

House Bill 2157

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**.

Disallows discounts, otherwise allowable on timely partial or full payments of property taxes, on payment of taxes imposed on property classified as commercial or industrial.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to discount on payment of property taxes; creating new provisions; amending ORS 86.260,
3 92.095, 294.361, 294.368, 307.244, 311.250, 311.392, 311.415, 311.465, 311.505, 311.507, 311.508,
4 311.531, 315.119, 496.340 and 757.883; and prescribing an effective date.

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

6 **SECTION 1.** ORS 311.505 is amended to read:

7 311.505. (1) Except as provided in subsection (6) of this section, the first one-third of all taxes
8 and other charges due from the taxpayer or property, levied or imposed and charged on the latest
9 tax roll, shall be paid on or before November 15, the second one-third on or before February 15, and
10 the remaining one-third on or before May 15 next following.

11 (2) Interest shall be charged and collected on any taxes on property, other charges, and on any
12 additional taxes or penalty imposed for disqualification of property for special assessment or ex-
13 emption, or installment thereof not paid when due, at the rate of one and one-third percent per
14 month, or fraction of a month until paid.

15 (3) Discounts shall be allowed on partial or full payments of such taxes, made on or before No-
16 vember 15 as follows:

17 (a) Two percent on two-thirds of such taxes so paid.

18 (b) Three percent where all of such taxes are so paid.

19 **(4) Notwithstanding subsection (3) of this section, a discount shall not be allowed under**
20 **subsection (3) of this section on payment of taxes imposed on property classified as com-**
21 **mercial or industrial under rules adopted by the Department of Revenue pursuant to ORS**
22 **308.215.**

23 *[(4)]* **(5)** For purposes of this section, "taxes" includes all taxes on property as defined in ORS
24 310.140 and certified to the assessor under ORS 310.060 except taxes assessed on any other property
25 which have by any means become a lien against the property for which the payment was made.

26 *[(5)]* **(6)** All interest collected and all discounts allowed shall be prorated to the several munic-
27 ipal corporations, taxing districts and governmental agencies sharing in the taxes or assessments.

28 *[(6)]* **(7)** If the total property tax is less than \$40, no installment payment of taxes shall be al-
29 lowed.

30 **SECTION 2.** ORS 86.260 is amended to read:

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 86.260. (1) If a lender has a requirement that the borrower pay funds into a lender's security
 2 protection provision for the payment of property taxes on property that is the security for the real
 3 estate loan agreement, insurance premiums, and similar charges, and there are funds in the account,
 4 the lender shall pay the taxes or the amount in the account if less than the taxes due, in time to
 5 take advantage of [*any discount authorized by*] **a discount allowed under** ORS 311.505, **if any**, and
 6 all other charges on or before the due dates for payments.

7 (2)(a) If the lender fails to pay the taxes in accordance with subsection (1) of this section re-
 8 sulting in a loss of discount, **if any**, to the borrower, the lender shall credit the lender's security
 9 protection provision in an amount equal to the amount of discount denied on account of such failure,
 10 together with any interest that has accrued on the unpaid property taxes to the date the property
 11 taxes are finally paid.

12 (b) If the failure of the lender to comply with subsection (1) of this section is willful and results
 13 in the loss to the borrower of the discount, **if any**, or if the failure to comply was not willful but
 14 upon discovery of the failure to comply and the loss of discount, **if any**, the lender fails to credit
 15 the lender's security protection provision required by paragraph (a) of this subsection, the borrower
 16 shall have a cause of action against the lender to recover an amount equal to 15 times the amount
 17 of discount the borrower would have received, together with any interest that accrued on the unpaid
 18 property taxes to the date of recovery. The court may award reasonable attorney fees to the pre-
 19 vailing party in an action under this section.

20 **SECTION 3.** ORS 92.095 is amended to read:

21 92.095. (1) A subdivision or partition plat may not be recorded unless all ad valorem taxes have
 22 been paid, including additional taxes, interest and penalties imposed on land disqualified for any
 23 special assessment and all special assessments, fees or other charges required by law to be placed
 24 upon the tax roll that have become a lien upon the land or that will become a lien during the tax
 25 year.

26 (2) After July 1, and before the certification under ORS 311.105 of any year, the subdivider or
 27 partitioner shall:

28 (a) If the exact amount of taxes, penalties, special assessments, fees and charges can be com-
 29 puted by the assessor, pay the amount to the tax collector. The assessor is authorized to levy and
 30 the tax collector is authorized to collect the amount.

