

A-Engrossed
House Bill 4027

Ordered by the House February 22
Including House Amendments dated February 22

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

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.

[Defines "solar project" to mean photovoltaic solar power generation facility and land on which facility is located. Requires county with population of less than 775,000, upon request of owner or person in possession or control of solar project, to enter into agreement pursuant to which property constituting solar project is exempt from property taxation and becomes subject to fee in lieu of taxes. If solar project is located within incorporated city, requires city and county to enter into agreement.]

Repeals exemption for property of company constituting certain communication services infrastructure. *[Allows property tax credit to company in amount invested in property capable of being used solely to provide certain communication services and that would not have been invested but for availability of repealed exemption.]* **Notwithstanding repeal, allows exemption for one property tax year for property of company that, before January 1, 2018, began operating project that qualified for exemption.**

Adjusts sunset date for property tax exemption for low income rental housing.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to property taxation; creating new provisions; amending ORS 307.517, 307.518, 307.523,
3 307.529, 307.535, 308.519 and 308.674 and section 11, chapter 23, Oregon Laws 2015; repealing
4 ORS 308.673, 308.677 and 308.681; and prescribing an effective date.

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

6 **SECTION 1. ORS 308.673, 308.677 and 308.681 are repealed.**

7 **SECTION 2. ORS 308.519 is amended to read:**

8 308.519. (1) The following real and tangible personal property used or held for future use by a
9 company described in subsection (2) of this section shall be locally assessed:

10 (a) Property constituting a data center or used in connection with the operation of data center
11 property;

12 (b) Property used on the data center property to generate electricity; and

13 (c) Electricity generated by property described in paragraph (b) of this subsection.

14 (2) Subsection (1) of this section applies to a company that is:

15 (a) Not a company described in ORS 308.515 (1); or

16 (b) A company described in ORS 308.515 (1) *[and]* **if** the historical or original cost of the real
17 and tangible personal property of all data centers owned, leased or used by the company in Oregon
18 and all additions to the data center property, excluding property described in subsection (1)(b) and
19 (c) of this section, is equal to or greater than \$200 million.

20 (3)*[(a)]* For purposes of ORS 308.505 to 308.681, property described in subsection (1) of this sec-
21 tion, and intangible personal property that is related to the property, may not be included in any

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 unit subject to central assessment.

2 *[(b) Notwithstanding paragraph (a) of this subsection, property that is used or held for future use*
3 *by a company whose property is granted an exemption under ORS 308.677 and that would otherwise*
4 *be assessed under this section shall be assessed under ORS 308.677.]*

5 **SECTION 3.** ORS 308.674 is amended to read:

6 308.674. (1) *[Subject to ORS 308.673,]* The property of a company described in ORS 308.515 (1)
7 shall be granted an exemption in the amount of the positive value, if any, obtained by subtracting
8 from the real market value of the company's real property and tangible and intangible personal
9 property included in the unit subject to central assessment, reduced by the amount of any exemption
10 elected under ORS 308.671, an amount equal to the historical or original cost of the company's real
11 property and tangible personal property included in the unit subject to central assessment, without
12 reduction for any exemption elected under ORS 308.671, multiplied by 130 percent.

13 (2) If the amount determined under subsection (1) of this section is not positive, *[subject to ORS*
14 *308.673,]* the real market value of the company's real property and tangible and intangible personal
15 property included in the unit subject to central assessment, reduced by the amount of any exemption
16 elected under ORS 308.671, shall be the real market value of the company's property for the property
17 tax year.

18 (3) Notwithstanding subsection (1) of this section, an exemption granted under this section may
19 not exceed an amount equal to 95 percent of the real market value of the company's real property
20 and tangible and intangible personal property included in the unit subject to central assessment.

21 (4)(a) If the property of a company is granted an exemption under this section for a property tax
22 year, the property is not eligible for any other exemption from ad valorem property taxation for the
23 property tax year.

24 (b) Notwithstanding paragraph (a) of this subsection:

25 (A) An exemption granted under ORS 308.671 to property that is granted an exemption under
26 this section shall be allowed in the manner provided under this section and ORS 308.671.

27 (B) An exemption granted under this section for a property tax year has no effect on the benefits
28 that the property of the company or the company may be granted under ORS chapter 285C or ORS
29 307.123 for the property tax year.

30 **SECTION 4.** Section 11, chapter 23, Oregon Laws 2015, is amended to read:

31 **Sec. 11.** (1) *[Sections 8 and 10 of this 2015 Act]* **ORS 308.518 and 308.519** and the amendments
32 to ORS 308.505 and 308.516 by sections 7 and 9, **chapter 23, Oregon Laws 2015,** *[of this 2015 Act]*
33 apply to property tax years beginning on or after July 1, 2015.

