

Enrolled
House Bill 2684

Sponsored by Representative NOSSE; Representative SMITH WARNER (Presession filed.)

CHAPTER

AN ACT

Relating to tax exemption for the property of a company that builds certain communication services infrastructure; creating new provisions; amending ORS 308.519 and 308.674 and section 11, chapter 23, Oregon Laws 2015; repealing ORS 308.673, 308.677 and 308.681; and prescribing an effective date.

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

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 ORS 308.673, 308.677 and 308.681 are repealed.

SECTION 2. ORS 308.519 is amended to read:

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

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

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

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

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

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

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

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

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

SECTION 3. ORS 308.674 is amended to read:

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

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

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

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

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

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

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

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

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

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

SECTION 5. The amendments to **ORS 308.519 and 308.674 and section 11, chapter 23, Oregon Laws 2015,** by sections 2 to 4 of this 2019 Act and the repeal of **ORS 308.673, 308.677 and 308.681** by section 1 of this 2019 Act apply to property tax years beginning on or after July 1, 2019.

SECTION 6. (1) Notwithstanding the repeal of ORS 308.677 by section 1 of this 2019 Act, and any decision of the Department of Revenue made under ORS 308.677 (2015 Edition) before the effective date of this 2019 Act, the intangible property of a company described in ORS 308.515 (1) shall be specially assessed as provided in subsection (2) of this section if:

(a) The company's application for a qualified project determination was approved by the Public Utility Commission pursuant to ORS 308.677 (4) (2015 Edition) on or before March 1, 2016;

(b) The company began operating a qualified project on or before January 1, 2018; and

(c) The company has not settled any tax controversy with the department by entering into a settlement agreement pursuant to which the company has withdrawn any claims, and relinquished any entitlement, to the exemption granted under any version of ORS 308.677.

(2) Upon approval of a claim submitted under subsection (3) of this section by a company meeting the requirements of subsection (1) of this section, the department, for purposes of ORS 308.505 to 308.681, shall specially assess the company's intangible property at 75 percent of the real market value of the intangible property.

(3)(a) A company seeking special assessment under this section must submit a claim to the department within 30 days following the effective date of this 2019 Act.

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

(c) If the department approves a company's claim, the company's intangible property shall be specially assessed as provided in subsection (2) of this section for the property tax

year beginning on July 1, 2019. The company's intangible property may not be specially assessed under this section for any other property tax year.

(d) If the department rejects a company's claim, the department shall notify the company of the decision.

SECTION 7. Section 6 of this 2019 Act is repealed on January 2, 2022.

SECTION 8. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

Passed by House April 24, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 20, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State