

A-Engrossed
Senate Bill 181

Ordered by the Senate March 17
Including Senate Amendments dated March 17

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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.

Requires certain institutions seeking property tax exemption to file information return that states basis for exemption claim in terms derived from Oregon case law. Requires information return to be accompanied by institution's **most recently required and timely filed** Form 990 or Form CT-12[*as applicable, filed for current tax year*]. Requires institution that files Form 990-N to file information return [*postcard instead of information return*] **containing information on institution's most recently required and timely filed Form 990-N**. Denies exemption for noncompliance. Provides for clawback of exempt taxes upon discovery that information in return [*or postcard*] or in exemption claim was misleading or false. [*Makes information returns and information return postcards exempt from disclosure. Makes it unlawful for county assessor to disclose information or particulars set forth in information return or information return postcard, with certain exceptions for regulatory purposes or publication of anonymous statistics. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both.*] **Requires county assessors to keep information returns as public records.**

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to exemption from taxation for property of certain charitable institutions; creating new
3 provisions; amending ORS 307.130; and prescribing an effective date.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Reporting institution" means an incorporated literary, benevolent, charitable or**
7 **scientific institution.**

8 (b) **"Reporting institution" does not mean an art museum, history museum or science**
9 **museum, rehabilitation facility or volunteer fire department as those terms are defined in**
10 **ORS 307.130 or a retail store described in ORS 307.130.**

11 (2)(a) **Except as provided in subsection (5) of this section, a reporting institution seeking**
12 **exemption for property under ORS 307.130 must file an information return that meets the**
13 **requirements of this section with the assessor of the county in which the property is located**
14 **on or before April 1 preceding each tax year for which exemption is claimed.**

15 (b) **When the property to which an information return relates is acquired after March 1**
16 **and before July 1, the information return for that year must be filed within 30 days from the**
17 **date of acquisition of the property.**

18 (c) **The provisions of ORS 307.162 (2) relating to late filing apply to the filing of an in-**
19 **formation return under this section.**

20 (3)(a) **The information return must state:**

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) The basis for the reporting institution's claim to have charity as its primary object.

2 (B) The manner in which the reporting institution performs in furtherance of its chari-
3 table object.

4 (C) The ways in which the reporting institution's performance involves a gift or giving,
5 including the percentage of the reporting institution's total expenses as reported on the re-
6 porting institution's Form 990 that involve a gift or giving.

7 (D) With respect to all property for which exemption is claimed:

8 (i) The basis for claiming that the property is exclusively used by the reporting institu-
9 tion in accomplishing its charitable goals.

10 (ii) The ways in which the property substantially contributes to furthering the reporting
11 institution's charitable goals.

12 (iii) The number of days in the previous property tax year that the property was used for
13 purposes unrelated to the reporting institution's charitable object.

14 (b) Each response under this subsection must be 100 words or less and may include other
15 quantifying statistics in addition to those required.

16 (4) The information return must be accompanied by the most recently required and
17 timely filed Form 990 and Form CT-12 of the reporting institution or by a link to a version
18 of the form that is publicly available on the Internet.

19 (5) Instead of the information return required under this section, a reporting institution
20 that files a Form 990-N with the Internal Revenue Service shall file with the county assessor
21 an information return that contains the information set forth on the most recently required
22 and timely filed Form 990-N of the reporting institution.

23 (6) The Department of Revenue shall prescribe the form of the information return. In-
24 formation returns must be filed under penalties for false swearing.

25 (7) The property of the reporting institution may not be granted exemption under ORS
26 307.130 for the property tax year if:

27 (a) The information return is not timely filed.

28 (b) The information return does not contain the statements required under subsection
29 (3) of this section.

30 (c) The information return is not accompanied by the forms required under subsection
31 (4) of this section.

32 (d) The reporting institution has not filed the most recently required Form 990 or Form
33 CT-12, or Form 990-N, as applicable.

