

Senate Bill 436

Sponsored by Senator FERRIOLI (Presession filed.)

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**.

Authorizes county to adopt education funding protection ordinance for up to 10 years if at least 50 percent by area of county is subject to certain exemption or special assessment programs under ad valorem property tax statutes or if county has population of 100,000 or less. Provides that education funding protection ordinance may offer incentive for owner to withdraw land from certain conservation exemption or special assessment programs and disincentive for owner to sell land into exempt ownership.

Provides that education funding protection ordinance may prohibit land outside boundaries of incorporated city and urban growth boundary from being newly approved for certain conservation exemption or special assessment programs unless land of equivalent value and class within county is removed from same exemption or special assessment program. Provides that education funding protection ordinance may prohibit state, county or local government, with certain exceptions, from acquiring land within county outside boundaries of incorporated city and urban growth boundary unless land of equivalent value and class within county is sold or transferred to taxable ownership or use. Allows acquisition for certain transportation or utility uses. Authorizes taxpayer suit for writ of mandamus to enforce these provisions.

Becomes operative on January 1, 2018. Applies to property tax years beginning on or after July 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to county education funding protection ordinances; and prescribing an effective date.

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

SECTION 1. Sections 1 to 5 of this 2017 Act shall be known and may be cited as the Education Funding Protection Act.

SECTION 2. (1) A county may adopt an education funding protection ordinance containing the provisions described in sections 3 and 4 of this 2017 Act if:

(a) At least 50 percent by area of the land in the county is, singly or in any combination:

(A) Exempt from ad valorem property taxation due to ownership by the United States, this state, a federally recognized Indian tribe or a local government;

(B) Exempt from ad valorem property taxation under ORS 307.115, 307.180, 307.181 or 308A.350 to 308A.383; or

(C) Specially assessed for purposes of ad valorem property taxation under ORS 308A.300 to 308A.330, 308A.403 to 308A.430 or 308A.450 to 308A.465; or

(b) The county has a population of 100,000 or less.

(2) An education funding protection ordinance adopted pursuant to this section:

(a) May be effective for a period not exceeding 10 years.

(b) Remains in effect regardless of whether, during the effective period, the county ceases to be a county described in subsection (1) of this section.

(c) May be renewed for additional periods, each period not to exceed 10 years, if at the time of renewal the county is a county described in subsection (1) of this section.

SECTION 3. (1) An education funding protection ordinance may include the following re-

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 requirements with respect to land that is exempt under ORS 308A.350 to 308A.383 or described
2 in section 2 (1)(a)(C) of this 2017 Act:

3 (a) If the owner of the land discontinues the use for which the exemption or special as-
4 sessment is granted, in lieu of all other additional taxes, interest and penalty assessments:

5 (A) With respect to land exempt under ORS 308A.350 to 308A.383, upon compliance with
6 the withdrawal procedures under ORS 308A.365 and 308A.368, the additional taxes due upon
7 withdrawal of the land from designation under ORS 308A.368 (2) shall be assessed for a period
8 not to exceed two years.

9 (B) With respect to land specially assessed under ORS 308A.300 to 308A.330, upon com-
10 pliance with the withdrawal procedures under ORS 308A.318, additional taxes shall be as-
11 sessed for a period not to exceed two years, payable without interest or penalty.

12 (C) Notwithstanding ORS 308A.700 to 308A.733, with respect to land specially assessed
13 under ORS 308A.403 to 308A.430, additional taxes shall be imposed for a period not to exceed
14 two years.

15 (D) Notwithstanding ORS 308A.700 to 308A.733, with respect to land specially assessed
16 under ORS 308A.450 to 308A.465, additional taxes shall be imposed for a period not to exceed
17 two years.