34 (2) *[Sections 2, 3, 5 and 6 of this 2015 Act]* **ORS 308.674** and the amendments to *[ORS 307.126*
35 *by section 4 of this 2015 Act]* **ORS 308.671 by section 4, chapter 23, Oregon Laws 2015,** apply to
36 property tax years beginning on or after July 1, 2016.

37 **SECTION 5.** **The amendments to ORS 308.519 and 308.674 and section 11, chapter 23,**
38 **Oregon Laws 2015, by sections 2 to 4 of this 2018 Act and the repeal of ORS 308.673, 308.677**
39 **and 308.681 by section 1 of this 2018 Act apply to property tax years beginning on or after**
40 **July 1, 2015.**

41 **SECTION 6.** (1) **Notwithstanding the repeal of ORS 308.677 by section 1 of this 2018 Act**
42 **and any decision of the Department of Revenue to the contrary made before the effective**
43 **date of this 2018 Act, the property of a company described in ORS 308.515 (1) shall be granted**
44 **the exemption under ORS 308.677 (2015 Edition) as provided in this section if:**

45 (a) **The company's application for a qualified project determination was approved by the**

1 **Public Utility Commission pursuant to ORS 308.677 (4) (2015 Edition) on or before March 1,**
2 **2016; and**

3 **(b) The company began operating a qualified project on or before January 1, 2018.**

4 **(2)(a) A company seeking an exemption under this section must submit a claim to the**
5 **Department of Revenue within 30 days after the effective date of this 2018 Act.**

6 **(b) The department shall approve a claim that demonstrates that the company meets the**
7 **requirements of subsection (1) of this section. To demonstrate that the company is operating**
8 **a qualified project, it is sufficient for the claim to show that the company is providing com-**
9 **munication services of, at least, approximately one gigabit per second symmetrical service**
10 **to at least one residential customer.**

11 **(c) If the department approves a company's claim, the exemption shall be granted for the**
12 **first property tax year that began or begins after the date on which the company first began**
13 **operating a qualified project. The exemption may not be granted to the property of the**
14 **company for any other property tax year.**

15 **(d) If the department rejects a claim, the department shall notify the company of the**
16 **decision.**

17 **SECTION 7. Section 6 of this 2018 Act is repealed on January 2, 2021.**

18 **SECTION 8. ORS 307.517 is amended to read:**

19 307.517. (1) Property or a portion of the property is exempt from taxation as provided under ORS
20 307.515 to 307.523 if:

21 (a) The property is:

22 (A) Offered for rent; or

23 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
24 reasonable maximum period, if any, adopted by the governing body;

25 (b) The property, if occupied, is occupied solely by low income persons;

26 (c) The required rent payment reflects the full value of the property tax exemption;

27 (d) The exemption has been approved as provided in ORS 307.523, **pursuant to an application**
28 **filed before July 1, 2020;**

29 (e) The housing units on the property were constructed after the local governing body adopted
30 the provisions of ORS 307.515 to 307.523; and

31 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
32 criteria adopted by the governing body.

33 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
34 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
35 this section.

36 (3) For the purposes of subsection (1) of this section, a person that has only a leasehold interest
37 in property is deemed to be a purchaser of that property if:

38 (a) The person is obligated under the terms of the lease to pay the ad valorem taxes on the real
39 and personal property used in this activity on that property; or

40 (b) The rent payable has been established to reflect the savings resulting from the exemption
41 from taxation.

42 **SECTION 9. ORS 307.518 is amended to read:**

43 307.518. (1) Property or a portion of property is exempt from taxation as provided under ORS
44 307.515 to 307.523 if:

45 (a) The property, if unoccupied, is:

1 (A) Offered for rental solely as a residence for low income persons; or

2 (B) Held for the purpose of developing low income rental housing, for a period not exceeding a
3 reasonable maximum period, if any, adopted by the governing body;

4 (b) The property, if occupied, is occupied solely as a residence for low income persons;

5 (c) An exemption for the property has been approved as provided under ORS 307.523, pursuant
6 to an application filed before [January] **July 1, 2020**;

7 (d) The property is owned or being purchased by a nonprofit corporation organized in a manner
8 that meets the criteria for a public benefit corporation or a religious corporation, both terms as
9 defined in ORS 65.001;

10 (e) The property is owned or being purchased by a nonprofit corporation that expends no more
11 than 10 percent of the nonprofit corporation's annual income from residential rentals for purposes
12 other than the acquisition, maintenance or repair of residential rental property for low income per-
13 sons or for the provision of on-site child care services for the residents of the rental property; and

14 (f) The information disclosed on the application filed pursuant to ORS 307.521 meets any other
15 criteria adopted by the governing body.