31 (b) If the assessor is unable to compute the amount at the time, either:

32 (A) Pay the amount estimated by the assessor to be needed to pay the taxes, penalties, special
 33 assessments, fees and other charges to become due; or

34 (B) Deposit with the tax collector a bond or irrevocable letter of credit with a good and suffi-
 35 cient undertaking in an amount the assessor considers adequate to ensure payment of the taxes to
 36 become due. The bond or irrevocable letter of credit amount may not exceed twice the amount of
 37 the previous year's taxes, special assessments, fees and other charges upon the land.

38 (3) Taxes paid or for which security is given under subsection (2)(a) or (b) of this section are
 39 entitled to the discount [*provided by*] **allowed under** ORS 311.505, **if any**.

40 (4) ORS 311.370 applies to all taxes levied and collected under subsection (2) of this section,
 41 except that any deficiency constitutes a personal debt against the person subdividing or partitioning
 42 the land and not a lien against the land and must be collected as provided by law for the collection
 43 of personal property taxes.

44 (5) If a subdivision or partition plat is recorded, any additional taxes, interest or penalties im-
 45 posed upon land disqualified for any special assessment become a lien upon the land on the day

1 before the plat was recorded.

2 **SECTION 4.** ORS 294.361 is amended to read:

3 294.361. (1) Each municipal corporation shall estimate in detail its budget resources for the en-
4 suing year or ensuing budget period by funds and sources.

5 (2) Budget resources include but are not limited to:

6 (a) The balance of cash, cash equivalents and investments (in the case of a municipal corpo-
7 ration on the cash basis) or the net working capital (in the case of a municipal corporation on the
8 accrual or modified accrual basis of accounting) that will remain in each fund on the last day of the
9 current year or current budget period;

10 (b) Taxes;

11 (c) Fees;

12 (d) Licenses;

13 (e) Fines;

14 (f) Interest on deposits or on securities of any kind;

15 (g) Endowments;

16 (h) Annuities;

17 (i) Penalties;

18 (j) Sales of property or other assets or products of any kind;

19 (k) Delinquent taxes;

20 (L) Judgments;

21 (m) Damages;

22 (n) Rent;

23 (o) Premiums on sales of bonds;

24 (p) Reimbursement for services, road or other work performed for others;

25 (q) Transfer or reverter of unused balances of any kind;

26 (r) Reimbursement for services provided other funds;

27 (s) Rebates;

28 (t) Refunds of moneys heretofore paid on any account;

29 (u) Apportionment, grant, contribution, payment or allocation from the federal government, state
30 government or any other governmental units;

31 (v) Taxes for the ensuing year or ensuing budget period;

32 (w) Interfund revenue transfers; and

33 (x) Revenues from any and all other sources of whatsoever kind or character.

34 (3) Budget resources do not include:

35 (a) The estimate for the ensuing year or ensuing budget period of discounts **allowed** under ORS
36 311.505, **if any**.

37 (b) The estimate of uncollectible amounts of taxes, fees or charges for the ensuing year or en-
38 suing budget period.

39 (c) Moneys accumulated under an approved employee deferred compensation plan and interest
40 or investment returns earned on such moneys.

41 (d) Grants, gifts, bequests or devises transferred to a municipal corporation in trust for specific
42 uses in the year of transfer. However, such grants, gifts, bequests or devises shall be included as
43 budget resources if, by the time the budget committee approves the budget, the amount thereof that
44 will be received in the ensuing year or ensuing budget period can be reasonably estimated. Such
45 grants, gifts, bequests or devises may be placed in a trust and agency fund, to then be appropriated

1 from such fund or funds.

2 (e) Amounts deducted from taxes pursuant to ORS 294.632.

3 **SECTION 5.** ORS 294.368 is amended to read:

4 294.368. (1) Each municipal corporation that has the power to levy an ad valorem property tax
5 shall estimate, in the manner provided in this section, the amount of revenues that will be received
6 in the ensuing year or ensuing budget period through the imposition of taxes upon the taxable
7 property within the municipal corporation.

8 (2) Subject to the additional adjustments required under subsection (4) of this section, the esti-
9 mated ad valorem taxes that will be received in the ensuing year or ensuing budget period shall not
10 exceed the following:

11 (a) The amount derived by multiplying the estimated assessed value for the ensuing year or each
12 fiscal year of the ensuing budget period of the taxable property within the municipal corporation,
13 after boundary changes have been filed in final approved form with the county assessor and the
14 Department of Revenue as provided in ORS 308.225, by whichever of the following is applicable to
15 the municipal corporation:

16 (A) The municipal corporation's permanent rate limit on operating taxes, as defined in ORS
17 310.202 (7); or

18 (B) The municipal corporation's statutory rate limit on operating taxes, as defined in ORS
19 310.202 (10).