34 (8)(a) For each property tax year that property of a reporting institution subject to this
35 section is exempt under ORS 307.130, the county assessor shall indicate on the assessment
36 and tax roll that the property is exempt from property taxation and is subject to potential
37 additional taxes.

38 (b) Upon discovery by the county assessor that any information set forth in an informa-
39 tion return filed under this section, or in a claim for exemption under ORS 307.130 filed under
40 ORS 307.162, with respect to property described in paragraph (a) of this subsection, was
41 misleading or false, the property shall be disqualified for the exemption. Additional taxes
42 shall be imposed on the property on the next assessment and tax roll following the disquali-
43 fication and shall be collected and distributed in the same manner as other ad valorem
44 property taxes.

45 (c) The additional taxes shall be imposed in an amount equal to the property taxes that

1 were not imposed on the property because of the exemption for up to the five immediately
2 preceding property tax years, plus interest computed at the rate provided under ORS 311.505
3 (2).

4 (d) The additional taxes described in this subsection shall be deemed assessed and im-
5 posed in the year to which the additional taxes relate.

6 (e) The amount determined to be due under this subsection may be paid to the tax col-
7 lector prior to the time of the next general property tax roll, pursuant to the provisions of
8 ORS 311.370.

9 (9) County assessors shall keep information returns filed under this section as public
10 records.

11 **SECTION 2.** ORS 307.130 is amended to read:

12 307.130. (1) As used in this section:

13 (a) "Art museum" means a nonprofit corporation organized to display works of art to the public.

14 (b) "History museum or science museum" means a nonprofit corporation organized to display
15 historical or scientific exhibits, or both, to the public.

16 (c) "Nonprofit corporation" means a corporation that:

17 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
18 65; or

19 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code
20 as defined in ORS 305.842.

21 (d) "**Rehabilitation facility**" means a facility defined in ORS 344.710 or a facility that
22 provides individuals who have physical, mental or emotional disabilities with occupational
23 rehabilitation activities of an educational or therapeutic nature, even if remuneration is re-
24 ceived by the individual.

25 [(d)] (e) "Volunteer fire department" means a nonprofit corporation organized to provide fire
26 protection services in a specific response area.

27 (f) "**Welfare program**" means a program to provide food, shelter, clothing or health care,
28 including dental service, to needy persons without charge.

29 (2) Upon compliance with ORS 307.162 and, in the case of a reporting institution as defined
30 in section 1 of this 2017 Act, section 1 of this 2017 Act, the following property owned or being
31 purchased by art museums, volunteer fire departments, or incorporated literary, benevolent, chari-
32 table and scientific institutions shall be exempt from taxation:

33 (a) Except as provided in ORS 748.414, only [such] real or personal property, or a proportion
34 [thereof, as] of the property, that is actually and exclusively occupied or used in the literary, be-
35 nevolent, charitable or scientific work carried on by such institutions.

36 (b) Parking lots used for parking or any other use as long as that parking or other use is per-
37 mitted without charge for no fewer than 355 days during the tax year.

38 (c) All real or personal property of a rehabilitation facility or any retail outlet [thereof] of the
39 facility, including inventory. [As used in this subsection, "rehabilitation facility" means either those
40 facilities defined in ORS 344.710 or facilities which provide individuals who have physical, mental or
41 emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature,
42 even if remuneration is received by the individual.]

43 (d) All real and personal property of a retail store dealing exclusively in donated inventory,
44 [where] if the inventory is distributed without cost as part of a welfare program or where the pro-
45 ceeds of the sale of any inventory sold to the general public are used to support a welfare program.

1 [As used in this subsection, “welfare program” means the providing of food, shelter, clothing or health
2 care, including dental service, to needy persons without charge.]

