

# House Bill 2316

Sponsored by Representative BARRETO (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**.

Caps total amount of assessments and reassessments for local improvements to three percent of real market value of local improvement to which assessments and reassessments relate. Provides that refunds unclaimed for one year after issuance escheat to state. Provides that assessments and reassessments that remain unexpended and unobligated eight years after date of assessment or reassessment must be refunded to owner of benefited property, and, if unclaimed for one year, escheat to state.

## A BILL FOR AN ACT

1  
2 Relating to assessments for local improvements; creating new provisions; and amending ORS 223.127,  
3 223.389, 223.395, 223.415 and 223.485.

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

5 **SECTION 1.** ORS 223.389 is amended to read:

6 223.389. (1) The governing body of a local government may prescribe by ordinance or resolution  
7 the procedure to be followed in making estimated assessments and final assessments for benefits  
8 from a local improvement upon the lots that have been benefited by all or part of the local im-  
9 provement, to the extent that the charter of the local government does not prescribe the method of  
10 procedure. In addition, in any case where the charter of a local government specifies a method of  
11 procedure that does not comply or is not consistent with the requirements of the Oregon Constitu-  
12 tion, the governing body of the local government may prescribe by ordinance or resolution the pro-  
13 cedure that shall comply and be consistent with the requirements of the Oregon Constitution, and  
14 the provisions of the ordinance or resolution shall apply in lieu of the charter provisions.

15 (2)[(a)] The ordinance or resolution prescribing the procedure shall provide for adoption or  
16 enactment of an ordinance or resolution designating the local improvement as to which an assess-  
17 ment is contemplated, describing the boundaries of the district to be assessed. Provision shall be  
18 made for at least 10 days' notice to owners of property within the proposed district in which the  
19 local improvement is contemplated. The notice may be made by posting, by newspaper publication  
20 or by mail, or by any combination of such methods. The notice shall specify the time and place  
21 where the governing body will hear and consider objections or remonstrances to the proposed local  
22 improvement by any parties aggrieved thereby.

23 [(b)] (3)(a) If the governing body determines that the local improvement shall be made, when the  
24 estimated cost thereof is ascertained on the basis of the contract award or the departmental cost  
25 of the local government, the governing body shall determine whether the property benefited shall  
26 bear all or a portion of the cost.

27 **(b) The total amount of the assessments to be imposed on benefited property may not**  
28 **exceed an amount equal to three percent of the real market value of the local improvement**  
29 **to which the assessments relate, determined as of the assessment date for the year in which**

**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 **the assessment is made.**

2 (c) The recorder or other person designated by the governing body shall prepare the estimated  
3 assessment to the respective lots within the assessment district and file it in the appropriate office  
4 of the local government.

5 (d) Notice of the estimated assessment shall be mailed or personally delivered to the owner of  
6 each lot proposed to be assessed. The notice shall state the amounts of the estimated assessment  
7 proposed on that property and shall fix a date by which time objections shall be filed with the re-  
8 corder.

9 (e) Any objection shall state the grounds for the objection. The governing body shall consider  
10 the objections and grounds and may adopt, correct, modify or revise the estimated assessments.

11 [(c)] (4) The governing body shall determine the amount of estimated assessment to be charged  
12 against each lot within the district, according to the special and peculiar benefits accruing to the  
13 lot from the local improvement, and shall by ordinance or resolution spread the estimated assess-  
14 ments.

15 **SECTION 2.** ORS 223.395 is amended to read:

16 223.395. (1)(a) If the initial assessment has been made on the basis of estimated cost, and upon  
17 the completion of the work the cost is found to be greater than the estimated cost, the governing  
18 body may make a deficit assessment for the additional cost.

19 (b) Proposed assessments upon the respective lots within the assessment district for the  
20 proportionate share of the deficit shall be made; and notices shall be sent; opportunity for objections  
21 shall be given; such objections shall be considered; and determination of the assessment against each  
22 particular lot, block or parcel of land shall be made as in the case of the initial assessment; and the  
23 deficit assessment spread by ordinance.