20 (b) If the municipal corporation is authorized to levy a local option tax that was authorized by
21 the electors as a dollar amount, the dollar amount of such local option tax that is authorized to be
22 levied in the ensuing year or ensuing budget period.

23 (c) If the municipal corporation is authorized to levy a local option tax that was authorized by
24 the electors as a tax rate, the amount derived by multiplying the authorized rate of such local option
25 tax for the ensuing year or ensuing budget period by the estimated assessed value for the ensuing
26 year or each fiscal year of the ensuing budget period of the taxable property within the municipal
27 corporation.

28 (d) Subject to subsection (3) of this section, the municipal corporation's estimate of the amount
29 required to pay the principal and interest on bonded indebtedness that is not subject to limitation
30 under section 11 (11) or section 11b, Article XI of the Oregon Constitution.

31 (e) The municipal corporation's estimate of the amount required to repay taxing district bond
32 obligations or pension and disability plan obligations described in section 11 (5), Article XI of the
33 Oregon Constitution.

34 (3)(a) The estimate described in subsection (2)(d) of this section may include:

35 (A) An amount equal to the total of the payments on the principal and interest on bonded
36 indebtedness that are due and payable in the fiscal period following the fiscal period for which the
37 budget is being prepared and before a sufficient amount of property taxes to pay the bonded
38 indebtedness are collected in that fiscal period, pursuant to ORS 294.398.

39 (B) Amounts to reimburse the municipal corporation for the payment of principal and interest
40 on exempt bonded indebtedness that the municipal corporation made from other moneys because
41 collections of taxes levied for exempt bonded indebtedness were not sufficient to pay the exempt
42 bonded indebtedness.

43 (b) If the bonded indebtedness is a tax credit bond or other bond that bears interest that is
44 includable in gross income under the Internal Revenue Code, as amended and in effect on June 25,
45 2009, the payments described in paragraph (a) of this subsection may include deposits that the mu-

1 nicipal corporation has agreed to make in a sinking fund that is dedicated to pay the bonded
 2 indebtedness.

3 (4) The amounts determined under subsection (2)(a), (b) and (c) of this section shall be reduced
 4 by an amount equal to the estimated amount of such taxes that will not be collected as a result of:

- 5 (a) The discounts allowed under ORS 311.505, **if any**;
- 6 (b) The limits imposed under ORS 310.150 (3); and
- 7 (c) The failure of taxpayers to pay such taxes in the year for which they are levied.

8 (5)(a) The estimated ad valorem taxes determined in accordance with subsection (2)(a), (b) and
 9 (c) of this section, prior to adjustment by subsection (4) of this section, shall be used by the munic-
 10 ipal corporation for purposes of complying with the requirements of ORS 310.060 (1).

11 (b) The amounts determined under subsection (2)(d) and (e) of this section shall, for purposes of
 12 complying with the requirements of ORS 310.060 (1), be increased by an amount equal to the esti-
 13 mated amount of taxes that will not be collected as a result of:

- 14 (A) The discounts allowed under ORS 311.505, **if any**;
- 15 (B) The limits imposed under ORS 310.150 (3); or
- 16 (C) The failure of taxpayers to pay taxes in the year for which they are levied.

17 **SECTION 6.** ORS 307.244 is amended to read:

18 307.244. (1) The assessor shall compute and list the value and compute and list the amount of
 19 tax which would have been charged on each property receiving an exemption under ORS 307.242
 20 had the property not received an exemption. On or before October 15, the county assessor shall
 21 certify the total amounts so computed for each county to the Department of Revenue and to the
 22 county treasurer.

23 (2) Not later than November 15, the Department of Revenue shall pay to each county treasurer
 24 the amount certified under subsection (1) of this section, less any discount [*provided in*] **allowed**
 25 **under** ORS 311.505. The payments made by the department under this section shall be made from
 26 the suspense account referred to in ORS 307.248. If necessary, the payments may be prorated as
 27 provided in ORS 307.248.

28 (3) Payments made by the department to the various county treasurers under this section shall
 29 be distributed to the taxing units of the county in accordance with the schedule of percentages
 30 computed under ORS 311.390.

31 **SECTION 7.** ORS 311.250 is amended to read:

32 311.250. (1) Except as to real property assessed to “unknown owners” pursuant to ORS 308.240
 33 (2), on or before October 25 in each year, the tax collector shall deliver or mail to each person (as
 34 defined in ORS 311.605) shown on the tax roll as an owner of real or personal property, or to an
 35 agent or representative authorized in writing pursuant to ORS 308.215 by such person, a written
 36 statement of property taxes payable on the following November 15.

37 (2) The failure of a taxpayer to receive the statement described in this section shall not invali-
 38 date any assessment, levy, tax, or proceeding to collect tax.

