 (6) The provisions of ORS 184.634, 270.005 to 270.015, 270.100 to 270.190, 273.416, 273.426 to  
 30 273.436, 273.551 and 308A.709 [(1) to (4)] (1)(a) to (d) do not apply to:

- 31 (a) A home or farm that the Department of Veterans' Affairs acquires or sells under ORS 88.720,  
 32 406.050, 407.135, 407.145, 407.375 or 407.377.
- 33 (b) Real property that the Housing and Community Services Department acquires or sells under  
 34 the provisions of ORS 456.515 to 456.725 or ORS chapter 458 or sections 1 to 3, chapter 61, Oregon  
 35 Laws 2016.
- 36 (c) Real property that the Oregon Health Authority or the Department of Human Services ac-  
 37 quires or sells under ORS 410.075 or 416.340.

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

39 308A.712. (1) If the disqualification of land from special assessment results in the deferral of  
 40 additional taxes under ORS 308A.706:

- 41 (a) The amount of deferred additional taxes shall be determined as provided for in this section  
 42 in lieu of ORS 308A.703; and
- 43 (b) The deferred additional taxes shall be added to the assessment and tax roll for the year in  
 44 which the event described in subsections (2) to (6) of this section is first taken into account for  
 45 property tax purposes, to be collected and distributed in the same manner as other ad valorem

1 property taxes.

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

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

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

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

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

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

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

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

29 (5) If additional taxes are deferred under ORS 308A.706 (1)(d) (relating to change in special as-  
30 sessment), the additional taxes that would have been collected at the time of disqualification shall  
31 be collected at the time the land is disqualified from any other special assessment law listed in ORS  
32 308A.706 (1)(d). The total amount of additional tax shall be calculated as follows:

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

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

39 (A) Five tax years; or

40 (B) If the property had, within the past 10 tax years, been disqualified from a special assessment  
41 program described in ORS 308A.703 (3)(a) to (c) and had been continuously subject to special as-  
42 sessment, then 10 tax years. However, the number of continuous preceding years of special assess-  
43 ment under the special assessment programs listed in ORS 308A.703 (3)(d) that may be taken into  
44 consideration for purposes of computing the additional tax may not exceed five years.

45 (6) In determining the additional tax under subsection (5) of this section, the number of contin-

1 uous preceding years of special assessment counted shall not include those years in which the land  
2 was specially assessed under any of the special assessment laws listed in ORS 308A.706 (1)(d) prior  
3 to a disqualification of the land for special assessment as exclusive farm use zone farmland under  
4 the conditions described in ORS 308A.709 [(6)] (1)(e).

5 **SECTION 5.** The amendments to ORS 270.100, 308A.116, 308A.709 and 308A.712 by sections  
6 1 to 4 of this 2017 Act apply to tax years beginning on or after July 1, 2012.

7 **SECTION 6.** (1)(a) To receive a refund under this section, an application must be filed  
8 with the county assessor within 60 days after the effective date of this 2017 Act.

9 (b) An application filed under this section must:

10 (A) Contain information necessary to substantiate the claim for a refund.

11 (B) Be accompanied by a filing fee of \$200.

12 (2)(a) If additional taxes on property described in ORS 308A.709 (2) have not been paid,  
13 the additional taxes and any interest on the additional taxes are abated.

14 (b) If additional taxes on property described in ORS 308A.709 (2) have been paid, the tax  
15 collector of the county in which the property is located shall notify the governing body of the  
16 county of any refund required under ORS 308A.709 (2).

17 (3)(a) Upon receipt of notice from the tax collector under subsection (2)(b) of this section,  
18 the governing body shall cause a refund of any amount of additional taxes and interest on  
19 the additional taxes that has been paid to be made from the refund reserve account, if the  
20 county has established a refund reserve account under ORS 311.807, or from the unsegre-  
21 gated tax collections account described in ORS 311.385.

22 (b) A refund under this subsection shall be made without interest.

23 (4) The Department of Revenue, the county assessor and the tax collector shall make the  
24 necessary corrections in the records of their offices.

25 **SECTION 7.** This 2017 Act takes effect on the 91st day after the date on which the 2017  
26 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

27