

April 15th, 2021

HB 2693



Background

This past summer UA Local 290 Plumbers and Steamfitters was planning to work with an industry nonprofit organization to distribute food, donated through an industry food drive, to help families in need during the ongoing COVID-19 emergency. UA 290 planned to work with their Apprenticeship Training Trust to conduct the distribution for a few hours one weekend at the Trust's Training Center in Tualatin. The Trust's large facility, with a large parking lot and good traffic access was an ideal location to safely conduct such a distribution activity in accordance with state COVID-19 safety orders.

Sadly, this community assistance event had to be cancelled due to an unfortunate catch-22 between Federal regulation of Apprenticeship Trusts and Oregon's requirements for Apprenticeship Trusts to maintain their property tax exemption for a training center.

UA 290 was informed by its attorneys that participating in the food drive would require them (under Federal ERISA regulations) to do a temporary lease of part of the trust property to the other non-profit. Leasing the property would in turn cause them to lose their Oregon property tax exemption. That consequence left UA 290 unable to conduct the food distribution to Oregonians in need.

Issues

- Under Federal ERISA regulations registered apprenticeship training trusts cannot 'give away' space or services for purposes that are not directly related to the apprenticeship. However, they can lease the space at fair market value. (UA 290 was willing to arrange to cover the lease cost)
- Under ORS 307.580 an apprenticeship trust will lose their property tax exemption in Oregon if they use the property for a purpose that is not directly for the operation or administration of the Apprenticeship, including leasing the property to another entity.
- This catch-22 problem **only** effects nonprofit training trusts governed by ERISA laws. Other Oregon non-profits can work together without this problem.

With these competing regulations, UA 290's Training Trust cannot work with another non-profit for even brief community benefit activities, such as the food drive.

Solution

HB 2693 is a simple fix that will allow registered apprenticeship training trusts regulated by ERISA to work with specific non-profits for a limited duration without losing their Oregon property tax exemptions:

- ✓ Allows for the use of an Apprenticeship's trust's property by a 501(c)(3), (c)(4), (c)(5) or (c)(6) for a limited period of time without the Apprenticeship losing its property tax exemption.
- ✓ Specifies the use is for no more than 7 consecutive days, or 30 cumulative days in a property tax year.

This is a simple fix to address a specific issue, allowing our Apprenticeship Trusts to work with non-profit partners to serve Oregon communities.

ORS 307.580 - Property of industry apprenticeship or training trust.

- (1) If not otherwise exempt by law and upon compliance with ORS 307.162, all real and personal property or proportion thereof owned or being purchased by an industry apprenticeship or training trust is exempt from property taxation if:
 - (a) The trust is organized pursuant to a trust instrument solely for the purpose of aiding or assisting in the implementation or operation of one or more apprenticeship or training programs that conform to and are conducted under ORS 660.002 to 660.210;
 - (b) The property or proportion thereof that is the subject of the exemption is actually and exclusively occupied and used in the implementation or operation of an apprenticeship or training program or programs that are established under, conform to and are conducted under ORS 660.002 to 660.210; and
 - (c) The trust is considered an organization exempt from federal income taxes under the federal Internal Revenue Code or other laws of the United States relating to federal income taxes.
- (2) If property described under subsection (1) of this section would be exempt from taxation except that it is held under lease or lease-purchase agreement by the trust rather than owned or being purchased by it, the property shall be exempt from taxation upon compliance with and subject to ORS 307.112.
- (3) No exemption shall be allowed under subsection (1) or (2) of this section if the property is used in the implementation or operation of an apprenticeship or training program that discriminates with respect to its participants on the basis of age, race, religion, sex or national origin. [1983 c.619 §2]

305.842 - Application of Internal Revenue Code to certain property tax laws.

- (1) As used in ORS 307.130, 307.147, 308A.450, 310.140 and 310.800, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 2018.
- (2) As used in ORS 311.666, "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 2018, including amendments that take effect after that date. [2014 c.52 §15; 2015 c.348 §27; 2015 c.442 §22; 2016 c.33 §15; 2017 c.527 §16; 2018 c.101 §16; 2019 c.319 §16]