3 (e) All real and personal property of a retail store if:

4 (A) The retail store deals [primarily and] on a regular basis in **inventory at least one-half of**
5 **which is** donated and consigned [inventory];

6 (B) The individuals who operate the retail store are all individuals who work as volunteers; and

7 (C) The inventory is either distributed without charge as part of a welfare program, or sold to
8 the general public and the sales proceeds used exclusively to support a welfare program. [As used
9 in this paragraph, “primarily” means at least one-half of the inventory.]

10 (f) The real and personal property of an art museum that is used in conjunction with the public
11 display of works of art or used to educate the public about art, but not including any portion of the
12 art museum’s real or personal property that is used to sell, or hold out for sale, works of art, re-
13 productions of works of art or other items to be sold to the public.

14 (g) All real and personal property of a volunteer fire department that is used in conjunction with
15 services and activities for providing fire protection to all residents within a fire response area.

16 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit
17 corporation if:

18 (A) The retail store deals exclusively in donated inventory; and

19 (B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose
20 purpose is to:

21 (i) Acquire property and construct housing for resale to individuals at or below the cost of ac-
22 quisition and construction; and

23 (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

24 (3)(a) Upon compliance with ORS 307.162, real and personal property owned or leased by a his-
25 tory museum or science museum shall be exempt from property taxes if the property:

26 (A) Is used to fulfill the mission of the museum as provided in the articles of incorporation and
27 bylaws of the museum; and

28 (B) Is used or occupied for one or more of the following purposes:

29 (i) As a food service facility or concession stand selling food and refreshments to museum visi-
30 tors, volunteers or staff within the museum buildings or on museum grounds.

31 (ii) As a retail store selling inventory, at least 90 percent of which is museum-related, within the
32 museum buildings or on museum grounds.

33 (iii) As a parking lot, the use of which is permitted without charge for not fewer than 355 days
34 during the property tax year, for museum visitors, volunteers or staff employed by the museum.

35 (iv) As a theater located in a museum building showing entertainment or educational features,
36 at least 75 percent of which are museum-related.

37 (v) As unimproved land that is not specially assessed and that is contiguous with the land on
38 which the museum is situated.

39 (vi) For displays, storage areas, educational classrooms or meeting areas.

40 (b) The exemption granted under this subsection does not apply to property used or occupied
41 as a hotel, water park or chapel or for any commercial enterprise.

42 (4) An art museum or institution shall not be deprived of an exemption under this section solely
43 because its primary source of funding is from one or more governmental entities.

44 (5) An institution shall not be deprived of an exemption under this section because its purpose
45 or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

1 **SECTION 3.** ORS 307.130, as amended by section 48, chapter 701, Oregon Laws 2015, is
2 amended to read:

3 307.130. (1) As used in this section:

4 (a) “Art museum” means a nonprofit corporation organized to display works of art to the public.

5 (b) “Nonprofit corporation” means a corporation that:

6 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
7 65; or

8 (B) Is organized and operated as described under section 501(c) of the Internal Revenue Code
9 as defined in ORS 305.842.

10 (c) **“Rehabilitation facility” means a facility defined in ORS 344.710 or a facility that**
11 **provides individuals who have physical, mental or emotional disabilities with occupational**
12 **rehabilitation activities of an educational or therapeutic nature, even if remuneration is re-**
13 **ceived by the individual.**

14 [(c)] (d) “Volunteer fire department” means a nonprofit corporation organized to provide fire
15 protection services in a specific response area.

16 (e) **“Welfare program” means a program to provide food, shelter, clothing or health care,**
17 **including dental service, to needy persons without charge.**

18 (2) Upon compliance with ORS 307.162 **and, in the case of a reporting institution as defined**
19 **in section 1 of this 2017 Act, section 1 of this 2017 Act,** the following property owned or being
20 purchased by art museums, volunteer fire departments, or incorporated literary, benevolent, chari-
21 table and scientific institutions shall be exempt from taxation:

22 (a) Except as provided in ORS 748.414, only [such] real or personal property, or a proportion
23 [thereof, as] **of the property, that** is actually and exclusively occupied or used in the literary, be-
24 nevolent, charitable or scientific work carried on by such institutions.

