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

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

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

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

SECTION 2. (1) This section applies to:

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

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

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

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

(b) Entry of a final judgment of conviction.

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

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

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

(4) Notwithstanding ORS 308.210, 308A.062, 308A.068, 311.405 or 311.410, disqualification under subsection (2) of this section shall be deemed to have occurred as of the January 1 assessment date of the earlier of the assessment year in which a civil penalty was imposed 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.

LC 1355
(5) Upon disqualification, additional taxes shall be determined as provided in ORS 308A.700 to 308A.733.

(6) As used in this section:
(a) “Final judgment of conviction” means a criminal judgment for which the time to appeal has expired without any party filing an appeal or that is not subject to further appeal or review.

(b)(A) “Illegal growing of crops” means raising, harvesting or selling crops:
(i) In a manner or place contrary to state or local law; or
(ii) That state or local law does not permit to be grown in any manner or place.
(B) “Illegal growing of crops” includes, but is not limited to, production of marijuana in a manner or place that subjects it to civil or criminal enforcement under ORS 475C.005 to 475C.525.

SECTION 3. ORS 308A.703 is amended to read:
308A.703. (1) This section applies to land upon the land’s disqualification from special assessment under any of the following sections:
(a) Exclusive farm use zone farmland under ORS 308A.113 or section 2 of this 2023 Act;
(b) Nonexclusive farm use zone farmland under ORS 308A.116 or section 2 of this 2023 Act;
(c) Western Oregon designated forestland under ORS 321.359;
(d) Eastern Oregon designated forestland under ORS 321.842;
(e) Wildlife habitat special assessment under ORS 308A.430; or
(f) Conservation easement special assessment under ORS 308A.465.

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

(3) The number of years for which additional taxes shall be calculated shall equal the lesser of the number of consecutive years the land had qualified for the special assessment program for which disqualification has occurred or:
(a) Ten years, in the case of exclusive farm use zone farmland, but only if the land, immediately following disqualification, remains outside an urban growth boundary;
(b) Ten years, in the case of wildlife habitat special assessment land within an exclusive farm use zone, but only if the land, immediately following disqualification, remains outside an urban growth boundary;
(c) Ten years, in the case of conservation easement special assessment land within an exclusive farm use zone, but only if the land, immediately following disqualification, remains outside an urban growth boundary; [or]
(d) Five years, in the case of:
(A) Nonexclusive farm use zone farmland;
(B) Western Oregon designated forestland;
(C) Eastern Oregon designated forestland;
(D) Exclusive farm use zone farmland that is not described in paragraph (a) of this subsection;
(E) Wildlife habitat special assessment land that is not described in paragraph (b) of this sub-
(F) Conservation easement special assessment land that is not described in paragraph (c) of this subsection.; or

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

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

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

(A) Is implemented in good faith; and

(B) Fails to render continued farm use practicable.

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

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

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

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

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

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

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

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

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