16 (2) A governing body that adopts the provisions of ORS 307.515 to 307.523 may adopt additional
17 criteria for exemption that do not conflict with the criteria described in subsection (1)(a) to (e) of
18 this section.

19 (3) For the purposes of this section, a nonprofit corporation that has only a leasehold interest
20 in property is considered to be a purchaser of that property if:

21 (a) The nonprofit corporation is obligated under the terms of the lease to pay the ad valorem
22 taxes on the real and personal property used in the rental activity on that property; or

23 (b) The rent payable has been established to reflect the savings resulting from the exemption
24 from taxation.

25 (4) A partnership shall be considered a nonprofit corporation for purposes of this section if:

26 (a) A nonprofit corporation is a general partner of the partnership; and

27 (b) The nonprofit corporation is responsible for the day-to-day operation of the property that is
28 the subject of the exemption under ORS 307.515 to 307.523.

29 **SECTION 10.** ORS 307.523 is amended to read:

30 307.523. (1) Application shall be made on or before December 1 of the calendar year immediately
31 preceding the first assessment year for which exemption is requested, and shall be accompanied by
32 the application fee required under ORS 307.527. However, if the property is acquired after November
33 1, the application shall be made within 30 days after the date of acquisition.

34 (2) Within 60 days of the filing of an application under ORS 307.521, the governing body shall
35 take final action upon the application as provided under ORS 307.527, and certify the results of the
36 action to the county assessor, as set forth in ORS 307.512.

37 (3) Upon receipt of certification under subsection (2) of this section, the county assessor shall
38 exempt the property from taxation to the extent certified by the governing body.

39 **(4) Notwithstanding the dates specified in ORS 307.517 and 307.518, property granted ex-**
40 **emption pursuant to an application filed under ORS 307.517 or 307.518 before July 1, 2020,**
41 **shall continue to receive the exemption on the same terms, including duration, on which the**
42 **exemption was granted.**

43 **SECTION 11.** ORS 307.529 is amended to read:

44 307.529. (1) Except as provided in ORS 307.531, if, after an application for exemption under ORS
45 307.517 has been approved under ORS 307.527, the governing body finds that construction or devel-

1 opment of the exempt property differs from the construction or development described in the appli-
2 cation for exemption, or is not completed on or before [January] **July** 1, 2020, or that any provision
3 of ORS 307.515 to 307.523 is not being complied with, or any provision required by the governing
4 body pursuant to ORS 307.515 to 307.523 is not being complied with, the governing body shall give
5 notice of the proposed termination of the exemption to the owner, by mailing the notice to the
6 last-known address of the owner, and to every known lender, by mailing the notice to the last-known
7 address of every known lender. The notice shall state the reasons for the proposed termination and
8 shall require the owner to appear at a specified time, not less than 20 days after mailing the notice,
9 to show cause, if any, why the exemption should not be terminated.

10 (2) If the owner fails to appear and show cause why the exemption should not be terminated, the
11 governing body shall notify every known lender, and shall allow any lender not less than 30 days
12 after the date the notice of the failure to appear and show cause is mailed to cure any noncompli-
13 ance or to provide assurance adequate to the governing body that all noncompliance shall be rem-
14 edied.

15 (3) If the owner fails to appear and show cause why the exemption should not be terminated,
16 and the lender fails to cure or give adequate assurance of the cure of any noncompliance, the gov-
17 erning body shall adopt an ordinance or resolution stating its findings terminating the exemption.
18 A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be
19 sent to the owner at the owner's last-known address and to the lender at the last-known address of
20 the lender within 10 days after its adoption.

21 **SECTION 12.** ORS 307.535 is amended to read:

22 307.535. Notwithstanding any provision of ORS 307.515 to 307.523:

23 (1) If the governing body finds that construction of the housing unit otherwise entitled to ex-
24 emption under ORS 307.517 was not completed by [January] **July** 1, 2020, due to circumstances be-
25 yond the control of the owner, and that the owner had been acting and could reasonably be expected
26 to act in good faith and with due diligence, the governing body may extend the deadline for com-
27 pletion of construction for a period not to exceed 12 consecutive months.

28 (2) If property granted exemption under ORS 307.515 to 307.523 is destroyed by fire or act of
29 God, or is otherwise no longer capable of owner-occupancy due to circumstances beyond the control
30 of the owner, the exemption shall cease but no additional taxes shall be imposed upon the property
31 under ORS 307.531 or 307.533.

32 **SECTION 13. This 2018 Act takes effect on the 91st day after the date on which the 2018**
33 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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