39 (3) The tax collector shall not be liable for failure to deliver or mail the tax statements by Oc-
 40 tober 25 as provided in subsection (1) of this section if such failure was caused by not receiving the
 41 tax roll from the assessor by the time provided by law or by reason of any other circumstance be-
 42 yond the control of the tax collector. In such case the tax collector shall deliver or mail the state-
 43 ments as soon as possible.

44 (4) Where, for any reason the taxes due on any property on the assessment roll in any year
 45 cannot be ascertained from the tax roll by November 5 of that year, within 15 days thereafter the

1 owner or other person liable for or desiring to pay the taxes on such property may tender to the
2 tax collector, and the tax collector may collect, a payment of all or part of the taxes estimated by
3 the tax collector to be due on such property. Immediately after the taxes are actually extended on
4 the tax roll, the tax collector shall credit the amount paid as provided by law, *[allowing the]* **less**
5 **any** discount **allowed** under ORS 311.505 and not charging interest for the amount of taxes satisfied
6 by such payment. Where there has been an underpayment, additional taxes shall be collected, and
7 where there has been an overpayment, refund shall be made as otherwise provided by law.

8 (5) The tax statement described in this section shall be designed by the Department of Revenue
9 and shall contain such information as the department shall prescribe by rule including:

10 (a) The real market value of the property for which the tax statement is being prepared (or the
11 property's specially assessed value if the property is subject to special assessment) for the current
12 and prior tax year;

13 (b) The property's assessed value for the current and prior tax year; and

14 (c) The total amount of taxes due on the property.

15 **SECTION 8.** ORS 311.392 is amended to read:

16 311.392. (1) If, in the discretion of the county court, it is more economical to advance to those
17 municipalities from the general fund of the county the total amount of taxes, assessments or other
18 charges levied against property in the county, the county court may advance from the general fund
19 of the county the full amount of the taxes, assessments and charges levied by those subdivisions and
20 the county court may order the county tax collector to revise the tax distribution schedule provided
21 by ORS 311.390 so that all taxes, assessments and charges advanced by the county will be allocated
22 to the county. If the county makes the payments provided in this section, it shall have no recourse
23 against the political subdivision for recovery of the shrinkage in collections from that anticipated
24 at the time the payment was made.

25 (2) If the county advances taxes under this subsection, before December 1 of each year, it may
26 deduct from the levy the three percent discount *[which]* **that** would have been *[given]* **allowed** by
27 the district **under ORS 311.505** had all of the taxes been paid by November 15 and turned over to
28 the district on or before December 1 of each year. If the payment is made after December 1, no
29 discount shall be taken by the county.

30 **SECTION 9.** ORS 311.415 is amended to read:

31 311.415. (1) Before any judgment or final order shall be entered or become operative in any court
32 in this state in any of the causes listed in subsection (3) of this section, it shall first be shown to
33 the satisfaction of the court that all taxes due or owing from the defendant, judgment debtor, heir,
34 devisee, executor, administrator, trustee, agent, conservator or guardian, or which may be collected
35 by virtue of the assessment and taxation laws of this state, have been paid.

36 (2) If the judgment or final order is to be taken and entered after January 1, while the assess-
37 ment roll is in the possession of the assessor, and pertains to an assessment to be made as of Jan-
38 uary 1, the receipt for the taxes shall be given by the assessor upon an assessment made as follows:

39 (a) If the exact amount of taxes, special assessments, fees and charges are able to be computed
40 by the assessor, such amount shall be paid to the tax collector. The assessor is authorized to levy
41 and the tax collector is authorized to collect such amount.

42 (b) If the assessor is unable to compute the exact amount at the time, either (A) there shall be
43 paid the amount estimated by the assessor to be needed to pay the taxes, special assessments, fees
44 and other charges to become due, or (B) there shall be deposited with the tax collector a bond with
45 good and sufficient undertaking in the amount that the assessor considers adequate to insure pay-

1 ment of the taxes to become due. In no event shall the bond amount exceed twice the amount of the
 2 previous year's taxes, special assessments, fees and other charges computed under this subsection.
 3 Taxes paid or bonded for under this section shall be entitled to any discount [*provided by*] **allowed**
 4 **under** ORS 311.505. ORS 311.370 shall apply to amounts assessed and collected under this sub-
 5 section.

6 (3) This section applies to the following causes:

7 (a) An assignment for the benefit of creditors.

8 (b) The estate of a deceased person or any other proceeding in probate involving the distribution
 9 of personal property.

10 (c) Any proceeding to enforce the payment of a debt where the property involved is assessable
 11 personal property.

