

Senate Bill 181

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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 **as introduced**.

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 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. 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.

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

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

17 (B) **The manner in which the reporting institution performs in furtherance of its chari-**
18 **table object.**

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

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

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

25 (ii) **The ways in which the property substantially contributes to furthering the reporting**

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 institution's charitable goals.

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

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

6 (4) The information return must be accompanied by the Form 990 or Form CT-12, as ap-
7 plicable, filed by the reporting institution for the reporting institution's current tax year, or
8 by a link to a version of the form that is publicly available on the Internet.

9 (5) Instead of the information return required under this section, a reporting institution
10 that files a Form 990-N with the Internal Revenue Service shall file with the county assessor
11 an information return postcard that contains the information set forth on the Form 990-N
12 filed by the reporting institution for the reporting institution's current tax year.

13 (6) The Department of Revenue shall prescribe by rule the form of the information return
14 and the information return postcard. The rules of the department must require information
15 returns and information return postcards to be filed under penalties for false swearing.

16 (7) The property of the reporting institution may not be granted exemption under ORS
17 307.130 for the property tax year if:

18 (a) The information return or information return postcard, as applicable, is not timely
19 filed.

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

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

24 (d) The reporting institution has not filed a Form 990 or Form CT-12, or Form 990-N, as
25 required for the reporting institution's current tax year.

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

30 (b) Upon discovery by the county assessor that any information set forth in an informa-
31 tion return or information return postcard filed under this section, or in a claim for ex-
32 emption under ORS 307.130 filed under ORS 307.162, with respect to property described in
33 paragraph (a) of this subsection, was misleading or false, the property shall be disqualified
34 for the exemption. Additional taxes shall be imposed on the property on the next assessment
35 and tax roll following the disqualification and shall be collected and distributed in the same
36 manner as other ad valorem property taxes.

37 (c) The additional taxes shall be imposed in an amount equal to the property taxes that
38 were not imposed on the property because of the exemption for up to the five immediately
39 preceding property tax years, plus interest computed at the rate provided under ORS 311.505
40 (2).

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

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

1 (9)(a) Information returns and information return postcards filed under this section are
 2 exempt from disclosure under ORS 192.410 to 192.505.

3 (b) Nothing in this subsection limits the use that may be made of information returns
 4 or information return postcards for regulatory purposes or their use and admissibility in any
 5 enforcement proceedings.

6 (10)(a) It is unlawful for a county assessor to disclose or make known in any manner any
 7 information or particulars set forth in an information return or information return postcard
 8 filed under this section.

9 (b) Notwithstanding paragraph (a) of this subsection, the county assessor may disclose
 10 information returns and information return postcards to:

11 (A) The Legislative Revenue Officer and staff and employees of the Legislative Revenue
 12 Officer as necessary and appropriate to the efficient performance of the officer's duties un-
 13 der ORS 173.800 to 173.850 or any resolution or enactment of the Legislative Assembly.

14 (B) Any agency of the State of Oregon for any regulatory purpose conferred by law on
 15 the agency that requires disclosure of the information returns and information return post-
 16 cards.

17 (c) A county assessor or any person to whom information and particulars are lawfully
 18 disclosed under this subsection may publish statistics based on the information and partic-
 19 ulars in a manner that prevents the identification of any information or particulars with any
 20 reporting institution subject to this section.

21 (d) Violation of this subsection is a Class C felony.

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

23 307.130. (1) As used in this section:

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

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

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

28 (A) Is organized not for profit, pursuant to ORS chapter 65 or any predecessor of ORS chapter
 29 65; or

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

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

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

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

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

44 (a) Except as provided in ORS 748.414, only [such] real or personal property, or a proportion
 45 [thereof, as] of the property, that is actually and exclusively occupied or used in the literary, be-

1 nevolent, charitable or scientific work carried on by such institutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 307.130. (1) As used in this section:

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

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

27 (e) **"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) An art museum or institution shall not be deprived of an exemption under this section solely
 25 because its primary source of funding is from one or more governmental entities.

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

28 **SECTION 4. Section 1 of this 2017 Act and the amendments to ORS 307.130 by sections**
 29 **2 and 3 of this 2017 Act apply to property tax years beginning on or after July 1, 2018.**

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

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

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

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