

House Bill 4027

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 **as introduced**.

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used solely to provide certain communication services and that would not have been invested but for availability of repealed exemption.

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 308.519 and 308.674 and sec-
3 tion 11, chapter 23, Oregon Laws 2015, and section 1, chapter 571, 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.** Section 1, chapter 571, Oregon Laws 2015, is amended to read:

7 **Sec. 1. (1) As used in this section, "solar project" means a photovoltaic solar power**
8 **generation facility and the land on which the facility is located.**

9 *[(1)(a) The governing body of a county and the owner or person in possession or control of a solar*
10 *project located within the county and outside the boundaries of any incorporated city may enter into*
11 *an agreement that exempts from property taxes the property constituting the solar project and allows*
12 *the payment of a fee in lieu of property taxes imposed on the property. An agreement may not be en-*
13 *tered into for a term longer than 20 consecutive years.]*

14 *[(b) If any portion of a solar project is located within the boundaries of an incorporated city, the*
15 *governing body of the county shall consult with the governing body of the city before entering into an*
16 *agreement under paragraph (a) of this subsection. An agreement entered into under paragraph (a) of*
17 *this subsection with respect to a solar project located within the boundaries of the incorporated city is*
18 *not effective unless the governing body of the city is a party to the agreement.]*

19 **(2)(a) Upon request of the owner or person in possession or control of a solar project**
20 **located in a county with a population of less than 775,000, the governing body of the county**
21 **shall enter into an agreement with the owner or person in possession or control that ex-**
22 **empts from property taxes the property constituting the solar project and allows the pay-**
23 **ment of a fee in lieu of property taxes imposed on the property. An agreement may not be**
24 **entered into for a term longer than 20 consecutive years.**

25 **(b) If the solar project is located within the boundaries of an incorporated city, the city**

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 **and the county shall enter into the agreement under this section.**

2 [(2)] (3) The fee in lieu of property taxes shall be computed at the rate of \$7,000 per megawatt
 3 of nameplate capacity of the solar project for each property tax year. Megawatt of nameplate ca-
 4 pacity shall be carried to the third decimal place.

5 [(3)(a)] (4)(a) On or before December 31 preceding the first property tax year to which an
 6 agreement entered into under this section relates, the owner or person in possession or control of
 7 the solar project shall file with the county assessor a copy of the agreement and a request for
 8 computation of the fee in lieu of property taxes for the property constituting the solar project. The
 9 request must include any information required by the assessor to compute the fee.

10 (b) On or before December 31 preceding each subsequent property tax year to which an agree-
 11 ment entered into under this section relates, the owner or person in possession or control of the
 12 solar project shall file with the county assessor a request for computation of the fee in lieu of
 13 property taxes for the property constituting the solar project. If the identity of the owner or person
 14 in possession or control, or the nameplate capacity, of the solar project has changed, the request for
 15 computation of the fee must include the new information.

16 (c) A request for computation that is not filed on or before December 31 must be accompanied
 17 by a late fee of \$200.

18 [(4)(a)] (5)(a) On or before February 1 of each year to which the agreement relates, the county
 19 assessor shall compute the fee in lieu of property taxes for the property constituting the solar
 20 project and shall notify the owner or person in possession or control:

21 (A) That the fee in lieu of property taxes must be paid to the county treasurer on or before
 22 March 1; and

23 (B) Of the amount due and of the consequences of late payment or nonpayment.

24 (b) Notwithstanding paragraph (a) of this subsection, payment of the fee in lieu of property taxes
 25 is not due until after the notice required under paragraph (a) of this subsection has been sent.

26 (c) On or before July 15 of each year, the county treasurer shall distribute fee revenue collected
 27 under this section to each taxing district in which a solar project is located on the basis of the ratio
 28 that the taxing district's total rate of ad valorem property taxes, excluding the rates of taxes im-
 29 posed to repay bonded indebtedness, bears to the total rate of ad valorem property taxes, excluding
 30 the rates of taxes imposed to repay bonded indebtedness, imposed by all taxing districts in which
 31 the solar project is located.

32 [(5)(a)] (6)(a) If the owner or person in possession or control of a solar project that has entered
 33 into an agreement under this section fails to pay the fee as required under this section, the property
 34 constituting the solar project is not exempt for the following property tax year and shall be assessed
 35 and taxed as other similar property is assessed and taxed.

36 (b) Notwithstanding paragraph (a) of this subsection, the property shall be exempt for the fol-
 37 lowing property tax year upon payment, within one year after the date of delinquency, of the de-
 38 linquent fee plus interest at the rate prescribed in ORS 311.505 (2). Delinquent fees and interest
 39 shall be collected in the manner provided for collection of delinquent property taxes on personal
 40 property.

