

ROBERT T. MANICKE
JUDGE



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OREGON TAX COURT
1163 STATE STREET
SALEM OREGON
97301-2563

February 6, 2023

VIA EMAIL

Nikki Dobay
Nikki.Dobay@gtlaw.com

Jeff Newgard, (jeff@peakpolicy.com)

Re: Oregon House Bill 2575

Dear Ms. Dobay and Mr. Newgard:

As stated in my testimony before the House Revenue Committee on January 31, 2023, the Judicial Department is neutral on HB 2575. However, I appreciate the opportunity to work with you and any persons potentially affected by the bill to suggest clarifying and conforming amendments for the purpose of avoiding unnecessary disputes, in the event the bill becomes law. I have attempted below to “spot the issues” and to propose a way to address them. Obviously, you and other stakeholders may have your own views. I will be happy to remain available for further review as the bill progresses.

Below is a reprint of the as-introduced version of HB 2575, with my suggested change shown in red (adding the introductory “notwithstanding” clause). That is the only change I suggest. For purposes of illustration only, I have reprinted below the 2021 edition of ORS 305.570, the existing statute governing standing to appeal to the Oregon Tax Court Regular Division.

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

SECTION 1. Notwithstanding ORS 305.570, aAn association or organization has standing to seek declaratory relief in the Oregon Tax Court if:

- (1) One or more members of the association or organization is adversely affected or aggrieved by the subject of the requested declaration;**
- (2) The interests that the association or organization seeks to protect are germane to the purpose of the association or organization; and**
- (3) The nature of the claim and the relief requested do not require that the members of the association or organization who are adversely affected or aggrieved participate in the**

proceedings in the Oregon Tax Court.

305.570 Standing to appeal to regular division of tax court; perfection of appeal. (1)(a) Any person, including a county assessor or county tax collector aggrieved by and affected by a written decision of a tax court magistrate issued under ORS 305.501, or any person seeking a remedy in the tax court provided by statute, other than as provided in ORS 305.275 (1), may appeal to the regular division of the Oregon Tax Court, and appeal shall be perfected in the manner provided in ORS 305.404 to 305.560.

(b) Except for an appeal brought by a county assessor or county tax collector, the order being appealed under this subsection must affect the person or the property of the person making the appeal or property for which the person making the appeal holds an interest that obligates the person to pay taxes imposed on the property. As used in this paragraph, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(2) A taxpayer or political subdivision affected by a determination of the Department of Revenue authorized under ORS 305.620 may appeal to the tax court as provided in ORS 305.620. [1977 c.870 §13; 1983 c.605 §3; 1983 c.749 §3; 1991 c.459 §29; 1993 c.18 §65; 1995 c.650 §24; 1997 c.541 §75; 1997 c.826 §§4,5; 1999 c.21 §11; 1999 c.340 §4]

Note that my written testimony suggested that it may be necessary to also conform or refer to ORS 305.275. On further review, however, I do not think any change to ORS 305.275 is necessary because HB 2575 would apply only to declaratory judgment actions.

Please contact me if you have any questions or would like further input on clarifying or conforming amendments to this bill.

Very Truly Yours,

/s/

Robert T. Manicke
Judge

cc:

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