12 **SECTION 10.** ORS 311.465 is amended to read:

13 311.465. (1) Subsection (2) of this section applies if:

14 (a) The county assessor discovers personal property subject to assessment for taxation in any
 15 year and taxes imposed on the property in a prior year are delinquent; or

16 (b) In the opinion of the assessor it seems probable that personal property may be removed from
 17 the county, sold, dissipated or destroyed before the taxes on the property otherwise become due and
 18 payable and it further appears that the owner or person liable for the taxes had no property subject
 19 to taxation in the county during either of the two preceding tax years, or was delinquent in the
 20 payment of any tax imposed during the two preceding tax years in respect to property in any ju-
 21 risdiction, whether within or without the state, or is not financially responsible or intends to depart
 22 from the state before the taxes become due.

23 (2) The assessor may, immediately after listing and valuing the personal property for assessment
 24 and taxation, levy, demand and collect for remittance to the tax collector, or the tax collector may
 25 collect, the taxes on the property as follows:

26 (a) If the assessor is able to compute the exact amount of taxes, special assessments, fees and
 27 charges, such amount shall be paid to the assessor for remittance to the tax collector or directly
 28 to the tax collector; or

29 (b) If the assessor is unable to compute the exact amount at the time, either:

30 (A) There shall be paid the amount that the assessor estimates is needed to pay the taxes, spe-
 31 cial assessments, fees and other charges to become due; or

32 (B) There shall be deposited with the tax collector a bond with a good and sufficient undertak-
 33 ing in the amount that the assessor considers adequate to ensure payment of the taxes to become
 34 due. In no event shall the bond amount exceed twice the amount of the taxes, special assessments,
 35 fees and other charges computed by the assessor under this paragraph.

36 (3) Taxes paid or bonded for under subsection (2) of this section shall be entitled to [*the*] **any**
 37 discount [*provided by*] **allowed under** ORS 311.505. ORS 311.370 shall apply to the amounts assessed
 38 and collected under subsection (2) of this section. Any taxes collected under subsection (2) of this
 39 section, and subject to refund on order of the tax court under ORS 311.467, shall be held in the
 40 special account mentioned in ORS 311.370 by the county treasurer until the period for petitioning
 41 for review of the assessor's action has expired, or, when a review is had, until the review is deter-
 42 mined. If the tax court, upon review, orders a refund, the county treasurer shall make the refund
 43 from the special account within three days after entry of the department's order.

44 (4) If the owner or person liable for the taxes on the personal property fails to pay the tax on
 45 demand by the assessor, the assessor shall certify the assessment and tax levies made under this

1 section to the tax collector of the county. The taxes thereupon shall be collected by the tax collec-
 2 tor in the manner of collecting delinquent taxes on personal property. The taxes when so certified
 3 by the assessor are delinquent and subject to the provisions of law for the collection of delinquent
 4 taxes on personal property.

5 **SECTION 11.** ORS 311.507 is amended to read:

6 311.507. (1) Notwithstanding the requirement in ORS 311.505 (3) that to receive a discount upon
 7 payment of taxes, the taxes must be paid on or before November 15, *[the]* **any** discount *[provided*
 8 *by]* **under** ORS 311.505 (3) shall be allowed:

9 (a) If the taxes are paid within 15 business days after the date the tax statement is mailed by
 10 the tax collector, or by November 15, whichever is the later;

11 (b) If under ORS 311.252 (2) or 311.253, the mortgagee or other person has received from the
 12 county a defective or inaccurate computer record, and the taxes are paid within 15 business days
 13 after the corrected computer record is delivered to the mortgagee or person, or by November 15,
 14 whichever is later;

15 (c) If the reason for nonpayment by November 15 is on account of the county not providing a
 16 computer record pursuant to a mutual agreement as provided under ORS 311.253 and tax statements
 17 are substituted by the county for the computer record. To receive a discount pursuant to this par-
 18 agraph, the taxes must be paid within 20 business days after the tax collector mails the tax state-
 19 ments, or the taxpayer has been notified in writing by the tax collector that the computer record
 20 will not be provided, whichever date is later; or

21 (d) Except under conditions described in ORS 311.229 (2), if property or value is added to the
 22 tax roll under ORS 311.208 and the taxes becoming due as a result of the addition are paid in the
 23 period prior to the 16th day of the month next following the month of their extension.

24 (2) Nothing in this section shall affect the due dates of the installment payments or the compu-
 25 tation of interest upon failure to pay the installment on the date due. As used in this section, busi-
 26 ness days mean days other than Saturdays and legal holidays.