41 [(6)(a)] (7)(a) If the owner or person in possession or control of the solar project fails to pay the
 42 fee in lieu of property taxes for more than one year during the term of an agreement entered into
 43 under this section, notwithstanding the agreement, the property constituting the solar project shall
 44 be disqualified for the exemption and payment of the fee in lieu of property taxes.

45 (b) Property that is disqualified under this subsection shall:

1 (A) Be assessed and taxed as other similar property is assessed and taxed.

2 (B) In addition, be assessed a penalty in an amount equal to one year of the fee in lieu of
 3 property taxes for the property. The penalty assessed under this subparagraph shall be *[distributed*
 4 *in the manner described in subsection (4)(c) of this section]* **credited to the general fund of the**
 5 **county in which the property is located.**

6 [(7)(a)] (8)(a) Property constituting a solar project that has received an exemption under ORS
 7 285C.350 to 285C.370 or 307.123 for any property tax year is not eligible to pay a fee in lieu of
 8 property taxes under this section.

9 (b) Paragraph (a) of this subsection does not apply to property constituting a solar project that
 10 was the subject of an application filed pursuant to ORS 285C.350 to 285C.370 if the property did not
 11 receive the exemption for any property tax year. The election to pay the fee in lieu of property
 12 taxes for property described in this paragraph is not a disqualifying event.

13 **SECTION 2. (1) The amendments to section 1, chapter 571, Oregon Laws 2015, by section**
 14 **1 of this 2018 Act apply to requests made under section 1, chapter 571, Oregon Laws 2015,**
 15 **by owners or persons in possession or control of solar projects on or after the effective date**
 16 **of this 2018 Act.**

17 **(2) Notwithstanding subsection (1) of this section, property constituting a solar project**
 18 **that is exempt from property taxes under section 1, chapter 571, Oregon Laws 2015, as in**
 19 **effect immediately preceding the effective date of this 2018 Act shall continue to be exempt**
 20 **and to pay the fee in lieu of property taxes for the term specified in the agreement entered**
 21 **into under section 1, chapter 571, Oregon Laws 2015, as in effect immediately preceding the**
 22 **effective date of this 2018 Act.**

23 **SECTION 3. ORS 308.673, 308.677 and 308.681 are repealed.**

24 **SECTION 4.** ORS 308.519 is amended to read:

25 308.519. (1) The following real and tangible personal property used or held for future use by a
 26 company described in subsection (2) of this section shall be locally assessed:

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

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

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

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

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

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

37 (3)*[(a)]* For purposes of ORS 308.505 to 308.681, property described in subsection (1) of this sec-
 38 tion, and intangible personal property that is related to the property, may not be included in any
 39 unit subject to central assessment.

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

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

44 308.674. (1) *[Subject to ORS 308.673,]* The property of a company described in ORS 308.515 (1)
 45 shall be granted an exemption in the amount of the positive value, if any, obtained by subtracting

1 from the real market value of the company's real property and tangible and intangible personal
 2 property included in the unit subject to central assessment, reduced by the amount of any exemption
 3 elected under ORS 308.671, an amount equal to the historical or original cost of the company's real
 4 property and tangible personal property included in the unit subject to central assessment, without
 5 reduction for any exemption elected under ORS 308.671, multiplied by 130 percent.

6 (2) If the amount determined under subsection (1) of this section is not positive, [*subject to ORS*
 7 *308.673,*] the real market value of the company's real property and tangible and intangible personal
 8 property included in the unit subject to central assessment, reduced by the amount of any exemption
 9 elected under ORS 308.671, shall be the real market value of the company's property for the property
 10 tax year.

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

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

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

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

20 (B) An exemption granted under this section for a property tax year has no effect on the benefits
 21 that the property of the company or the company may be granted under ORS chapter 285C or ORS
 22 307.123 for the property tax year.

