

House Bill 2253

Sponsored by Representatives SMITH DB, OSBORNE (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**.

Disqualifies land from farm use special assessments upon final civil penalty or judgment of conviction for illegal growing of crops against landowner or person in possession and control of land. Provides exception for landowner or other obligated taxpayer who reasonably lacked knowledge of illegal growing of crops or promptly notified law enforcement agency of illegal growing of crops.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to farm use land used for illegal growing of crops; creating new provisions; amending ORS
3 308A.083, 308A.703 and 475C.421; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 308A.050 to**
6 **308A.128.**

7 **SECTION 2. (1) This section applies to:**

8 (a) Land within an exclusive farm use zone qualified for special assessment under ORS
9 308A.062; and

10 (b) Nonexclusive farm use zone farmland qualified for special assessment under ORS
11 308A.068.

12 (2) Land described in subsection (1) of this section shall be disqualified from the special
13 assessment upon either of the following outcomes against the owner of the land, or the
14 person with legal possession and control of the land, based on conduct constituting illegal
15 growing of crops:

16 (a) An order imposing a civil penalty becoming final by operation of law or on appeal in
17 accordance with ORS 183.745.

18 (b) Entry of a final judgment of conviction.

19 (3) Notwithstanding subsection (2) of this section, land shall not be disqualified from
20 special assessment under this section if the landowner, or other person obligated to pay ad
21 valorem property taxes on the land:

22 (a) Reasonably lacked knowledge of the illegal growing of crops on the land; or

23 (b) Notified a law enforcement agency as soon as practicable after the date on which the
24 landowner or other person knew or should have known that illegal growing of crops was oc-
25 ccurring on the land.

26 (4) Notwithstanding ORS 308.210, 308A.062, 308A.068, 311.405 or 311.410, disqualification
27 under subsection (2) of this section shall be deemed to have occurred as of the January 1
28 assessment date of the earlier of the assessment year in which a civil penalty was imposed
29 or a criminal complaint upon which the final judgment of conviction is based was filed.

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 **(5) Upon disqualification, additional taxes shall be determined as provided in ORS**
 2 **308A.700 to 308A.733.**

3 **(6) As used in this section:**

4 **(a) “Final judgment of conviction” means a criminal judgment for which the time to ap-**
 5 **peal has expired without any party filing an appeal or that is not subject to further appeal**
 6 **or review.**

7 **(b)(A) “Illegal growing of crops” means raising, harvesting or selling crops:**

8 **(i) In a manner or place contrary to state or local law; or**

9 **(ii) That state or local law does not permit to be grown in any manner or place.**

10 **(B) “Illegal growing of crops” includes, but is not limited to, production of marijuana in**
 11 **a manner or place that subjects it to civil or criminal enforcement under ORS 475C.005 to**
 12 **475C.525.**

13 **SECTION 3.** ORS 308A.703 is amended to read:

14 308A.703. (1) This section applies to land upon the land’s disqualification from special assess-
 15 ment under any of the following sections:

16 (a) Exclusive farm use zone farmland under ORS 308A.113 **or section 2 of this 2023 Act;**

17 (b) Nonexclusive farm use zone farmland under ORS 308A.116 **or section 2 of this 2023 Act;**

18 (c) Western Oregon designated forestland under ORS 321.359;

19 (d) Eastern Oregon designated forestland under ORS 321.842;

20 (e) Wildlife habitat special assessment under ORS 308A.430; or

21 (f) Conservation easement special assessment under ORS 308A.465.

22 (2) Following a disqualification listed in subsection (1) of this section, an additional tax shall
 23 be added to the tax extended against the land on the next assessment and tax roll, to be collected
 24 and distributed in the same manner as other ad valorem property tax moneys. The additional tax
 25 shall be equal to the difference between the taxes assessed against the land and the taxes that would
 26 otherwise have been assessed against the land, for each of the number of years determined under
 27 subsection (3) of this section.