25 (b) Parking lots used for parking or any other use as long as that parking or other use is per-
26 mitted without charge for no fewer than 355 days during the tax year.

27 (c) All real or personal property of a rehabilitation facility or any retail outlet [thereof] **of the**
28 **facility,** including inventory. [As used in this subsection, “rehabilitation facility” means either those
29 facilities defined in ORS 344.710 or facilities which provide individuals who have physical, mental or
30 emotional disabilities with occupational rehabilitation activities of an educational or therapeutic nature,
31 even if remuneration is received by the individual.]

32 (d) All real and personal property of a retail store dealing exclusively in donated inventory,
33 [where] **if** the inventory is distributed without cost as part of a welfare program or where the pro-
34 ceeds of the sale of any inventory sold to the general public are used to support a welfare program.
35 [As used in this subsection, “welfare program” means the providing of food, shelter, clothing or health
36 care, including dental service, to needy persons without charge.]

37 (e) All real and personal property of a retail store if:

38 (A) The retail store deals [primarily and] on a regular basis in **inventory at least one-half of**
39 **which is** donated and consigned [inventory];

40 (B) The individuals who operate the retail store are all individuals who work as volunteers; and

41 (C) The inventory is either distributed without charge as part of a welfare program, or sold to
42 the general public and the sales proceeds used exclusively to support a welfare program. [As used
43 in this paragraph, “primarily” means at least one-half of the inventory.]

44 (f) The real and personal property of an art museum that is used in conjunction with the public
45 display of works of art or used to educate the public about art, but not including any portion of the

1 art museum's real or personal property that is used to sell, or hold out for sale, works of art, re-
2 productions of works of art or other items to be sold to the public.

3 (g) All real and personal property of a volunteer fire department that is used in conjunction with
4 services and activities for providing fire protection to all residents within a fire response area.

5 (h) All real and personal property, including inventory, of a retail store owned by a nonprofit
6 corporation if:

7 (A) The retail store deals exclusively in donated inventory; and

8 (B) Proceeds of the retail store sales are used to support a not-for-profit housing program whose
9 purpose is to:

10 (i) Acquire property and construct housing for resale to individuals at or below the cost of ac-
11 quisition and construction; and

12 (ii) Provide loans bearing no interest to individuals purchasing housing through the program.

13 (3) An art museum or institution shall not be deprived of an exemption under this section solely
14 because its primary source of funding is from one or more governmental entities.

15 (4) An institution shall not be deprived of an exemption under this section because its purpose
16 or the use of its property is not limited to relieving pain, alleviating disease or removing constraints.

17 **SECTION 4. Section 1 of this 2017 Act and the amendments to ORS 307.130 by sections**
18 **2 and 3 of this 2017 Act apply to property tax years beginning on or after July 1, 2018.**

19 **SECTION 5. (1) No later than January 31, 2018, each county assessor shall provide notice**
20 **of the information return requirements under ORS 307.130 and section 1 of this 2017 Act to**
21 **all reporting institutions, as defined in section 1 of this 2017 Act, whose property has been**
22 **granted exemption under ORS 307.130 for the property tax year beginning on July 1, 2017.**

23 **(2) Notwithstanding the filing deadline under section 1 (2) of this 2017 Act, for the prop-**
24 **erty tax year beginning on July 1, 2018, a reporting institution may file an information return**
25 **under section 1 of this 2017 Act on or before December 15, 2018, if the return is accompanied**
26 **by a late filing fee of the greater of \$200 or one-tenth of one percent of the real market value**
27 **as of the most recent assessment date of the property for which the reporting institution is**
28 **claiming exemption under ORS 307.130.**

29 **SECTION 6. Section 5 of this 2017 Act is repealed on January 2, 2020.**

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

32