27 **SECTION 12.** ORS 311.508 is amended to read:

28 311.508. (1) Except as provided under subsection (2) of this section and notwithstanding ORS
 29 311.505 *[(5)]* **(6)**:

30 (a) Twenty-five percent of the interest charged and collected under ORS 311.505 shall be de-
 31 posited and credited to the County Assessment and Taxation Fund created under ORS 294.187; and

32 (b) An additional 25 percent of the interest charged and collected under ORS 311.505 shall be
 33 deposited and credited to the County Assessment and Taxation Fund created under ORS 294.187 to
 34 the extent the interest would otherwise be distributed to cities or other taxing districts that are not
 35 counties or districts within the public school system.

36 (2) On or before June 15 of each year, the Department of Revenue shall estimate the amount
 37 of interest that will be deposited and credited to the County Assessment Function Funding Assist-
 38 ance Account created under ORS 294.184 for the ensuing fiscal year. If the estimate is less than \$13
 39 million, the department shall certify to each county treasurer an increase in the percentage specified
 40 under subsection (1)(a) of this section to the end that the estimate reaches \$13 million. However,
 41 no increase in percentage shall be certified that will raise and make available for deposit and credit
 42 to the County Assessment Function Funding Assistance Account for the ensuing fiscal year an
 43 amount that is in excess of \$3 million over the amount estimated under this subsection to be re-
 44 ceived under subsection (1)(a) of this section for the ensuing fiscal year.

45 (3) Upon receipt of certification from the department under subsection (2) of this section, the

1 county treasurer shall deposit and credit to the County Assessment and Taxation Fund for the fiscal
 2 year to which the certification applies the percentage of the interest charged and collected under
 3 ORS 311.505 so certified.

4 (4) The percentage of the interest on unpaid taxes and penalties required to be deposited and
 5 credited to the County Assessment and Taxation Fund under this section shall be deposited and
 6 credited in the same manner that the remaining interest is deposited and credited under ORS
 7 311.385.

8 **SECTION 13.** ORS 311.531 is amended to read:

9 311.531. (1) On or before August 1 of each year the tax collector shall file with the county clerk
 10 a statement, on forms supplied by the Department of Revenue, compiled from the tax rolls, showing
 11 separately for each tax year for the prior seven years the following information as to transactions
 12 during the past fiscal year ending June 30:

13 (a) The total amounts certified under ORS 311.105 (1) to be collected by the tax collector, broken
 14 down among real property, personal property and property assessed pursuant to ORS 308.505 to
 15 308.681.

16 (b) The total amount of all adjustments made by the tax collector, in dollars, increasing the total
 17 amount to be collected, and a like figure for the decreases.

18 (c) The total amount collected, exclusive of interest and penalties, the total amount remaining
 19 uncollected, broken down among real property, personal property and property assessed pursuant
 20 to ORS 308.505 to 308.681.

21 (d) The total amount of interest and penalties collected, and the total amount of discounts or
 22 rebates allowed, **if any**.

23 (e) Other matters affecting the statement of the tax collector, striking a balance between the
 24 total of the tax roll and the total of collections.

25 (2) The tax collector then shall make a certificate over the official signature of the collector,
 26 to be annexed to the statement, that the facts set forth therein are correct. A copy of the statement
 27 shall be filed with the county clerk, a copy filed with the county court and a copy filed with the
 28 Department of Revenue. A copy of the statement and also of the certificate shall be retained by the
 29 tax collector as a public record.

30 **SECTION 14.** ORS 315.119 is amended to read:

31 315.119. (1) As used in this section:

32 (a) "Effective property tax rate" means:

33 (A) The ratio of the total amount of property taxes imposed on the account that contains the
 34 machinery and equipment for which a credit is being claimed, [(/after application of ORS 310.150 but
 35 prior to **any** discount **allowed** under ORS 311.505)], over the assessed value of the property tax
 36 account; and

37 (B) The ratio determined under subparagraph (A) of this paragraph for the property tax year
 38 that begins in the income tax year for which the credit is claimed.

39 (b) "Farm operator" means a person that operates a farming business as defined in section 263A
 40 of the Internal Revenue Code.

41 (c) "Machinery and equipment" means machinery and equipment that meets the definition of
 42 section 1245 property in section 1245 of the Internal Revenue Code.

43 (d) "Processing":

44 (A) Means any activity that is directly related and necessary to clean, sort, grade, produce,
 45 prepare, manufacture, handle, package, store or ship a farm crop or livestock product after the point

1 of harvest and before the point of sale, in a modified state or altered form.

2 (B) Does not include an activity primarily associated with the promotion or retail sale of a
3 product for personal or household use that is normally sold through consumer retail distribution.

4 (e) "Qualified machinery and equipment" means machinery and equipment used in processing
5 that meets the requirements of subsections (3) and (4) of this section for the tax year.