28 (3) The number of years for which additional taxes shall be calculated shall equal the lesser of
 29 the number of consecutive years the land had qualified for the special assessment program for which
 30 disqualification has occurred or:

31 (a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately
 32 following disqualification, remains outside an urban growth boundary;

33 (b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm
 34 use zone, but only if the land, immediately following disqualification, remains outside an urban
 35 growth boundary;

36 (c) Ten years, in the case of conservation easement special assessment land within an exclusive
 37 farm use zone, but only if the land, immediately following disqualification, remains outside an urban
 38 growth boundary; *[or]*

39 (d) Five years, in the case of:

40 (A) Nonexclusive farm use zone farmland;

41 (B) Western Oregon designated forestland;

42 (C) Eastern Oregon designated forestland;

43 (D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection;

44 (E) Wildlife habitat special assessment land that is not described in paragraph (b) of this sub-
 45 section; or

1 (F) Conservation easement special assessment land that is not described in paragraph (c) of this
 2 subsection[.]; or

3 **(e) Notwithstanding paragraph (a) of this subsection, five years in the case of exclusive**
 4 **farm use zone farmland and nonexclusive farm use zone farmland disqualified under section**
 5 **2 of this 2023 Act.**

6 (4)(a) Except as provided in paragraph (b) of this subsection, if disqualification under subsection
 7 (1)(a) or (b) of this section occurs within five years after the end of a period of farm use special
 8 assessment pursuant to a remediation plan as defined in ORS 308A.053, the number of years for
 9 which the additional tax shall be calculated shall be the number of years determined under sub-
 10 section (3) of this section plus the number of years during which farm use special assessment was
 11 granted pursuant to the remediation plan.

12 (b) Additional tax may not be collected for the number of years during which farm use special
 13 assessment was granted pursuant to the remediation plan if the plan:

- 14 (A) Is implemented in good faith; and
- 15 (B) Fails to render continued farm use practicable.

16 (5) The additional taxes described in this section shall be deemed assessed and imposed in the
 17 year to which the additional taxes relate.

18 (6) If the disqualification of the land is the result of the sale or transfer of the land to an own-
 19 ership making the land exempt from ad valorem property taxation, the lien for additional taxes shall
 20 attach as of the day preceding the sale or transfer.

21 (7) The amount determined to be due under this section may be paid to the tax collector prior
 22 to the time of the next general property tax roll, pursuant to the provisions of ORS 311.370.

23 **SECTION 4.** ORS 475C.421 is amended to read:

24 475C.421. The county courts, district attorneys and municipal authorities, immediately upon the
 25 conviction of a licensee of a violation of ORS 475C.005 to 475C.525, or of a violation of any other
 26 law of this state or ordinance of a city or county located in this state an element of which is the
 27 possession, delivery or manufacture of a marijuana item, shall notify the Oregon Liquor and
 28 Cannabis Commission, **and each county assessor having jurisdiction over land on which the**
 29 **prohibited conduct occurred**, of the conviction.

30 **SECTION 5.** ORS 308A.083 is amended to read:

31 308A.083. In the case of exclusive farm use zone farmland that qualifies for special assessment
 32 under ORS 308A.062 or nonexclusive farm use zone farmland that qualifies for special assessment
 33 under ORS 308A.068, the county assessor shall enter on the assessment and tax roll the notation
 34 “potential additional tax liability” until the land is disqualified under ORS 308A.113 or 308A.116 **or**
 35 **section 2 of this 2023 Act.**

36 **SECTION 6.** **Section 2 of this 2023 Act and the amendments to ORS 308A.083, 308A.703**
 37 **and 475C.421 by sections 3 to 5 of this 2023 Act apply to conduct constituting illegal growing**
 38 **of crops that occurs on or after the effective date of this 2023 Act.**

39 **SECTION 7.** **This 2023 Act takes effect on the 91st day after the date on which the 2023**
 40 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**