24 (2) If assessments have been made on the basis of estimated cost, and upon completion the cost  
25 is found to be less than the estimated cost, provision shall be made for refund of the excess [*or*  
26 *overplus*].

27 (3)(a) **Refunds issued under subsection (2) of this section that have not been claimed**  
28 **within one year after the date of issuance shall escheat to the State of Oregon and be paid**  
29 **over to the State Treasurer for deposit in the Common School Fund.**

30 (b)(A) **Assessments collected under ORS 223.387 to 223.401, and reassessments collected**  
31 **under ORS 223.405 to 223.485, that remain unexpended and unobligated on the date that is**  
32 **eight years after the date of collection shall first be used to reduce the amount of out-**  
33 **standing liens against the benefited property arising under ORS 223.393 and 223.450, respec-**  
34 **tively.**

35 (B) **After reduction of the liens under subparagraph (A) of this paragraph, any remaining**  
36 **amount of assessments and reassessments shall be delivered to the address of the owner of**  
37 **the assessed property or the owner's agent, if known, and if unknown, to the address of the**  
38 **property.**

39 (C) **Any amounts described in subparagraph (B) of this paragraph that remain unclaimed**  
40 **one year after the date of delivery shall escheat to the State of Oregon and be paid over to**  
41 **the State Treasurer for deposit in the Common School Fund.**

42 **SECTION 3.** ORS 223.415 is amended to read:

43 223.415. (1)(a) The reassessment shall be based upon the special and peculiar benefit of the local  
44 improvement to the respective lots at the time of the original making of the local improvement.

45 (b) The amount of the reassessment [*shall not be*]:

1 (A) Is not limited to the amount of the original estimated or final assessment.

2 (B) In total for all benefited property may not exceed an amount equal to three percent  
3 of the real market value of the local improvement to which the reassessment relates, de-  
4 termined as of the assessment date for the year in which the reassessment is made.

5 (2) In the case of a reassessment of a final assessment:

6 [(1)] (a) The property embraced in the reassessment shall be limited to property embraced in the  
7 original final assessment;

8 [(2)] (b) Property on which the original final assessment was paid in full shall not be included  
9 in the reassessment; and

10 [(3)] (c) Interest from the date of delinquency of the original final assessment may be added by  
11 the governing body to the reassessment in cases where the property was included in the original  
12 final assessment, but such interest shall not apply to any portion of the reassessment that exceeds  
13 the amount of the original final assessment. The reassessment shall be made in an equitable manner  
14 as nearly as may be in accordance with the law in force at the time the local improvement was  
15 made, but the governing body may adopt a different plan of apportioning benefits or exclude portions  
16 of the district when in its judgment it is essential to secure an equitable assessment. Credit shall  
17 be allowed on the new assessment for all payments made on the original final assessment.

18 **SECTION 4.** ORS 223.485 is amended to read:

19 223.485. (1) The authority granted in ORS 223.405 to 223.455 does not apply to any local gov-  
20 ernment if the local government has provided a method of reassessment by ordinance or charter.

21 (2) No proceedings for making a reassessment shall be instituted after 20 years from the date  
22 when the first assessment was entered on the lien docket.

23 **(3) The provisions of ORS 223.395 (3) apply to reassessments made under ORS 223.445.**

24 **SECTION 5.** ORS 223.401 is added to and made a part of ORS 223.387 to 223.399.

25 **SECTION 6.** ORS 223.127 is amended to read:

26 223.127. (1) ORS 223.387, [and] 223.391 [to], **223.393 and** 223.395 apply to economic improvement  
27 districts created by a city in accordance with ORS 223.112 to 223.132.

28 (2) The rights and duties accorded local governments and the owners of property for financing  
29 assessments under ORS 223.205 and 223.210 to 223.295 apply to assessments levied upon property in  
30 an economic improvement district for financing all or part of the cost of an economic improvement.

31 **SECTION 7.** The amendments to ORS 223.389, 223.395, 223.415 and 223.485 by sections 1  
32 to 4 of this 2019 Act apply to assessments and reassessments for local improvements made  
33 on or after the effective date of this 2019 Act.

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