6 (2) A taxpayer who is a farm operator may claim a credit against the taxes that are otherwise
7 due under ORS chapter 316 or, if the taxpayer is a corporation, under ORS chapter 317 or 318 for
8 ad valorem property taxes paid or incurred on qualified machinery and equipment.

9 (3) A credit under this section may be claimed only if:

10 (a) The machinery and equipment is owned by the farm operator or by a person who is related
11 to the farm operator under section 267 of the Internal Revenue Code;

12 (b) The machinery and equipment is used for processing primarily occurring on land described
13 in subsection (4) of this section; and

14 (c)(A) The farm operator has grown or raised at least one-half of the total volume of farm crop
15 or livestock products processed with the machinery and equipment for which the credit is being
16 claimed in three of the five previous income tax years; or

17 (B)(i) The farm operator has grown or raised at least one-tenth of the total volume of farm crop
18 or livestock products processed with the machinery and equipment for which the credit is being
19 claimed in three of the five previous income tax years; and

20 (ii) The farm operator has used the machinery and equipment to process at least one-half of the
21 volume of the applicable farm crop or livestock products grown or raised by the farm operator in
22 three of the five previous income tax years.

23 (4) In addition to the requirements under subsection (3) of this section, a credit under this sec-
24 tion may be claimed only if:

25 (a) The machinery and equipment is located on land that is specially assessed for farm use under
26 ORS 308A.050 to 308A.128 and the machinery and equipment is owned or otherwise controlled by
27 the farm operator; or

28 (b) The machinery and equipment is located on land that is contiguous to land that is specially
29 assessed for farm use under ORS 308A.050 to 308A.128 and the machinery and equipment is owned
30 or otherwise controlled by the farm operator.

31 (5) A credit may be claimed under this section only for qualified machinery and equipment that
32 was subject to assessment and property taxation for the property tax year beginning in the income
33 tax year for which the credit is being claimed.

34 (6) The amount of the credit shall be the lesser of:

35 (a) The effective property tax rate multiplied by the adjusted basis of the qualified machinery
36 and equipment; or

37 (b) \$30,000.

38 (7) The adjusted basis of the qualified machinery and equipment shall be the adjusted basis of
39 the qualified machinery and equipment for personal income or corporate excise or income tax pur-
40 poses as of the last day of the income tax year for which the credit is being claimed, except that
41 the adjusted basis shall be increased by the cost of any qualified machinery and equipment that the
42 taxpayer elected to expense under section 179 of the Internal Revenue Code, until the qualified
43 machinery and equipment is fully depreciated for personal income or corporate excise or income tax
44 purposes. The adjusted basis shall reflect any depreciation allowable for the current tax year. A
45 credit under this section may not be allowed for a tax year in which the qualified machinery and

1 equipment is fully depreciated for personal income or corporate excise or income tax purposes.

2 (8) The credit allowed under this section for any one tax year may not exceed the tax liability
3 of the taxpayer.

4 (9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
5 particular year may be carried forward and offset against the taxpayer's tax liability for the next
6 succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried
7 forward and used in the second succeeding tax year, and likewise, any credit not used in that second
8 succeeding tax year may be carried forward and used in the third succeeding tax year, and any
9 credit not used in that third succeeding tax year may be carried forward and used in the fourth
10 succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried
11 forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year
12 thereafter.

13 (10) The credit allowed under this section is not in lieu of any depreciation or amortization de-
14 duction to which the taxpayer otherwise may be entitled under ORS chapter 316, 317 or 318 for the
15 tax year.

16 (11) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by
17 any amount of credit allowed under this section.

18 (12) A nonresident shall be allowed the credit under this section in the proportion provided in
19 ORS 316.117.

20 (13) If a change in the status of a taxpayer from resident to nonresident or from nonresident to
21 resident occurs, the credit allowed under this section shall be determined in a manner consistent
22 with ORS 316.117.

23 (14) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the
24 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-
25 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

26 **SECTION 15.** ORS 496.340 is amended to read:

27 496.340. (1) Except as provided in subsection (3) of this section, whenever real property owned
28 by the State Fish and Wildlife Commission is exempt from taxation on January 1 of any year by
29 reason of its ownership by the state, the commission shall pay to the county in which the property
30 is situated an amount equal to the ad valorem taxes that would have been charged against the
31 property if it had been assessed to a taxable owner as of January 1 of such year as provided in
32 subsection (2) of this section. The county assessor shall determine the value of such property and
33 shall notify the commission of the determination of the county assessor. Upon request of the com-
34 mission, the Department of Revenue shall review the determination of value and shall redetermine
35 the value if it concludes the value initially determined was substantially incorrect.