18 (b) If the owner of the land sells or transfers the land other than by devise within the
19 meaning of ORS 111.005 to an ownership making the land exempt from ad valorem property
20 taxation:

21 (A) With respect to land exempt under ORS 308A.350 to 308A.383, additional taxes shall
22 be computed under ORS 308A.368 to be paid in the manner required under ORS 308A.371.

23 (B) With respect to land specially assessed under ORS 308A.300 to 308A.330, additional
24 taxes shall be computed under ORS 308A.312 (2) to be paid in the manner described in ORS
25 308A.324. The deferral of additional taxes under ORS 308A.318 (4) and the abatement of ad-
26 ditional taxes, penalties and interest under ORS 308A.377 (2) do not apply to land to which
27 this subparagraph applies.

28 (C) With respect to land specially assessed under ORS 308A.403 to 308A.430 or 308A.450
29 to 308A.465, additional taxes shall be imposed under ORS 308A.703. The deferral of additional
30 taxes under ORS 308A.706 and the abatement of additional taxes under ORS 308A.709 do not
31 apply to land to which this subparagraph applies.

32 (2) Land benefited by the provisions of subsection (1)(a) of this section is not eligible for
33 any exemption from ad valorem property taxes or for any special assessment program for a
34 period of 10 years immediately following the property tax year in which the benefit is
35 granted. Appropriate notation shall be entered on the assessment and tax roll with respect
36 to the land.

37 (3) This section does not apply to land that continues to receive the same exemption or
38 special assessment after sale or transfer to a new owner.

39 **SECTION 4.** (1) An education funding protection ordinance may provide that land may
40 not be newly approved for exemption from ad valorem property taxation under ORS 307.115
41 or 308A.350 to 308A.383 or for special assessment for purposes of ad valorem property taxa-
42 tion under ORS 308A.300 to 308A.330, 308A.403 to 308A.430 or 308A.450 to 308A.465, unless:

43 (a) Land of equivalent real market value and an equivalent class, as determined under
44 the rule adopted by the Department of Revenue pursuant to ORS 308.215, within the county
45 is at the same time removed from the same exemption or special assessment program;

1 (b) The land is within the boundaries of an incorporated city or an urban growth bound-
2 ary; or

3 (c) The land is the subject of a reclamation plan as defined in ORS 517.750.

4 (2)(a) An education funding protection ordinance may prohibit the state, a county and
5 any local government from acquiring land within the county unless:

6 (A) Land of equivalent real market value and an equivalent class, as determined under
7 the rule adopted by the Department of Revenue pursuant to ORS 308.215, within the county
8 is at the same time sold or transferred by the state, county or local government to taxable
9 ownership or use;

10 (B) The land is acquired by the governmental entity to be used for a road,
11 transportation-related easement, right of way, utility corridor or storm water facility;

12 (C) The land is within the boundaries of an incorporated city or an urban growth
13 boundary; or

14 (D) The land is the subject of a reclamation plan as defined in ORS 517.750.

15 (b) This subsection does not apply to:

16 (A) School districts as defined in ORS 332.002 or education service districts as defined in
17 ORS 334.003.

18 (B) Counties with respect to land acquired by means of foreclosure, provided the land is
19 sold within one year following the expiration of the period of redemption or is continuously
20 offered for sale.

21 **SECTION 5.** (1) A taxpayer may file a petition for a writ of mandamus in the manner
22 provided under ORS 34.105 to 34.240 in the circuit court of the county in which land subject
23 to an education funding protection ordinance adopted pursuant to section 2 of this 2017 Act
24 is located to enforce the provisions of section 4 of this 2017 Act.

25 (2) In addition to a fine for refusal to perform the duties required under section 4 of this
26 2017 Act, the court may order rescission of the sale or transfer of the land.

27 **SECTION 6.** Sections 1 to 5 of this 2017 Act become operative on January 1, 2018.

28 **SECTION 7.** Sections 1 to 5 of this 2017 Act apply to property tax years beginning on or
29 after July 1, 2018.

30 **SECTION 8.** 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