23 **SECTION 6.** Section 11, chapter 23, Oregon Laws 2015, is amended to read:

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

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

30 **SECTION 7. The amendments to ORS 308.519 and 308.674 and section 11, chapter 23,**
 31 **Oregon Laws 2015, by sections 4 to 6 of this 2018 Act and the repeal of ORS 308.673, 308.677**
 32 **and 308.681 by section 3 of this 2018 Act apply to property tax years beginning on or after**
 33 **July 1, 2015.**

34 **SECTION 8.** (1) **A company described in ORS 308.515 (1) whose application was approved**
 35 **by the Public Utility Commission pursuant to ORS 308.677 (4) (2015 Edition) on or before**
 36 **March 1, 2016, may submit a claim for a credit under this section against the property taxes**
 37 **due on the property of the company that is subject to assessment under ORS 308.505 to**
 38 **308.681.**

39 (2)(a) **A credit shall be allowed to a company described in subsection (1) of this section**
 40 **for amounts invested by the company:**

41 (A) **In property described in ORS 308.677 (2)(a) (2015 Edition) that is capable of being used**
 42 **solely to provide symmetrical service described in ORS 308.677 (2)(a) (2015 Edition); and**

43 (B) **That would not have been invested in the property but for the availability of the ex-**
 44 **emption under ORS 308.677 (2015 Edition).**

45 (b) **No credit may be allowed for amounts invested in property that works in conjunction**

1 with symmetrical service described in ORS 308.677 (2)(a) (2015 Edition) but has other uses
 2 or applications in addition.

3 (3)(a) In order to receive a credit under this section, a company must submit to the De-
 4 partment of Revenue a claim that:

5 (A) Provides clear and convincing evidence, as determined by the department, that the
 6 company:

7 (i) Is a company described in subsection (1) of this section; and

8 (ii) Made investments described in subsection (2)(a) of this section in the amount claimed
 9 by the company; and

10 (B) Includes a statement, attested to by the president or other proper officer of the
 11 company, under penalties for false swearing, that all information contained in the claim is
 12 correct to the best of the officer's knowledge.

13 (b) Claims received by the department after June 30, 2019, may not be considered by the
 14 department.

15 (4)(a) The department shall respond to the company within 90 days after receiving a claim
 16 under subsection (3) of this section.

17 (b) In the response, the department shall:

18 (A) Notify the company that the claim is approved and state the amount of the credit
 19 allowed;

20 (B) Request more information, clarification or any other material, including documents,
 21 from the company that the department considers necessary to determine the company's el-
 22 igibility for the credit or the amount of the credit; or

23 (C) Issue a notice of denial to the company.

24 (c)(A) If the department is unable, for any reason not attributable to the department, to
 25 determine whether the company is entitled to claim the credit, or the amount of the credit,
 26 the department shall issue a notice of denial to the company.

27 (B) The department shall issue the notice of denial only if the department has first made
 28 a request under paragraph (b)(B) of this subsection and:

29 (i) The company does not reply within 30 days after the request is made; or

30 (ii) The company's reply does not enable the department to make a determination under
 31 this paragraph.

32 (d) The department may change the amount of the credit claimed by the company with-
 33 out denying the claim in its entirety.

34 (e) Upon request of the department, the Public Utility Commission shall assist the de-
 35 partment in responding to a claim under this subsection in any manner the department re-
 36 quests.

37 (5) If the department approves a claim under subsection (4) of this section, the depart-
 38 ment shall include a written notice with the certification of the roll under ORS 308.621 to the
 39 assessor of any county in which any portion of the property of the company is located stating
 40 the portion of the credit attributable to property of the company that is taxable in the
 41 county.

42 (6) A county assessor who receives written notice under subsection (5) of this section
 43 shall, after any discount allowed under ORS 311.505, allow a credit against the property taxes
 44 otherwise due on the property of the company for the next occurring property tax year in
 45 an amount equal to the lesser of:

1 (a) The total amount of investments described in subsection (2)(a) of this section made
2 by the company, as approved by the department; or

3 (b) The amount of property taxes due on the company's property that is subject to as-
4 sessment under ORS 308.505 to 308.681 for the property tax year in which the credit is
5 claimed.

6 (7) Any credit otherwise allowable under this section that is not used by the company in
7 the first property tax year for which it is allowed may be carried forward and offset against
8 the amount of property taxes described in subsection (6)(b) of this section for the next suc-
9 ceeding property tax year. Any credit remaining unused in the next succeeding property tax
10 year may be carried forward and used in the third succeeding property tax year, and any
11 credit not used in the third succeeding property tax year may be carried forward and used
12 in the fourth succeeding property tax year, and any credit not used in the fourth succeeding
13 property tax year may be carried forward and used in the fifth succeeding property tax year,
14 and any credit not used in the fifth succeeding property tax year may be carried forward and
15 used in the sixth succeeding property tax year, but may not be carried forward for any suc-
16 ceeding property tax year.

17 SECTION 9. Section 8 of this 2018 Act is repealed on January 2, 2026.

18 SECTION 10. This 2018 Act takes effect on the 91st day after the date on which the 2018
19 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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