36 (2)(a) Except as provided in paragraph (b) or (c) of this subsection, the value of the property
37 shall be computed at its assessed value under ORS 308A.107 or for forestland use, whichever is ap-
38 plicable.

39 (b) Paragraph (a) of this subsection shall not apply to any property upon which open field
40 burning takes place. If open field burning takes place on any property described in this section, the
41 property shall be valued at its highest and best use rather than the values authorized in paragraph
42 (a) of this subsection on the January 1 following the date of the open field burning. If in the next
43 year, the open field burning is discontinued, paragraph (a) of this subsection shall apply the next
44 January 1 and each year thereafter as long as no open field burning occurs.

45 (c) Paragraph (a) of this subsection shall not apply to any property acquired by the commission

1 after September 9, 1971, if such property was valued under farm use or forestland use special as-
 2 sessment provisions, at the time the property was acquired by the commission. However, no pay-
 3 ments in lieu of taxes made to a county pursuant to this section prior to January 1, 1974, shall be
 4 refunded to the commission.

5 (3) This section does not apply to real property used for bird farms, fish hatcheries, office
 6 quarters, fishing access sites or impoundments, capital improvements or real property acquired
 7 pursuant to the Act of May 19, 1948 (62 Stat. 240), Public Law 80-537.

8 (4) The amount prescribed in subsection (1) of this section shall be determined annually by the
 9 assessor of the county in which the property is situated and certified by the assessor to the county
 10 court or the board of county commissioners. A notice of the determination, signed by the county
 11 judge or the chairperson of the board of county commissioners, shall be mailed to the principal office
 12 of the commission not later than October 15. The notice shall contain a statement of the value of
 13 the property and a complete explanation of the method used in computing the amount claimed pur-
 14 suant to subsection (1) of this section. Not later than November 15, the commission shall pay each
 15 amount, less a discount equivalent to *[that which is provided in]* **the discount allowed the property**
 16 **under ORS 311.505, if any.** Payment shall be made to the county treasurer, who shall distribute the
 17 payment to the taxing districts of the county in accordance with the schedule of percentages com-
 18 puted under ORS 311.390.

19 (5) Notwithstanding any other provision of the wildlife laws, the commission shall make the
 20 payments to counties required by this section annually from the moneys in the State Wildlife Fund
 21 established by ORS 496.300.

22 **SECTION 16.** ORS 757.883 is amended to read:

23 757.883. (1) Oregon Community Power shall make payments in lieu of property taxes on all
 24 property that would otherwise be subject to assessment under ORS 308.505 to 308.681 if owned by
 25 a taxable owner. Oregon Community Power shall pay to each county in which property of Oregon
 26 Community Power is located an amount equal to the ad valorem property taxes that would have
 27 been charged by the county if Oregon Community Power property had been assessed to a taxable
 28 owner as of January 1 of the assessment year for which payment is being made.

29 (2) The Department of Revenue shall determine the assessed value of Oregon Community Power
 30 property as if the property were subject to assessment under ORS 308.505 to 308.681, and shall
 31 transmit the value information as provided in ORS 308.505 to 308.681 to the appropriate county
 32 assessor. Oregon Community Power shall comply with property reporting requirements under ORS
 33 308.505 to 308.681 as if the property were subject to assessment under ORS 308.505 to 308.681.

34 (3) The amount of the in lieu payment to be made to each county under this section shall be
 35 determined and certified annually by the county assessor of the county. A notice of the determi-
 36 nation and certification shall be mailed to Oregon Community Power not later than October 15. The
 37 notice shall contain a statement of the value of the property and a complete explanation of the
 38 method used in computing the amount of the in lieu payment due under this section. Not later than
 39 November 15, Oregon Community Power shall pay the amount due to each county under this section,
 40 less a discount equivalent to *[that which is provided in]* **the discount allowed the property under**
 41 **ORS 311.505, if any.** Payment shall be made to the county treasurer. The county treasurer shall
 42 distribute the payment to the taxing districts of the county in accordance with the schedule of
 43 percentages computed under ORS 311.390.

44 **SECTION 17. The amendments to ORS 86.260, 92.095, 294.361, 294.368, 307.244, 311.250,**
 45 **311.392, 311.415, 311.465, 311.505, 311.507, 311.508, 311.531, 315.119, 496.340 and 757.883 by**

1 sections 1 to 16 of this 2019 Act apply to property tax years beginning on or after July 1, 2020.

2 SECTION 18. This 2019 Act takes effect on the 91st day after the date on which the 2019

3 regular session of the Eightieth Legislative Assembly adjourns sine die.

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